कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
E-mail id- adj-mundra@gov.in

A	**FILE NO.** फ़ाइल संख्या	GEN/ADJ/879/2024-Adjn-O/o Pr Commr-Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/184/2025-26
C	**PASSED BY** जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	13.08.2025
E	**DATE OF ISSUE** जारी करने की तिथि	13.08.2025
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/879/2024-Adjn. Dated 18.05.2024
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	i. M/s. Madhav Art (IEC: ACNPV7400J) **(Prop:** Shri Niravbhai Laljibhai Vanani), ii. Shri Dilipbhai Babubhai Sutariya iii. Shri Rakesh Nasit/ Shri Rakesh Patel iv. Shri Avinash Sonkar v. Shri Hardik Tejani vi. Shri Hitesh Aboti
H	**DIN/**दस्तावेज़ पहचान संख्या	20250871MO000011641D

1. यहआदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

"सीमाशुल्कआयुक्त) अपील(,
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा,अहमदाबाद 380 009"
"THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,

NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

i. उक्त अपील की एक प्रति और A copy of the appeal, and
ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं° 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि /ब्याज /दण्ड /जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982और सीमाशुल्क अधिनियम, 1962के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5 % भुगतान करना होगा।
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

Intelligence gathered by the officers of Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter referred to as DRI) indicated that the container TCLU6626772, which was originated from Cambodia and loaded in the vessel APL ANTWERP was suspected to be containing Cigarettes. The said container TCLU6626772 was imported by M/s Madhav Art (IEC: ACNPV7400J) at Mundra Port and the same was destined to Hazira Port. The details declaration made in the IGM in respect of the above container are as under:

Sr. No.	BL No.	Container No.	Goods declared
1	CBC0242594	TCLU6626772	Readymade Garments

1.2. Based on above intelligence regarding smuggling activities associated

with the import of goods via above particular container, the officers of DRI conducted a thorough examination of the above container TCLU6626772 on 23.11.2023 to verify the accuracy of declarations and assess compliance with customs laws under panchanama dated 23.11.2023.

2 . During the examination proceedings, it was also gathered that Bill of Entry was not filed in the said case. The said container was covered under Bill of Lading CBC0242594 dated 17.10.2023, which shows the consignee as M/s Madhav Art from Surat and the goods were declared therein as 'Readymade Garments'. The consignment attempted to be illegally imported and the same was destined to Hazira Port, Ahmedabad.

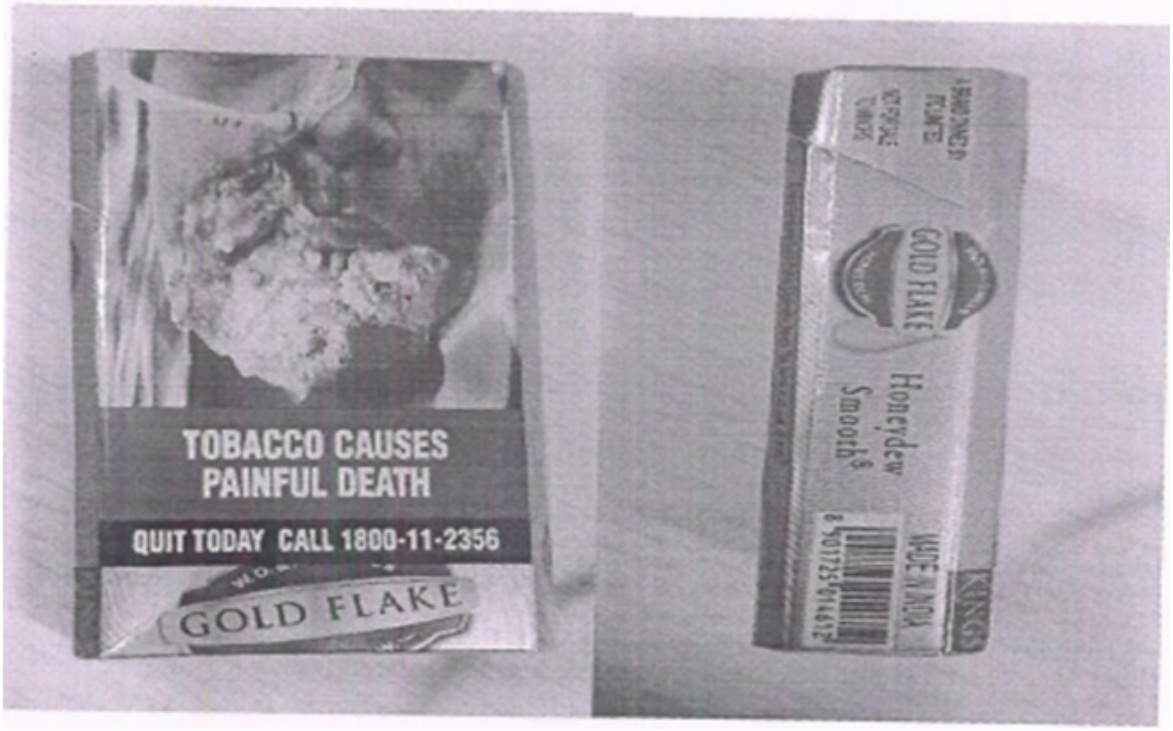
3. EXAMINATION OF THE GOODS IMPORTED IN CONTAINER BEARING NO. TCLU6626772 UNDER BILL OF LADING CBC0242594 dated 17.10.2023 PERTAINING TO M/S. MADHAV ART.

3.1. The cargo covered under above container bearing no. TCLU6626772 was kept at the M/s PSA Ameya Logistics Private Limited. On 23.11.2023, officers of DRI approached Shri Suresh Vershi Matang, Deputy Manager (Operations), M/s PSA Ameya Logistics Private Limited, Mundra- 370421 and requested him to extend his co-operation in the examination of container bearing no. TCLU6626772. During the said proceeding, Shri Hitesh Aboti, Authorized Representative of shipping line i.e. CMA CGM joined the proceedings and produced the copy of Draft Bill of Lading No. CBC0242594 dated 17.10.2023. The officers found that the container was sealed with one time bottle seal and found that the seal was intact. The seal No. affixed on the container No. TCLU6626772 was verified, which matched with the seal no. mentioned in the Bill of Lading. The details of Bill of Landing is hereby reproduced below:

S.N.	Detail Heading	Particulars
1.	Name of Shipper	EANG KIM LAY IMPORT EXPORT CO LTD, Phnom Penh, Combodia
2.	Name of Consignee	M/s Madhav Art, First Floor, Plot No. 42, Ajanta Diamond Industrial Co. Op. Society, Patel Nagar A K Road, Surat Gujarat - 395008 IEC No. ACNPV7400J
3.	Notify Party	Same as Consignee
4.	Port of Loading	Sihanoukville
5.	Port of Discharge	Hazira Port
6.	Container No./Seal No.	TCLU6626772/L4500535
7.	Description of goods	Readymade Garments (HSN 430390)
8.	Total Cartons	863
9.	Shipping Liner	CMA CGM

3.2. The above seal was cut open. On opening the door of the above said container, it was found that the said container is stuffed with White Carton boxes. During the said proceedings, pictures of the said container was taken, which is affixed below:

3.3. Further, Carton Boxes placed in first row in the container were destuffed and each of the cartons of the first row & second row were opened and examined one by one, wherein, it was found that all the cartons of the first row & second row were containing assorted clothes/garments. Further, cartons placed at third row in the container were destuffed and examined. On examination of each carton of third row, it was found that all the cartons of third row were containing cigarette boxes of Gold Flake Brand. Subsequently, the entire cartons of the said container bearing no. TCLU6626772 were destuffed and examined by the officers of DRI. During the said examination proceedings, Gold Flake Cigarettes of two different colors (Red & Blue) were found. It was further found that both type of above cigarettes indicated the brand name Gold Flake "Made in India". All the cartons of the said container were segregated in three parts containing assorted clothes/garments, Cigarette (Red color) and Cigarette (Blue Color) separately. During the said proceedings, pictures of the 'Gold Flake' Cigarette Made in India was taken, which is affixed below.



3.4. On further examination of one carton containing Red Colour Packet Cigarettes, it was found that a carton box contains 50 small size boxes, each such small box contains 20 packets of Cigarettes and each such packet contains 10 cigarette sticks. Accordingly, each carton contains 10000 cigarette sticks. Each cigarette stick was of white color and brown color filter portion and 'Gold Flake & Honey Dew Smooth was printed on white portion, and the length of the stick was approximately 84 mm. On front side of the packet pictorial warning, "TOBACCO CAUSES PAINFUL DEATH, QUIT TODAY CALL 1800-11-2356: HONEY DEW SMOOTH" was printed. It was further found similar nature Quantity /packings/ were available in all the other carton boxes.

3.5. On further examination of one carton of Blue Color Packet Cigarettes, it was found that a carton box contains 50 small size boxes, each such small box contains 20 packets of Cigarettes and each such packet contains 10 cigarette sticks. Accordingly, each carton contains 10000 cigarette sticks. Each cigarette stick was of white color (both tobacco and filter portion) and 'Gold Flake & Honey Dew Smooth was printed on white portion, and the length of the stick was approximately 84 mm. On front side of the packet pictorial warning, "TOBACCO CAUSES PAINFUL DEATH, QUIT TODAY CALL 1800-11-2356: HONEY DEW SMOOTH" was printed. It was further found that similar nature Quantity /packings/ were available in all the other carton boxes.

3.6. The detailed inventory of the goods/cartons destuffed from container was undertaken and mentioned in the panchnama dated 23.11.2023. The same is as under:

S. N.	Item Description	No. of Cartons	Particulars	Total
1.	Assorted Clothes/Garments	62	-	62 Cartons
2.	Gold Flake Cigarette "Make	401	401 Cartons*50 Small size	4010000

	in India" Blue Colour		boxes*20 packets*10 sticks	Sticks
3.	Gold Flake Cigarette "Make in India" Red Colour	400	400 Cartons*50 Small size boxes*20 packets*10 sticks	4000000 Sticks
Total No. of Cigarette Sticks in above 801 Cartons				8010000

3.7. During the course of examination of the said container, it was found that the description of the goods was grossly mis-declared as Readymade Garment' in the Bill of Lading. On the reasonable belief that the same are liable to confiscation under the provisions of the Customs Act, 1962 as goods contained in the said imported cargo were completely mis-declared, the above 801 cartons containing 8010000 cigarette sticks were seized under Section 110 of the Customs Act, 1962 under the panchnama dated 23.11.2023. Further, 62 cartons of Assorted Clothes/Garments used for concealment of Cigarettes were also seized under Section 110 of the Customs Act, 1962.

3.8. The above seized goods were further handed over to Shri Suresh Vershi Matang of M/s PSA Ameya Logistics Private Limited vide Supratnama dated 23.11.2023 to keep the said goods in safe custody with a direction not to alter/ deliver and part with the same to any person or otherwise deal with the said goods without permission, in writing, from the competent authority.

4 . <u>VERIFICATION OF THE PREMISES OF IEC HOLDER: M/s. MADHAV ART:</u>

4.1. Consequent to the recovery of cigarettes in above container, the premises of M/s Madhav Art located at Ground Floor, Plot No. 55, Ajanta Diamond Industrial Co. Society, Patel Nagar, A K Road, Surat – 395008 was searched on 24.11.2023 under Section 105 of the Customs Act, 1962 and a panchanama dated 24.11.2023 detailing the search proceedings was also recorded.

4.2. During the search proceeding at above premises, an unsigned letter regarding 'Authority Letter & Declaration' and a signed letter regarding 'Application for amendment in IGM' were found and further resumed under above panchanama. Scrutiny of documents recovered from the above premises indicated that the said documents pertain to the above import container TCLU6626772. Examination of application of amendment in IGM indicated that Shri Niravbhai Laljibhai Vanani himself had applied for IGM amendment on 21.11.2023 to the Deputy/Assistant Commissioner of Customs, Mundra Custom for change in port destination from Hazira Port (INHZA1) to Mundra Port (INMUN1) in respect of their IGM No. 2359699 dated 07.11.2023 pertaining to Bill of Lading No. CBC0242594 dated 17.10.2023. Image of the said documents obtained from the above premises is shown below:

MADHAV ART

55, AJANTA DIAMOND INDUSTRIAL, A.K. ROAD, SURAT.
GSTIN: 24ACNPV7400J1ZA

DATE: 21.11.2023

To,
Deputy/Assistant Commissioner of Customs,
Mundra Customs

Subject: Application for in the IGM AMENDMENT

Request for Amendment INHZA1 TI to LC INMUN1 (CHANGE IN PORT DESTINATION) in IGM for below:

1. Name and Address of Shipping Line: CMA CGM AGENGCIES (INDIA) PVT LTD. IGM No-2359699 dt: 07.11.2023
3. MBL No. CBC0242594 DATE-17.10.2023 ITEM NO:-368
5. Consignee Name- MADHAV ART

FROM	TO
TI	LC
INHZA1	INMUN1

I hereby certify that the aforesaid details are true and correct as per best of my knowledge. It is also certified that I am rightful person for the aforesaid addition in the IGM. I also declare that I am aware about provisions of Customs Act-1962 regarding Import General Manifest (IGM).

Therefore,we request your good self to amend/addition of above said container number in IGM No-2359699 dt: 07.11.2023

Thanking you,

For, M/S CMA CGM AGENGCIES (INDIA) PVT LTD.

FOR MADHAV ART
PROPRIETOR

24.11.2023

4.3. During the above proceedings, Shri Niravbhai Laljibhai Vanani informed that the said two letters were forwarded to him by his brother-in-law Shri Dilipbhai Babubhai Sutariya, who wanted to import some garments.

5 . <u>VERIFICATION OF THE RESIDENTIAL PREMISES OF SHRI NIRAVBHAI LALJIBHAI VANANI, PROPRIETOR OF IEC FIRM M/S MADHAV ART:</u>

5.1. Premises located at 122, Madhvanand Society, Signapore Road, Katargam, Surat was visited on 24.11.2023 and visit note was prepared. The said premises was found closed. On being enquired from nearby persons, it emerged that the said premises belonged to Shri Niravbhai Laljibhai Vanani; that Shri Niravbhai Laljibhai Vanani had been residing at Jahangirpura, Surat; that the said premises i.e. 122, Madhvanand Society, Signapore Road, Katargam, Surat was on rent.

5.2. Further, Residential Premises of Shri Niravbhai Laljibhai Vanani (Proprietor of IEC firm M/s Madhav Art), located at B-802, Madhav Platina, Jahangirpur, Surat, was searched under panchanama dated 24.11.2023. During the search proceeding conducted at the said premises, no incriminating document was found.

6. <u>VERIFICATION AT THE END OF A PERSON NAMELY SHRI AVINASH SONKAR, WHO HAD APPROACHED SHIPPING LINER FOR CLEARANCE OF THE ABOVE CONAINER:</u>

6.1. During the process of examination of the above container bearing no.

TCLU6626772, it emerged that a person namely Shri Avinash Sonkar working at M/s Aadhar Seasky India Private Limited, #02, 1st Floor, Aadinath Arcade-II, Plot No. – 576, Ward 12/C Gandhidham, Kutch, Gujarat – 370201 had approached the shipping liner i.e. CMA CGM for clearance of the said consignment.

6.2. To gather evidences, the above premises i.e. M/s Aadhar Seasky India Private Limited, #02, 1st Floor, Aadinath Arcade-II, Plot No. – 576, Ward 12/C Gandhidham, Kutch, Gujarat – 370201 pertaining to Shri Avinash Sonkar was searched under Section 105 of the Customs Act, 1962 under Panchanama dated 24.11.2023. During the search proceedings, certain documents/ mail/ conversation made from or to avinash@aadharseasky.com and avinashumts@gmail.com were resumed.

6.3.1. As per printouts of mail/conversation, Shri Avinash Sonkar, whose name appears to be as Shri Avinash Kumar was constantly in touch with shipping liner i.e. CMA CGM regarding clearance of the above container TCLU66296772 covered under Bill of Lading No. CBC0242594. For illustration, images of certain mail/conversation are shown below:

av[illegible]ash@aadharseasky.com

From: avinash@aadharseasky.com
Sent: 20 November 2023 14:02
To: avinashumts@gmail.com
Subject: FW: TCLU6626772 BL NO: CBC0242594

AADHAR SEASKY INDIA PVT.LTD.
AN ISO 9001:2015 Certified Company.

AVINASH KUMAR

E: avinash@aadharseasky.com
M: +91 757 4861 175
A: #02, 1ST FLOOR AADINATH ARCADE-II,
PLOT NO: 576, WARD 12/C GANDHIDHAM
KUTCH-GUJARAT-INDIA 370201
www.aadharseasky.com

DF ALLIANCE
by DP WORLD
Member's ID: AW088

MSME
MICRO, SMALL & MEDIUM ENTERPRISES

From: LEUVA Salaka <AMD.SLEUVA@cma-cgm.com>
Sent: 20 November 2023 13:14
To: avinash@aadharseasky.com; EGJCOMMERCIAL@GMAIL.COM
.: CMA CGM & ANL - Import Customer Service -Gujarat <knd.impcc@cma-cgm.com>; MHATRE Nikhil <MBY.NMHATRE@cma-cgm.com>
Subject: RE: TCLU6626772 BL NO: CBC0242594

Dear Avinash,

Please advise your role in this shipment.
Also note, we have received request form POL side for COD of the shipment from Hazira to Mundra.
Manifest has already been filed in customs for Hazira, pls advise from where you will clear the shipment.

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AADHAR SEASKY INDIA PVT. LTD.

1

ILLUSTRATION – I

CBC0242594

On Thu, Nov 16, 2023, 18:19 CMA CGM & ANL - Import Customer Service - Gujarat <knd.impcc@cma-cgm.com> wrote:

Dear Sir/Ma'am,
Good Day!

Kindly share correct B/L number.

Thank you for contacting the Customer Service Imports team. If you have any more questions, please do not hesitate to contact us.

Rahul Adhikari
Customer Service (Imports) - Gujarat

+917208499639
CMA CGM Agencies (India) Pvt Ltd ISO 9001:2015 Certified Organization
WEST GATE, B-Block, 1903-1907(19th Floor),Near YMCA Club, S.G Highway, Ahmedabad-380051
Business website: www.cma-cgm.com
Group website: www.cmacgm-group.com

Please visit the link for tariff and import procedure Import Welcome Kit

---------- Original Message ----------
From: [avinash@aadharseasky.com]
Sent: 16/11/2023 16:50
To: knd.impcc@cma-cgm.com
Cc: mby.gmiranda@cma-cgm.com
Subject: RE: TCLU6626772 BL NO: CBC024594

Dear Sir,

Please find below bl no

CBC024594

ILLUSTRATION – II

6.3.2. The above illustration-I & illustration-II indicate the communication held between Shipping Liner i.e. CMA CGM and Shri Avinash Sonkar regarding the subject matter RE:TCLU6626772 BL NO: CBC024594.

6.4. In addition to above, other documents resumed from the above said premises of Shri Avinash Sonkar includes Commercial Invoice, Packing list, Original Bill of Lading, Certificate of Origin, Checklist – Bill of Entry for Home Consumption etc. Perusal of the same indicated that all the resumed documents pertain to the container TCLU66296772, which was illegally imported into India in violation of the provisions of the Customs Act, 1962 and

FTP.

6.5. Examination of packing list & Commercial Invoice as well as Original Bill of Lading resumed from the premises of M/s Aadhar Seasky India Private Limited, #02, 1st Floor, Aadinath Arcade-II, Plot No. – 576, Ward 12/C Gandhidham, Kutch, Gujarat – 370201 revealed that the same were also containing the description & quantities of goods as Readymade Garment & 863 Cartons respectively. The said packing list & commercial invoice have been issued by M/s Eang Kim Lay Import Export Co. Ltd, Phnom Penh, Cambodia. The Invoice No. mentioned at packing list as well as commercial invoice is CBC0242594, which is Original Bill of Lading Number. Further, Container No. TCLU6626772 mentioned at Packing List and Commercial Invoice is the same as mentioned in Bill of Lading.

6.6. From the above, it appears that all the above documents have been purportedly prepared declaring the goods as "Readymade Garments" with a clear-cut intent to smuggle the above cigarettes in guise of the above declared goods. However, the container was intercepted by the officers of DRI and Cigarettes, which were concealed with assorted clothes/garments were recovered from the said container TCLU6626772 and consequently seized under Section 110 of the Customs Act, 1962.

6.7. During the above search proceedings, it was known that Shri Avinash Sonkar was out of station. Consequently, a summon was issued to Shri Avinash Sonkar to remain present in office of DRI, Ahmedabad Zonal Unit on 20.12.2023 to tender his statement. In response to the same, Shri Avinash Sonkar vide email dated 18.12.2023 requested to give some other date to be present as he had some personal work on 20.12.2023.

6.8. Further, several summons were again issued to Shri Avinash Sonkar. However, he did not join the investigation, which clearly shows his non-cooperation in the investigation.

6.9. Several summons were also issued to Shri Hitesh Aboti, authorized person of M/s Shipping Liner i.e. CMA CGM for recording of his statement. However, he did not appear in this office and hence he did not join the investigation.

7. Statement of Shri Niravbhai Laljibhai Vanani, Proprietor of IEC firm M/s Madhav Art was recorded on 24.11.2023. under Section 108 of the Customs Act, 1962. The contents of the statement are not being repeated here for the sake of brevity. During the recording of the above statement, he submitted his mobile phone iPhone 11, Model No. MWLY2HN/A, Serial No. GV4D810JN73C for investigation.

8 . Statement of Shri Dilipbhai Babubhai Sutariya, brother-in-law of Shri Niravbhai Laljibhai Vanani was recorded on 24.11.2023) under Section 108 of the Customs Act, 1962. The contents of the statement are not being repeated here for the sake of brevity. During his recording of statement dated 24.11.2023, Shri Dilipbhai Babubhai Sutariya also submitted his mobile phone Galaxy 30s, Model No. SM-A307FN/DS, Serial No. RZ8MB0SG0AD for investigation.

9.1. Further, the evidences, both oral and documentary, available on records, clearly establish the roles of Shri Niravbhai Laljibhai Vanani and Shri Dilipbhai Babubhai Sutariya, in the organized smuggling of the said mis-

declared/prohibited/contrabands goods without them, the said smuggling could not have been taken place.

9.2. Accordingly, Shri Niravbhai Laljibhai Vanani, Proprietor of IEC firm M/s Madhav Art and Shri Dilipbhai Babubhai Sutariya were arrested on 24.11.2023 vide Arrest Memo dated 24.11.2023 under the provisions of Section 104 of the Customs Act, 1962, after getting required order from the competent authority, as there were enough reasons and evidences to be believed that he had committed an offence punishable under Section 135 of the Customs Act, 1962. Therefore, they were arrested and produced before the Hon`ble ACMM court, Ahmedabad on 24.11.2023. The Court had granted judicial custody to both of them.

10. FORENSIC EXAMINATION OF ELECTRONIC DEVICES

10.1. The mobile phones voluntarily submitted by Shri Niravbhai Laljibhai Vanani and Shri Dilipbhai Babubhai Sutariya under their respective statements dated 24.11.2023 were sent to ECS Infotech Private Limited for forensic examination and data retrieval of the said device in the process of obtaining further evidences, if any.

10.2. The above process of data retrieval was done under panchanama dated 29.11.2023. M/s ECS Infotech provided certificate under Section 65-B of Indian Evidence Act, 1872 dated 29.11.2023 after completion of process of retrieval of all the data from the digital exhibits.

10.3. The data so extracted from mobile phone Galaxy 30s, Model No. SM-A307FN/DS, Serial No. RZ8MB0SG0AD belonging to Shri Dililpbhai Babubhai Sutariya were examined and it was found that there were some images including some parts of the chats/conversations pertaining to M/s Madhav Art. To illustrate the same, some images are shown below:

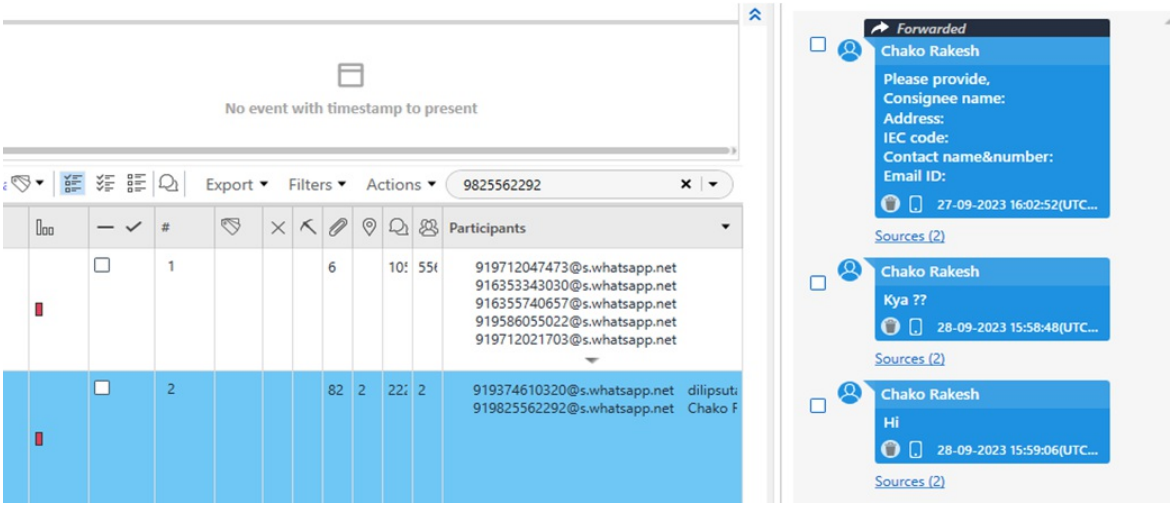


IMAGE – 1

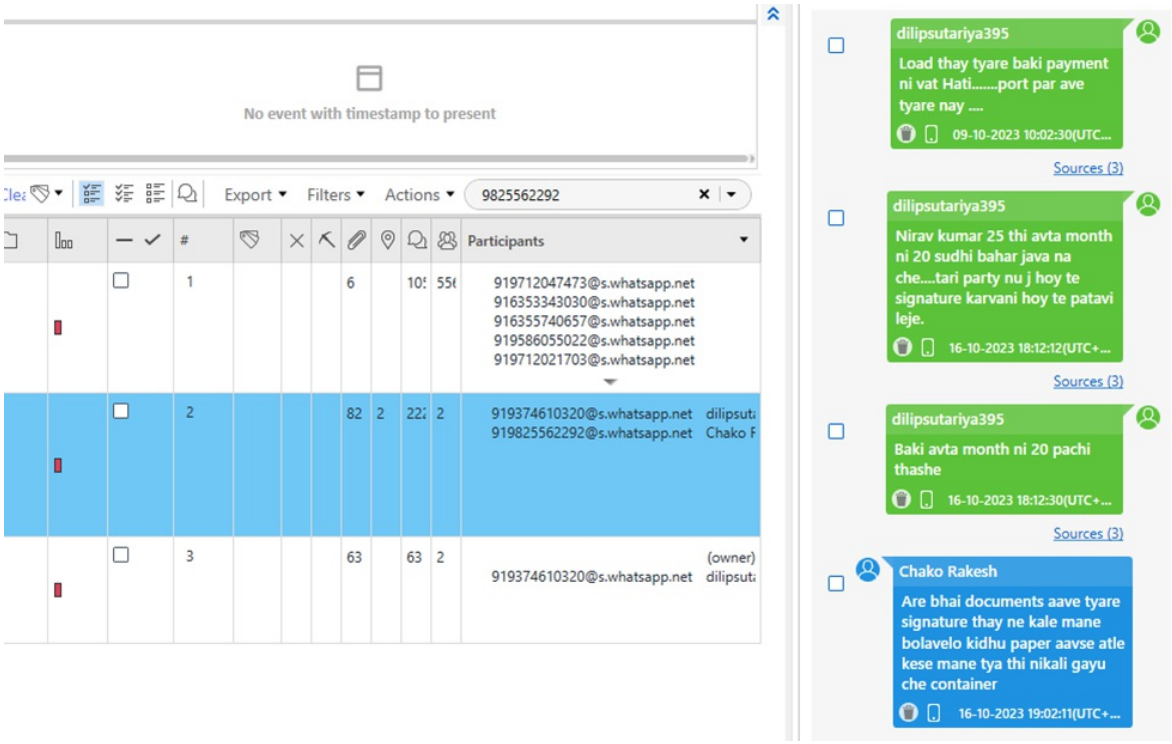


IMAGE – 2

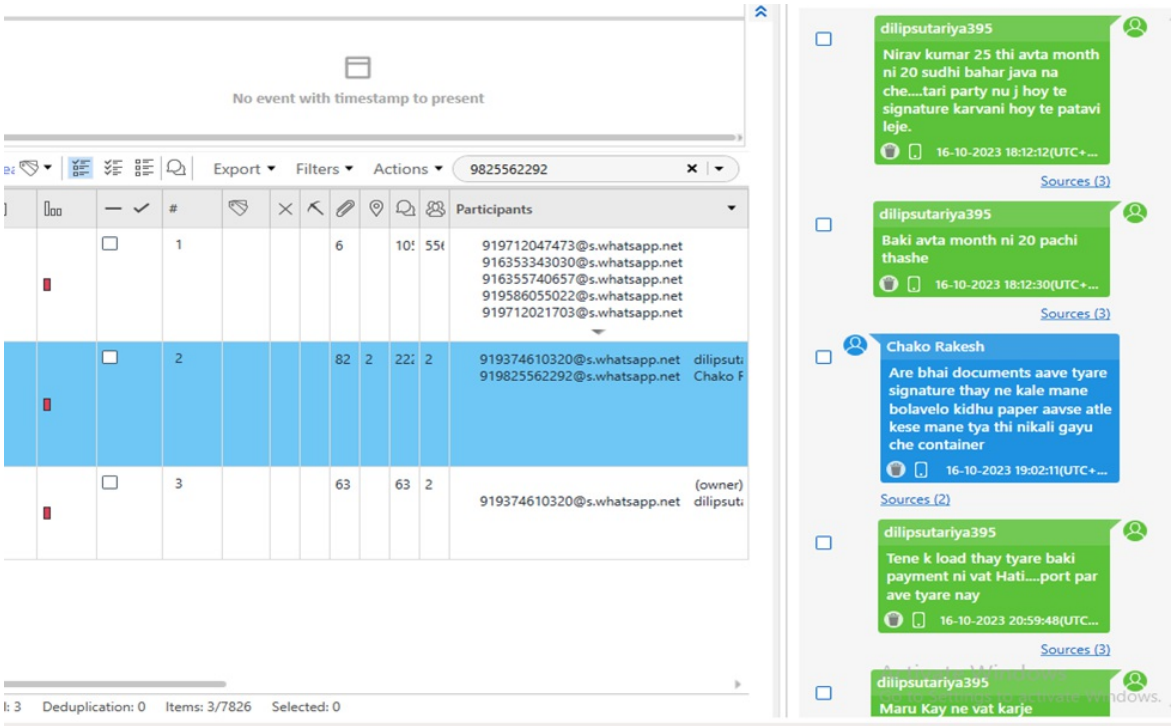


IMAGE – 3

Photo from dilipsutariya395
Add label
D
dilip sutariya 15:37
to rakeshnasit92
MADHAV ART
IMG-2...013.jpg

IMAGE – 4

MADHAV ART

55, AJANTA DIAMOND INDUSTRIAL, A.K. ROAD, SURAT.

GSTIN: 24ACNPV7408J1ZA

Date: 16/11/2023

To,

The Asst/Duty Commissioner of Customs

Custom House Mundra/Kandla,

Sub: Authority Letter and Declaration

Dear Sir,

We hereby appoint M/s. **CREDENCE SHIPPING** as our CB to file our Bill of Entry / Shipping Bill on our behalf and represent us before Customs and other Allied Agencies to complete all the documentation formalities up to delivery of the import consignment or export of our export shipment on our behalf.

We declare that we have read and understood Customs Law, Foreign Trade Policy / Procedure and other Law time being in force in India for Import / Export shipment and Documents submitted herewith are True, Complete and Correct in all manner and nothing has been concealed or attempted to be concealed from Customs and any other Authority.

Further, we state that we understand that we are solely responsible for any irregularities or miss declaration if found in our above referred consignment / shipment or in any of the documents or cargo presented herewith.

Further, we understand that we alone are and will be solely liable for any penal action – monetary or otherwise in terms of provision made under Customs Law and all Allied Acts applicable.

We further state, declare and undertake that CB was not been consulted in any manner what so ever while placing/receiving order to/from our overseas supplier/buyer and also at the time of importation/exportation of goods into/from India or likewise similar goods or any catalogue or brochure have been physical produced or shown to our CB in regard to this particular shipment. Bill of Entry / Shipping Bill as prepared and presented here with by our CB prior to offering cargo for import or export clearance only on the basis of documents provided by us.

Appointment of CB under this Authority is specific to and limited to process our documents as provided by us for Customs clearance with Customs Authority as a Licensed Custom House Agent (CB) only.

We further undertake that we are solely responsible and liable for any action that Department may choose to take in this regard and absolve CB for any responsibility whatsoever.

For, MADHAV ART

Proprietor

FOR MADHAV ART

PROPRIETOR

IMAGE – 5

10.4. The above Image – 1 to Image – 3 are the chats/conversations held between Shri Dilipbhai Babubhai Sutariya and Shri Rakesh Nasit/Chako Rakesh. Whereas, the image 4 & Image -5 are related to authority letter and declaration issued by Shri Niravbhai Laljibhai Vanani, which have been forwarded to Shri Rakesh Nasit. From the above It clearly appears that Shri Dilipbhai Babubhai Sutariya had knowingly obtained such 'Authority Letter & Declaration' from Shri Niravbhai Laljibhai Vanani, for executing the above importation of M/s Madhav Art.

10.5. Consequent upon the remand under the custody of DRI granted by Hon'ble ACMM, Ahmedabad, statement of Shri Dilipbhai Babubhai Sutariya, brother-in-law of Shri Niravbhai Laljibhai Vanani was also recorded on 06.12.2023 under Section 108 of the Customs Act, 1962, wherein, he inter-alia stated that he knowingly gave all the above details to Shri Rakesh Nasit after obtaining the same from his brother-in-law Shri Nirav L. Vanani. He was also aware of the import to be made in the name of M/s Madhav Art at Mundra Port. However, he was not aware of the importation of Cigarettes. He only came to know about importation of cigarettes when officers of DRI came to the premises of M/s Madhav Art. He further stated Shri Nirav L. Vanani was also aware of import made under IEC of M/s Madhav Art and he knowingly provided him all the documents/records for facilitating such import on his request. However, Shri Niravbhai Laljibhai Vanani was also not aware of import of cigarettes instead of textiles.

10.5.1. During the above statement dated 06.12.2023, he was also confronted with certain data/images retrieved from his mobile phone as mentioned in para supra.

10.5.2. On being asked to peruse below shown image of printout taken from the data retrieved from his mobile and to explain the same:

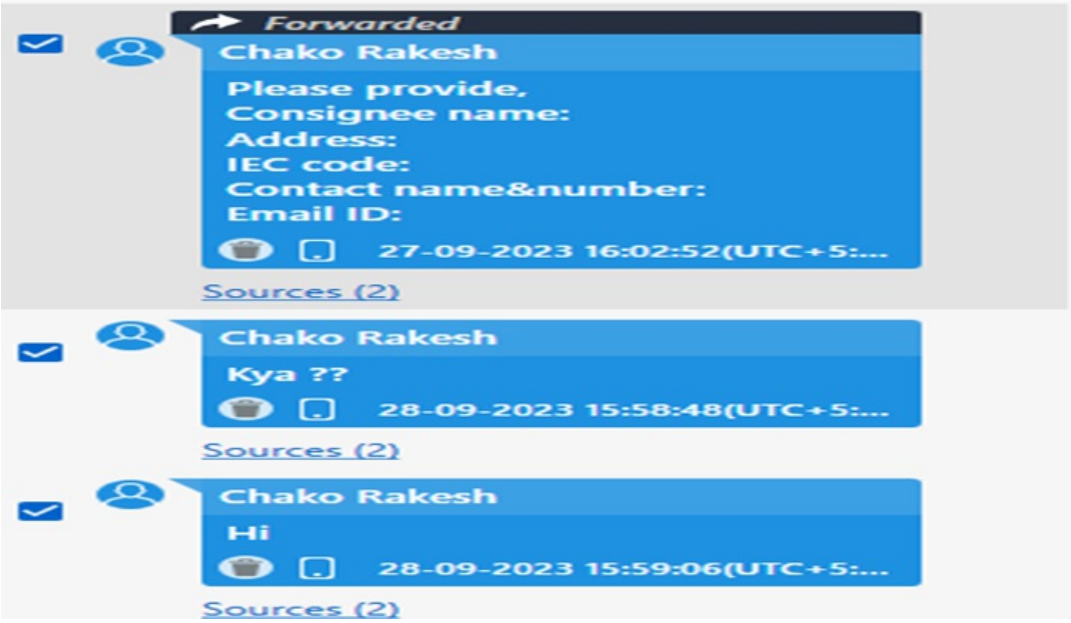


IMAGE – 6

he stated that after obtaining IEC No., Shri Rakesh Nasit asked him to provide a PDF containing all the above details such as Consignee Name, address, IEC Code, Contact No, Email ID etc. for the importation of consignment.

10.5.3. On being shown the below mentioned image of printout of data retrieved from his mobile phone:

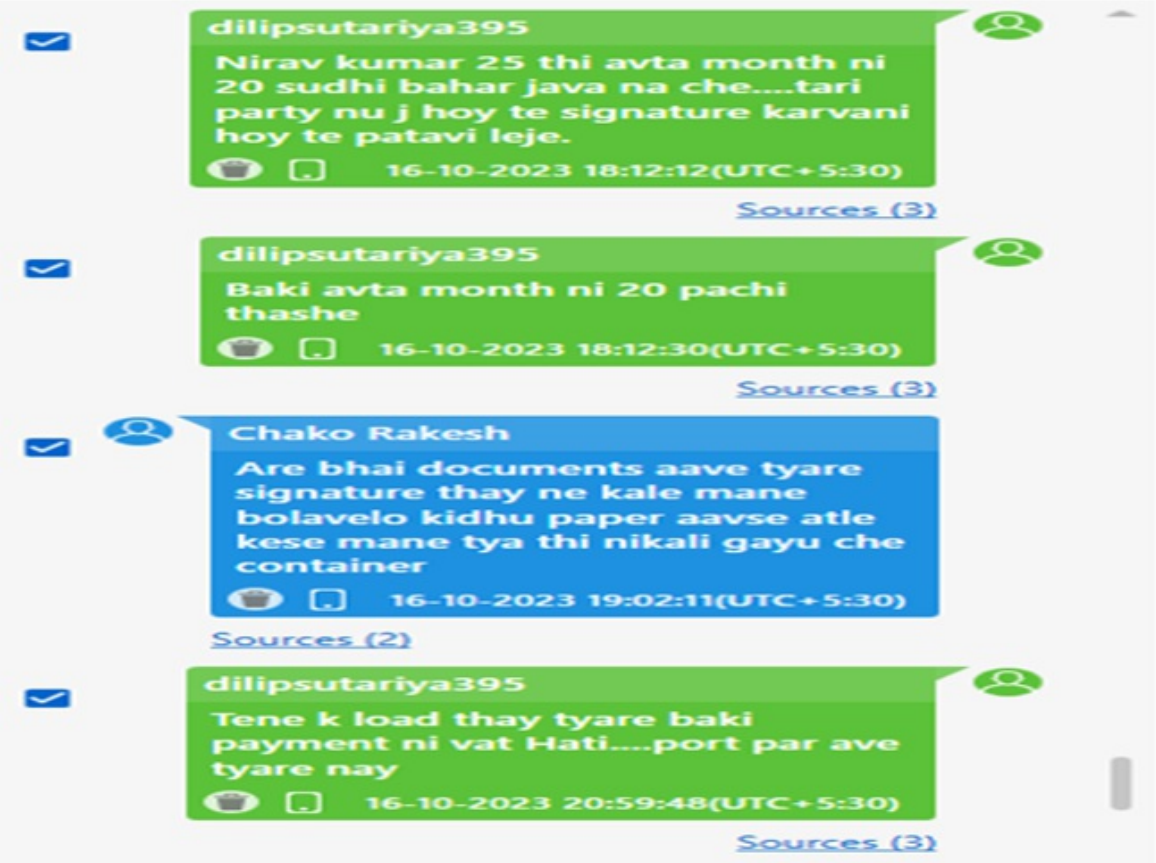


IMAGE – 7

he stated that the above conversation has been taken place between himself and Shri Rakesh Nasit, whose contact no. is saved as Chako Rakesh as his nick name is Chako. The above conversation has been made in respect of importation of container by him. In the conversation, he informed Shri Rakesh Nasit that Shri Nirav L. Vanani was going out of station and would return on certain date in next month, hence, Shri Rakesh Nasit asked him to complete all kind of formalities of signatures for such importation and also informed him that container has left for India. In the further message, Shri Rakesh Nasit informed him that remaining payment was required to be paid to Shri Dilipbhai Babubhai Sutariya after loading of consignment only and not after the arrival at port.

10.5.4. On being specifically asked referring the above message about payment to be received, he stated that he had lent Rs. 10000 to Shri Rakesh Nasit, wherein, Shri Rakesh Nasit had returned him Rs. 8000. However, remaining 2000 was receivable from him so Shri Dilipbhai Babubhai Sutariya was just kidding to him in the above message about return of his remaining Rs. 2000 linking with the above container.

10.5.5. On being further shown the below two images of printouts taken of data retrieved from my mobile:

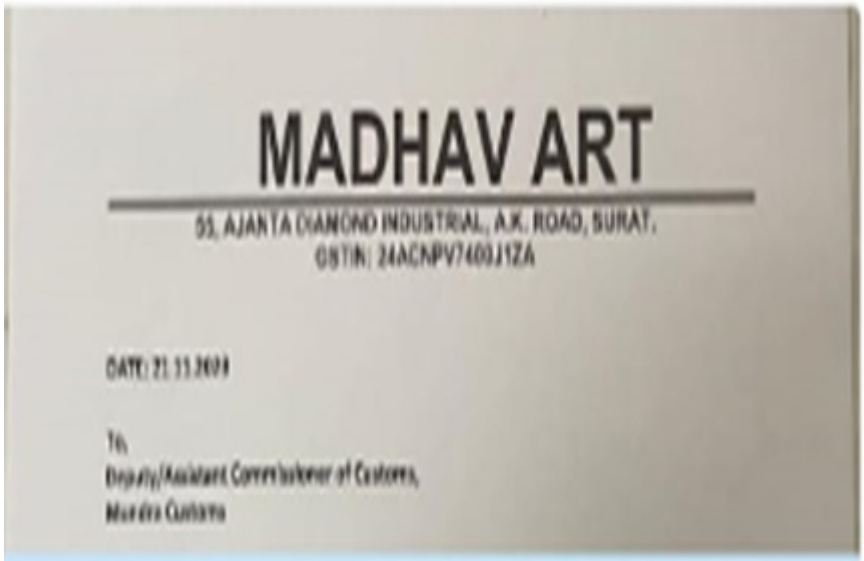
Photo from dilipsutariya395

Add label

D

dilip sutariya 15:37

to rakeshnasit92



MADHAV ART

55, AJANTA DIAMOND INDUSTRIAL, A.K. ROAD, SURAT.
GSTIN: 24ACNPV7403J1ZA

DATE: 21.11.2024

To,
Deputy/Assistant Commissioner of Customs,
Mundra Customs

IMG-2...013.jpg

MADHAV ART

55, AJANTA DIAMOND INDUSTRIAL, A.K. ROAD, SURAT.
GSTIN: 24ACNPV7400J1ZA

DATE: 21.11.2023

To,
Deputy/Assistant Commissioner of Customs,
Mundra Customs

Subject: Application for in the IGM AMENDMENT

Request for Amendment INHZA1 TI to LC INMUN1 (CHANGE IN PORT DESTINATION) in IGM for below:

1. Name and Address of Shipping Line: CMA CGM AGENGCIES (INDIA) PVT LTD. IGM No-2359699 dt: 07.11.2023
3. MBL No. CBC0242594 DATE-17.10.2023 ITEM NO:-368
5. Consignee Name- MADHAV ART

FROM	TO
TI	LC
INHZA1	INMUN1

I hereby certify that the aforesaid details are true and correct as per best of my knowledge. It is also certified that I am rightful person for the aforesaid addition in the IGM. I also declare that I am aware about provisions of Customs Act-1962 regarding Import General Manifest (IGM).

Therefore,we request your good self to amend/addition of above said container number in IGM No-2359699 dt: 07.11.2023

Thanking you,

For, M/S CMA CGM AGENGCIES (INDIA) PVT LTD.

FOR MADHAV ART
PROPRIETOR

IMAGE – 8

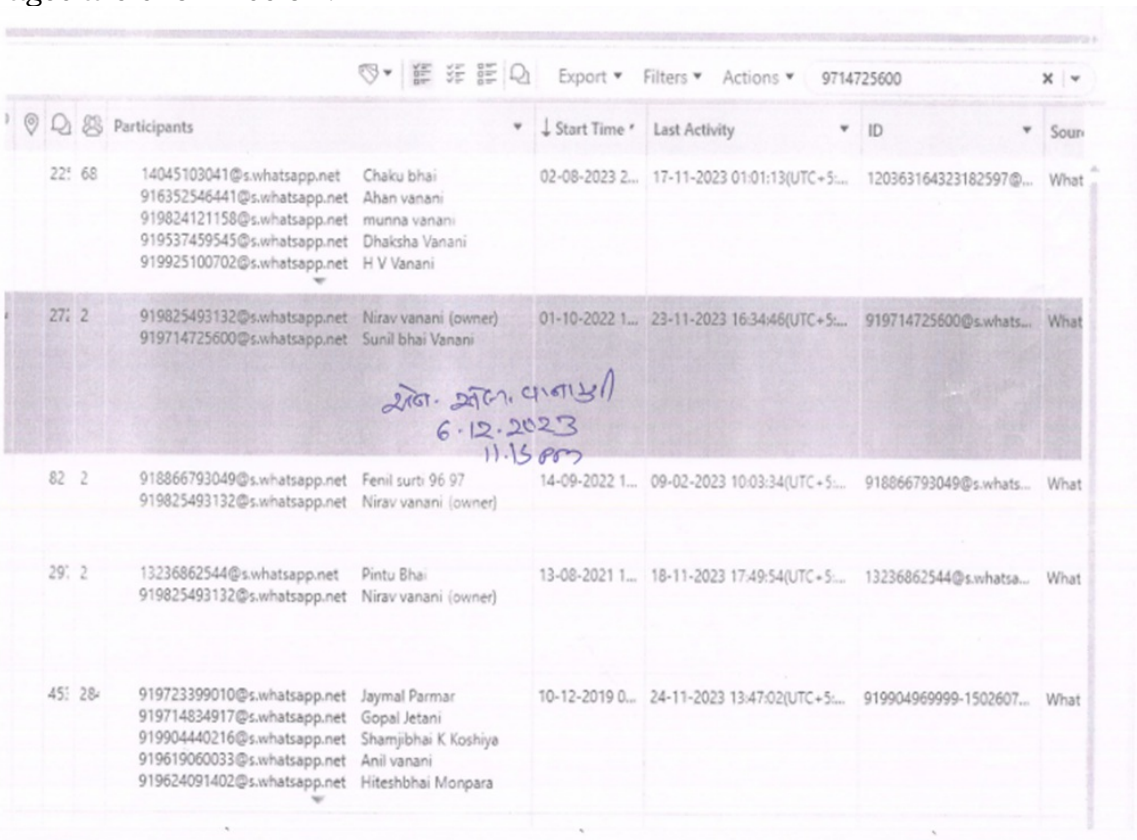
he stated that Shri Rakesh Nasit had sent him the above application in PDF

format and further asked him to obtain signature on such application for port change from Shri Nirav L. Vanani (Prop. of M/s Madhav Art). Thereafter, he called Shri Nirav L. Vanani and requested him to sign the said applicable. After obtaining such application from Shri Nirav L. Vanani duly signed by him, he further sent the same to Shri Rakesh Nasit through email.

10.5.6. He further stated that as per best of his knowledge, Shri Rakesh Nasit is engaged in the business of trading of seasonal items such as mangoes, Kite selling etc. He also provided contact details of Shri Rakesh Nasit as under:

- Name: Rakesh Nasit
- Mobile No.: 9825562292, 7359990333
- Address : 1. Ashwin Society, Kodiyar Nagar, Varachha, Surat
  2. Mityani/Jityani Village, Junagadh Dist (Exact name not known)
- Email ID: rakeshnasit92@gmail.com

10.6. Further, the data so extracted from mobile phone iPhone 11, Model No. MWLY2HN/A, Serial No. GV4D810JN73C of Shri Niravbhai Laljibhai Vanani were examined and it was found that there were some images including some parts of the chats pertaining to M/s Madhav Art. To illustrate the same, some images are shown below:



Export Filters Actions 9714725600

		Participants		Start Time	Last Activity	ID	Sour
22	68	14045103041@s.whatsapp.net 916352546441@s.whatsapp.net 919824121158@s.whatsapp.net 919537459545@s.whatsapp.net 919925100702@s.whatsapp.net	Chaku bhai Ahan vanani munna vanani Dhaksha Vanani H V Vanani	02-08-2023 2...	17-11-2023 01:01:13(UTC+5:...	120363164323182597@...	What
27	2	919825493132@s.whatsapp.net 919714725600@s.whatsapp.net	Nirav vanani (owner) Sunil bhai Vanani	01-10-2022 1...	23-11-2023 16:34:46(UTC+5:...	919714725600@s.whats...	What
82	2	918866793049@s.whatsapp.net 919825493132@s.whatsapp.net	Fenil surti 96 97 Nirav vanani (owner)	14-09-2022 1...	09-02-2023 10:03:34(UTC+5:...	918866793049@s.whats...	What
29	2	13236862544@s.whatsapp.net 919825493132@s.whatsapp.net	Pintu Bhai Nirav vanani (owner)	13-08-2021 1...	18-11-2023 17:49:54(UTC+5:...	13236862544@s.whatsa...	What
45	28	919723399010@s.whatsapp.net 919714834917@s.whatsapp.net 919904440216@s.whatsapp.net 919619060033@s.whatsapp.net 919624091402@s.whatsapp.net	Jaymal Parmar Gopal Jetani Shamjibhai K Koshiya Anil vanani Hiteshbhai Monpara	10-12-2019 0...	24-11-2023 13:47:02(UTC+5:...	919904969999-1502607...	What

IMAGE – 9

MADHAV ART

55, AJANTA DIAMOND INDUSTRIAL, A.K. ROAD, SURAT.

GSTIN: 24ACNPV7406J1ZA

Date: 16/11/2023

To,

The Asst/Dpty Commissioner of Customs

Custom House Mundra/Kandla,

Sub: Authority Letter and Declaration

Dear Sir,

We hereby appoint M/s. **CREDENCE SHIPPING** as our CB to file our Bill of Entry / Shipping Bill on our behalf and represent us before Customs and other Allied Agencies to complete all the documentation formalities up to delivery of the import consignment or export of our export shipment on our behalf.

We declare that we have read and understood Customs Law, Foreign Trade Policy / Procedure and other Law time being in force in India for Import / Export shipment and Documents submitted herewith are True, Complete and Correct in all manner and nothing has been concealed or attempted to be concealed from Customs and any other Authority.

Further, we state that we understand that we are solely responsible for any irregularities or miss declaration if found in our above referred consignment / shipment or in any of the documents or cargo presented herewith.

Further, we understand that we alone are and will be solely liable for any penal action – monetary or otherwise in terms of provision made under Customs Law and all Allied Acts applicable.

We further state, declare and undertake that CB was not been consulted in any manner what so ever while placing/receiving order to/from our overseas supplier/buyer and also at the time of importation/exportation of goods into/from India or likewise similar goods or any catalogue or brochure have been physical produced or shown to our CB in regard to this particular shipment. Bill of Entry / Shipping Bill so prepared and presented here with by our CB prior to offering cargo for import or export clearance only on the basis of documents provided by us.

Appointment of CB under this Authority is specific to and limited to process our documents as provided by us for Customs clearance with Customs Authority as a Licensed Custom House Agent (CB) only

We further undertake that we are solely responsible and liable for any action that Department may choose to take in this regard and absolve CB for any responsibility whatsoever.

For, MADHAV ART

Proprietor

IMAGE – 10

10.7.1. Consequent upon the remand under the custody of DRI granted by Hon'ble ACMM, Ahmedabad, statement of Shri Niravbhai Laljibhai Vanani, Proprietor of IEC firm M/s Madhav Art was recorded on 06.12.2023 under Section 108 of the Customs Act, 1962, wherein he was shown to the Panchanama dated 23.11.2023 drawn at M/s PSA Ameya Logistics Private Limited. In his statement, he inter-alia stated that as per request of Shri Dilipbhai Babubhai Sutariya, he had forwarded his documents viz. Aadhar Card, Pan Card, Registration No., Electricity Bill etc to him. He had also shared OTP received on his mobile no. through phone call & text message to Shri Dilipbhai B. Sutariya.

10.7.2. During the above statement, on being confronted the images shown above, which were recovered from his mobile phone, Shri Niravbhai Laljibhai Vanani stated that he had obtained the document shown in above image from Shri Dilipbhai Babubhai Sutariya through whats app; that he further forwarded to the said document to his cousin Shri Sunilbhai Vanani, who works in his firm, for getting printout of the said document. He further stated that after putting his signature on such document, he sent the same to Shri Dilipbhai Babubhai Sutariya.

11. From the investigations conducted and Statement of the above persons, it

was revealed that Shri Rakesh Nasit/Shri Rakesh Patel appears to be the main mastermind in the entire act of smuggling of Cigarettes in the container attempted to be illegally imported by M/s. Madhav Art by declaring the goods as 'Readymade Garment". Shri Rakesh Nasit/Shri Rakesh Patel in association with Shri Dilipbhai Babubhai Sutariya enticed Shri Niravbhai Laljibhai Vanani and obtained his documents and signature for importing the above consignment. It is evident from the statement of Shri Shri Dilipbhai Babubhai Sutariya that in lieu of profit/consideration, he obtained the requisite documents & signature from Shri Niravbhai Laljibhai Vanani. Shri Dilipbhai Babubhai Sutariya has also admitted in his statement dated 24.11.2023 that Shri Rakesh Nasit had offered him a part of profit and in lieu of the same, he agreed to provide all the requisite documents to a firm having GST registration and consequently, he obtained all the requisite documents and signature from his brother-in-law Shri Niravbhai Laljibhai Vanani in respect of M/s Madhav Art. Further, Shri Niravbhai Laljibhai Vanani in his statement dated 24.11.2023 stated that his brother-in-law Shri Dilipbhai Babubhai Sutariya had offered him some part of profit, which would arise from such import, to which Shri Niravbhai Laljibhai Vanani agreed to provide all the details of M/s Madhav Art to his brother-in-law namely Shri Dilipbhai Babubhai Sutariya. Thus, it evidently appears that Shri Rakesh Nasit/Shri Rakesh Patel in association with Shri Dilipbhai Babubhai Sutaiya and Shri Niravbhai Laljibhai Vanani had entered into conspiracy and attempted to smuggle the Cigarettes, which were declared in the Bills of Lading, Packing List & Commercial Invoice as "Readymade Garment" to hoodwink the Customs authorities at the time of import. They were partially successful in getting the goods imported in the name of M/s. Madhav Art. It was due to the intervention of the officers of DRI, Ahmedabad, that the entire smuggled goods through the consignments illegally imported by of M/s. Madhav Art were recovered and seized under Section 110 of the Customs Act, 1962 as the same were liable to confiscation.

12.1. During the course of recording of statement on 06.12.2023, Shri Dilipbhai Babubhai Sutariya had provided address and contact nos. of Shri Rakesh Nasit, who appeared to be actively involved in the above said smuggling of Cigarettes. However, the address provided by him appeared to be incomplete. Hence, he did not provide the complete whereabouts such as full name, complete address etc. of the above persons. Hence, further, to ascertain the whereabouts of Shri Rakesh Nasit in the instant case as mentioned by Shri Dilipbhai Babubhai Sutariya in his statement, Subscriber Details Records (SDR) in respect of the following mobile nos. of Shri Rakesh Nasit provided by him were obtained from the respective service providers, which are as under:

S. N.	MOBILE NO.	HOLDER AS PER SDR	ADDRESS AS PER SDR
1.	9825562292	Shri Rakesh Patel	C/o Shree Rani Sati Travel House, 41 Siddhi Vinayak Industries 1, Nr. Bombay Market Circle, Varachha Road, Khodiyar Nagar Road 003, Surat-395010
2.	7359990333	Shri Hardik Tejani	93, Neheru Nagar, Near Somnath Mahadev Temple, Umra Surat City SVR College, Surat - 395007

12.2. From the above it appears that Shri Rakesh Nasit had been using above two nos. 9825562292 and 7359990333, which are registered in the name of Shri Rakesh Patel and Shri Hardik Tejani respectively. From the above details of

subscribers, it appears that Shri Rakesh Nasit's full name is Shri Rakesh Patel.

12.3. Further, several summons were issued to Shri Rakesh Nasit/Rakesh Patel and Shri Hardik Tejani at their respective addresses. However, None of them turned up for recording of statement and consequently none of them joined the investigation.

12.4. Consequent to the non-compliance of the summon by Shri Rakesh Nasit/Shri Rakesh Patel, who appears to be mastermind in the above smuggling of cigarettes, the above premises of Shri Rakesh Nasit/Shri Rakesh Patel, which was mentioned at Subscriber Details Records (SDR), located at 41 Siddhi Vinayak Industries 1, Nr. Bombay Market Circle, Varachha Road, Khodiyar Nagar Road 003, Surat-395010 was visited by the officers of DRI on 16.04.2024. During the said visit, it was found that the said premises is commercial building and a firm M/s Veera International was running from the said premises. On being enquired about Shri Rakesh Nasit/Shri Rakesh Patel, it was informed that no such person with such name was working or residing at the said premises. A visit note dated 16.04.2024 detailing the said proceeding was also prepared.

13. VALUATION OF GOODS SEIZED UNDER PANCHANAMA DATED 23.11.2023

13.1. From the above, it appears that the mis-declared goods viz. Gold Flake Cigarettes 'made in India' in two different packet colour i.e. Blue colour as well as Red Colour were attempted to be illegally imported in container bearing no TCLU6626772 covered by BL CBC0242594 dated 17.10.2023 by M/s. Madhav Art by concealing the same behind the declared goods i.e. 'Readymade Garments in violation of the provisions of the Customs Act, 1962. Further, it evidently appears that the assorted Clothes/garments were used to conceal the smuggled Cigarettes. Hence, all these acts of omission and commission tantamount to "prohibited goods" under Section 2(33) and "Smuggling goods" as defined under Section 2(39) of the Customs Act, 1962. The said Cigarettes were also non-compliant to the provisions of Section 3(o), 7(1), 7(2), 7(3) of the Cigarettes and Other Tobacco Products Act, 2003 (Prohibition of Advertisement and regulation of trade & commerce, production, supply and distribution); Rule 2 of the provisions of Legal Metrology (Packaged Commodities) Rules, 2011; Rule 6 read with Section 18 of the Legal Metrology Act, 2009; Rule 3 GSR 727(E), Rule 2 Clause 4(h) of Notification dated 15th October 2014. Consequently, the all the mis-declared goods i.e. Cigarettes along with assorted clothes/garments, which were used for concealing the mis-declared goods, were seized under Section 110 of the Customs Act, 1962, with a reasonable belief that the same are liable to confiscation under Section 111 & Section 119 of the Customs Act, 1962 respectively.

13.2. Market value of Gold Flake Cigarette 'Made in India' has been arrived based on MRP mentioned on packet of Cigarettes. The value of Gold Flake Cigarette 'Made in India' Blue colour packet has MRP of Rs. 170/- per packet and the value of Gold Flake Cigarette 'Made in India' Red Colour Packet has MRP of Rs. 165/- per Packet. However, the value of 'Assorted Clothes/Garments' used for concealing the above smuggled cigarettes have been taken as NIL. Further, Seizure Memo dated 24.11.2023 was also issued for the goods seized under Panchanama dated 23.11.2023. The same are as under:

SN	Item	Cartons (in Nos)	Price mentioned on each packet containing 10 stick (in Rs.	Total Market Value (in Rs.)
1	Assorted Clothes/ Garments	62	-	-
2	Gold Flake 'Made in India' Blue Colour	401 (4010000 sticks)	170/-	6,81,70,000/-
3	Gold Flake 'Made in India' Red Colout	400 (4000000 sticks)	165/-	6,60,00,000/-
	Total	**863 (80,10,000 sticks)**		**13,41,70,000/-**

14. From all the above paras, it appears that total 8010000 sticks of Cigarettes for total market value of INR 13,41,70,000/- (Rupees Thirteen Crores Forty-One Lakh and Seventy Thousand only) have been seized and the same appeared to be liable to confiscation under Section 111 of the Customs Act, 1962. Further, 62 Cartons containing assorted clothes/garments, which were used for concealment of above Cigarettes were also seized under Section 110 of the Customs Act, 1962 as the same appeared to be liable to confiscation under Section 119 of the Customs Act, 1962.

15.1. It has been learnt that Cigarettes bearing Gold Flake brand are manufactured and sold in India under the control of M/s ITC Limited. Accordingly, a letter dated 02.05.2024 was issued to ITC, Limited, Ahmedabad. Consequent to the said letter, ITC Limited vide their letter dated 08.05.2024 informed this office that the cigarettes described in the said letter are counterfeit as the 14-digit code printed alongside the date of manufacture on the pack of detained cigarettes does not conform to ITC's protocol of having a different/ unique 14-digit identification code on each packet of GOLD FLAKE cigarettes manufactured by ITC; that ITC neither has any cigarette manufacturing unit outside India nor has ITC exported GOLD FLAKE cigarettes manufactured in India to any other country. Therefore, there is no question of import of ITC's GOLD FLAKE cigarettes into India.

15.2. The above clearly indicates that 8010000 cigarettes sticks of Gold Flake brand are counterfeit cigarettes, which have been attempted to be imported into India in violation of the various provisions of the Customs Act, 1962 and other allied acts.

16. SUMMATION

16.1. Investigations conducted revealed that Shri Rakesh Nasit/Shri Rakesh Patel in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani, had attempted to illegally import the Gold Flake Cigarettes by making gross misdeclaration. From the investigation conducted and statements of Shri Niravbhai Laljibhai Vanani and Shri Dilipbhai Babubhai Sutariya, it evidently appears that Shri Niravbhai Laljibhai Vanani proprietor of M/s Madhav Art had knowingly provided all his details such as copy of Aadhar Card, PAN Card alongwith all other necessary documents as well as his signatures to

Shri Dilipbhai Babubhai Sutariya for monitory consideration as admitted in his statement dated 24.11.2023 and assisted to Shri Dilipbhai Babubhai Sutariya and Shri Rakesh Nasit for making import in the name of M/s Madhav Art. Thus, it evidently appears that M/s Madhav Art (Prop: Shri Niravbhai Laljibhai Vanani) in connivance with Shri Dilipbhai Babubhai Sutariya and Shri Rakesh Nasit/Shri Rakesh Patel attempted to illegally import 8010000 sticks of cigarettes bearing GOLD FLAKE brand for estimated market value of INR 13,41,70,000/- in guise of declared goods viz. Readymade Garment.

16.2. It also appears that the said imported goods i.e. in respect to cigarette packets/packing (made in India), does not contain the Indian Statutory Health Warning (which is 85% of the front & back face of the pack and contains the text/pictures in terms of Section 3 & Section 7 of the Cigarettes and other Tobacco Products Act, 2003 (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) (herein after referred to as COTPA). Further, It does not comply with the declaration requirement in terms of Rule 2 of the Provisions of the Legal Metrology (Packaged Commodities) Rules, 2011; Rule 6 read with Section 18 of the Legal Metrology Act, 2009 for foreign/imported products (including cigarettes) viz. Name & Address of Importer, Common or generic name of the commodity (i.e. cigarettes), Net quantity (i.e. 10 or 20 cigarettes), Month & year in which the commodity is imported. Further, it appears that it does not satisfy the requirements of particulars to be there on every packing/packages/packets of cigarette in terms of rule: 3 GSR 727(E), Rule 2 clause 4 (h) notification dated 15th Oct 2014, says, viz. a. Name of the product b. Name and address of the manufacturer or importer or packer c. Origin of the product (for import) d. Quantity of the product etc.

16.3. It also appears that the goods imported into India without declaring and concealing the same behind the declared goods appears to be imported into India in contravention of the relevant provisions of the Foreign Trade Policy, as well as, the Customs Act, 1962. Hence the mis-declared goods, as well as, the declared goods, which were used for concealment were seized under Panchanama dated 23.11.2023. The details of goods seized along with value have been tabulated below:

SN	Item	Cartons (in Nos)	Price mentioned on each packet containing 10 stick (in Rs.	Total Market Value (in Rs.)
1	Assorted Clothes/ Garments	62	-	-
2	Gold Flake 'Made in India' Blue Colour	401 (4010000 sticks)	170/-	6,81,70,000/-
3	Gold Flake 'Made in India' Red Colout	400 (4000000 sticks)	165/-	6,60,00,000/-
	Total	**863 (80,10,000 sticks)**		**13,41,70,000/-**

16.4. The seized goods totally valued at Rs. 13,41,70,000/-, as aforesaid had

already been handed over to the custodian of M/s PSA Ameya Logistics Private Limited, Mundra, for safe custody under Supratnama dated 23.11.2023. The value of seized goods was based on the MRP.

16.5. It appears that in a very planned manner M/s Madhav Art (Proprietor – Shri Niravbhai Laljibhai Vanani) in connivance with his brother-in-law Shri Dililpbhai Babubhai Sutariya and Shri Rakesh Nasit/Shri Rakesh Patel had attempted to illegally import Cigarettes by way of gross misdeclaration and contravention of various provisions of the Customs Act, 1962 & FTP. Shri Rakesh Nasit/Shri Rakesh Patel appears to be the mastermind, who lured Shri Dilipbhai Babubhai Sutariya for obtaining documents of M/s Madhav Art from Shri Niravbhai Laljibhai Vanani. Accordingly, Shri Dilipbhai Babubhai Sutariya further lured Shri Niravbhai Laljibhai Vanani for monetary consideration and obtained the requisite documents as well as his signatures for performing the above import of the said consignment. From the above paras, it is evidently established that Shri Niravbhai Laljibhai Vanani was well aware of the consignment being imported as he himself signed all the document provided by Shri Dilipbhai Babubhai Sutariya including the application for change of port for the said consignment.

16.6. It has also been found that despite issuance of several summons to Shri Rakesh Nasit/Shri Rakesh Patel, Shri Hitesh Aboti, Authorized Person of Shipping Liner M/s CMA CGM, no one turned in this office for recording of statements. Many of the summon got returned undelivered to this office from postal remarks as not known/left/incomplete address. Hence, they did not join the investigation.

16.7. Several Summons were also issued to Shri Avinash Sonkar, who had approached shipping liner i.e. M/s CMA CGM for clearance of the above imported container, but he did not join the investigation. Shri Avinash Sonkar appeared to be a key person in nexus with the said consignment illegally imported as he had in possession of all the purpoted documents of M/s Madhav Art and he himself was managing the clearance part of the said container. His non-cooperation in the investigation also indicates his due roles in the said illegally imported container.

16.8. From all the foregoing paras, it appears that in a very planned manner & with conspiracy, Shri Rakesh Nasit/Shri Rakesh Patel in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani had knowingly and willingly involved themselves in the smuggling of Cigarettes along with the declared goods imported by M/s Madhav Art. All of them form a syndicate of smuggling of cigarettes in the instant case.

17. VIOLATIONS & CONTRAVENTION OF VARIOUS PROVISIONS:

17.1. The seized goods, i.e. 8010000 sticks of Gold Flake Cigarettes 'Made in India' totally valued at Rs. 13,41,70,000/- have been attempted to be illegally imported into India by way of gross misdeclaration and without valid/proper documents in violation of the provisions of the Customs Act, 1962. The said goods were mis-declaring as "Readymade Garment" with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations.

17.2. Further, the seized packets of cigarettes i.e. Gold Flake "Made in India" do

not bear pictorial warning as mandated under Section 7 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA) and Rule 3 of the cigarettes and Other Tobacco products (Packaging and Labeling) Rules, 2008 and its Amendment Rules, 2017, read-with Circular No. 09/2017-Customs, issued under F. No. 711/07/2003-Cus (AS) dated 29.03.2017 and therefore appears to be a violation of the said provisions. Further, in terms of General Note 13 (regarding Import Policy) of the schedule to the Customs Tariff Act, 1975, the import of cigarettes or any other tobacco product are subject to the provisions contained in the Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment Rules, 2009, as notified by the Ministry of Health & Family Welfare. Accordingly, all the cigarettes and tobacco products should have new specified health warning and new pictorial health warning on all cigarette's packets for sale in India when imported as prescribed in the Notification dated 27.05.2011 of Ministry of Health and Family Welfare. It therefore appears that the seized consignment of Cigarettes, have been smuggled/ imported, contrary to the prohibitions imposed by Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA) and in contravention of the provisions of Foreign Trade Policy 2015-20 and Section 11(1) read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 as amended. Therefore, the same may be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

17.3. Thus, the import made as such is in violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a) of the Foreign Trade Policy 2015-2020. Therefore, the same may be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

17.4. As per clause 5 of the Chapter 1A of the General Notes regarding Import Policy given with the ITC (HS) Classification, import of all packaged commodities which are subject to the provisions of Legal Metrology (Packaged Commodities) Rules, 2011, shall also be subject to the condition laid down in the aforesaid Rules and non-compliance with such provisions shall constitute violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a) of the Foreign Trade Policy. The packages of Cigarettes being ready to consume goods, Name and Address of the Importer were also required to be pre-printed on the packages in terms of the provisions of the Rule 6(1)(e), 6(2), and 10 of the Legal Metrology (Packaged Commodities) Rules, 2011, but it is observed that such details are absent on each of the packages of the concealed goods. Further in terms of Rule 27 of the Legal Metrology (Packaged Commodities) Rules, 2011, the importer of any pre-packed commodity should register with the Director or Controller. Section 18 of the Legal Metrology Act, 2009 also prescribes the manner of making declaration on the pre-packed commodities. It is evident that M/s. Madhav Art or the masterminds involved in the smuggling or any other claimant/beneficiary of the goods has not produced any such registration certificate issued to them so far and for that the goods imported by them under concealment do not follow the manner of making declaration as prescribed. This is being in violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a)

of the Foreign Trade Policy 2015-2020. Therefore, the same has to be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

17.5. The packages of Cigarettes of Gold Flake Brand are of well-known branded products and it appears that such branded goods are protected as "intellectual property" in terms of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. M/s. Madhav Art or the mastermind or the beneficiary involved in the smuggling or any other claimant of the goods have not come forward with the evidence of them being legal right holders for importing such goods into India for sale and marketing within India. Further, they have not produced any evidence to establish that the goods imported by them were not bearing false trade mark, brand name etc. Moreover, on being enquired from ITC Limited, who is the legal holder of such Trade Mark of Gold Flake explicitly informed this office that ITC Limited does not import or export cigarettes of Gold Flake Brand and the above cigarettes are counterfeit Cigarettes. Therefore, the goods imported illegally by way of concealment may be treated as imported illegally into India, infringing the intellectual property rights and thereby the same are liable to confiscation under the provisions of Section 111(d) of the Customs Act, 1962 read with the provisions of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.

17.6. The above Cigarettes were not declared in the relevant Bill of Lading No. CBC0242594 dated 17.10.2023, packing list, commercial invoice etc. and same were found concealed behind the declared goods viz. 'Readymade Garment' and the same also do not correspond in respect of value. Hence the same are liable to confiscation under the provisions of 111(i), 111(l) and 111(m) of the Customs Act, 1962.

17.7. Moreover, the 62 Cartons/boxes of 'Assorted Cloth/Garments, having assessable value NIL have been used for concealment of illegally imported Cigarettes in container bearing no. TCLU6626772, hence, the same are also liable to confiscation under Section 119 of the Customs Act, 1962.

18. Cigarette is an item specified under Section 123 of Customs Act, 1962 by virtue of Notification No.103/2016 dated Cus (N.T.) dated 25.07.2016. The burden of proof that 8010000 sticks of Gold Flake Cigarettes totally valued at Rs. 13,41,70,000/-, placed under seizure are not smuggled goods lies with the legal owner/claimant/beneficiary/importer of such goods.

19. <u>ROLES OF PERSONS INVOLVED IN THE ABOVE SMUGGLING, WHICH HAVE BEEN ASCERTAINED BASED ON INVESTIGATION CONDUCTED AND STATEMENTS RECORDED UNDER SECTION 108 OF THE CUSTOMS ACT.</u>

19.1. ROLE OF SHRI NIRAVBHAI LALJIBHAI VANANI, PROPRIETOR OF IEC FIRM M/S. MADHAV ART:

19.1.1. It appears that Shri Niravbhai Laljibhai Vanani, Proprietor of M/s Madhav Art (IEC: ACNPV7400J), had knowingly and intentionally involved himself in the smuggling of Cigarettes, by providing the KYC documents such as PAN card, Adhaar Card, Signatures etc., to his brother-in-law Shri Dilipbhai Babubhai Sutariya for obtaining IEC (Import Export Code) and importing the above consignment in lieu of monetary considerations. Shri Niravbhai Laljibhai Vanani had further signed the documents for changing of port destination for the container bearing no. TCLU6626772 imported by M/s. Madhav Art. He himself had forwarded the above document after duly signed by him to Shri

Dilipbhai Babubhai Sutariya, who further forwarded the same to Shri Rakesh Nasit/Shri Rakesh Patel. He also shared OTP on receipts of the same, as and when, it was required. Document seized from the office premises of M/s Madhav Art and images retrieved from his mobile during forensic retrieval, evidently indicated that he was well aware of the above import of the said container TCLU6626772. Based on such documents & signature, IEC in the name of M/s Madhav Art was obtained and all the requisite process of documentation for such import were performed. Hence, his all claims about unawareness of above illegal import of cigarettes through the container TCLU6626772 are hereby negated. Shri Niravbhai Laljibhai Vanani, Proprietor of M/s. Madhav Art, appears to be associate of Shri Rakesh Nasit/Shri Rakesh Patel and Shri Dilipbhai Babubhai Sutariya in the instant case, as he appears to be instrumental for effecting the smuggling of Cigarettes, which were concealed behind the declared goods viz. 'Readymade Garment', attempted to be imported from Cambodia. He is the person who had signed all the documents and provided his KYC documents which was the basis for the import of the above goods vide container no. TCLU6626772 covered by Bill of Lading CBC0242594 dated 17.10.2023. The said willful mis-declaration of actual goods imported and suppression of facts on the part of Shri Niravbhai Laljibhai Vanani, Proprietor of M/s. Madhav Art, construes "smuggling" as defined in section 2(39) of the Customs Act, 1962. It, thus, appears that Shri Niravbhai Laljibhai Vanani, Proprietor of M/s. Madhav Art is involved in the smuggling of goods by resorting to concealment of the cigarettes behind the declared goods viz. 'Readymade Garment' with an intent to smuggle the same into India.

19.1.2. Thus, it appears that, Shri Niravbhai Laljibhai Vanani, Proprietor of M/s. Madhav Art, by his acts of commission and omission rendered the undeclared, as well as, declared goods liable to confiscation under the provisions of Section 111 and Section 119 of the Customs Act, 1962, as he knowingly and intentionally made, signed and used, and caused to be made, signed and used, declaration, statement and document which was false and incorrect in material particulars, in the transaction of business for the purposes of the Customs Act, 1962 and thereby he is liable for penalty under Sections 112(a) & (b), Section 114AA and Section 117 of the Customs Act, 1962.

19.2. ROLE OF SHRI DILIPBHAI BABUBHAI SUTARIYA:

19.2.1. Based on the statement of Shri Niravbhai Laljibhai Vanani, it appears that Shri Dilipbhai Babubhai Sutariya, in association with Shri Rakesh Nasit/Shri Rakesh Patel, had lured Shri Niravbhai Laljibhai Vanani and obtained all the requisite documents such as Aadhar Car, Pan Card, Electricity Bill etc. from Shri Niravbhai Laljibhai Vanani, Proprietor of M/s Madhav Art and he also obtained signature and OTP from Shri Niravbhai Laljibhai Vanani for onward submission to Shri Rakesh Nasit/Shri Rakesh Patel for issuance of IEC in the name of M/s Madhav Art. He has been very instrumental in importation of above container. Further, from Chats/conversations retrieved from his mobile phone as discussed above, it evidently appears that Shri Dilipbhai Babubhai had knowingly obtained all the above documents including 'Authority Letter & Declaration' and 'Application for amendment in IGM' from Shri Niravbhai Laljibhai Vanani, for executing the above importation of M/s Madhav Art and shared to his friend Shri Rakesh Nasit/Shri Rakesh Patel. As per details mentioned at para 10.5.4. above, which revealed that he had also received certain monitory consideration from Shri Rakesh Nasit/Shri Rakesh Patel in respect of importation of such container. Hence his claim in his statement that he had lent some money to Shri Rakesh Nasit/Shri Rakesh

Patel, which was returned by him appears to be totally false and hence the same is not tenable. His all claims about unawareness of above illegal import of cigarettes through the container TCLU6626772 are also hereby negated as he was the person, who lured Shri Niravbhai Laljibhai Vanani, Proprietor of M/s. Madhav Art and obtained all the requisite documents & signature from him for illegal importation of such container. Shri Dilipbhai Babubhai Sutariya appears to be associate of Shri Rakesh Nasit/Shri Rakesh Patel and he in association with Shri Rakesh Nasit/Shri Rakesh Patel & Shri Niravbhai Laljibhai Vanani conspired such smuggling of cigarettes. He appears to be instrumental for effecting the smuggling of Cigarettes, which were concealed behind the declared goods viz. 'Readymade Garment', attempted to be imported from Cambodia. He is the person who had obtained all the requisite documents and signature of the proprietor of M/s Madhav Art, which was the basis for the import of the above goods vide container no. TCLU6626772 covered by Bill of Lading CBC0242594 dated 17.10.2023. The said willful mis-declaration of actual goods imported and suppression of facts on the part of Shri Dilipbhai Babubhai Sutariya construes "smuggling" as defined in section 2(39) of the Customs Act, 1962. It, thus, appears that Shri Dilipbhai Babubhai Sutariya is involved in the smuggling of goods by resorting to concealment of the cigarettes behind the declared goods viz. 'Readymade Garment' with an intent to smuggle the same into India.

19.2.2. Thus, it appears that, Shri Dilipbhai Babubhai Sutariya, by his acts of commission and omission rendered the declared, as well as, undeclared goods liable to confiscation, as he was concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing and dealing with the goods which he knew were liable to confiscation under the provisions of Section 111 and Section 119 of the Customs Act, 1962, as he knowingly and intentionally used and caused to be made, signed and used, declaration, statement and document which was false and incorrect in material particulars, in the transaction of business for the purposes of the Customs Act, 1962 and thereby he is liable for penalty under Sections 112(a) & (b), Section 114AA and Section 117 of the Customs Act, 1962.

19.3. ROLE OF SHRI RAKESH NASIT/SHRI RAKESH PATEL:

19.3.1. From all the investigation conducted and statement of Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani, it appear that Shri Rakesh Nasit/Shri Rakesh Patel is the mastermind and main kingpin who has knowingly and intentionally involved himself in the smuggling of cigarettes, by conspiring the above illegal importation of cigarettes, which has been illegally imported by M/s. Madhav Art. Shri Rakesh Nasit/Shri Rakesh Patel in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani obtained IEC in the name M/s Madhav Art and managed all kind of process of documentation for illegally importing 8010000 sticks of cigarettes of Gold Flake 'Made in Inida' for estimated market value of Rs. 13,41,70,000/-, by way of concealing the same by declared goods 'Readymade Garment' in containerized cargo bearing no. TCLU6626772 covered by Bill of Lading CBC0242594 dated 17.10.2023. Shri Rakesh Nasit in a very planned manner in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani conspired such illegal importation of Cigarettes in violation of various provisions of the Customs Act, 1962 as well as allied acts & rules made thereunder. Hence, it appears that Shri Rakesh Nasit/Shri Rakesh Patel is the beneficial owner of these smuggled goods. The said willful mis-declaration of actual goods imported and suppression of facts on the part of Shri Rakesh Nasit, construes "smuggling" as defined in section 2(39) of the Customs Act,

1962. It, thus, appears that Shri Rakesh Nasit is involved in the entire organized smuggling of goods by resorting to concealment of the consumer goods behind the declared goods with an intent to smuggle the same into India.

19.3.2. Thus, it appears that Shri Rakesh Nasit/Shri Rakesh Patel, by his acts of commission and omission rendered the declared, as well as, undeclared goods liable to confiscation, as they were concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing and dealing with the goods which they knew were liable to confiscation under the provisions of Section 111 and Section 119 of the Customs Act, 1962, as they knowingly and intentionally used and caused to be made, signed and used, declaration, statement and document which was false and incorrect in material particulars, in the transaction of business for the purposes of the Customs Act, 1962 and thereby they are liable for penalty under Sections 112(a) & (b), Section 114AA and Section 117 of the Customs Act, 1962.

19.4. ROLE OF SHRI AVINASH SONKAR:

19.4.1. It appears that as per printouts of email communication/conversation resumed during the search conducted at the premises related to Shri Avinash Sonkar located at M/s Aadhar Seasky India Private Limited, #02, 1st Floor, Aadinath Arcade-II, Plot No. – 576, Ward 12/C Gandhidham, Kutch, Gujarat – 370201, Shri Avinash Sonkar, whose name appears to be as Shri Avinash Kumar was constantly in touch with shipping liner i.e. CMA CGM regarding clearance of the above container TCLU66296772 covered under Bill of Lading No. CBC0242594. He was the person, who was co-ordinating all the process of documentation for clearances of illegally imported container. He was in possession of all the purported documents including Bill of Lading, Packing List, Commercial Invoice, Application for change of port etc. having declared goods as 'Readymade Garment'. Several summon were also issued to Shri Avinash Sonkar. However, he did not join the investigation. Hence, it evidently appears that Shri Avinash Sonkar/Shri Avinash Kumar was key contact person for getting the above consignment of cigarettes cleared from the Customs Authorities. However, the said container was put on hold and examined by the DRI officers. Hence, it appears that Shri Avinash Sonkar/Shri Avinash Kumar was involved in such smuggling of cigarettes.

19.4.2. Thus, it appears that, Shri Avinash Sonkar/Shri Avinash Kumar, by his acts of commission and omission rendered the declared, as well as, undeclared goods liable to confiscation, as he was concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing and dealing with the goods which he knew were liable to confiscation under the provisions of Section 111 and Section 119 of the Customs Act, 1962 and thereby he is liable for penalty under Sections 112(a) & (b), Section 114AA and Section 117 of the Customs Act, 1962.

19.5. Further, several summons were also issued to Shri Hardik Tejani, subscriber of Mobile No. 7359990333 being used by Shri Rakesh Nasit, and Shri Hitesh Aboti, who was the authorized persons of shipping liner i.e. CMA CGM. However, they did not appear in this office and did not join the investigation.

20. Accordingly, **M/s Madhav Art (Proprietor: Shri Niravbhai Laljibhai Vanani)**, (IEC: ACNPV7400J) was hereby called upon to show cause as to why:-

(i) the seized 801 Carton boxes containing 8010000 sticks of Gold Flake Cigarettes 'Made in India' which were not declared having total assessable value of Rs. 13,41,70,000/- (Rupees Thirteen Crore Forty-One Lakh and Seventy Thousand only), which were smuggled in containers bearing no. TCLU6626772 vide Bill of Lading No. CBC0242594 dated 17.10.2023, should not be confiscated under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;

(ii) the seized 62 Cartons of Assorted Clothes/Garments, which were used for concealment of above Cigarettes mentioned at (i) above (undeclared and concealed goods), should not be confiscated under the provisions of Section 119 of the Customs Act, 1962;

(iii) penalty should not be imposed upon him under Section 112(a) and 112(b) of the Customs Act, 1962;

(iv) penalty should not be imposed upon him under Section 114AA of the Customs Act, 1962; and

(v) Penalty should not be imposed upon him under Section 117 of the Customs Act, 1962.

21. The following persons were also called upon to show cause as to why Penalty (as mentioned under column no. 3 of below table) should not be imposed upon them separately under the various provisions/sections of the Customs Act, 1962:

Sr. No.	**Name of Noticee**	**Section**
1	Shri Rakesh Nasit/Shri Rakesh Patel,	112(a) & 112(b), 114AA and 117
2	Shri Dilipbhai Babubhai Sutariya	112(a) & 112(b), 114AA and 117
3	Shri Avinash Sonkar	112(a) & 112(b), 114AA and 117
4	Shri Hardik Tejani	117
5	Shri Hitesh Aboti	117

22. <u>DEFENCE SUBMISSIONS</u>:

22.1 M/s. Madhav Arts through its Proprietor Niravbhai Laljibhai Vanani submitted reply dated 09.04.2025 wherein he interalia has submitted that:

i. M/s. Madhav Arts is not the owner of 801 carton boxes containing 8,10,000 of Gold Flake Cigarettes and 62 cartons of assorted cloths/garments. Hence, M/s. Madhav Arts has no claim on the goods seized as the same were imported by cheating M/s. Madhav Arts by the noticee No.3-Rakesh Nasit @ Rakesh Patel and noticee No.4-Hardik Patel. I have no objection if entire goods are confiscated. However, I am defending the Show Cause Notice for levy of penalty under Sections 112(a), 112(b) and 114AA and under Section 117 of the Customs Act, 1962.

ii. The Proprietor of M/s. Madhav Arts is having education of 8th Standard in Gujarati medium and has no fluency either in English or in Hindi languages. I say that M/s. Madhav Arts is engaged in the business of manufacturing and trading of women garments having GSTN

No.24ACNPV7400J1ZA at Surat.

iii. Shri Dilipbhai Babubhai Sutariya, the brother-in-law approached me for import of one consignment of readymade garments for his friend Shri Rakesh Nasit @ Rakesh Patel as he did not have IEC for import. I was also informed that payment has been made to the foreign supplier and if goods are not imported immediately, there would be huge losses.

iv. Believing the brother-in-law, the documents required for to apply IEC were given to Shri Dilipbhai and requisite forms and documents were signed under the bonafide belief and impression that Shri Dilipbhai and his friend are desirous to import one consignment of readymade garments. Since Shri Dilipbhai is brother-in-law, keeping trust on him, the documents were handed over to him and whatever the application forms or requisite documents to apply for IEC were also signed.

v. After receipt of IEC, I was informed that one consignment of readymade garments is to be imported and for that purpose necessary documents are to be sent and all the jobs/works with respect to clearance from the Customs Authority will be looked after by Shri Dilipbhai's friend. Again believing the brother-in-law Shri Dilipbhai, the documents were sent for import.

vi. If the statements recorded by the Investigation Officer dated 24/11/2023 and 06/12/2023 are perused, then the facts are crystal clear that I did not had knowledge, information and or mens-rea to evade custom duty or to import any restricted or prohibited items. In other words, I had no knowledge, intention or mens-rea to mis-declare the goods to be imported and indulged in evasion of custom duty. I did not have knowledge and information that either Shri Dilipbhai or Shri Rakesh Nasit @ Rakesh Patel would mis-declare the goods to be imported and indulged in evasion of custom duty.

vii. Since I did not know about the concealment of cigarettes by mis-declaring the goods, I have never claimed the ownership or provisional release of the goods seized. On the contrary, I declare that I have no objection to confiscate the entire goods as the same were imported in the name of M/s. Madhav Arts without the knowledge and information of the Proprietor of M/s. Madhav Arts and by cheating.

viii. I say that even in the entire Show Cause Notice, there is nothing to show that I had any information or knowledge that the cigarettes would be imported by mis-declaring the goods under the guise of import of readymade garments. If the investigation is not able to bring any evidence even prima face that M/s. Madhav Arts or its Proprietor had any knowledge, information or mens-rea to import the cigarettes by mis-declaration of the goods under the guise of import of readymade garments then the levy of penalty in such circumstances is to be dropped as M/s. Madhav Arts and its Proprietor has been cheated by co-noticees.

ix. With respect to the penalty sought to be imposed under Sections 112(a) and 112(b) of the Customs Act, 1962 on M/s. Madhav Arts, I say that even otherwise the import of the cigarettes is not prohibited and the same is permitted to import on payment of applicable customs duty. In such circumstances and the fact that the cigarettes in the present case have been imported under mis-declaration as also by cheating M/s. Madhav Arts, neither M/s. Madhav Arts nor its Proprietor is liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. M/s. Madhav

Arts is not claiming ownership of the goods and does not have any objection against the confiscation of the entire goods. In other words, I say that M/s. Madhav Arts at no point of time knowingly and intentionally had indulged in mis-declaration of the import of cigarettes.

x. At the cost of repetition, I say that M/s. Madhav Arts was not aware that the under the guise of import of readymade garments, the brother-in-law Shri Dilipbhai, Shri Rakesh Nasit @ Rakesh Patel and Shri Hardik Tejani are going to import cigarettes by mis-declaration. I say that I came to know about the import of cigarettes while drawing the Panchnama by the Investigation Officer at the premises of M/s. Madhav Arts. Till that time, I did not have any information or knowledge about the import of cigarettes by mis-declaration. If my statements recorded by the custom officers are taken into consideration, then these facts have been disclosed at the first available opportunity which has not been controverted by any material evidence collected during the investigation.

xi. There is no recovery or discovery from M/s. Madhav Arts or from its Proprietor Shri Niravbhai Laljibhai Vanani either from his residence or from his business premises to involve him in evasion of custody duty by mis-declaring the import of cigarettes in the consignment of readymade garments. Hence, there is no knowledge, information or mens-rea and intention to evade the payment of custom duty and therefore, penalty should not be imposed on M/s. Madhav Arts as M/s. Madhav Arts' Proprietor has been cheated by the co-noticees.

xii. With respect to the penalty sought to be imposed under Section 114AA of the Customs Act, 1962 is concerned, I say that M/s. Madhav Arts had no knowledge or intention to make sign or use any documents or declaration knowing to be false to their knowledge. I say that M/s. Madhav Arts did not make any statements and execute documents knowingly and intentionally to clear the goods from the Port. I say that M/s. Madhav Arts had no knowledge that the cigarettes have been concealed in the consignment of readymade garments and had no intention, collusion or conspiracy with the co-noticees. In fact, M/s. Madhav Arts is the victim and his innocence has been misused by the co-noticees jointly and severally. The entire Show Cause Notice does not have even prima facie evidence to show that M/s. Madhav Arts or its Proprietor had any knowledge or information about import of cigarettes by mis-declaration of import of readymade garments.

xiii. I say that I had never communicated with Shri Avinash Sonkar/Shri Avinash Kumar for clearance of the goods. Even I neither met him nor know him and he was appointed by the co-noticees.

xiv. In absence of knowledge, information and mens-rea, the penalty cannot be imposed under Section 114AA of the Customs Act, 1962. I neither knowingly nor intentionally controvert any provisions of the Customs Act, 1962 nor I abated such contravention nor did I fail to comply with any provisions of the Customs Act, 1962. In other words, it is the case of M/s. Madhav Arts that Shri Dilipbhai, brother-in-law represented that his friend Shri Rakesh Nasit @ Rakesh Patel desires to import readymade garments and they do not have IEC.

xv. Believing Shri Dilipbhai that the readymade garments are to be imported and for which IEC is required and neither Shri Dilipbhai nor Shri Rakesh Nasit had IEC or any firm which has GST number, I bonafidely supported

for importing readymade garments which has no restrictions. The documents were given to apply for IEC and the documents were signed to clear the consignment of readymade garments only. Had I knowledge that the intention of Shri Dilipbhai and his friends are to evade the custom duty, I would not have permitted to import any goods in the name of M/s. Madhav Arts. In such circumstances, the levy of penalty on M/s. Madhav Arts is unwarranted even under Section 117 of the Customs Act, 1962 in the peculiar facts and circumstances of the case and the Show Cause Notice so far as M/s. Madhav Arts is required to be dropped.

xvi. I have also filed a Police Complaint against Shri Rakesh Nasit @ Rakesh Patel and Shri Hardik Tejani for the offence of criminal breach of trust and cheating before Police Inspector, Varachha Police Station, Surat by Registered Post AD on 10/09/2024 and the same is pending investigation.

22.1 Shri Dilipbhai Babubhai Sutariya submitted reply dated 09.04.2025 wherein he interalia has submitted that:

i. My brother-in-law Shri Nirav Vanani is engaged in the business of manufacturing and trading of women garments having GSTN No.24ACNPV7400J1ZA at Surat through his proprietorship firm M/s. Madhav Arts. I approached Shri Nirav Vanani for import of one consignment of readymade garments for my friend Shri Rakesh Nasit @ Rakesh Patel as he did not have IEC for import. I was also informed that payment has been made to the foreign supplier and if goods are not imported immediately, there would be huge losses.

ii. Believing the brother-in-law, the documents required for to apply IEC were given by Shri Nirav Vanani and requisite forms and documents were signed by him under the bonafide belief and impression that my friend Shri Rakesh Nasit / Rakesh Patel is desirous to import one consignment of readymade garments. The documents received from Shri Nirav Vanani were handed over to Shri Rakesh Nasit / Rakesh Patel and whatever the application forms or requisite documents to apply for IEC were also signed.

iii. After receipt of IEC, I was informed that one consignment of readymade garments is to be imported and for that purpose necessary documents are to be sent and all the jobs/works with respect to clearance from the Customs Authority will be looked after by my friend Shri Rakesh Nasit / Rakesh Patel. Again believing Shri Rakesh Nasit / Rakesh Patel, the documents were sent for import.

iv. If the statements recorded by the Investigation Officer dated 24/11/2023 and 06/12/2023 are perused, then the facts are crystal clear that I did not had knowledge, information and or mens-rea to evade custom duty or to import any restricted or prohibited items. In other words, I had no knowledge, intention or mens-rea to mis-declare the goods to be imported and indulged in evasion of custom duty. I did not have knowledge and information that Shri Rakesh Nasit @ Rakesh Patel would mis-declare the goods to be imported and indulged in evasion of custom duty.

v. I say that the goods were imported in the name of M/s. Madhav Arts without the knowledge and information of the Proprietor of M/s. Madhav Arts and by cheating and forgery committed by Shri Rakesh Nasit / Rakesh Patel.

vi. I say that even in the entire Show Cause Notice, there is nothing to show that I had any information or knowledge that the cigarettes would be imported by mis-declaring the goods under the guise of import of readymade garments. If the investigation is not able to bring any evidence even prima face that myself had any knowledge, information or mens-rea to import the cigarettes by mis-declaration of the goods under the guise of import of readymade garments then the levy of penalty in such circumstances is to be dropped against me as my friend Shri Rakesh Nasit / Rakesh Patel has cheated us.

vii. With respect to the penalty sought to be imposed under Sections 112(a) and 112(b) of the Customs Act, 1962 on M/s. Madhav Arts, I say that even otherwise the import of the cigarettes is not prohibited and the same is permitted to import on payment of applicable customs duty. In such circumstances and the fact that the cigarettes in the present case have been imported under mis-declaration as also by cheating, I am not liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. In other words, I had at no point of time knowingly and intentionally had indulged in mis-declaration of the import of cigarettes.

viii. At the cost of repetition, I was not aware that the under the guise of import of readymade garments, Shri Rakesh Nasit @ Rakesh Patel and Shri Hardik Tejani are going to import cigarettes by mis-declaration. I say that I came to know about the import of cigarettes while drawing the Panchnama by the Investigation Officer at the premises of M/s. Madhav Arts. Till that time, I did not have any information or knowledge about the import of cigarettes by mis-declaration. If my statements recorded by the custom officers are taken into consideration, then these facts have been disclosed at the first available opportunity which has not been controverted by any material evidence collected during the investigation.

ix. There is no recovery or discovery from myself either from my residence or from my business premises to involve me in evasion of custody duty by mis-declaring the import of cigarettes in the consignment of readymade garments. Hence, there is no knowledge, information or mens-rea and intention to evade the payment of custom duty and therefore, penalty should not be imposed on me as we were cheated by Shri Rakesh Nasit / Rakesh Patel.

x. With respect to the penalty sought to be imposed under Section 114AA of the Customs Act, 1962 is concerned, I had no knowledge or intention to make sign or use any documents or declaration knowing to be false to my knowledge. I did not make any statements and execute documents knowingly and intentionally to clear the goods from the Port. I had no knowledge that the cigarettes have been concealed in the consignment of readymade garments and had no intention, collusion or conspiracy with Shri Rakesh Nasit / Rakesh Patel. In fact, M/s. Madhav Arts and myself are the victims and our innocence has been misused by Shri Rakesh Nasit / Rakesh Patel. The entire Show Cause Notice does not have even prima facie evidence to show that I had any knowledge or information about import of cigarettes by mis-declaration of import of readymade garments.

xi. I say that I had never communicated with Shri Avinash Sonkar/Shri Avinash Kumar for clearance of the goods. Even I neither met him nor know him and he was appointed by Shri Rakesh Nasit / Rakesh Patel.

xii. In absence of knowledge, information and mens-rea, the penalty cannot be

imposed under Section 114AA of the Customs Act, 1962. I neither knowingly nor intentionally controvert any provisions of the Customs Act, 1962 nor I abated such contravention nor did I fail to comply with any provisions of the Customs Act, 1962. In other words, it was my case that my friend Shri Rakesh Nasit @ Rakesh Patel desires to import readymade garments and he did not have IEC.

xiii. Believing Shri Rakesh Nasit / Rakesh Patel that the readymade garments are to be imported and for which IEC is required and Shri Rakesh Nasit did not have IEC or any firm which has GST number, I bonafidely supported for importing readymade garments which has no restrictions. The documents were given to apply for IEC and the documents were signed to clear the consignment of readymade garments only. Had I knowledge that the intention of Shri Rakesh Nasit / Rakesh Patel to evade the custom duty, I would not have permitted to import any goods in the name of M/s. Madhav Arts. In such circumstances, the levy of penalty on me is unwarranted even under Section 117 of the Customs Act, 1962 in the peculiar facts and circumstances of the case and the Show Cause Notice so far as me is required to be dropped.

23. RECORDS OF PERSONAL HEARING.

(i) Following the principles of natural justice, opportunities of personal hearings were granted on dated 20.01.2025, 24.02.2025, 10.03.2025. 11.04.2025, 13.05.2025, 02.06.2025, 30.06.2025 and 25.07.2025. Shri Avinash Sonkar (Noticee-4) appeared for personal haring on 24.02.2025 and stated that he was a freight forwarder and the shipment was destined to Hazira port and the documetns were sent to him only for the inquiry purpose. He further stated that he will submit detailed submission within 01 week. Chetan K. Pandya, Advocate appeared for personal hearing through virtual mode on 25.07.2025 on behalf of Noticee No. 1 & Noticee No. 2. He submitted that importer M/s. Madhav Art did not claim ownership of the impugned goods. He further submitted that Shri Nirvbhai Laljibhai Vanani and Shri Dilipbhai Babubhai Sutariya have no connection/communication with Avinash Sonkar or with Rakesh Nasit and investigation also indicated that Avinash Sonkar and Rakesh Nasit were responsible for smuggling of cigarette. He further submitted that the investigation is not able to bring any evidence even prima face that M/s. Madhav Arts or its Proprietor had any knowledge, information or mens-rea to import the cigarettes by mis-declaration of the goods under the guise of import of readymade garments. M/s. Madhav Arts and its Proprietor has been cheated by co-noticees and therefore, FIR was filed by importer against co-noticees. Further, statement of Avinash Sonkar and Rakesh Nasit ware never recorded during investigation. Further, cigarette is not restricted or prohibited and therefore, it is a case of misdeclaration/concealment/ smuggling. He requested to exonerate Shri Nirvbhai Laljibhai Vanani and Shri Dilipbhai Babubhai Sutariya.

(ii) Other noticees neither appeared for personal hearings nor submitted any written submissions.

DISCUSSIONS AND FINDINGS

24. I have gone through the facts of the case, Show Cause Notice dated 18.05.2024 and the noticee's submissions both, in written and in person. I now proceed to frame the issues to be decided in the instant SCN before me. On a

careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided: -

i. Whether seized goods i.e. "Gold Flake Cigarettes" which were not declared having total assessable value of Rs. 13,41,70,000/- (Rupees Thirteen Crore Forty-One Lakh and Seventy Thousand only), which were smuggled in containers bearing no. TCLU6626772 vide Bill of Lading No. CBC0242594 dated 17.10.2023 are liable for confiscation under the provisions of Section 111(d), 111(i) and 111(l) and 111(m) of the Customs Act, 1962 or otherwise.
ii. Whether the seized 62 Cartons of Assorted Clothes/Garments, which were used for concealment of above Cigarettes mentioned at (i) above (undeclared and concealed goods), are liable for confiscation under the provisions of Section 119 of the Customs Act, 1962;
iii. Whether Penalty under Section 112(a) and/or 112(b) and/or Section 114AA and/or 117 of the Customs Act, 1962 is liable to imposed on M/s Madhav Art (Proprietor: Shri Niravbhai Laljibhai Vanani) or otherwise.
iv. Whether penalty is liable to be imposed upon co-noticees under Section 112(a) & 112(b), 114AA and 117 of the Customs Act, 1962 or otherwise.

25. I find that the present show cause notice is centered on the goods imported through containers TCLU6626772 covered under Bill of Lading No. CBC0242594 dated 17.10.2023 wherein good were declared as 'Readymade Garments'. However, upon examination, prohibited goods viz. cigarettes (counterfeit goods) were found which were imported by way of mis-declaration in the description of goods mentioned in the Bill of Lading. I find that IGM (Import Genera Manifest) has been filed for the said Container. The Container was destined for Hazira Port.

25.1 On perusal of the examination report, I observed that only the first two rows were containing assorted clothes/garments and other cartons of third row were containing cigarette boxes of Gold Flake Brand. During the said examination proceedings, two types of cigarettes were found. One type of cigarette packet indicated the brand name Gold Flake "Made in India" Blue Colour and other type indicated the brand name Gold Flake "Made in India" Red Colour. During examination the following goods were found in the Container:

S. N.	Item Description	No. of Cartons	Particulars	Total
1.	Assorted Clothes/Garments	62	-	62 Cartons
2.	Gold Flake Cigarette "Make in India" Blue Colour	401	401 Cartons*50 Small size boxes*20 packets*10 sticks	4010000 Sticks
3.	Gold Flake Cigarette "Make in India" Red Colour	400	400 Cartons*50 Small size boxes*20 packets*10 sticks	4000000 Sticks
Total No. of Cigarette Sticks in above 801 Cartons				8010000

From the above, it is evident that total 8010000/- sticks of cigarettes

were found in the Container which were not declared in the IGM. The description of the goods was grossly mis-declared as 'Readymade Garments' in the import documents. The goods contained in the said imported cargo were completely mis-declared and said mis- declared cigarettes were found to be non-compliant accordance to the Cigarettes and other tobacco Products (Packaging and Labelling) Rules, 2022. Thus, I have no doubt that the goods are liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

25.2 I observed that only Shri Niravbhai Laljibhai Vanani, proprietor of IEC firm M/s Madhav Art and Shri Dilipbhai Babubhai Sutariya were turned up during the investigation period and other noticees have not responded to the summons issued by the investigation agency. Thus, statements of Shri Niravbhai Laljibhai Vanani and Shri Dilipbhai Babubhai Sutariya are the key evidences to hold charges against co-noticees. From the investigation it is emerged that Shri Rakesh Nasit/Shri Rakesh Patel (beneficial owner of the goods) in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani conspired such illegal importation of Cigarettes. I observed that Shri Rakesh Nasit/Shri Rakesh Patel is the mastermind and main kingpin who has knowingly and intentionally involved himself in the smuggling of cigarettes, by conspiring the above illegal importation of cigarettes, which has been illegally imported by M/s. Madhav Art. I noticed that Shri Rakesh Nasit/Shri Rakesh Patel in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani obtained IEC in the name M/s Madhav Art and managed all kind of process of documentation for illegally importing 8010000 sticks of cigarettes of Gold Flake 'Made in Inida' for estimated market value of Rs. 13,41,70,000/-, by way of concealing the same by declared goods 'Readymade Garment' in containerized cargo bearing no. TCLU6626772 covered by Bill of Lading CBC0242594 dated 17.10.2023.

25.3 The fact is not in dispute that Shri Niravbhai Laljibhai Vanani proprietor of M/s Madhav Art had provided all his details such as copy of Aadhar Card, PAN Card alongwith all other necessary documents as well as his signatures to Shri Dilipbhai Babubhai Sutariya who further forwarded the same to Shri Rakesh Nasit/Shri Rakesh Patel for making import in the name of M/s Madhav Art. Prohibited goods i.e Gold Flake Cigarettes 'made in India' in two different packet colour i.e. Blue colour as well as Red Colour were imported under the IEC of M/s Madhav Art.

25.4 I note that total quantity of 8010000 sticks of Cigarettes of Gold Flake Brand having market value around Rs. 13,41,70,000/- were found and further these smuggled cigarettes had not even bear mandatory pictorial warnings on their packets and thereby contravened provisions of Tobacco and Other Products (Packaging & Labeling) Rules 2008 & Tobacco and Other Products (Packaging & Labeling) Amendment Rules 2014. Since the said 8010000 Cigarette sticks were not declared in the IGM, the goods were placed under seizure under section 110 of the Customs Act, 1962.

26. <u>VALUATION OF THE GOODS:</u>

26.1 I find that Bill of Entry was not filed for the consignment imported under Bill of Lading No. CBC0242594 dated 17.10.2023 pertaining to Container No. TCLU6626772. Hence, value was not declared for the said shipment. However, for the purpose of the levying penalty on illegal import of goods, the value of the goods is required to be determined in accordance with provisions of Section 14 of Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter also referred to as "Rules

2007"). I find that Rule 3(1) of Rules 2007 provides that *"subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10".* Rule 3(4) ibid states that *"if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9 of Custom Valuation Rules, 2007".* The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced hereunder:-

3. Determination of the method of valuation-

(1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;

(2) Value of imported goods under sub-rule (1) shall be accepted:

Provided that -

(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

i. *do not substantially affect the value of the goods;*

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the

seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

4. Transaction value of identical goods. -

(1)(a)Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

Rule 5 (Transaction value of similar goods).-

(1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule7 of CVR, 2007.

Rule 7 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported

goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within India;

(iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8 of the CVR, 2007, stipulates that:-

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

(c) the cost or value of all other expenses under sub-rule (2) of rule 10.

Rule 9 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of" this rule on the basis of –

(i) the selling price in India of the goods produced in India;

(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;

(iii) the price of the goods on the domestic market of the country of exportation;

(iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) the price of the goods for the export to a country other than India;

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

26.2 I state that "Value" has been defined under Section 2(41) of the Customs Act, 1962 as "Value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14".

26.3 The Section 14 ibid provides, inter alia, that the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such their conditions as may be specified in the rules made in this behalf. Further, its proviso provides that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf. I find that as per the above provision value of any imported goods is the price actually paid or payable for the goods plus the components of other incidental charges to the extent mentioned in proviso to Section 14 ibid and in the manner specified in the Rules made under Section 14 ibid. In the instant as stated above, the whole consignment was found mis-declared with prohibited goods and the price actually paid not provided by any Noticee. Market value of Gold Flake Cigarette 'Made in India' has been estimated based on MRP mentioned on packet of Cigarettes. The value of Gold Flake Cigarette 'Made in India' Blue colour packet has MRP of Rs. 170/- per packet and the value of Gold Flake Cigarette 'Made in India' Red Colour Packet has MRP of Rs. 165/- per Packet. However, the value of 'Assorted Clothes/Garments' used for concealing the above smuggled cigarettes have been taken as NIL. The fact already emerged that the goods are counterfeit and cannot be manufactured outside of India, hence, import data not available for the said prohibited goods.

26.4 I find that Rule *4* (1) (a) of Rules 2007 stipulates determination of value of goods on the basis of value of identical goods. However, details of imports of identical goods were not available. Rule 5, providing for transaction value of similar goods, can also not be invoked as the goods have been found mis declared in terms of description, undeclared, prohibited, counterfeited etc. I also noticed that no exact sales values and data required for quantification of the deductions was available, hence, rule 7 cannot be invoked. Further, computed value, as provided under Rule 8, cannot be calculated in the absence of quantifiable data relating to cost of production, manufacture or processing of import goods. In such scenario, I find it appropriate to invoke the provisions of Rule 9 i.e. residual method for determining the value of the impugned import goods. Rule 9 provides for determination of value using reasonable means consistent with the principles and general provisions of these rules.

26.5 I find that in absence of credible data of import of similar goods and other constraints the value of these goods cannot be determined in terms of Rule 4, 5, 6, 7, 8 of Customs Valuation Rules 2007. Hence, the value is to be determined in terms of Rule 9 of said rules. In view of the above, I find that the market price as determined during the investigation period has to be considered as the basis for arriving at Market value of these goods. I hold it appropriate to determine the Market value of Gold Flake Cigarette 'Made in India' Blue colour packet as Rs. INR 170/- per packet and the value of Gold Flake Cigarette 'Made in India' Red Colour Packet as INR 165/- per packet. However, as proposed in the notice, the value of 'Assorted Clothes/Garments' used for concealing the above smuggled goods has been considered as NIL. Accordingly, the value determined is as per below table:

SN	Item	Cartons (in Nos)	Unit Value of each packet containing 10 stick (in Rs.	Total Market Value (in Rs.)
1	Assorted Clothes/ Garments	62	-	-
2	Gold Flake 'Made in India' Blue Colour	401 (4010000 sticks)	170/-	6,81,70,000/-
3	Gold Flake 'Made in India' Red Colout	400 (4000000 sticks)	165/-	6,60,00,000/-
	Total	**863 (80,10,000 sticks)**		**13,41,70,000/-**

In view of the above, I hold that the value under Section 14 of the Customs Act, 1962 read with Rule 9 of the CVR, 2007, comes to **13,41,70,000/- (Rupees Thirteen Crores Forty-One Lakh and Seventy Thousand only).**

2 7 . CONFISCATION OF THE GOODS UNDER SECTION 111(d), 111(i), 111(l), 111(m) and 119 OF THE CUSTOMS ACT, 1962:

27.1 It is alleged in the SCN that the goods are liable for confiscation under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below: -

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(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54];

.

.

27.2 In view of the facts and material evidence on record, it is clearly established that Shri Rakesh Nasit in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani had attempted to smuggle the foreign origin cigarettes of Gold Flake brand in guise of 'Readymade Garment'. Further, I find that the description of the goods had been declared as 'Readymade Garment' in the import documents, however, on examination of the impugned goods, total 80,10,000 cigarette sticks (4010000 sticks of Gold Flake Cigarettes 'Made in India' Blue Colour and 4000000 sticks of Gold Flake Cigarettes 'Made in India' Red Colour) were found. The value of 80,10,000 subject cigarettes in terms of Section 14 of Customs Act, 1962 read with CVR Rules 2007 has been determined as Rs. 13,41,70,000/-. These items were neither declared in the IGM, nor in the Bill of Lading filed before the Customs authorities. Thus, I find that the Noticees have contravened the provisions of Customs Act, 1962, in as much as they had willfully mis-declared the imported goods, in the corresponding import documents. Thus, I find that the said smuggled 80,10,000 Cigarette sticks, having market value of Rs. 13,41,70,000/- are liable to confiscation under the provisions of Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962.

27.3 I observed that Gold Flake Brand is a well-known brand in India and M/s. Madhav Art or the masterminds involved in the smuggling or any other claimant of the goods had not came forward with the evidence of them being legal right holders for importing such goods into India for sale and marketing within India. Further, they had not produced any evidence to establish that the goods imported by them were not bearing false trade mark, brand name etc. I also find that ITC Limited (brand owner/ Trade Mark holder of 'Gold Flake') clarified during the investigation that ITC Limited does not import or export cigarettes of Gold Flake Brand and such cigarettes are counterfeit Cigarettes. Therefore, I have no doubt in my mind that cigarettes were imported illegally by way of concealment into India, infringing the intellectual property rights and thereby the same are liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962 read with the provisions of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. The above Cigarettes were not declared in the relevant Bill of Lading No. CBC0242594 dated 17.10.2023 and same were found concealed behind the declared goods viz. 'Readymade Garments' and the same also do not correspond in respect of value. Hence the same are liable for confiscation under the provisions of 111(i), 111(l) and 111(m) of the Customs Act, 1962. Further, I find that remaining goods i.e "Assorted Cloth/Garments" which were used for concealment of these prohibited goods are also laible for confiscation under Section 119 of the Customs Act, 1962.

27.4 I note that Import of cigarettes is subject to provisions contained in

Section 7(3) of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, as amended, read with Cigarettes and other Tobacco Products (Packaging and Labeling) Rules, 2008 and its Amendment Rules, 2017, read-with Circular No. 09/2017- Customs, issued under F. No. 711/07/2003-Cus (AS) dated 29.03.2017, as notified by the Ministry of Health & Family Welfare, that import of cigarettes which do not bear specified health warnings on their packages is prohibited as per Foreign Trade Policy and such cigarettes cannot be imported/allowed to be cleared from Customs. The subject Rules as amended by the Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment Rules, 2014, require that the specified health warning should cover at least 85% of Principal Display Area of the package of which 60% shall cover pictorial health warning and 25% shall cover textual health warning and shall be positioned on the top edge of the package and in the same direction as the information on the principal display area. However, it is evident from the Panchanama dated 23.11.2023 that the packages of the Cigarettes recovered from Container No. TCLU6626772 were not having any type of pictorial health warnings. Further, in terms of General Note 13 (regarding Import Policy) of the schedule to the Customs Tariff Act, 1975, the import of cigarettes or any other tobacco product are subject to the provisions contained in the Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment Rules, 2009, as notified by the Ministry of Health & Family Welfare. However, the said goods were also found non-compliance of the said import policy.

27.5 I find that the goods were found in pre-packed condition, hence, in terms of Rule 27 of the Legal Metrology (Packaged Commodities) Rules, 2011, the importer of any pre-packed commodity should register with the Director or Controller. Section 18 of the Legal Metrology Act, 2009 also prescribes the manner of making declaration on the pre-packed commodities. However, no such registration is available with the goods or produced during the investigation. I also find that M/s. Madhav Art or the masterminds involved in the smuggling or any other claimant/beneficiary of the goods has not produced any such registration certificate issued to them so far and for that the goods imported by them under concealment do not follow the manner of making declaration as prescribed. This is being in violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a) of the Foreign Trade Policy 2015-2020. Therefore, the same are falls under the category of illegally importation into India and liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

27.6 From the above, it is evident that the said 80,10,000 Cigarette sticks, having market value of Rs. 13,41,70,000/, are covered under the definition of "prohibited goods" as per Section 2(33) of the Customs Act, 1962 and consequently, they are liable for absolute confiscation under the provisions of Section 111 (d) of the Customs Act, 1962. Also, the import of subject cigarettes in the manner described above constitutes an act of "smuggling" as defined in Section 2(39) of the Customs Act, 1962 and the subject cigarettes are required to be treated as smuggled goods under the provisions of Customs Act, 1962.

27.7.1 From the above, it is clear that the impugned goods had been improperly imported to the extent that such goods were prohibited, not mentioned in the import manifest, concealed, mis-declared and other material particulars, therefore, liable for confiscation. As the impugned goods are found

to be liable for confiscation under the provisions of Section 111 of the Customs Act, 1962, it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCN. The Section 125 ibid reads as under:-

*"**Section 125**. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. A fundamental requirement in considering requests for re-export is whether the importer has made a truthful declaration at the time of import. In the instant case goods were found totally different from the declared description. I find that no one has claimed the goods, despite the fact the Shri Rakesh Nasit/Shri Rakesh Patel is the beneficial owner of the imported goods. The namesake owner of the IEC is also unaware of how the goods were imported under his IEC. Shri Rakesh Nasit/Shri Rakesh Patel (beneficial owner of the imported goods) not came forward to claim the goods as he knows that the goods are not going to be cleared. However, Shri Rakesh Nasit/Shri Rakesh Patel cannot distance himself from the responsibility of the improper import made by him being beneficial owner of the imported goods. Apart from the said fact, as I have already discussed, I find that goods were found prohibited and falls within the meaning of Section 11 of the Customs Act, 1962; are liable for absolute confiscation. Further, I also hold that other goods i.e. 'Readymade Garments' are also liable for absolute confiscation along wtih the prohibited goods being used/medium for smuggling of the prohibited goods.

27.7.2 Apart from the above, it is pertinent mention here that the import of the prohibited goods has taken place after a well hatched conspiracy by the members of smuggling cartel. If the consignment got cleared there would have been negative impact on the consumer of the country who ultimately use the said prohibited goods. I cannot treat the present case like other cases. Hence, the imports made cannot be considered as bona fide and left no scope to take lenient view in such type of cases. In view of the blatant violation of the Customs Act and outright attempted smuggling of foreign origin cigarettes, I find it appropriate to absolute confiscate the goods imported under the impugned consignment.

28. Liability under Section 123 of the Customs Act, 1962: As per the provisions of Section 123 of the Customs Act, 1962, the burden to prove that the goods are not smuggled goods is required to be decided in the instant case. Section 123 of the Customs Act, 1962, states that:

SECTION 123. Burden of proof in certain cases. —

(1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they

are not smuggled goods shall be—

(a) in a case where such seizure is made from the possession of any person, —

(i) on the person from whose possession the goods were seized; and

(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;

(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.

(2) This section shall apply to gold and manufactures thereof watches, and any other class of goods which the Central Government may by notification in the Official Gazette, specify.

28.1 I find that Hon'ble Supreme Court in the case of ***J.K. BARDOLIA MILLS v. M.L. KHUNGER, DEPUTY COLLECTOR- 1994 (72) E.L.T. 813(S.C.),*** have interalia held that:

> ***"7.*** *The conditions to be satisfied for application of the provisions of Section 123 of the Act are (a) the goods must be one to which Section 123 applies; (b) the goods are seized under the Act and (c) the goods must be seized in the reasonable belief that they are smuggled."*

In the instant case total 80,10,000 Cigarettes sticks have been seized under the reasonable belief that the same were smuggled goods and therefore, burden of proving that the said Cigarettes are not smuggled goods is upon the Noticees who have imported the seized goods. None of the co-noticees have disputed the fact of smuggling of Cigarettes into India. Further, the Central Government vide Notification No. 103/2016-Cus.(N.T.) dated 25.07.2016 specified Silver and Cigarettes as any other class of goods for the purpose of Section 123 of the Customs Act, 1962.
Therefore as per this Notification No. 103/2016-Cus.(N.T.) dated 25.07.2016 when any goods (Silver and Cigarette) are seized under the Act under the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods lie on the person whose possession these goods were seized. However, Shri Rakesh Nasit/Shri Rakesh Patel, IEC holder or any other claimant failed to prove that the goods are not smuggled goods, hence, the noticees are liable for penal action under the provisions of the Customs Act, 1962.

28.2 The Hon'ble High Court Culcutta in the case of ***commissioner of Customs (preventive) Versus rajendra kumar damani @ raju damani- 2024 (389) E.L.T. 444 (Cal.)*** passed a judgment on 15-05-2024 and clearly stated that:

> *"24. What is important to note is that though the respondent took a plea that the gold bars was made out of old gold jewellery purchased in cash it was a very faint plea which was raised by the respondent and the co-noticees. Assuming such a plea was required to be considered, the onus is on the respondent and the co noticees to establish with documents that the gold which was seized was from and out of the old gold jewellery purchased by cash. This aspect of the matter was never established by the respondent and the co-notices. Therefore, the Learned Tribunal erroneously shifted the burden on the department stating that the same has not been denied. The question of denial will come only if the onus is discharged by the respondent and the co-noticees as required under section 123 of the Act. Thus, without any document placed by the*

respondent and the co-noticees, the tribunal could not have come to the conclusion that the department did not establish the same by cogent evidence. This finding is absolutely perverse and contrary to the scheme of Section 123 of the Act.

Further, in the said judgment the Hon'ble Court also held that:

"25. merely because the statement is said to have been retracted, it cannot be regarded as involuntary or unlawfully obtained. In this regard, the revenue has rightly placed reliance on the decision of the Hon'ble Supreme Court in Vinod Solanki v. Union of India and Others [2009 (233) E.L.T. 157 (S.C.)]."

28.3 I also refer the judgment of CESTAT Principal Bench, New Delhi in the case of ***Commr. Of Customs (Preventive), NCH, New Delhi versus Suresh Bhonsle- 2024 (388) e.l.t. 90 (tri. - del.)*** wherein it has been held that: *"as per Section 123 of the Act the department was under reasonable belief that it was smuggled gold and therefore the burden was on the appellant being the owner of it to prove that the gold seized was not smuggled gold, which remained undischarged at his end".*

I find that the ratio of the said judgment is directly applicable to the present case, as the concerned persons failed to discharge the burden of prove that the cigarettes were not smuggled goods.

28.4 Further, I place reliance on the judgment of Hon'ble CESTAT, CHENNAI in the case of ***M/s. Gaurav Agarwal versus Commissioner of Customs, Tiruchirapalli [2020 (372) E.L.T. 724 (Tri. - Chennai)]*** wherein it has been held that "Appellant not able to establish that silver was legally imported and suffered Customs duty- Confiscation of goods and penalties imposed are legal and proper - Sections 111, 112 and 123 of Customs Act, 1962":

"6. *In the present case, the silver is not in the nature of bars or coins. It is in the form of silver granules. As per the circular, when silver bullion is found in possession with foreign markings the same can be subject to seizure, if it is less than 100 kgs. In the present case, the quantity of silver bullion is 60 kgs. Then the question arises, whether silver granules would fall within the definition of silver bullion. The Commissioner (Appeals) in para 8 of his order has explained the meaning of bullion as seen in Wikipedia. Ordinary meaning of bullion given as per the dictionary is "Platinum, Gold or Silver, which is in bulk quantities". The meaning of bullion thus does not take away platinum, gold or silver in the form of grains/granules. Thus, granules also fall within the definition of bullion. This would lead to the consequence that if the silver granules has foreign markings even though less than 100 kgs. would not be covered by the above Board circular. The next question then is whether silver granules in the present case has foreign markings. Needless to say that marking cannot be endorsed on silver granules as in case of silver coins or silver bars. The only practical way to endorse a marking on silver in the form of granules is to mention the markings on the packing/boxes which holds the silver granules. In the present case, the silver granules were found in carton boxes on which there was specific mention of the name of foreign manufacturer, lot nos., the date of manufacture etc. ……*

7. *The decisions relied upon by the Learned Counsel for the appellant are cases in which there were no foreign markings and, therefore, distinguishable. The decision in M/s. Murarilal Agarwal (supra) relied upon by the Learned Counsel, is a case of silver bars of foreign origin weighing less than 46.7 kgs and therefore is of no assistance to appellant. The appellant therein had produced bills of entry to show that the silver bars were licitly imported. The appellant here, has not been able to establish that the goods were licitly imported into India. In the case of M/s. Shambunath (supra) the Larger Bench was dealing with silver which was not in the form of granules. The said case relates to*

101 slabs silver which varied in weight and purity, and entirely on different set of facts.

7.1 *From the foregoing, I am of the view that the appellant has not been able to establish that the silver was legally imported and suffered Customs duty. In such circumstances, I find the confiscation of goods and penalties imposed are legal and proper. The impugned order requires no interference. The appeal filed by the appellant is, dismissed."*

I find that ratio of the above judgment is also directly applicable in the present case. I observe that the burden of proving that the goods, i.e., cigarettes, were not smuggled, has not been discharged by the Noticees. Therefore, I find that Shri Rakesh Nasit/Shri Rakesh Patel and other noticees to the Show cause had rendered the subject goods liable for confiscation, and as a result of this act, they are also liable for penalty under the provisions of the Customs Act, 1962.

29. I find that core issues of the case have been discussed in the foregoing paras in details. Now, I proceed to examine the **roles** of the various noticees and **liability** in this elaborate scheme of mis-declaration and smuggling of the imported goods with intent to defraud the government exchequer. Accordingly, I proceed with the discussion on the remaining issues.

29.1 ROLE AND LIABILITY OF PENALTY ON SHRI NIRAVBHAI LALJIBHAI VANANI, PROPRIETOR OF IEC FIRM M/S. MADHAV ART UNDER SECTION 112(a), 112(b), 114AA AND 117 OF THE CUSTOMS ACT, 1962:

i. I find that M/s. Madhav Art is a proprietorship firm opened in the name of Shri Shri Niravbhai Laljibhai Vanani. From the investigation, it has been emerged that Shri Rakesh Nasit/Shri Rakesh Patel (beneficial owner of the goods) with the help of Shri Dilipbhai Babubhai Sutariya obtained documents from Shri Niravbhai Laljibhai Vanani (IEC Holder). These documents were used to import prohibited goods, such as cigarettes.

ii. I find that Shri Niravbhai Laljibhai Vanani in his statement dated admitted that Shri Dilipbhai Babubhai Sutariya, the brother-in-law approached him for import of one consignment of readymade garments for his friend Shri Rakesh Nasit @ Rakesh Patel as he did not have IEC for import. He was also informed that payment has been made to the foreign supplier and if goods are not imported immediately, there would be huge losses. Believing the brother-in-law, the documents required for to apply IEC were given to Shri Dilipbhai and requisite forms and documents were signed under the bonafide belief and impression that Shri Dilipbhai and his friend are desirous to import one consignment of readymade garments. He also supplied the KYC documents such as PAN card, Adhaar Card, Signatures etc., to his brother-in-law Shri Dilipbhai Babubhai Sutariya for obtaining IEC (Import Export Code) and importing the above consignment in lieu of monetary considerations. I also observed that he had further signed the documents for changing of port destination for the container bearing no. TCLU6626772 imported by M/s. Madhav Art. He also shared OTP on receipts of the same, as and when, it was required. Further, He claimed that he was not aware that the under the guise of import of readymade garments, the brother-in-law Shri Dilipbhai, Shri Rakesh Nasit/ Rakesh Patel and Shri Hardik Tejani are going to import cigarettes by mis-declaration. He came to know about the import of cigarettes while drawing the Panchnama by the Investigation Officer at the premises of M/s. Madhav Arts. Till that time, he did not have any information or

knowledge about the import of cigarettes by mis-declaration.

iii. From the above, I noticed that Shri Rakesh Nasit/ Rakesh Patel with the help of Shri Dilipbhai obtained IEC and other required documents from Shri Niravbhai Laljibhai Vanani for importation of prohibited goods. The fact which is here cannot be overlooked that Shri Niravbhai Laljibhai Vanani had provided documents/shared OTP with Shri Rakesh Nasit/ Rakesh Patel. If Shri Niravbhai Laljibhai Vanani had not shared documents and mobile OTPs with him, the prohibited goods would not have been imported into India. Shri Niravbhai Laljibhai Vanani never tried to inquire whether his documents could be misused. This act of Shri Niravbhai Laljibhai Vanani concerned himself with the importation of prohibited goods. This act done by him made the goods liable for confiscation under the provisions of the Customs Act, 1962 and also made him liable for penal action.

iv. From the investigation, it is also observed that Shri Niravbhai Laljibhai Vanani has not claimed the goods and shown his ignorance about the importation of goods. I also observed that investigation already held that Shri Rakesh Nasit/ Rakesh Patel is the beneficial owner of the goods, hence, I am inclined to accept that Shri Niravbhai Laljibhai Vanani is not the owner of the goods. However, his role as discussed above cannot be overlooked.

v. I find that Show Cause Notice had been issued proposing penalty on M/s. Madhav Art through its proprietor Shri Niravbhai Laljibhai Vanani under Section 112(a), 112 (b), 114AA & 117 of the Customs Act, 1962 for act of omission and/or commission and for the reasons and allegations as discussed above. In this regard, I find that it pertinent to mention that the proprietorship firm doesn't have an identity distinct from its proprietor, therefore imposition of separate penalty on both would tantamount to imposition of double penalty for the same offence. Therefore, I hold that separate penalty as proposed under SCN on both is not warranted.

vi. From the factual matrix of the case, I find that Niravbhai Laljibhai Vanani was not aware of the mis-declaration of the imported goods at his name as there was no evidence to the claim of the department that Niravbhai Laljibhai Vanani knew about mis-declaration and further all incriminating documents recovered during investigation indicate that Shri Rakesh Nasit/ Rakesh Patel is the actual beneficial owner of imported goods. Shri Rakesh Nasit/ Rakesh Patel during investigation period had not joined the investigation. I find that the Shri Rakesh Nasit/ Rakesh Patel is the actual '*beneficial owner*' and 'Importer' of the subject goods as per the definition of defined under Section 3 [3A] & 2(26) of the Customs Act, 1962. Thus, the penalty being an Importer will also be borne by Shri Rakesh Nasit/ Rakesh Patel on behalf of the firm M/s. Madhav Art.

vii. I find that Niravbhai Laljibhai Vanani let his documents to be used by unscrupulous elements and never bothered to get to know the business activities/import which were being conducted in the name of M/s. Madhav Art. Though he had claimed innocence, I find that he cannot shed the legal liability of taking responsibility of goods imported in his IEC. I also find that he had provided his documents to unscrupulous elements based on which the present consignments containing prohibited goods were

imported. By doing such acts and omissions which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, he has made goods liable to confiscation under Section 111 of the Customs Act, 1962. In view of above, Niravbhai Laljibhai Vanani through his firm has concerned himself liable to penalty under Section 112(b) of Customs Act 1962. Therefore, I find that Niravbhai Laljibhai Vanani is liable to penalty under **Section 112(b)(i)** of Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) of Act, is imposed.

viii. As regards the penalty on M/s. Madhva Art through its proprietor under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation and other material particulars, I find that documents and OTPs were shared by Niravbhai Laljibhai Vanani for import of prohibited goods. Further, he accepted that he has signed on the form of "Sign Changing Form" but not singed the new signature. This act of him involved him for use false and incorrect materials and made himself liable for penal action under the provisions of Section 114AA of the Customs Act, 1962. He had knowingly and intentionally made/signed/used and/or caused to be made/ signed/ used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and it is beyond doubt that Niravbhai Laljibhai Vanani is also liable to penalty under Section 114AA of the Customs Act, 1962.

ix. As regards the penalty under Section 117 proposed on Niravbhai Laljibhai Vanani, I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In this regard, I find that penalty against Niravbhai Laljibhai Vanani already confirmed under the provisions of Section 112 and 114AA of the Customs Act, 1962, hence, penal action under section 117 does not appears to be warranted in the subject case against Niravbhai Laljibhai Vanani.

x. I notice that the purpose of penalties under the Customs Act, 1962 is to deter individuals and businesses from violating customs regulations by imposing financial punishments for actions like smuggling, under-declaring goods, or attempting to evade customs duties, thereby protecting the country's economy and ensuring fair trade practices. I find that the IEC holder has neither gained any monetary benefit nor claimed the goods stating that he is nowhere concerned with the goods imported. Thus, a lenient view may be taken while imposing penalty on the namesake IEC holder.

29.2 ROLE AND LIABILITY OF PENALTY ON Shri Dilipbhai Babubhai Sutariya UNDER SECTION 112(a), 112(b), 114AA AND 117 OF THE CUSTOMS ACT, 1962:

i. I find that Shri Rakesh Nasit/Rakesh Patel (beneficial owner of the goods) with the help of Shri Dilipbhai Babubhai Sutariya obtained documents from Niravbhai Laljibhai Vanani (IEC Holder) to import prohibited goods, such as cigarettes. I find that Shri Dilipbhai Babubhai Sutariya acted as inter-mediates between Shri Niravbhai Laljibhai Vanani, proprietor of M/s. Madhav Art and Shri Rakesh Nasit/Rakesh Patel (controller and actual beneficial owner of the goods).

ii. The investigation has made it clear that if Dilipbhai Babubhai Sutariya had not tempted Shri Niravbhai Laljibhai Vanani, then Rakesh Nasit/Rakesh Patel would never have been able to get the documents and OPT from Niravbhai Laljibhai Vanani, and prohibited goods i.e. cigarettes would not have been imported into India.

iii. From the investigation, there is no ambiguity that Shri Rakesh Nasit/Rakesh Patel in a much planned manner in association with Shri Dilipbhai Babubhai Sutariya and Shri Niravbhai Laljibhai Vanani conspired such illegal importation of Cigarettes in violation of various provisions of the Customs Act, 1962 as well as allied acts & rules made thereunder. Despite knowing the fact that import of cigarettes in the present shipment is prohibited, they indulged themselves in the illegal importation of the prohibited goods. They were confident that Shri Niravbhai Laljibhai Vanani (IEC holder) is not going to verify or ask about the documents retrieved from him for the purpose of importing prohibited goods. These acts clearly involve Shri Dilipbhai Babubhai Sutariya in the importation of prohibited goods i.e. cigarettes.

iv. In view of the above, it is evident that Shri Dilipbhai Babubhai Sutariya, had knowingly and intentionally involved themselves in the smuggling of cigarettes, by playing vital roles for convincing Shri Niravbhai Laljibhai Vanani to provide various documents & signatures to import prohibited goods in the name of M/s. Madhav Art. In view of above, I find that Shri Dilipbhai Babubhai Sutariya has willfully and deliberately indulged into conspiracy of importing and clearance of prohibited goods by way of mis-declaration and concealment. Therefore, such acts of omissions and commission on part of Shri Dilipbhai Babubhai Sutariya by dealing with Prohibited goods and other mis-declared goods which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under; has made goods liable to confiscation under Section 111 of the Customs Act, 1962. I find that Shri Dilipbhai Babubhai Sutariya have also rendered themselves liable to penalty under Section **112(b)(i)** of Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(a) of Act, is imposed.

v. As regards the penalty on Shri Dilipbhai Babubhai Sutariya under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation and other material particulars, I find that Shri Dilipbhai Babubhai Sutariya was aware about the uses of documents of the namesake IEC holder and helped to deliver it to Shri Rakesh Nasit/Rakesh Patel. He was aware about the forgery of documents and associated with Shri Rakesh Nasit/Rakesh Patel and used of manipulated documents for importation of prohibited goods i.e. Cigarettes.

The fact is beyond doubt that he made the IEC holder to handover the documents to Shri Rakesh Nasit/Rakesh Patel with some malafide intentions. Thus, he had knowingly and intentionally made/signed/used and/or caused to be made/ signed/ used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and it is beyond doubt that he is also liable to penalty under Section 114AA of the Customs Act, 1962.

vi. As regards the penalty under Section 117 proposed on Shri Dilipbhai Babubhai Sutariya, I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In this regard, I find that penalty against Shri Dilipbhai Babubhai Sutariya already confirmed under the provisions of Section 112 of the Customs Act, 1962, hence, penal action under section 117 does not appears to be warranted in the subject case against them.

29.3 ROLE AND LIABILITY OF PENALTY O N Shri Rakesh Nasit/Shri Rakesh Patel UNDER SECTION 112(a), 112(b), 114AA AND 117 OF THE CUSTOMS ACT, 1962:

i. I find that Summons were issued to Shri Rakesh Nasit/Shri Rakesh Patel by the investigating agency, however, he had given no heed to the summons and opted for not responding to the same and deliberately avoided their appearance. This act of him is in the contravention of the provisions of Section 108(3) of the Customs Act, 1962. I find that Shri Rakesh Nasit/Rakesh Patel (beneficial owner of the goods) with the help of Shri Dilipbhai Babubhai Sutariya obtained documents from Niravbhai Laljibhai Vanani (IEC Holder) to import prohibited goods, such as cigarettes.

ii. From the investigation, there is no ambiguity that Shri Rakesh Nasit/Rakesh Patel in a much-planned manner in association with Dilipbhai Babubhai Sutariya and Avinash Sonkar and Niravbhai Laljibhai Vanani conspired such illegal importation of Cigarettes in violation of various provisions of the Customs Act, 1962 as well as allied acts & rules made thereunder. From the investigation, it is emerged that Shri Rakesh Nasit/Rakesh Patel approached Niravbhai Laljibhai Vanani (namesake IEC holder) through his brother-in-law Dilipbhai Babubhai Sutariya for import of one consignment of readymade garments. He informed that payment has been made to the foreign supplier and if goods are not imported immediately, there would be huge losses. Believing the brother-in-law, Niravbhai Laljibhai Vanani supplied the documents required for to apply IEC and the KYC documents such as PAN card, Adhaar Card, Signatures etc., to his brother-in-law Shri Dilipbhai Babubhai Sutariya who further supplied the same to Shri Rakesh Nasit /Rakesh Patel.

iii. I noticed that Shri Rakesh Nasit/Rakesh Patel lured Dilipbhai Babubhai Sutariya for importation of prohibited goods and Dilipbhai Babubhai Sutariya further lured Niravbhai Laljibhai Vanani, Proprietor of M/s. Madhav Art to obtain all the requisite documents & signature from him for illegal importation of cigarette. Shri Rakesh Nasit/Rakesh Patel, by

deceiving Niravbhai Laljibhai Vanani, obtained documents and OTPs with the help of Dilipbhai Babubhai Sutariya and used them to import prohibited goods. If Shri Rakesh Nasit/Rakesh Patel had not lured Niravbhai Laljibhai Vanani to share documents and mobile OTPs with him, the prohibited goods would not have been imported into India. This act done by him made the goods liable for confiscation under the provisions of the Customs Act, 1962 and also made him liable for penal action.

iv. I find that the investigation carried out by the DRI revealed that for Customs clearance and transportation of goods Shri Rakesh Nasit/Rakesh Patel acted hand in gloves with Shri Avinash Sonkar. If the consignment was not intercepted by the DRI, they would have cleared the prohibited goods i.e cigarettes.

v. I find that in the present case of import of goods in name of M/s. Madhav Art, Shri Shri Rakesh Nasit/Rakesh Patel had acted as the mastermind of the smuggling cartel. It is evident that Shri Rakesh Nasit/Rakesh Patel had willfully and deliberately indulged into conspiracy of importing and clearance of goods prohibited goods i.e Cigarettes by way of mis-declaration/concealment. Shri Rakesh Nasit/Rakesh Patel knew that the cigarettes being imported in the current shipment were prohibited, which is why he did not mention these prohibited goods in the import documents. Thus, such acts and omission on part of Shri Rakesh Nasit/Rakesh Patel have rendered impugned goods liable for confiscation under Section 111 of the Customs Act, 1962 and had also rendered himself liable to penalty under Section 112(a)(i) of the Customs Act 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed. Further, I also hold that penalty under Section 112(a)(i) on behalf of the firm M/s. Madhav Art will be also be borne by Shri Rakesh Nasit/Rakesh Patel being the controller of the firm and actual beneficiary owner of the goods as the penalty has already been confirmed on the IEC holder under Section 112(b) of the Customs Act, 1962 for the contravention done by the IEC holder as discussed in foregoing paras.

vi. I find that Shri Rakesh Nasit/Rakesh Patel had used IECs of dummy firms for his own import, and he used KYCs of these dummy firms for clearance of prohibited goods i.e. Cigarettes by way of mis-declaration/concealment. He had also obtained KYC details and sign changed form from the namesake IEC holder for purpose of incorrect documents for filing of Bills of Entry for this consignment with false declarations. He had knowingly and intentionally made/signed/used and/or caused to be made/ signed/ used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and it is beyond doubt that Shri Rakesh Nasit/Rakesh Patel is also liable to penalty under Section 114AA of the Customs Act, 1962.

vii. As regards the penalty under Section 117 proposed on Shri Rakesh Nasit/Rakesh Patel, I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere,

the person liable can be charged for penalty under this section. In this regard, I find that penalty against Shri Rakesh Nasit/Rakesh Patel already confirmed under the provisions of Section 112 and 114AA of the Customs Act, 1962, hence, penal action under section 117 does not appears to be warranted in the subject case against Shri Rakesh Nasit/Rakesh Patel.

29.4 ROLE AND LIABILITY OF PENALTY O N SHRI AVINASH SONKAR UNDER SECTION 112(a), 112(b), 114AA AND 117 OF THE CUSTOMS ACT, 1962:

i. I find that Summons were issued to Shri Avinash Sonkar by the investigating agency, however, he had given no heed to the summons and opted for not responding to the same and deliberately avoided their appearance. This act of Shri Avinash Sonkar is in the contravention of the provisions of Section 108(3) of the Customs Act, 1962. I noticed that as per printouts of email communication/conversation resumed during the search conducted at the premises related to Shri Avinash Sonkar located at M/s Aadhar Seasky India Private Limited, #02, 1st Floor, Aadinath Arcade-II, Plot No. – 576, Ward 12/C Gandhidham, Kutch, Gujarat – 370201, Shri Avinash Sonkar, whose name appears to be as Shri Avinash Kumar was constantly in touch with shipping liner i.e. CMA CGM regarding clearance of the above container TCLU66296772 covered under Bill of Lading No. CBC0242594. He was the person, who was co-ordinating all the process of documentation for clearances of illegally imported container. He was in possession of all the purported documents including Bill of Lading, Packing List, Commercial Invoice, Application for change of port etc. having declared goods as 'Readymade Garment'. Hence, it evidently appears that Shri Avinash Sonkar/Shri Avinash Kumar was key contact person for getting the above consignment of cigarettes cleared from the Customs Authorities. However, the said container was put on hold and examined by the DRI officers. Hence, I find that Shri Avinash Sonkar/Shri Avinash Kumar was involved in such smuggling of cigarettes.

ii. In view of above, I find that Shri Avinash Sonkar knowingly concerned themselves dealing with and smuggling of Prohibited goods i.e. Cigarettes. I find that Shri Avinash Sonkar has willfully and deliberately indulged into conspiracy of importing and clearance of prohibited goods by way of mis-declaration and concealment. Therefore, such acts of omissions and commission on part of Shri Avinash Sonkar by dealing with Prohibited goods and other mis-declared goods which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under; has made goods liable to confiscation under Section 111 of the Customs Act, 1962. I find that Shri Avinash Sonkar have also rendered themselves liable to penalty under Section **112(b)(i)** of Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(a) of Act, is imposed.

iii. I find that Shri Avinash Sonkar was co-ordinating all the process of documentation for clearances of illegally imported container. He was in possession of all the purported documents including Bill of Lading, Packing List, Commercial Invoice, Application for change of port etc. having declared goods as 'Readymade Garment'. He had knowingly and intentionally made/signed/used and/or caused to be made/ signed/ used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and it is beyond doubt that Shri Avinash Sonkar is also liable to penalty under Section 114AA of the Customs Act, 1962.

iv. As regards the penalty under Section 117 proposed on Shri Avinash Sonkar, I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In this regard, I find that penalty against Shri Avinash Sonkar already confirmed under the provisions of Section 112 of the Customs Act, 1962, hence, penal action under section 117 does not appears to be warranted in the subject case against Shri Avinash Sonkar.

29.5 As regards the penalty under Section 117 proposed on Shri Hardik Tejani, I find that Shri Rakesh Nasit had been using above two nos. 9825562292 and 7359990333, which are registered in the name of Shri Rakesh Patel and Shri Hardik Tejani respectively. Further, several summons were issued to Shri Hardik Tejani at their respective addresses. However, he did not turn up for recording of statement and consequently not joined the investigation. I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In the view of the above, I find that Shri Hardik Tejani is liable to penalty under section 117 of the Customs Act, 1962 in the subject case.

29.6 As regards the penalty under Section 117 proposed on Shri Hitesh Aboti, I find that Shri Hitesh Aboti is authorized Person of Shipping Liner M/s CMA CGM. The investigation carried out by the DRI revealed that for Customs clearance and transportation of goods Shri Rakesh Nasit/Rakesh Patel acted hand in gloves with Shri Avinash Sonkar and Shri Avinash Sonkar was constantly in touch with shipping liner i.e. CMA CGM regarding clearance of the above container TCLU6626772 covered under Bill of Lading No. CBC0242594. Further, it has also been found that despite issuance of several summons to Shri Hitesh Aboti, Authorized Person of Shipping Liner M/s CMA CGM, he did not turn up for recording of statements. Many of the summons got returned undelivered to this office from postal remarks as not known/left/incomplete address. Hence, he did not join the investigation. I find that Section 117 of the Customs Act, 1962 is a covering provision which lays down that for any other contravention of the Customs Act for which express penalty has not been provided elsewhere, the person liable can be charged for penalty under this section. In the view of the above, I find that Shri Hitesh Aboti is liable to penalty under section 117 of the Customs Act, 1962 in the subject case.

30. IN VIEW OF DISCUSSION AND FINDINGS SUPRA, I PASS THE FOLLOWING ORDER:

ORDER

i. I order to absolute confiscate 801 Carton boxes packages containing 8010000 sticks of Gold Flake Cigarettes 'Made in India', having total assessable value of Rs. 13,41,70,000/- (Rupees Thirteen Crore Forty-One Lakh and Seventy Thousand only) under the provisions of Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962.
ii. I order to absolute confiscate 62 Cartons ofdeclared goods i.e. 'Assorted Clothes/Garments', which were used for concealment of above Cigarettes mentioned at (i) above (undeclared and concealed goods), under the provisions of Section 119 of the Customs Act, 1962.
iii. I impose a Penalty of **Rs. 70,00,000/- (Rupees Seventy Lakh Only)** on M/s. Madhav Arts through its controller and beneficiary owner/Importer **Shri Rakesh Nasit/Rakesh Patel** under Section 112(a)(i) of the Customs Act, 1962.
iv. I impose a Penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on **Shri Niravbhai Laljibhai Vanani** (namesake IEC holder) under Section 112(b)(i) of the Customs Act, 1962.
v. I impose a Penalty of **Rs. 70,00,000/- (Rupees Seventy Lakh Only)** on **Shri Rakesh Nasit/Rakesh Patel** (controller and beneficiary owner) under Section 112(a)(i) of the Customs Act, 1962.
vi. I impose a Penalty of **Rs. 30,00,000/- (Rupees Thirty Lakh Only)** on **Shri Dilipbhai Babubhai Sutariya** under Section 112(b)(i) of the Customs Act, 1962.
vii. I impose a Penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on **Shri Avinash Sonkar** under Section 112(b)(i) of the Customs Act, 1962.

viii. I do not impose penalty upon Shri Niravbhai Laljibhai Vanani, Shri Dilipbhai Babubhai Sutariya and Shri Avinash Sonkar under Section 112(a) of the Customs Act, 1962.
ix. I do not impose penalty upon Shri Rakesh Nasit/Shri Rakesh Patel under Section 112(b) of the Customs Act, 1962.

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

i. I impose a Penalty of **Rs. 35,00,000/- (Rupees Thirty Five Lakh Only)** on Shri Rakesh Nasit/Shri Rakesh Patel under Section 114AA of the Customs Act, 1962.
ii. I impose a Penalty of **Rs. 7,00,000/- (Rupees Seven Lakh Only)** on M/s. Madhav Arts through its proprietor Shri Niravbhai Laljibhai Vanani (namesake IEC hoder) under Section 114AA of the Customs Act, 1962.
iii. I impose a Penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on Shri Dilipbhai Babubhai Sutariya under Section 114AA of the Customs Act, 1962.
iv. I impose a Penalty of **Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand Only)** on Shri Avinash Sonkar under Section 114AA of the Customs Act, 1962.

27.2 I impose a Penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on Shri Hardik Tejani under Section 117 of the Customs Act, 1962.

27.3 I impose a Penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on Shri Hitesh Aboti under Section 117 of the Customs Act, 1962.

27.4 I do not impose penalty on M/s Madhav Art (Proprietor: Shri Niravbhai Laljibhai Vanani), Shri Dilipbhai Babubhai Sutariya, Shri Rakesh Nasit/Shri Rakesh Patel & Shri Avinash Sonkar and Shri Niravbhai Laljibhai Vanani under Section 117 of the Customs Act, 1962 for the reasons as stated above.

28. This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

29. The Show Cause Notice bearing No. GEN/ADJ/ADC/879/2024-Adjn dated 18.05.2024 stands disposed off in above terms.

Digitally signed by Dipakbhai Zala
Date: 13-08-2025 18:59:14

अपर आयुक्त सीमा शुल्क,
(अधिनिर्णयन अनुभाग)
कस्टम हाउस, मुंद्रा।

F.No. GEN/ADJ/ADC/879/2024-Adjn

BY REGISTERED/SPEED POST

1. M/s Madhav Art (Proprietor: Shri Niravbhai Laljibhai Vanani), IEC: ACNPV7400J, Ground Floor, Plot No. 55, Ajanta Diamond Industrial Co. Society, Patel Nagar, A K Road, Surat – 395008.
2. Shri Dilipbhai Babubhai Sutariya, 10, Panchvati ro-hause, Yogichok, Vaaracha, Surat City, Varachha Road, Surat, Gujarat-395006.
3. Shri Rakesh Nasit/ Shri Rakesh Patel, Ashwin society, Kodiyar Nagar, Varachha, Surat-395010.
4. Shri Avinash Sonkar, Plot No. 253, S. No. 123, Apna Nagar, Kidana, Gandhidham, Katchch, Gujarat – 370205.
5. Shri Hardik Tejani, 93, Neheru Nagar, Near Somnath Mahadev Temple, Umra Surat City SVR College, Surat – 395007.
6. Shri Hitesh Aboti (Serve through notice board)

Copy to:

1. The Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (driazu@nic.in)
2. The Dy./Asstt. Commissioner (Review Cell), Customs House, Mundra
3. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
4. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra.
5. The Dy./Asstt. Commissioner, Disposal Section, CH, Mundra.
6. Guard File.