

DIO No. 151/ADC/SR/O&A/2025-26 F.No. V.II/10-01/DRI/FPO/O&A/HQ/2025-26



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

"सीमा शुल्क भवन", पहली मंजिल, पुराने हाई-कोर्ट के सामने, नवरंगपुरा, अहमदाबाद - 380 009.

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DIN:20251071MN000000D8E9

PREAMBLE

A	फाइल संख्या/ File No	: VIII/10-01/DRI/FPO/O&A/HQ/2025-26
B	कारण बताई नोटिस संख्या एवं तारीख / Show Cause Notice No. & Date	: VIII/10-01/DRI/FPO/O&A/HQ/2025-26 Dated 11.04.2025
C	मूल आदेश संख्या/ Order-In-Original No.	: 151/ADC/SR/O&A/2025-26
D	आदेश तिथि/ Date of Order-In-Original	: 31.10.2025
E	जारी करने की तारीख/ Date of Issue	: 31-10-2025 03.11.2025
F	द्वारा पारित/ Passed By	: Shri Shraavan Ram, Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम और पता / Name and address of Importer / Passenger	: (1). Shri Samir Siddikbhai Memon, S/o Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights Nr. Lion Circle, Bhavnagar-364001 (2). Shri Ashashbhai Mumbai (3). Shri Dhalla Wala Uamangan, 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad 380001 (4). Shri Anil Bhai, Ripar Gompur Tol-naka, Mahaveer Plat. Near Nagri Mall, Ahmedabad 380021 (5). Shri Rathod Sufyan Yusuf, Floor 152, Ganesh Ilas Parundekar Marg, Beculla, Rly STN W. Mumbai, Jacob Circle, Mumbai City-Jacob Circle, Mumbai-400011 (6). Shri Rajes Rathod, Sarangpur N: Paase, Kamdar Medan Ekta Avenue, Nearby Kalidas Mill Compound, Gomatpur, Ahmedabad-380021 (7). Shri Khao Bhai, 426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat-382210 (8). Shri Pathan Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Pachad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210
1	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हें यह जारी किया जाता है।	
2	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट चाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), 11वीं मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।	
3	अपील के साथ केवल पाच (5.00) रुपये में न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:	
4	अपील की एक प्रति और;	
5	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पाच (5.00) रुपये में न्यायालय शुल्क टिकिट लगा होना चाहिए।	
6	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 0.5% अधिकतम 10 करोड़ शुल्क जमा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की टंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पत्र करने में असफल रहने पर सीमा शुल्क अधिनियम, 1982 के धारा 122 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।	

BRIEF FACTS OF THE CASE-

Intelligence gathered by the officers of Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter referred to as DRI) suggested that various import consignment/post parcels, arrived from UAE into India through Foreign Post Office, Shahibaug, Ahmedabad, were suspected to be containing contraband/prohibited items for smuggling into India. Acting on the said intelligence, the officers of DRI visited the Foreign Post Office, Shahibaug, Ahmedabad on 14.10.2024 and analyzed the Item Internal Manifest of the post parcels. The officers then segregated the suspected post parcels arrived from UAE for further examination.

2. During the examination, it was discovered that the segregated postal parcels contained contraband/prohibited items, namely E-cigarettes and foreign-origin cigarettes. These items were wrongly declared as "dry food, used clothes, fish, herbs, meats, toys, games, and sports goods." Subsequently, all similar postal parcels that arrived on 14.10.2024 were also segregated and examined. Upon examination, it was found that these parcels likewise contained contraband/prohibited items, specifically E-cigarettes and foreign-origin cigarettes, which were concealed under the pretense of 'food items etc.' The said examination proceedings were recorded under the panchnama dated 14.10.2024.

2.1 On examination, the said goods were found to be grossly mis-declared and either restricted/prohibited and the same were found to be "Esse Lights Cigarettes /Esse Special Gold Cigarettes (Mad in Korea), Benson & Hedges (spl. Filter) (Red Gold)" and E-Cigarettes (Made in China) and the same were attempted to be imported by way of grossly mis-declaring the same as "dry food, used clothes, fish, herbs, meats, toys, games and sports etc."The details of post parcels examined and result thereof on 14.10.2024 are as under: -

Table-I

Sr No	Postal Tracking Number/parcel pertaining to	Description of Goods	Brand Name found	Total Packets	Packing	Sticks/ Pcs	Total Sticks/ Pcs	Total Value of the goods
A	B	C	D	E	F	G	H: E*F*G	I
1	EE412383703AB/ Anil Bhas	P.O Cigarette (made in Korea)	Esse lights	135	10	20	27000	331200
2	EE412383759AB/ Rajes Rathod	P.O Cigarette (made in Korea)	Esse-lights	135	10	20	27200	326400
3	EE412333956AE/ DhallawalaAmrbanu J. Amangan	P.O Cigarette (made in London)	Benson & Hedges (Spl. Filter) (Red Gold)	100	10	20	20000	340000
4	EE412333942AE/ Betawala Mohsin	P.O. Cigarette (made in London)	Benson & Hedges (spl Filter) (Blue Gold)	100	10	20	20000	340000
5	EE412333966AE/ IqbalBhasMananawala	P.O. Cigarette (made in Indonesia)	Gudam Gudam Int.	60	20	12	7200	172800
6	EE412341878AE/ Samir	E-Cigarette (Made in China)	FLFBAR BC10000-	18	1	10	380	1330000
7	EE412341864AE/ Samir	E-Cigarette (Made in China)	FLFBAR BC10000	37	1	10	570	1295000
8	EE412341861AE/ Lohiya Sahir (meant for Samir)	E-Cigarette (Made in China)	FLFBAR-BC10000-	37		10	370	1330000
			FLFBAR TL2000	1	1	10	10	
9	EE412412058AE/ Kaanbhai	E-Cigarette (Made in UAE)	Alfakher Big Cloud 8000 Pro-Dual Mode	22	1	10	220	302010
10	EE412412027AE/ Khanbhai	E-Cigarette (Made in CHINA)	Alfakher Big Cloud 12000	25	1	10	250	343200

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2.2. The above mentioned goods were detained under Panchnama dated 14.10.2024 drawn at the examination hall, 1st Floor, Foreign Post Office, Shahibaug, Ahmedabad and the same were handed over to Shri V. V. Purohit, Post Master of Postal Department (Custodian of FPO, Customs, Ahmedabad) under Supurtnama dated 14.10.2024 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.

2.3. On the reasonable belief that the above said goods are liable to confiscation under Section 111 of the Customs Act, 1962 as goods under the said imported post parcels were completely mis-declared, all the above goods mentioned at **Table-I** i.e. E-cigarettes/cigarettes sticks were seized under Section 110 of the Customs Act, 1962 vide seizure memo dated 07.11.2024 and 20.02.2025. Further, food items used for concealment of E-cigarettes/F.O. cigarettes were also seized under Section 110 of the Customs Act, 1962 on a reasonable belief that the same are liable to confiscation under section 119 of the Customs Act, 1962.

3. In continuation to the above, the officers revisited on 15.10.2024 the Foreign Post Office in Shahibaug, Ahmedabad to examine imported parcels similar to those examined on 14.10.2024, which had arrived from the UAE on 15.10.2024. They identified and segregated these parcels for further examination. On examination, it was again discovered that the said parcels were containing contraband/prohibited items, specifically E-cigarettes and foreign-origin cigarettes, concealed under the pretense of "food items etc. The said examination proceedings were recorded under the panchnama dated 15.10.2024.

3.1. On examination, the said goods were found to be grossly mis-declared and either restricted/prohibited and the same were found to be "Esse Lights Cigarettes /Esse Special Gold Cigarettes (Made in Korea), Benson & Hedges (spl. Filter) (Red Gold)" and E-Cigarettes (Made in China) and the same were attempted to be imported by way of grossly mis-declaring the same as "dry food, used clothes, fish, herbs, meats, toys, games and sports etc." The details of post parcels examined and result thereon on 15.10.2024 are as under:

Table-II

Sr No	Postal Tracking Number/parcel pertaining to	Goods found during examination	Brand Name	Total Packets	Packing	Sticks /Pcs	Total Sticks/ P's	Total Value of the goods
A	B	C	D	E	F	G	H=E*F*G	I
1	EE412416095AE/ Dhalawala Anurbanu Usmangani	F.O. Cigarette (made in Korea)	Esse- lights	149	10	20	29800	387000
2	EE412416077AE/ Dhalawala Anurbanu Usmangani	F.O. Cigarette (made in Korea)	Special Gold	146	10	20	29200	350400
3	EE412416050AE/ Mananawala Altaf	F.O. Cigarette (made in Korea)	Esse- lights	150	10	20	30000	360000
4	EE412416063AE/ Mananawala Altaf	F.O. Cigarette (made in Korea)	Special Gold	146	10	20	29200	350400
5	EE412416372AE/ Lohiya Sabur (meant for Samir)	E Cigarette (Made in China)	ELFBAR- BC10000-	37	1	10	370	1320000
		E-Cigarette (Made in China) Disposable POD Device	TUG BOAT T- 12000	1	1	10	10	
6	EE412416355AE/ Samir	E Cigarette (Made in China) Disposable POD Device	ELFBAR BC10000-	38	1	10	380	1347500
		do (loose)	---	0	0	5	5	
7	EE412416369AE/ Saurav	E-Cigarette (Made in China) Disposable POD Device	ELFBAR- HC10000-	38	1	10	380	1347500

		-(10)-(10-4)	---(10)---	0	0	5	5	
5	EE412301777AE/ Samir	E-Cigarette (Made in China)	ELFBAR-BC10000-	34	1	10	340	1351000
		---(10)---	---	0	0	5	5	
6	EE412301785AE/ Samir	E-Cigarette (Made in UAE) Disposable POD Device	ELFBAR-BC10000-	34	1	10	340	1354500
		E-Cigarette (Made in UAE) Disposable POD Device-Loose	ELFBAR-BC10000	0	0	5	5	

3.2. The above mentioned goods were detained under Panchnama dated 15.10.2024 drawn at the Examination Hall, 1st Floor, Foreign Post Office, Shahibaug, Ahmedabad and the same were handed over to Shri V. V. Purohit, Post Master of Postal Department (Custodian of FPO, Customs, Ahmedabad) under Supurtnama dated 15.10.2024 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.

3.3. On the reasonable belief that the above said goods are liable to confiscation under the Section 111 of the Customs Act, 1962 as goods under the said imported post parcels were completely mis-declared, all the above goods mentioned at **Table-II** i.e. E-cigarettes/cigarette sticks were seized under Section 110 of the Customs Act, 1962 vide seizure memo dated 07.11.2024 and 20.02.2025. Further, food items used for concealment of E-cigarettes/F.O. cigarettes were also seized under Section 110 of the Customs Act, 1962 on a reasonable belief that the same are liable to confiscation under Section 119 of the Customs Act, 1962.

4. To disrupt the repetitive pattern, the officers once again visited the Foreign Post Office in Shahibaug, Ahmedabad, to undertake similar examination process for post parcels that arrived from the UAE on 16.10.2024. Following their usual procedure, the officers identified and segregated these parcels for examination. Upon inspection, it was once again discovered that the parcels were containing contraband/prohibited items, specifically E-cigarettes and foreign-origin cigarettes, cleverly concealed under the guise of food items etc. The said examination proceedings were recorded under the panchnama dated 16.10.2024.

4.1. On examination, the said goods were found to be grossly mis-declared and either restricted/prohibited and the same were found to be "Esse Lights Cigarettes /Esse Special Gold Cigarettes (Made in Korea), Benson & Hedges (spl. Filter) (Red Gold)" and E-Cigarettes (Made in China) and the same were attempted to be imported by way of grossly mis-declaring the same as "dry food, used clothes, fish, herbs, meats, toys, games and sports etc." The details of post parcels examined and result thereof on 16.10.2024 are as under:

Table-III

Sr. No	Postal Tracking Number/parcel pertaining to	Description of Goods	Brand Name	Total Packets	Packing	Sticks/ Pcs	Total Sticks/ Pcs	Total Value of the goods
A	B	C	D	E	F	G	H=E*F*G	I
1	EE412410704AE/ Samir	E-Cigarette (Made in China)	ELFBAR-BC10000 (Disposable POD Device)	34	1	10	340	1347500
		---(10)---	---	0	0	5	5	
		Loose/Open						
2	EE412416695AE/ Samir	E-Cigarette (Made in China)	ELFBAR-BC10000 (Disposable POD Device)	34	1	10	340	1347500
		---(10)---	---	0	0	5	5	
		Loose/Open						
	EE412410457AE/ Shahrukh Khan Mehbubkhan Pathan	F.O. Cigarette (made in Korea)	Esse-lights	51	10	20	16200	710400

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3		---do--- (made in Korea)	Esse- Special Gold	5	10	20	1000	
		E-Cigarette	Yueto Thanos (Nicotine - 50 mg/ml) 5000 Puffs. (Mesh Coil) (Made in China)	18	1	10	180	
4	EE412416443AE/ BarafwalaAayshabum-	F.O. Cigarette (made in Korea)	Esse-Lights (Nicotine 0.45 mg)	124	10	20	24800	492600
		E-Cigarette	Yueto Thanos (Nicotine - 50 mg/ml) (Made in China)	7	1	10	70	
5	EE412416474AE/ Shahrukhan Mehbubkhan Parhan	E Cigarette (Made in China)	Yueto Thanos (5000 Puffs), (Mesh Coil) (Nicotine - 50 mg/ml) (Made in China)	7	1	10	70	491200
		F.O. Cigarette (made in Korea)	Esse-Lights (Nicotine 0.45 mg)	123	10	20	24600	
6	EE412416465AE/ Barafwala Ilyas Sultanbhai	E-Cigarette (Made in China)	Yueto Thanos (5000 Puffs), (Mesh Coil) (Nicotine - 500 mg/ml) (Made in China)	7	1	10	70	491200
		F.O. Cigarette (made in Korea)	Esse-Lights	123	10	20	24600	

4.2. The above mentioned goods were detained under Panchnama dated 16.10.2024 drawn at the Examination Hall, 1st Floor, Foreign Post Office, Shahibaug, Ahmedabad and the same were handed over to Shri V. V. Purohit, Post Master of Postal Department (Custodian of FPO, Customs, Ahmedabad) under Supurtnama dated 16.10.2024 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.

4.3. On the reasonable belief that the above said goods are liable to confiscation under Section 111 of the Customs Act, 1962 as the goods under the said imported post parcels were completely mis-declared, all the above goods mentioned at **Table-III** i.e. E-cigarettes/cigarette sticks were seized under Section 110 of the Customs Act, 1962 vide seizure memo dated 07.11.2024 and 20.02.2025. Further, food items used for concealment of E-cigarettes/F.O. cigarettes were also seized under Section 110 of the Customs Act, 1962 on a reasonable belief that the same are liable to confiscation under Section 119 of the Customs Act, 1962.

5. Further, the above said post parcels containing contraband/prohibited items i.e. E-cigarettes and Foreign Origin Cigarettes including food items which were used for concealing, were segregated as per the recipients/beneficial owner mentioned at the post parcels. The details of which are as under: -

Table-IV

Sr. No	Postal Tracking Number	Date	Name of recipients mentioned at Post parcels	Address mentioned at Post parcels	Mob. No mentioned at Post
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					Parcels
01	EE412383153AE	14.10.2024	Anil Bhai	Shri Anil Bhai, RjpurGompurTolnaka, Mahavir Plat, Near Nagn Mall, Ahmedabad-380021.	9702546914
02	EE412383759AE	14.10.2024	Rajes Kathod	Shri Rajes Kathod, Sarangpur Nr. Peace, Kamdar Medan Ekta Avenue, Nearby Kalides Mill Compound, Gomitpur, Ahmedabad-380021.	7039631540
03	EE412333956AE	14.10.2024	Dhalawala Amirba	Shri Dhalawala Amirbanu Usamangam, 3293, Gaturu Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001.	9723820140
04	EE412416055AE	15.10.2024	Usamanguru		9824498265
05	EE412416077AE	15.10.2024			
06	EE412333912AE	14.10.2024	Batawala Mohsin	Shri Batawala Mohsin, 2655-3, Jiva, Shahidni Darga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat.	9723820140
07	EE412333950AE	14.10.2024	IqbalbhaiMananawala	Shri Iqbalbhai Mananwala, 2763-3, Lalusheree, Jamalpur, Ahmedabad-380001.	9375746729
08	EE412341878AE	14.10.2024	Samir	Shri Samir Siddikbhai Memon, son of Shri Siddikbhai. Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001.	9898170199
09	EE412341864AE	14.10.2024			
10	EE412416335AE	15.10.2024			
11	EE412416369AE	15.10.2024			
12	EE412301777AE	15.10.2024			
13	EE412301785AE	15.10.2024			
14	EE412416704AE	16.10.2024			
15	EE412416695AE	16.10.2024			
16	EE412341881AE	14.10.2024	Lohiya Sabir, (meant for Samir)	Shri Lohiya Sabir, S/o Lohiya Iqbal Bhai, Dave No. Dalo, Lodiwalli Sadak, Ranika, Bhavnagar, Gujarat-364001.	9725790057
17	EE412416372AE	15.10.2024			
18	EE412412058AE	14.10.2024	Khanbhai	Shri Khan Bhai, 426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat.	9998681915
19	EE412412037AE	14.10.2024			
20	EE412416050AE	15.10.2024	Mananawala Altaf	Shri Mananawala Altaf, 12780/11, Lambisheri, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265
21	EE412416063AE	15.10.2024			
22	EE412416457AE	16.10.2024	Shahrukhan Mehbubkhan Pathan	Shri Shahrukhan Mehbubkhan Pathan, 1353, Ramabhai Nagar, opp. Dastan Factory, Behrampur, Ahmedabad, Gujarat-380022.	9824498265
23	EE412416474AE	16.10.2024			
24	EE412416443AE	16.10.2024	BarafwalaAayshabonu	Shri Barafwala Aayshabonu, 2271, MotipoleKachusheri, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265
25	EE412416465AE	16.10.2024	Barafwala Ilyas Sultanbhai		

5.1. Additionally, the quantity and estimated value of contraband or prohibited items, such as e-cigarettes and foreign-origin cigarettes, were determined individually for each recipient or beneficial owner of the postal parcels. The valuation was based on the Maximum Retail Price (MRP) available from open market sources, as detailed in the table below. However, the value of food items and used cloths used for concealing the contraband/prohibited items i.e. E-cigarettes and Foreign Origin Cigarettes were taken as NIL. The same are as under.

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Table-V

Sr. No.	Postal Tracking Number	Date	Name of recipients mentioned at Post parcels	E Cigarette Cigarette	No. of Stick	Price per Unit in Rs	Total Market Value
01	EE11238492AE	14.10.2024	Anil Bhai	Cigarette	2760	12/-	3,31,200/-
			Anil Bhai	Cigarette	2760		3,31,200/-
02	EE112384759AE	14.10.2024	Rajeev Rathod	Cigarette	2720	12/-	3,26,400/-
			Rajeev Rathod	Cigarette	2720		3,26,400/-
03	EE112313956AE	14.10.2024	Dhallawala Amurbh Usmanigani	Cigarette	2000	17/-	3,40,000/-
	EE1123116385AE	15.10.2024	Dhallawala Amurbh Usmanigani	Cigarette	2950	12/-	3,54,000/-
	EE1123116077AE	15.10.2024	Dhallawala Amurbh Usmanigani	Cigarette	2920	12/-	3,50,400/-
			Dhallawala Amurbh Usmanigani	Cigarette	7900		10,44,000/-
04	EE112313943AE	14.10.2024	Botawala Mohan	Cigarette	2000	17/-	3,40,000/-
			Botawala Mohan	Cigarette	2000		3,40,000/-
05	EE112311996AE	14.10.2024	Iqbalbhai Mananawa	Cigarette	1440	12/-	1,72,800/-
			Iqbalbhai Mananawa	Cigarette	1440		1,72,800/-
06	EE112341878AE	14.10.2024	Samir	E-Cigarette	380	3500/-	13,30,000/-
	EE112341861AE	14.10.2024	Samir	E-Cigarette	370	3500/-	12,95,000/-
	EE1123416355AE	15.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE1123416369AE	15.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE1123416777AE	15.10.2024	Samir	E-Cigarette	386	3500/-	13,51,000/-
	EE112341785AE	15.10.2024	Samir	E-Cigarette	387	3500/-	13,54,500/-
	EE1123416704AE	16.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE1123416895AE	16.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
			Samir	E-Cigarette	3063		1,07,30,500/-
07	EE112341681AE	14.10.2024	Lohiya Sabir, (meant for Samir)	E-Cigarette	380	3500/-	13,30,000/-
	EE1123416373AE	15.10.2024	Lohiya Sabir (meant for Samir)	E-Cigarette	380	3500/-	13,30,000/-
			Lohiya Sabir (meant for Samir)	E-Cigarette	760		26,60,000/-
08	EE1123416058AE	14.10.2024	Khanbhai	E-Cigarette	220	1372.80/-	3,02,016/-
	EE1123416027AE	14.10.2024	Khanbhai	E-Cigarette	250	1372.80/-	3,43,200/-
			Khanbhai	E-Cigarette	470		6,45,216/-
09	EE1123416056AE	15.10.2024	Mananawala Altaf	Cigarette	3000	12/-	3,60,000/-
	EE1123416067AE	15.10.2024	Mananawala Altaf	Cigarette	3420	12/-	4,10,400/-
			Mananawala Altaf	Cigarette	6420		7,70,400/-
10	EE1123416457AE	16.10.2024	Shahrukh Khan Pathan	Cigarette	1720	12/-	2,06,400/-
			Shahrukh Khan Pathan	E-Cigarette	100	2800/-	2,80,000/-
	EE1123416474AE	16.10.2024	Shahrukh Khan Pathan	Cigarette	2400	12/-	2,88,000/-
			Shahrukh Khan Pathan	E-Cigarette	70	2800/-	1,96,000/-
				Cigarette & E-cigarette	4160 & 250		12,01,400/-
11	EE1123416449AE	16.10.2024	Barafwala Aayshah Khan	Cigarette	2480	12/-	2,97,600/-
			Barafwala Aayshah Khan	E-Cigarette	70	2800/-	1,96,000/-
			Barafwala Aayshah Khan	Cigarette & E-cigarette	2480 & 70		4,93,600/-
12	EE1123416465AE	16.10.2024	Barafwala Ilyas Sultanbhai	Cigarette	2480	12/-	2,97,600/-
			Barafwala Ilyas Sultanbhai	E-Cigarette	70	2800/-	1,96,000/-
			Barafwala Ilyas Sultanbhai	Cigarette & E-cigarette	2480 & 70		4,93,600/-

6. As the largest quantity and highest value of E-cigarettes were recovered from post parcels belonging to Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, a search was conducted at his residence Flat No. C-2, 4th Floor, Marine Heights, near Lion Circle, Bhavnagar-364001 on 16.10.2024 under Section 105 of the Customs Act, 1962 under Panchnama dated 16.10.2024 and some documents related to import of goods through Foreign Post Office, Shahibaug, Ahmedabad were resumed.

6.1. Further, summons dated 16.10.2024 was issued to Shri Samir Siddikbhai Memon to tender statement and to produce relevant documents. Consequent upon the same, a statement of Shri Samir Siddikbhai Memon was recorded on 16.10.2024 & 17.10.2024 under the Section of 108 of the Customs Act, 1964 where he inter alia stated that:

- he is engaged in business of trading of scrap in the name of proprietorship firm M/s. SK Marine situated at Krishna Bansari, 1st Floor, Crescent, Opp. SBI Bank, Bhavnagar.
- he stated that he is using mobile number 9898170199 presently and before that he was using mobile number 9725790057.
- he agreed that the said parcel was destined to him and the mobile number mentioned in the same belongs to him as mentioned in the copy of slip no. CN 23 of Customs Declaration issued by EMS Mumtaz Post bearing number EE412341864AE for the parcel having office of origin Happiness service Center-Al Khor and date of posting 08.10.2024 and destined to the name of Samir, mobile number 9898170199, Orchid Heights Flat No. 101 Opp Isub Masjid Shishuvihar Circle, Bhavnagar, Gujarat-364001.
- he stated that the above said parcel was not related to him. He further stated that the address mentioned on the said parcel was his old address. The said house, he had sold to Shri Alraf approx. 2 years ago.
- he was shown copy of slip of CN 23 of Customs Declaration issued by EMS Mumtaz Post bearing number EE412341881AE for the parcel having office of origin Happiness service Center-Al Khor and date of posting 08.10.2024 and destined to the name of Lohiya Sahir mobile number 9725790057, S/o Lohiya Iqwal Bhai, Dave No Delo Limdiwadi Sadak, Ranika, Bhavnagar, Gujarat-364001. He perused the said copy and stated that the said parcel was not destined to him however the mobile number is related to him.
- he was shown copy of slip of CN 23 of Customs Declaration issued by EMS Mumtaz Post bearing number EE310192382AE for the parcel having office of origin Happiness service Center-Al Khor and date of posting 20.12.2023 and destined to the name of Samir mobile number 9725790057 Prabhudas Talav Lion Circle Marina Heights 4Floor, C2, Gujarat Bhavnagar 364001. The said slip was resumed under panchnama dated 16.10.2024 from his residence. He perused the same and stated that the said parcel was destined to his home address. He further stated that as mentioned in the slip, Parts and Accessories from UAE under HS code 90109000 were imported.
- through the said slip they had imported cream and clothes; however, he did not know why Parts and accessories is mentioned in the said slip.
- his wife Smt. Samina Samirbhai Memon used to place the order for cream and clothes from UAE.
- he did not know how his wife places the orders for the above said items i.e. cream and cloth from UAE.
- he did not know Mr. Aboobakar Rabi Noorul Huda Shingari who sent the above sent items from UAE.
- he stated that he agreed that he had transferred his residence 1 year ago, but still, he could not change his residence address in his Aadhar card.
- when any parcel delivery comes in his name at the post office, Near Court, Bhavnagar, he went to take the delivery from the said post office.
- he went to the said post office on 14.10.2024 to take the delivery of the 5 parcels which belonged to him and loaded the same in a three-wheeler.
- he did not know any person and address to whom the said parcels were sent. He further stated that as per request made by the said driver of the three-wheeler, he loaded the said 5 parcels in the three-wheeler.
- said parcels were sent to the post office, Bhavnagar in his name, therefore, he went to take the delivery of the same and loaded in the three wheelers.
- the said parcels were not related to him.
- he did not know to whom the said 5 parcels belonged.
- though the said 5 parcels were came to the post office, Bhavnagar in his name and he went to take the delivery, but he did not know to whom the said parcels belonged.

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- Shri Lodiya Sabir is having a 'LARI' and carrying his work at VIP market/Kumbharwada, Bhavnagar and his earnings may be around Rs. 200-300 on daily basis
- He produced the Aadhar card of Shri Lohiya Sabir as the same was present in his mobile phone.
- Shri Siddikbhai Memon is his father and staying at Vadodara.

6.2. Thus, from the above statements of Shri Samir Siddikbhai Memon admitted/confirmed that the parcels containing E-cigarettes which were addressed/destined to him as well as the parcels containing E-cigarettes also addressed/destined to Mr. Lohiya Shabbir, having Mobile No. 9725790057, used for communication, were belonging to him and the said Mobile No. i.e. 9725790057 was belonging to his father Shri Siddikbhai Memon but he denies the actual recipients/ownership of E-cigarettes which were attempted to smuggle into India through FPO, Ahmedabad. From the facts narrated above, it appeared that Shri Samir Siddikbhai Memon is actively involved in an organized smuggling activity. He admitted to regularly receiving parcels containing E-cigarettes from UAE, which were falsely declared as 'dry food, used clothes, fish, herbs, meats, toys, games and sports etc. This mis-declaration indicates in attempting to evade customs authority/scrutiny. As, he collected multiple parcels from the post office, which were sent in his name, yet he denied knowledge of their contents or recipients, despite physically handling them. His failure to update his address on official records suggests an intent to conceal his involvement. Additionally, he distanced himself from the sender, Mr. Aboobakar Rabi Nooral Huda Shingeri@UAE, which further raises suspicion regarding the illicit nature of these transactions. His repeated handling of parcels addressed to different individuals but linked to his contact details suggests his active role in facilitating the illegal importation and distribution of goods, possibly as part of a larger smuggling network.

6.3. Accordingly, Shri Samir Siddikbhai Memon appeared to be the recipient/beneficial owner of such parcels i.e. prohibited items like E-cigarettes and committed offence under section the provision of Section 135(1)(a)&(b) of the Customs Act, 1962 and was found punishable under Section 135(1)(i)(A) & (C) of the Customs Act, 1962. Accordingly, he was arrested on 17.10.2024 vide Arrest Memo dated 17.10.2024 under the provisions of Section 104 of the Customs Act, 1962, after getting required order from the competent authority. Further, he was produced before the Hon'ble ACMM Court, Ahmedabad on 17.10.2024. The Court had granted judicial custody.

7. For furtherance of investigation, letters dated 22.10.2024 were issued to the respective Telecom Service Provider, requesting to provide the subscriber details of the below mentioned mobile No(s) which were used in the post parcels for the purpose of communication as well as the mobile No(s) which were derived during the course of investigation. The details of the address and MobileNo(s) are as under:

Table-VI

Sr. No.	Recipients of the post parcels as mentioned in the Post Parcels	Mobile No. used in Post Parcels
01.	Shri Anil Bhai, Ripur Computer Tola, Mahavir Flat, Near Nagni Mall, Ahmedabad-380021.	9702546914
02.	Shri Rajes Rathod, Sarangpur Nr Pause, Kamdar Modan Ekla Avenue, Nearby Kalidas Mill Compound, Gomitpur, Ahmedabad-380021	7035631543
03.	Smt. Dhallawala Amirbanu Usmangani, 3293, Gahruji Nichali Nr Navi Masjid Jamalpur, Ahmedabad-380001.	9723820143
04.	Shri Dhallawala Amirbanu Usmangani, 3293, Gahruji Nichali Nr Navi Masjid Jamalpur, Ahmedabad-380001	9824198265
05.	Shri Botawala Mohsin, 2655-3, Jiva, Shahidni Darga, Opp. Navi Masjid, Ahmedabad 380001, Gujarat.	9723820140
06.	Shri Iqbalbhai Marumwala, 2763-3, Lahishere, Jamalpur, Ahmedabad-380001.	9757349729
07.	Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001	9898173199

08.	Shri Lohwa Sabir, S/o Lohiya Jqbal Bhai, Dave No. Delo Limdiyvali Sadak Kanika, Bhavnagar, Gujarat-364001.	97 9798057
09.	Shri Khan Bhai, 126, Nehru Nagar, B/33 Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat.	989861925
10.	Shri Mananwala Altaf, 12780/11, Lambusheri, Navu Masjid, Jamalpur, Ahmedabad, Gujarat-380001	9824498265
11.	Shri Shalrukhani Mehdiukhan Pathan, 1353, Ramrahim Nagar, opp. Dastan Factory, Behrampura Ahmedabad, Gujarat-380002.	9824498265
12.	Shri Barahwala Aayashbhai, 2271, MotipoleKadiasheri, Jamalpur, Ahmedabad, Gujarat-380001	9824498265
13.	Barahwala Uvas Sultanbhai, 2271, MotipoleKadiasheri, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265
14.	Mahmad Bhai as provided by M/s. Sunny Travels, Bhavnagar, during the course of Statement recorded under section 108 of the Customs Act, 1962.	8103161623
15.	Mahmad Bhai as provided by M/s. Sunny Travels, Bhavnagar, during the course of Statement recorded under section 108 of the Customs Act, 1962.	9824498265
16.	Mohammed Ashas as provided by Shri Samir and M/s Sunny Travels, Bhavnagar during the course of Statement recorded under section 108 of the Customs Act, 1962.	9986727954

8. Meanwhile, a Panchnama dated 24.10.2024 was drawn at the Head Post Office, Bhavnagar, 3396, High Court Road, Navapara, Bhavnagar-36001 to ensure the correct details of the parcels delivered to Shri Samir Siddikbhai Memon and also received by himself and also for obtaining CCTV footages of dates 08.10.2024, 09.10.2024, 14.10.2024 and 16.10.2024 of the day on which Shri Samir Siddikbhai Memon visited the Post Office for receiving the said parcels. Vide this Panchanama dated 24.10.2024, CCTV footages of dated 08.10.2024, 09.10.2024, 14.10.2024 and 16.10.2024 and the parcels containing tracking No. delivered to and received by Shri Samir Siddikbhai Memon on 08.10.2024, 09.10.2024 and 14.10.2024 were resumed for further course of investigation.

9. Further, a summons dated 24.10.2024 was issued to M/s. Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M. V. School, Bhavnagar to give statement/evidence in connection with illegal import of prohibited goods i.e. E-cigarettes. Consequent upon the said summons, statement dated 24.10.2024 of Shri Mer Shyam Jigneshbhai, son of Shri Jigneshbhai Harihbhai Mer, authorized person of M/s. Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M. V. School, Bhavnagar recorded under Section 108 of the Customs Act, 1962, where he inter alia stated that he has been working at M/s. Sunny Travels as booking clerk for 2 years. His work is to book passenger ticket booking and parcel booking; that M/s. Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M. V. School, Bhavnagar is engaged in a business of travel business; the godown is situated at opposite side of the office of the Sunny Travels where parcels are received for delivery to Borivali and Khetvadi in Mumbai; that parcels are transported by the Bus; the parcels are booked at godown during 10:00 Hours to 15:00 Hours, before and after that time parcels are booked at the office of the M/s. Sunny Travels; that parcels received at the office of the M/s Sunny Travels are booked manually and then sent to the godown office for detail entry in computer/laptop; that the photograph of person named Shri Samir S. Memon, recognized by him and said that he has sent parcels through their travels agency many times; that he had received the parcels from Shri Samir S. Memon, of which he had official records and CCTV footage of dated 08.10.2024, 09.10.2024 and 14.10.2024; that Samir had come their office on 01.10.2024 for booking of 2 parcels, on 09.10.2024 for booking of 3 parcels and on 14.10.2024 for booking of 4 parcels, destined to Shri Ashashbhai@Mumbai mentioning Mob. No. 9986727954; the said parcels were sent to their Khetvadi Branch, Near Khetvadi, 3d Street, Nr. Alankar Cinema, Mumbai for delivery of said parcels to Shri Ashashbhai@Mumbai; that he has provided the copies of manual receipts for dated 09.10.2024, copies of digital entry for dated 08.10.2024, 09.10.2024 and 14.10.2024 and also provided the CCTV footage of dated 08.10.2024, 09.10.2024 and 14.10.2024 during the period for which Shri Samir S. Memon had come to book parcels at their office or godown.

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9.1. From the investigation carried out and from the statements as mentioned at Para 06, 08 and 09, it clearly reveals/proves that Shri Samir S. Meemon is actively engaged in importing such type of prohibited goods i.e. E-cigarettes, illegally imported/smuggled into India by mis-declaring the same as food items through Foreign Post Office, Shahibaug, Ahmedabad and later on found to be enabled the circulation of smuggled E-cigarettes into the local based market or Mumbai market. Further, he also appeared to be the facilitator of such type of illegal or prohibited goods to Mumbai-Based Distributors i.e. Shri Ashashbhai@Mumbai.

9.2. Furthermore, for gathering the whereabouts of Mumbai-Based Distributors/Beneficiary i.e. Shri Ashashbhai@Mumbai, a summons dated 19.02.2025 was issued to Shri Triveni Sanjay Pravinchandra, authorized person of Sunny Travels, Khetvadi Branch located Nr. Khetvadi, 3rd/4th Street, Nr. Alankar Cinema, Mumbai-400004. Consequent upon the said summons, statement of Shri Triveni Sanjay Pravinchandra, authorized person of Sunny Travels, Khetvadi Branch located Nr. Khetvadi, 3rd/4th Street, Nr. Alankar Cinema, Mumbai-400004 was recorded on 05.03.2025 under Customs Act, 1962, wherein he inter alia stated/deposed that:

- He was working as a Manager in Sunny Travels for 01 year in Mumbai Branch Office having address as Sunny Travels, Khetiwadi, 4th Street, Near Alankar Cinema, Mumbai-400004. My work is to look after the passenger ticket booking, parcel booking and delivery of parcels.
- He stated that Sunny Travels, Mumbai is engaged in travel business.
- That There are only three branches of Sunny Travels in India i.e. Bhavnagar (Head Office located at Crescent Chowk, A. V. School Mu. Shopping Centre, Shop No. 1, Bhavnagar-364001), another is in Surat (Municipal Shopping Centre, Sahara Darwaja) and third one is in Mumbai i.e. located at 4th Street Shreebhuwan Building, Nr. Alankar Theater Main Road, Khetwadi, Mumbai.
- He stated that he used to generate two copies of Bill of Supply mentioning the quantity of parcels, parcels sender/recipients name alongwith mobile no. against the booking of the parcels. After that, one copy of Bill of Supply was to be handed over to sender and the second copy of Bill of Supply alongwith the parcels initially handed over to the bus driver carrying the said parcels and later on the said second copy of Bill of Supply was to be handed over to the receiver at the time of delivery of the parcels.

Bill of Supply pertaining the above parcels are not available however sample copy of the other is reproduced as under:

KHETVADI 4TH STREET SVR ROAD MUMBAI MOB: 9879054650	
BILL OF SUPPLY	
Tax ID	5291
Receipt No.	BHAV-5655
Date	04/03/2025
Booking Dt	04/03/2025 01:33:00 PM
To Party	SHIV
Phone No.	9879054650
To City	KHETVADI OFFICE HQ
From Party	FRIENDS
From City	BHAVNAGAR
Des. Of Goods	1 BORO
Quantity	1
Amount	300.00
Payment	PAID
Operator	SHIV
<small>USE AND RES RESPONSIBLE FOR ANY OF YOUR BUSINESS GOODS CARRY FOR WHICH THIS IS ISSUED. YOU WILL BE ACCOUNTABLE.</small>	

The receiver copies which were used to be handed over to the respective driver of our own bus along with parcels for delivery purpose at destined place. However, they did not use to mention the address and other details of parcels sender/recipients in Bill of Supply.

- He stated that in practice or usually, not only his branches but any of tour and travels operators did not use to mention the complete address of parcels sender, recipients in Bill of Supply or in any other documents.
- He stated that as a routine work, he used to deliver the parcels to the persons or belonging to the persons, who show the Bill of Supply in their mobile phones as well as the photo copy of the said Bill of supply of the parcels.
- He stated that the person who used to book the parcel, also used to send Bill of Supply to the respective parcel's recipients via WhatsApp or by any electronic medium.
- He perused and agreed with the contents of the said statement dated 24.10.2024 and stated that the following parcels (in respect of Samir) booked by his head office i.e. Bhavnagar Branch having address as 1, Municipal Shopping Centre, Crescent Chowk, M.V. School, Bhavnagar and destined to Sunny Travels, Khetvadi, Branch and stated that the following parcels were delivered to Ashash Bhai (Mobile No.998672964).

Trn ID/Booking No	Description of Goods
7990	2 Box Parcels
8051	3 Box
8291	2 Parcels
8292	2 Parcels

- He stated that two persons used to come via bike. They used to show the copies of Bill of Supply of the respective parcels and he (Sunny Travels, Khetwadi Branch) used to match/tally the said Bill of Supply Copy of the parcels with the Bill of Supply copy came along with the respective parcels, provided by driver of the Bus of their Tours and Travels.
- He stated that Shri Ashash Bhai had visited their branch three times for receiving of the said parcels i.e. on dated 08.10.2024 for 02 parcels having Bill of Supply No. 7990, on dated 09.10.2024 for 03 parcels having Bill of Supply No. 8051 and on dated 14.10.2024 for 04 parcels having Bill of Supply No. 8291 (02 Parcels) and 8292 (02 parcels).
- He stated that that Shri Ashash Bhai used to show the Bill of Supply copy of the respective parcels and he (Sunny Travels, Khetwadi Branch) used to match/tally the said Bill of Supply Copy of the parcels with Bill of Supply copy along with the respective parcels, provided by driver of the Bus of our Tours and Travels.
- He stated that he did not know Shri Ashash Bhai and others and even he did not want to bother to know them. He did not have any whereabouts of them. As he had already stated that usually, he used to match/tally the Bill of Supply Copy of the recipients of parcels with the Bill of Supply copy along with the respective parcels, provided by driver of the Bus of our Tours and Travels.
- He stated that he did not maintain any type of such register. However, Parcel Outward Register is maintained at the Sender Office but no Inward register is maintained at Receivers' office.
- He stated about wrong delivery of the parcels to the persons to whom the parcels actually not were belonging that this type of situations has not come till date and we also have not faced this type of situations. It is also to clarify that such type of delivery process of parcels is not only followed by us but the same practice is followed by all the tour and travel operators also.

9.3. Thus, from the facts narrated by Shri Triveni Sanjay Pravinchandra, authorized person of Sunny Travels, Khetvadi Branch located Nr. Khetvadi, 3rd/4th Street, Nr. Alankar Cinema, Mumbai-400004 about the process of booking and delivery of the parcels by their office and also about the parcels,

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delivered to Shri Ashash Bhai@Mumbai, it reveals that Sunny Travels simply used to verify the copies of Bill of Supply of the respective parcels of recipients and used to match/tally the said Bill of Supply Copy of the parcels with the Bill of Supply copy come along with the respective parcels, provided by driver of the Bus of their Tours and Travels. Sunny Travels even did not want to bother the whereabouts of Shri Ashash Bhai@Mumbai because of usually, Sunny Travels used to match/tally the Bill of Supply Copy of the recipients of parcels with the Bill of Supply copy along with the respective parcels, provided by driver of the Bus of their Tours and Travels, for the purpose of parcels credentials. Hence, the whereabouts of Shri Ashash Bhai@Mumbai was not known to Sunny Travels, Khetvadi Branch located Nr. Khetvadi, 3rd/4th Street, Nr. Alankar Cinema, Mumbai 400004.

10. Additionally, being the second highest volume of quantity and value of post parcels was destined to the name and address of Smt. Dhallowala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001. Accordingly, Search was carried out at the residential premises of Shri Dhallowala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001 and search proceedings were recorded under the panchnama dated 24.10.2024 where nothing incriminating was found/noticed.

10.1. Furthermore, a letter dated 28.10.2024 was issued to the Post Master, Foreign Post Office, Girdhar Nagar, Shahibaug, Ahmedabad, seeking the CCTV footage of parcels delivered to Smt. Dhallowala Amirbanu Usmangani. In response to said letter dated 28.10.2024, the Chief Post master, Ahmedabad GPO, Ahmedabad vide their letter CR/foreign article/Corr./24-25 dated 28.11.2024 informed that the details of the CCTV footage of the parcels delivered to Smt. Dhallowala Amirbanu Usmangani are not available with them as the backup storage of their DVR is only 21 days. However, the details of the parcels delivered to Smt. Dhallowala Amirbanu Usmangani submitted with this letter.

10.2. On going through the details of the parcels delivered to Smt. Dhallowala Amirbanu Usmangani, submitted by the Chief Post Master, Ahmedabad GPO, Ahmedabad vide their letter CR/foreign article/Corr./24-25 dated 28.11.2024, it is amply clear that Shri Dhallowala Usmangani, husband of Smt. Dhallowala Amirbanu Usmangani used to receive the parcels not only of Smt. Dhallowala Amirbanu Usmangani but also of Shri Mananwala Altaf, the same was also confronted/affirmed in the statement of Shri Dhallowala Usmangani, recorded on dated 03.12.2024 under the Customs Act, 1962 which proves that Shri Dhallowala Usmangani is actively concerned himself in importing of such type of prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes, illegally imported/smuggled into India by mis-declaring the same as food items through Foreign Post Office, Shahibaug, Ahmedabad.

10.3. For furtherance of investigation, summons dated 24.10.2024, 04.11.2024 and 22.11.2024 were issued to Smt. Dhallowala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001 to tender statement and to produce relevant documents. Consequent upon the said summons, statements of Smt. Dhallowala Amirbanu Usmangani was recorded on 02.12.2024 under Section 108 of the Customs Act, 1962 where she interalia stated that: -

- She perused the copies of CX 23 Customs Declarations recorded under panchnamas dated 14.10.2024 and 15.10.2024 drawn at Foreign Post Office, Ahmedabad and also agreed that post parcels were destined to her home address i.e. 3293, Gafurji Ni Chah, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001, is of her. She also perused the panchnama dated 14.10.2024 and

15.10.2024 drawn at Foreign Post Office, Ahmedabad. Further, she stated that she did not know how the address was mentioned.

- She perused the copy of Seizure Memorandum dated 07.11.2024 and stated that the parcels containing Foreign Origin Cigarettes had been found at Sr. No.03 under the examination dated 14.10.2024, at Sr. No.01,02 under the examination dated 15.10.2024. She further stated that the said parcels were destined to her however she had no idea about this.
- She perused the CN 23 Customs Declarations having tracking numbers EE412333956AE, EE412416085AE, EE412416077AE and stated that the parcels were originated from Happiness service Center-Al Khor and destined to the name of Dhallowala Amirbanu Usmangani, mobile numbers 9723820140 and 9824498265, 3293, Gafurji Ni Chah, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001, description of goods was used clothes, foods items/toys etc. She further stated that the said parcels were destined to her and the mobile number i.e. 9723820140 mentioned in the same belong to her husband Usmangani Dhallowala and 9824498265 belong to her residence. Further, she stated that the above said parcels were not related to her.
- She perused CN 23 Customs Declarations having tracking numbers EE412333942AE, EE412416050AE, EE412416063AE, EE412416457AE, EE412416474AE, EE412416443AE, EE412416465AE and stated that the parcels were originated from Happiness service Center-Al Khor and having mobile numbers 9723820140 and 9824498265, description of goods were used clothes, foods items/toys etc. She further stated that the mobile numbers i.e. 9723820140 belong to her husband Usmangani Dhallowala and 9824498265 belong to her residence. Further, she stated that the above said parcels were not related to him and she had no idea how the said mobile numbers had been mentioned on the said declarations.
- On being asked about the mobile No(s) such as **9723820140, 9824498265, 9375756729, 9898170199, 9725790057, 9986727954, 8105161623, 9324568396, 9702546914, 7039631540, 9998681915**, she stated that the mobile number i.e. 9723820140 belongs to her husband Usmangani Dhallowala and 9824498265 belongs to her residence. Further, she had no idea about other mobile numbers
- She possessed passport but had not visited anywhere.
- She perused below mentioned table where various parcels had been destined to the concerned person and their address and giving reference of mobile no as shown below and stated the parcels were originated from Happiness service Center-Al Khor and destined to the name of below persons, mobile numbers and address, description of goods were used clothes, foods items/toys etc. She further stated that mobile number i.e. 9723820140 belongs to her husband Usmangani Dhallowala and 9824498265 belongs to her residence but other mobile numbers were there she had no idea. Further, she stated that the below said parcels were not related to her and she had no idea how the said mobile numbers had been mentioned on the said declarations.

Sr No	CN 23 Declarations Tracking No.	Customs having	Destined to	Mobile Nos
1	EE412333942AE		Shri Botawala Mohsin, 2655 B, Jiva, Shahada Darga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat	9723820140
2	EE412416050AE EE412416063AE	&	Shri Mananwala Altaf, 12780/11, Lamhishari, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001	9824498265
3	EE412416457AE EE412416474AE		Shahrukhan Mehbubkhan Pathan, 1353, Ramraam Nagar, opp. Dastan Factory, Behrampur Ahmedabad, Gujarat-380022	

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4	EE412416443AE& EE412416465AE	Barafwala Aayshabamu, 2271, Motipole Kadiasheri, Jamalpur, Ahmedabad, Gujarat-380001	
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- She stated that she did not know any person namely "Botawala Muhsin", "Iqbalbhai Mananwala", "Mananawala Altaf", "Shahrukh Khan Mehbubkhan Pathan", "Barafwala Aayshabanu".
- She stated that she did not have any idea about the parcels who sent.
- She stated that she did not have any idea about the items declared therein were used clothes, foods items/toys, meat etc. and upon examination the items were found to be undeclared.
- She stated that her relation with every known either social or business person is very cordial. She possesses very good creditability among her society and business groups.
- She stated that she did not have any idea, who could have managed to send the said parcels in her name.
- She stated that she had not given any details for monetary considerations.

10.4. Thus, from the statements of Smt. Dhallowala Amirbanu Usmangani, it appeared that she acknowledged that parcels containing E-cigarettes and foreign-origin cigarettes were addressed to her but denied any knowledge or involvement of her. She clarified that the mobile numbers mentioned on the post parcels, also belong to her husband i.e. Shri Dhallowala Usmangani but she shown her ignorance to know the recipients address and mobile no., how those were used in the declarations of post parcels. She further disassociates herself from the recipients and beneficial owner of the said post parcels.

10.5. Further, summons dated 04.11.2024 20.11.2024 were issued to Shri Dhallowala Usmangani, husband of Smt. Dhallowala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001. Consequent upon the said summons, Shri Dhallowala Usmangani appeared on 03.12.2024 and his statements was recorded on 03.12.2024 under the section of 108 of the Customs Act, 1962 where he interalia stated that:

- He perused the copies of CN 23 Customs Declarations recorded under panchnamas dated 14.10.2024, 15.10.2024 and 16.10.2024 drawn at Foreign Post Office, Ahmedabad, he confirmed that the post parcels which were destined to his home address i.e. 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001 is correct and the said parcels are destined to him and further stated that he was about to receive the said parcels.
- He also perused the copy of Seizure Memorandum dated 07.11.2024 in respect of the goods detained vide panchnama drawn on 14.10.2024, 15.10.2024 and 16.10.2024 at Foreign Post Office, Ahmedabad and panchnama dated 24.10.2024 drawn at 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001 and stated that the parcels containing e-cigarette and Foreign Origin Cigarette which were found and detained by the customs officers at FPO, Ahmedabad, were destined to him and he was about to receive the same.
- He perused the CN 23 Customs Declarations having tracking numbers EE412333956AE, EE412416085AE, EE412416077AE and stated that the said parcels were originated from Happiness service Center-Al Khor, Dubai and destined to him i.e. Smt. Dhallowala Amirbanu Usmangani and the

mobile no(s) 9723820140 and 9824498265 mentioned in the parcels are also belong to himself. Further, he stated that he was about to receive the said parcels.

- He perused the CN 23 Customs Declarations having tracking numbers EE412333942AE, EE412333960AE, EE412416050AE, EE412416063AE, EE412416457AE, EE412416474AE, EE412416443AE, EE412416465AE and stated that the parcels were originated from Happiness service Center- Al Khor, Dubai and description of goods were used clothes, foods items/toys etc. he stated that the mobile numbers i.e. 9723820140 and 9824498265 belong to him.
- Further, he perused CN 23 Customs Declaration wherein receiver name was mentioned as IqbalbhaiMananawala and mobile number was mentioned as 9375756729 and stated that he knew Shri Iqbalbhai Mananawala, his actual name is Kandawal Salimbhai and the parcel having tracking number EE412333960AE. Shri Dhallawala Usmangani was about to receive the said parcel and also talked with IqbalbhaiMananawala on 9375756729.
- He confirmed that the mobile number i.e. 9723820140 and 9824498265 belong to him. He knew the mobile number 9375756729 and had talked on this number, among all the mobile no(s) as mentioned i.e. 9723820140, 9824498265, 9375756729, 9898170199, 9725790057, 9986727954, 8105161623, 9324568396, 9702546914, 7039631540, 9998681915. Further, he stated that he did not have any idea about other mobile numbers.
- He stated that he had passport and had visited Dubai three times. Recently, he had visited Al-khor, Dubai in September, 2024.
- He perused the below mentioned CN 23 Customs Declarations and stated that the parcels were originated from Happiness service Center-Al Khor, Dubai and destined to the name of below persons and mobile numbers and address, description of goods are used clothes, foods items/toys etc. He stated that he was about to receive the below parcels. And the mobile no(s) 9723820140 and 9824498265 belong to him.

Sr. No	CN 23 Customs Declarations Having Tracking No.	Destined to	Mobile Nos
1	EE412333942AE	Shri Botawala Mohan, 2655-3, Jiva, Shahidni Darga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat	9723820140
2	EE412416050AE & EE412416063AE	Shri Mananawala Altaf, 12780/11, Lambisheri, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001	9824498265
3	EE412416457AE& EE412416474AE	Shahrukhan Mehbubkhan Pathan, 1353, Ramrahe Nagar, opp Dasran Factory, Behranpura Ahmedabad, Gujarat-380022	
4	EE412416443AE& EE412416465AE	Barafwala Aayshabanu, 2271, MotipolsKadiasheri, Jamalpur, Ahmedabad, Gujarat-380001	

- He stated that he knew the person namely "Botawala Mohsin", "Mananawala Altaf", "ShahrukhanMehbubkhan Pathan", "Barafwala Aayshabanu". Further, he stated that "Iqbalbhai Mananawala" is actually Kandawala Salimbhai and he knew him.
- He stated that he did not have idea about the parcel's sender details or any other persons who managed to send the said parcels in his name.
- He stated that he did not have any idea about the the items declared therein such as used clothes, foods items/toys, meat etc. whereas upon examination the items were found to be undeclared.

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- He stated that he was serving as an employee in Daslan Process Factory, Behrampura. He earned Rs.30,000/- to Rs.40,000/- on monthly average basis as per work order. As far as the liability is concern, he had taken Rs.6.65 lacs (Personal Loan) for which EMI is Rs.19,000/-.
- On being confronted, he stated that below mentioned parcels which was originated from Dubai, were belong to him and received by him and the acknowledgement/receipt of the following post parcels destined/delivered to him by the postal authority, Ahmedabad (O/o Chief Post Master, Ahmedabad GOP, Ahmedabad-380001, provided vide letter No. CR/foreign article/Corr./24-25 dated 28.11.2024.

Sr. No.	Parcel Tracking Number	Date of delivery
1	CP412239329AE	28.09.2024
2	CP412239350AE	28.09.2024
3	EE412332350AE	05.10.2024
4	FE412332346AE	05.10.2024

10.6. From the statement of Shri Dhallowala Usmangani, it appeared that the parcels containing cigarettes/e-cigarettes were concealed under the guise of food items, were attempted to be imported and smuggled into India by way of mis-declaring from UAE through Foreign Post office, Shahibaug, Ahmedabad. These goods were destined to Smt. Dhallowala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001, were meant for Shri Dhallowala Usmangani. He was supposed to receive the said parcels. Further, from his statement, it also appeared that the post parcels destined to the name of (i) Shri Botawala Mohsin, 2655-3, Jiva, Shahidni Darga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat, (ii) Shri Mananawala Altaf, 12780/11, Lambhisari, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001, (iii) Shri Shahrukh Khan Mehbubkhan Pathan, 1353, Ramrahim Nagar, opp. Dastan Factory, Behrampura Ahmedabad, Gujarat-380022, (iv) Shri Barafwala Aayshabano, 2271, Motipole Kadiasheri, Jamalpur, Ahmedabad, Gujarat-3800019 and (v) Shri Iqbalbhai Mananawala also known as Kandawala Salimbhai, were also meant for Shri Dhallowala Usmangani. He was about to receive all the said parcels. Furthermore, it also revealed that the mobile no(s) i.e. 723820140 and 9824498265 used for communication and delivery of the said parcels belongs to Shri Dhallowala Usmangani and Mobile No. i.e. 9375756729 used for similar communication and delivery of the said parcels, was also known with Shri Dhallowala Usmangani (pertaining to Iqbalbhai Mananawala, actually it was identified as Kandawala Salimbhai as per the statement of Shri Dhallowala Usmangani). It also emerged from the facts that he had received such types of parcels from Dubai in past time too as evident from delivery manifest provided by Ahmedabad's Chief Post Master

10.7. From the facts narrated above, it appeared that Shri Dhallowala Usmangani was the intended recipient/beneficial owner of parcels containing concealed prohibited goods i.e. cigarettes/e-cigarettes attempted to be imported and smuggled from the UAE into India through the Foreign Post Office, Shahibaug, Ahmedabad. Though, the said parcels were addressed to different individuals, these parcels were actually meant for Shri Dhallowala Usmangani. He was in communication regarding the deliveries using mobile numbers linked to him, confirming his involvement in attempting to import and receipt of the said goods. The parcels which were about to be received by Shri Dhallowala Usmangani, the details are as under:

Table-VII

Sr No	Postal Tracking Number	Date	Name of recipients mentioned at Post parcels	E-Cigarette Or	No. of Sticks	Price per Unit	Total Market Value
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				Foreign Origin Cigarette		n Rs.	
01	EE412333956A E	14.10.202 4	Dhallawala Amirbanu Usmangani	Cigarette	20000	17/-	3,40,000/-
	EE412416085A E	15.10.202 4	Dhallawala Amirbanu Usmangani	Cigarette	25800	12/-	3,09,600/-
	EE412416077A E	15.10.202 4	Dhallawala Amirbanu Usmangani	Cigarette	29200	12/-	3,50,400/-
Total			Dhallawala Amirbanu Usmangani	Cigarette	75000		10,48,000/-
02	EE412333942A E	14.10.202 4	Botawala Mohsin	Cigarette	20000	17/-	3,40,000/-
Total			Botawala Mohsin	Cigarette	20000		3,40,000/-
03	EE412333960A E	14.10.202 4	Iqbalbhai Mananawala	Cigarette	14400	12/-	1,72,800/-
Total			Iqbalbhai Mananawala	Cigarette	14400		1,72,800/-
04	EE412416050A E	15.10.202 4	Mananawala Altaf	Cigarette	30000	12/-	3,60,000/-
	EE412416063A E	15.10.202 4	Mananawala Altaf	Cigarette	24200	12/-	2,90,400/-
Total			Mananawala Altaf	Cigarette	54200		6,50,400/-
05	EE412416457A E	16.10.202 4	Shahrukhan Mehbubkhan Pathan	Cigarette	17000	12/-	2,04,000/-
				E-Cigarette	180	2800/-	5,04,000/-
	EE412416474A E	16.10.202 4	Shahrukhan Mehbubkhan Pathan	Cigarette	24600	12/-	2,95,200/-
				E-Cigarette	70	2800/-	1,96,000/-
Total				Cigarette & E-cigarette	41800 & 250		12,01,600/-
06	EE412416443A E	16.10.202 4	Barafwala Aayshabanu	Cigarette	24800	12/-	2,97,600/-
				E-Cigarette	70	2800/-	1,96,000/-
Total			Barafwala Aayshabanu	Cigarette & E-cigarette	24800 & 70		4,93,600/-
07	EE412416465A E	16.10.202 4	Barafwala Ilyas Sultanbhai	Cigarette	24600	12/-	2,95,200/-
				E-Cigarette	70	2800/-	1,96,000/-
Total			Barafwala Ilyas Sultanbhai	Cigarette & E-cigarette	24600 & 70		4,91,200/-
Total of Sr. No. 01. To 07.				Cigarette & E-cigarette	263800 & 390		33,65,600/- & 10,92,000/-

10.8. From the investigation conducted so far, it appeared that the parcels which were destined to (i) Shri Dhallawala Amirbanu Usmangani, (ii) Shri Botawala Mohsin (iii) Shri Iqbalbhai Mananawala (iv) Shri Mananawala Altaf (v) Shri Shahrukhan Mehbubkhan Pathan (vi) Shri Barafwala Aayshabanu (v) Shri Barafwala Ilyas Sultanbhai, were actually meant for Shri Dhallawala Usmangani. Hence, he appeared to be the recipients/beneficiary in respect of 263800 sticks of Foreign Origin Cigarettes, valued of Rs.33,65,600/- and 390 sticks of E-cigarettes, valued of Rs.10,92,000/- and total of Rs.44,57,600/- attempted to be imported and smuggled under all the parcels mentioned at table "VII".

10.9. Thus, it appeared that Shri Dhallawala Usmangani was involved in attempting to smuggle and receiving multiple parcels containing e-cigarettes and foreign origin cigarettes, falsely declared as used clothes, food items, and toys through Foreign Post Office, Shahibaug, Ahmedabad and to conceal their true nature and evade customs duty, which are restricted/prohibited under Indian customs law. His acknowledgment of mobile numbers, recipients, and past deliveries links him to a larger smuggling network operating via postal parcels from Dubai.

11. FORENSIC EXAMINATION OF ELECTRONIC DEVICES

11.1. The mobile phone voluntarily submitted by Shri Samir Siddikbhai Memon under his statements dated 16.10.2024 was sent to the Campus Director, NFSU, Gandhinagar Campus, Gujarat for forensic examination and data retrieval of the said device in the process of obtaining further evidences, if any.

11.2. The Jr. Scientific Officer, NFSU, Gandhinagar, Gujarat provided the extracted data along with certificate under Section 65-B of Indian Evidence Act, 1872 vide their letter No. NFSU/CoEDF/DEL/288/2024-25 dated 23.10.2024 after completion of process of retrieval of all the data from the digital exhibits.

11.3. The data so extracted from mobile phone Model No. Vivo V31/V2036 belonging to Shri Samir Siddikbhai Memon were examined and it was found that there were some images meant for delivering of parcels, pertaining to E-cigarettes. To illustrate the same, some images are shown below:





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11.4. For confirming the correctness and genuineness of the above Image - 1 to Image - 10 as shown above, an application dated 12.11.2024 for remand under custody of DRI of Shri Samir Siddikbhai Memon was sought before the Hon'ble ACMM, Court, Ahmedabad. The Hon'ble ACMM Court, Ahmedabad vide their order dated 13.11.2024 granted the remand of the said accused Shri Samir Siddikbhai Memon under the custody of DRI.

11.5. Consequent upon the remand under the custody of DRI granted by Hon'ble ACMM, Ahmedabad, and statement of Shri Samir Siddikbhai Memon was recorded on dated 14.11.2024 under Section 108 of the Customs Act, 1962 wherein, the inter-alia stated that:

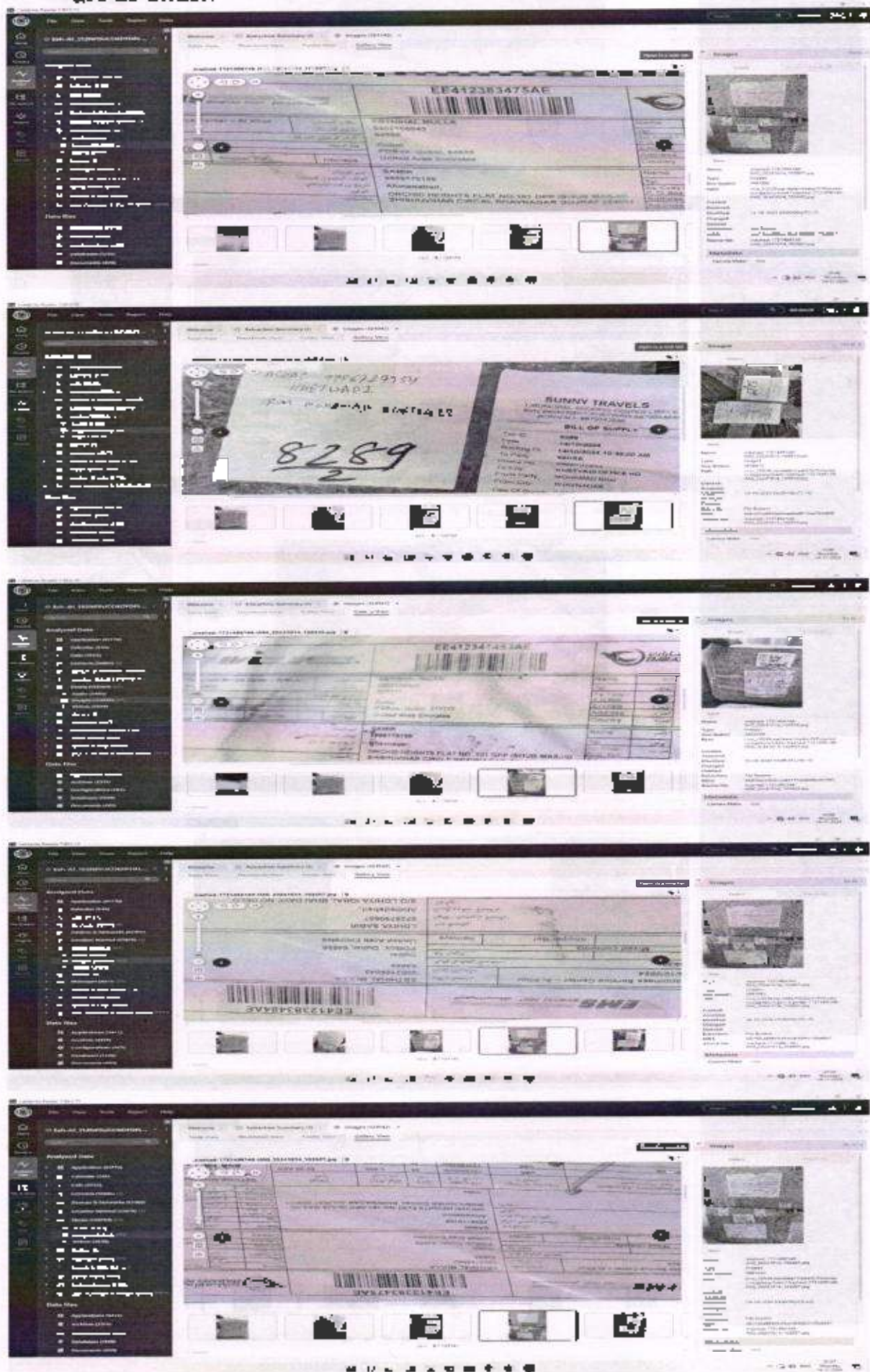
- He perused the Seizure Memorandum dated 07.11.2024 and stated that the parcels containing e-cigarette, mentioned at Sr. No. 06, 07 and 08 under the examination dated 14.10.2024, at Sr. No.05, 06, 07, 08 and 09 under the examination dated 15.10.2024 and at Sr. No. 01 and 02 under the examination dated 16.10.2024, belong to him. Further, he stated that the parcels wherein the name appeared "Samir" is also meant for him.
- He also perused the CCTV footages of camera i.e. i) CAM11, 2024-10-08 09:00:00 hrs dated 08.10.2024 starting from 09:00:00 hrs, ii) CAM11, 2024-10-09 09:03:02 hrs dated 09.10.2024 starting from 09:03:02 hrs, iii) CAM 02, 2024-10-09 09:03:02 hrs dated 09.10.2024 starting from 09:03:02 hrs, iv) CAM11, 2024-10-14 09:45:59 hrs dated 14.10.2024 starting from 10:02:02 hrs, , v) CAM2, 2024-10-14 10:02:00 hrs dated 14.10.2024 starting from 10:02:00 hrs, vi) CAM 11, 2024-10-16 09 22:00 hrs dated 16.10.2024 starting from 09:22:00 hrs and vii) CAM2, 2024-10-16 09:22:00 hrs dated 16.10.2024 starting from 09:22:00 hrs obtained from the Head Post Office, Bhavnagar vide letter No.II/CCTV Footage/Parcel details/2024 dated 23.10.2014/ Panchnama drawn at the said Post office on 24.10.2024 and stated/confirmed that aforesaid CCTV footages is of the Head Post Office, Bhavnagar, 336, High Court Road, Navapara, Bhavnagar-364001. The person who had been seen in the CCTV footages is himself (Shri Samir Siddikbhai Memon).

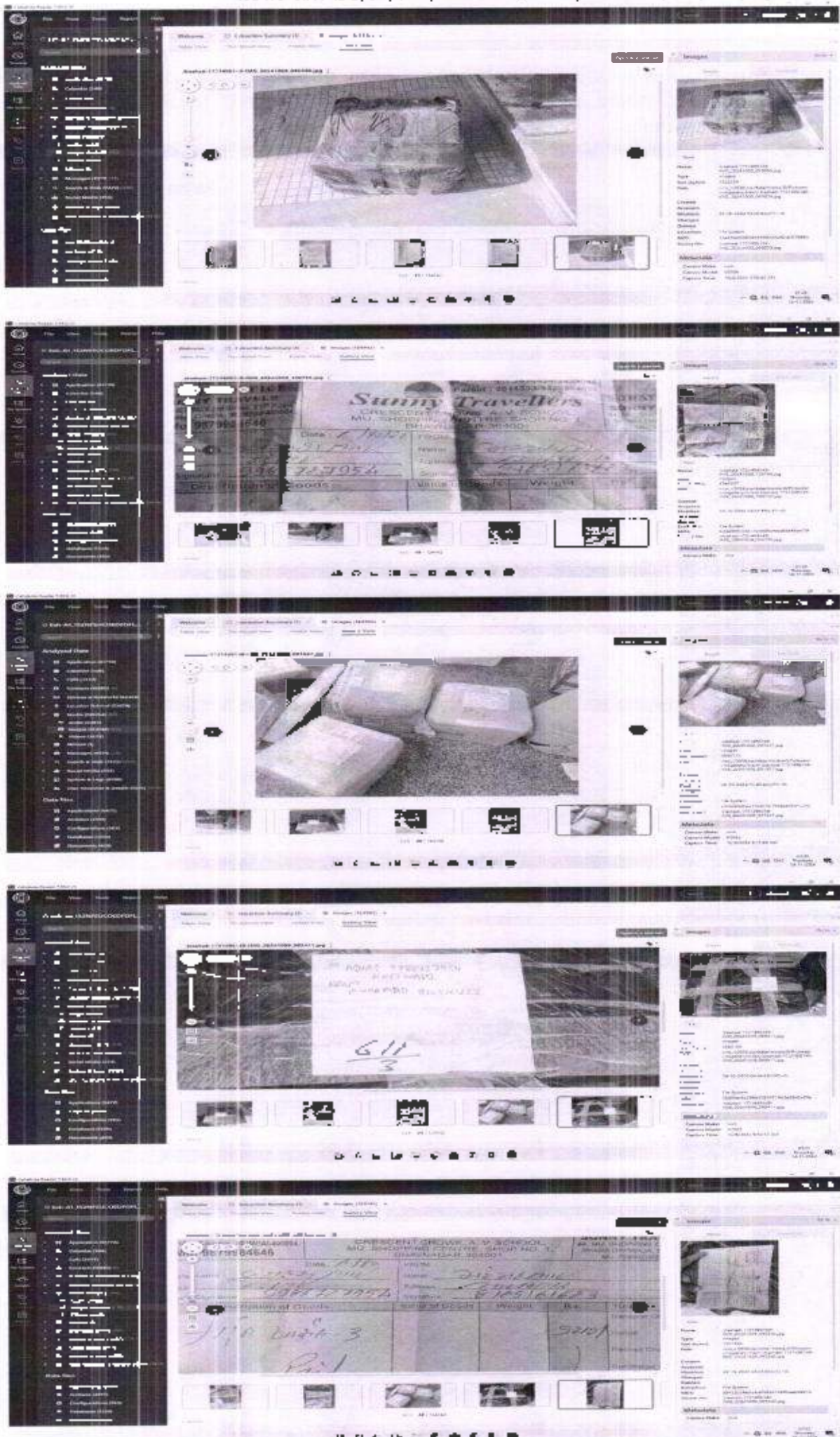
- He perused the above said CCTV footage dated 8.10.2024, 9.10.2024 & 14.10.2024 and confirmed that the person entering into the Post Office and collecting the Parcels, is himself.
- He also perused the above said CCTV footage dated 8.10.2024, 9.10.2024 & 14.10.2024 and stated that the person is seen to be calling an auto rickshaw is himself and stated that he had called the said auto rickshaw to carry the parcels (taken from the Post Office, Bhavnagar). Further, he stated that he himself loaded the above said parcels and left in the said auto rickshaw. He stated that he himself carried the said parcels in the auto rickshaw to Sunny Travels, Bhavnagar to dispatch the same to Khetvadi, Mumbai.
- He perused the acknowledgement/receipt of the following post parcels destined/delivered to him by the postal authority, Bhavnagar. He admitted that the following parcels had been received by him and the said acknowledgement signature/name belongs to him.

Sr. No.	Parcel Tracking Number	Date of delivery
1	EE412383277AE	08.10.2024
2	EE412383263AF	08.10.2024
3	EE412341215AE	09.10.2024
4	EE412341229AE	09.10.2024
5	EE412341232AE	09.10.2024
6	EE412341453AE	14.10.2024
7	EE412341440AE	14.10.2024
8	EE412383484AE	14.10.2024
9	EE412383475AE	14.10.2024
10	EE412341436AF	14.10.2024

- He perused the CCTV footages of camera i) CAM4, 2024-10-08 09:30:00 hrs dated 08.10.2024 starting from 09:30:00 hrs, ii) CAM4, 2024-10-08 10:00:00 hrs dated 08.10.2024 starting from 10:00:00 hrs, iii) CAM4, 2024-10-09 09:30:00 hrs dated 09.10.2024 starting from 09:30:00 hrs, iv) CAM4, 2024-10-09 10:00:00 hrs dated 09.10.2024 starting from 10:00:00 hrs, v) CAM1, 2024-10-14 10:30:00 hrs dated 14.10.2024 starting from 10:30:00 hrs, vi) CAM1, 2024-10-14 11:00:00 hrs dated 14.10.2024 starting from 11:00:00 hrs, vii) CAM2, 2024-10-14 10:30:00 hrs dated 14.10.2024 starting from 10:30:00 hrs, viii) CAM2, 2024-10-14 11:00:00 hrs dated 14.10.2024 starting from 11:00:00 hrs, obtained from the Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M.V.School, Bhavnagar vide statement dated 24.10.2024 and stated that the said CCTV footages is of the Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M.V.School, Bhavnagar. He further stated the he had brought the parcels to the Sunny Travels and packed the same into black covering to dispatch the same to Mumbai, Khetvadi.
- He also stated that a person namely Shri Ashas, belonging to Mumbai contacted him on whatsapp and took his details. However, he did not know the address or whereabouts of Shri Ashas.
- He perused the extracted images/photos from his mobile having make, Vivo, Model: V2036, IMEI-1: 866052053838458 and IMEI -2: 866052053838441, provided by NFSU, Gandhinagar vide F. No. Ref NFSU/CoEDF/DFL/287/24 dated 23.10.2024 and stated in regard to the following images that he received a call via What's up from Mob. No. 9986727954 on around 01.10.2024 or 02.10.2024 from an un-known person, who introduced himself as Shri Ashasbhai, belonging to Mumbai. Shri Samir Siddikbhai Memon further stated that Shri Ashas got his mob. No. from any third person and he sought for his name and postal address. Further, Shri Samir Siddikbhai Memon wanted to know about the purpose for seeking his name and address, against which Shri Ashas replied that he had to order post parcels like cloths, chocolates, E-cigarettes etc. on his name and postal address from UAE through

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Foreign Post Office, Shahibaug, Ahmedabad to be delivered at his residential place, Bhavnagar, for which he agreed. The following images are as under:





- He further stated that he lured me of Rs 500/- per post parcels to be delivered through his name and address and he agreed for the same.
- He stated that Shri Ashasbhar@Mumbai instructed him to go the post office of Bhavnagar where some post parcels like cloths, E cigarettes, chocolates etc. will arrive from UAE in his name and address. Further,

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Shri Ashas instructed him to pick up the said post parcels and load these post parcels in the rickshaw which to be destined to Shri Ashashbhai, Khetwadi, Mumbai through Sunny Travels, Transport, Bhavnagar.

- Shri Samir Siddikbhai Memon stated that as per instruction given by Shri Ashashbhai@Mumbai, he alongwith his son used to visit the post office, Bhavnagar and received the said post parcels. After receiving these post parcels, he used to load on rickshaw for dispatching the same to Shri Ashashbhai, Khetwadi, Mumbai through Sunny Travels, Transport, Bhavnagar.
- Further, he stated that he had not received any amount on account of this executed work.

11.6. Further to gather more evidences, a summons dated 10.03.2025 was issued to Shri Samir Siddikbhai Memon (**RUD-24**). Consequent to the said summons, the statement of Shri Samir Siddikbhai Memon was recorded on 11.03.2025 (**RUD-25**) where he inter alia stated that

- He perused his statement recorded on dated 14.11.2024 and he also perused the statement dated 24.10.2024 of Shri Mer Shyam Jigneshbhai booking clerk of Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M.V.School, Bhavnagar alongwith Parcel Outward Register, submitted by Sunny Travels, Bhavnagar and stated that the parcels of E-Cigarette were mainly for Shri Ashashbhai having mobile number 9986727954 and he had also booked all the current and previous parcels destined to Shri Ashashbhai. Further, he stated that in the Parcel Outward Register as shown the names of Mahmad Bhai (8105161623), Mohamad Bhai (9324568396 and 8105161623) and Hasan Bhai (8105161623) were for namesake only.
- Further, he stated that per the directions of Shri Ashashbhai received via WhatsApp call from mobile number 9986727954, he used to mention the said names i.e. Mahmad Bhai (8105161623), Mohamad Bhai (9324568396 and 8105161623) and Hasan Bhai (8105161623) at the time of booking parcels for namesake only. However, all the current and previous parcels were meant for Shri Ashashbhai (9986727954).
- He stated that Shri Ashashbhai informed him that he resides in Mumbai however he does not know the whereabouts of Shri Ashashbhai.
- He stated that he also does not know the whereabouts of Mahmad Bhai (8105161623), Mohamad Bhai (9324568396 and 8105161623) and Hasan Bhai (8105161623).

12. From the facts narrated herein above Para-No. 11.5. and 11.6, it emerges that Shri Samir Siddikbhai Memon was the intended recipient of parcels containing concealed cigarettes/e-cigarettes attempted to be imported/smuggled from the UAE into India through the Foreign Post Office, Shahibaug, Ahmedabad. Though, the said parcels were addressed to different individuals such as Shri Samir, Shri Lohiya Sabir etc., these parcels were actually meant for Shri Samir Siddikbhai Memon, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001. He was in communication regarding the deliveries of the said parcels with Shri Ashashbhai@Mumbai, confirming his involvement in the import and actual recipient of the goods/parcels. It also appeared from the facts that after receiving the said parcels, Shri Samir Siddikbhai Memon used to divert the said parcels to Shri Ashashbhai@Mumbai through local road transport i.e. Sunny Travels, Bhavnagar. However, Shri Samir Siddikbhai Memon used to mention the names of Mahamad Bhai (8105161623), Hasan Bhai (8105161623) and

Mohamad Bhai (9324568396) etc. on the parcels only for namesake at the time of booking of said parcels for ease of delivery purpose to Shri Ashashbhai@Mumbai, as direction received from Shri Ashashbhai@Mumbai, only as to hide his personal information (e.g. complete address, Mob. No. etc.), but the said parcels were only meant for Shri Ashashbhai@Mumbai. The parcels which were supposed to be received by Shri Samir Siddikbhai Memon, the details are as under:

Table-VIII

Sr.No	Postal Number	Tracking Number	Date	Name of recipients mentioned at Post parcels	E-Cigarette Or Cigarette	No. of Sticks	Price per Unit in Rs.	Total Market Value
01	EE412341878AE		14.10.2024	Samir	E-Cigarette	380	3500/-	13,30,000/-
	EE412341864AE		14.10.2024	Samir	E-Cigarette	370	3500/-	12,95,000/-
	EE412416159AE		15.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE412416369AE		15.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE412301777AE		15.10.2024	Samir	E-Cigarette	380	3500/-	13,30,000/-
	EE412301785AE		15.10.2024	Samir	E-Cigarette	380	3500/-	13,30,000/-
	EE412416704AE		16.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE412416605AE		16.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
Total				Samir	E-Cigarette	3060		1,07,20,500/-
02	EE412341881AE		14.10.2024	Lohiya Sahir, [meant for Samir]	E-Cigarette	380	3500/-	13,30,000/-
	EE412416372AE		15.10.2024	Lohiya Sahir, [meant for Samir]	E-Cigarette	380	3500/-	13,30,000/-
Total				Lohiya Sahir, [meant for Samir]	E-Cigarette	760		26,60,000/-
Total of Sr. No. 01 & 02.					E-Cigarette	4820		1,33,80,500/-

12.1 From the investigation, it appeared that the parcels which were destined to (i) Shri Samir S. Memon and (ii) Shri Lohiya Sahir, were meant for Shri Samir Siddikbhai Memon and he was supposed to receive all the parcels such as 3820 sticks of E-cigarettes, valued of Rs.1,33,80,500/-.

13. In response to letters dated 22.10.2024 which were issued to various telecom service providers as mentioned at para-No. 07., the Telecom Service Providers such as M/s. Airtel, Reliance Jio, Vodafone-Idea provided the details of Subscriber Records of the respective mobile no(s), the details of which are as under

Table-IX

Sr. No	Recipients of the post parcels as mentioned in the Post Parcels and other details as recorded during investigation	Mobile No. used in Parcels	Details as per SIMR as provided by the respective Telecom Service Provider
01	Shri Anil Bhai, Kpurkhanpur Tolnaka Mahavir Plot Near Karg Mall, Ahmedabad-380021.	9702345914	Rashed Sufyan Yusuf, Floor-1 52, Ganesh Har, Parundekar Marg, Bvelia Rly STN W Mumbai, Jacob Circle, Mumbai City-Jacob Circle, Mumbai-400011 Maharashtra, India
02	Shri Rajes Rathod, Sarangpur Na Paase, Kanda Median Tota Avenue Nearby Kalidas Mill Compound, Gomipur, Ahmedabad-380021.	7030631340	
03	Shri Dhalawala Amilana Umangan, 3293, Gafurji Nichah Nr. New Masjid, Jamalpur, Ahmedabad-380001	9723820140	Dhalawala Umangan, 3293
04	Shri Dotalwala Mohsin, 2855-3, Jhva, Shahdai Darga, Opp. New Masjid, Ahmedabad-380001, Gujarat.	9723820140	Gafurji Ni Chah, Nr. New Masjid, Jamalpur Ahmedabad-380001
05	Shri Dhalawala Amilana Umangan, 3293, Gafurji Nichah Nr. New Masjid, Jamalpur, Ahmedabad-380001	9824498265	Umangan Sabirbhai Dhalawala, 3293, Gafurji Nichah, Nr. New Masjid, Jamalpur Ahmedabad-380001
06	Shri. Mananawala Altaf, 12780/11, Jamshidheri, Vavi Masjid, Jamalpur, Ahmedabad-380001	9824498265	
07	Shri. Shahrukh Khan Mehbubkhan Pathan, 1353, Kamrahim Nagar, opp. Dastan Factory, Behrampur Ahmedabad, Gujarat-380022.	9824498265	
08	Shri Baidwala Aayshabana, 2271, MotipoleKadastheri, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265	
09	Baidwala Ilyas Subhashan, 2271, MotipoleKadastheri, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265	
10	Shri Ishtabha, Mananwala, 2703-3, Labishere, Jamalpur, Ahmedabad-380001	9375746720	Kandawala Salimbhai 2606, Khayuri Ni Dale, Nr.

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			Navr Masipd, Jamalpur, Ahmedabad-380001
11.	Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001	9898170199	Memon Siddikbhai, Flat No 102 Plot No.484, Orchid Hight, Bhavnagar, Shishuvihar Circle, Bhavnagar-364001
12.	Shri Lohiya Sabir, S/o Lohiya Iqbal Bhai, Dave No. Delo Limdiwadi Sadak Ranika, Bhavnagar, Gujarat-364001.	9725790057	Kalyanbhai Lilabhai Suthar, 509K Sutharw Kamboikanbhakrez, Banaskantha-385001
13.	Shri Khan Bhai 426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat.	9998681915	Farhan Lakhani Munawakhani, 426/427, Nehru Nagar Society, Sangam Cinema Puchad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210
14.	Mahmad Bhai as provided by M/s. Sunny Travels, Bhavnagar, during the course of Statement recorded under section 108 of the Customs Act, 1962	8105161623	Mohammed Aslam Rukanuddin Nuwair, 890, Azad Nagar 1st Cross Jali, Bhatkal, Uttara Kannada, Karnataka-581320
15.	Mahmad Bhai as provided by M/s. Sunny Travels, Bhavnagar, during the course of Statement recorded under section 108 of the Customs Act, 1962.	9324568396	Hannan Sajju Shekh, Basement No.2 city Centre Bellasis Road, Mumbai Central, West Mumbai-400008
16.	Mohammed Ashas as provided by Shri Samir and M/s. Sunny Travels, Bhavnagar during the course of Statement recorded under section 108 of the Customs Act, 1962.	9986727954	Mohammed Ashas Armar, Dongarapalli Road, Dongarapalli Road, Bhatkal-581320, India, Karnataka-581320

13.1. For furtherance of investigation, 03 (three) summons dated 20.12.2024, 26.12.2024, 03.01.2025, 13.01.2025 and 24.03.2025 were issued to all the parcel recipients (as mentioned on the parcels) as well as to the subscribers of the mobile no., which were mentioned on the said parcels. However, except (i) Shri Samir Siddikbhai Memon (ii) Smt. Dhallawala Amirbanu Usmangani and (iii) Shri Dhallawala Usmangani, none of them join with the investigation.

13.1.1. However, from the statements dated 16.10.2024, 17.10.2024, 14.11.2024 and 11.03.2024 of Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001 was recorded under section 108 of the customs Act, 1962 where he agreed about the parcels destined to him as well as to Shri Lohiya Sabir, S/o Lohiya Iqbal Bhai, Dave No. Delo Limdiwadi Sadak Ranika, Bhavnagar, Gujarat-364001. were meant for him and also agreed for the mobile no. 9898170199 (details as per SDR Memon Siddikbhai, Flat No.102, Plot No 484, Orchid Hight, Bhavnagar, Shishuvihar Circle, Bhavnagar-364001) and 9725790057 (details as per SDR, Kalyanbhai Lilabhai Suthar, 509K Sutharw Kamboikanbhakrez, Banaskantha-385001), used by Shri Samir Siddikbhai Memon and he was supposed to receive all the parcels.

13.1.2. Further, the name of Mahmud Bhai having mobile no.8105161623, 9324568396 and Mohammed Ashas@Mumbai, having mobile no. 9986727954 as derived during the course of statements of Shri Mer Shyam Jigneshbhai, authorized person M/s. Sunny Travel, Bhavnagar and from the statements of Shri Samir S. Memon recorded under section 108 of the Customs Act, 1962. The details of such mobile no(s). 8105161623, 9324568396 and 9986727954 were found out as (i) Mohammed Aslam Rukanuddin Nuwair, 890, Azad Nagar 1st Cross Jali, Bhatkal, Uttara Kannada, Karnataka-581320, (ii) Hannan Sajju Shekh, Basement No.2 city Centre Bellasis Road, Mumbai Central, West Mumbai-400008 and (iii) Mohammed Ashas Armar, Dongarapalli Road, Dongarapalli Road, Bhatkal-581320, India, Karnataka-581320 (as per SDR) respectively.

13.1.3. Accordingly, for gathering evidences, summons dated 26.12.2024, 03.01.2025 and 13.01.2025 were issued to the said persons such as Shri Mahmud Bhai and Shri Mohammed Ashas@Mumbai at their respective address but none of them join the investigation and they wished to escape from the investigation.

13.1.4. Furthermore, Statements of Smt. Dhallawala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001, wife of Shri Dhallawala Usmangani and Shri Dhallawala Usmangani were recorded under section 108 of the customs Act, 1962 as mentioned at **Para no. 10.3. and 10.4.** where Shri Dhallawala Usmangani agreed/admitted that the parcels destined to **(i)** Smt. Dhallawala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001 **(ii)** Shri Botawala Mohsin, 2655-3, Jiva, Shahidni Durga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat, **(iii)** Shri Mananawala Altaf, 12780/11, Lambisher, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001, **(iv)** Shri Shahruxhan Mehbubkhan Pathan, 1353, Ramrahim Nagar. opp. Dastan Factory, Behrampur Ahmedabad, Gujarat-380022, **(v)** Shri Barafwala Aayshabanu, 2271, MotipoleKadiasheri, Jamalpur, Ahmedabad, Gujarat-380001, **(vi)** Barafwala Ilyas Sultanbhai, 2271, MotipoleKadiasheri, Jamalpur, Ahmedabad, Gujarat-380001, **(vii)** Shri Iqbalbhai Mananwala, 2763-3, Labisher, Jamalpur, Ahmedabad-380001 were meant for Shri Dhallawala Usmangani and he was about to receive all the parcels. Further, he also agreed/admitted that the mobile no 9723820140 (details as per SDR, Dhallawala Usmangani, 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001) is used by Shri Dhallawala Usmangani and mobile no. 9824498265 (details as per SDR, Usmangani Sabirbhai Dhalavala, 3293, Gafurji Nichali, Nr. Navi Masjid, Jamalpur, Ahmedabad 380001) is also used by him.

14. From the investigations conducted so far and Statement of the above persons, it was revealed that **(i)** Shri Samir Siddikbhai Memon, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001, **(ii)** Shri Dhallawala Usmangani, 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001, **(iii)** Shri Anil Bhai, RjpurGompurTolnaka, Mahavir Flat, Near Nagri Mall, Ahmedabad 380021, **(iv)** Shri Rajes Rathod, Sarangpur Ni Paase, Kamdar Medan Ekta Avenue, Nearby Kalidas Mill Compound, Gomitpur, Ahmedabad-380021, **(v)** Shri Khan Bhai, 426, Nehru Nagar, B/H Sangar Cinema, Sarkhej Road, Ahmedabad, Gujarat, **(vi)** Shri Ashasbhai@Mumbai **(vii)** Shri Rathod Sufiyan Yusuf, Floor-1.52, Ganesh Hari Parundekar Marg, Hyrulla, Rly STN W, Mumbai, Jacob Circle, Mumbai City- Jacob Circle, Mumbai-400011 and **(viii)** Shri Pathan Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Pachad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210 appear to be the actual recipients/beneficial owner of the above illegally imported prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes. They are the main mastermind in the entire act of smuggling of prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes in the parcels attempted to be illegally imported and smuggled by declaring the goods as "food items, toys and used clothes" into India through Foreign Post Office, Shahibaug, Ahmedabad

14.1. Thus, it evidently appeared that **(i)** Shri Samir Siddikbhai Memon, **(ii)** Shri Dhallawala Usmangani, **(iii)** Shri Anil Bhai, **(iv)** Shri Rajes Rathod, **(v)** Shri Khan Bhai, **(vi)** Shri Ashasbhai@Mumbai **(vii)** Shri Rathod Sufiyan Yusuf and **(viii)** Shri Pathan Lalkhan Munawarkhan had entered into conspiracy and attempted to smuggle the prohibited goods like E-cigarettes and Foreign Origin Cigarettes, which were declared in the parcels as "clothes,

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food items, toys and used clothes" to hoodwink the Customs authorities/scrutiny at the time of import. They were partially successful in getting the goods imported by way of parcels into India through Foreign Post Office, Shahibaug, Ahmedabad. It was due to the intervention of the officers of DRI, Ahmedabad, that the entire smuggled goods through the parcels illegally imported by said recipients were recovered and seized under Section 110 of the Customs Act, 1962.

15. VALUATION OF GOODS SEIZED VIDE SEIZURE MEMO DATED 07.11.2024 & 20.02.2025.

15.1. From the above, it appeared that the mis-declared goods viz. E-cigarettes and Foreign Origin Cigarettes were attempted to be illegally imported in parcels, concealing the same under the guise of declared goods i.e. "food items, toys and used clothes" in violation of the provisions of the Customs Act, 1962. Further, it evidently appeared that the assorted "food items, toys and used clothes" were used to conceal the smuggled prohibited goods i.e. E-Cigarettes and Foreign Origin 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 E-cigarettes were also non-compliant to the provision of the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019; Violation of DGFT's Notification No. 20/2015-2020 dated 26.09.2019, which suggests import of electronic cigarettes and parts or components thereof is prohibited. Further, the said Foreign Origin 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. E-cigarettes and Foreign Origin Cigarettes along with assorted food items, toys and used clothes, 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.

15.2. The value of E-cigarettes bearing the marking 'Made in China' and foreign-origin cigarettes labelled as 'Made in Korea/London/Indonesia' have been determined based on market-driven valuation derived from open net sources available. Since these goods are not legally available in the domestic market, their valuation has been determined based on market-driven sources from open net data. The import, possession, and distribution of such prohibited goods are subject to legal action under the relevant provisions of Indian law. However, the value of 'Assorted food items, toys and used clothes' used for concealing the above smuggled E-cigarettes and Foreign Origin have been taken as NIL. Further, Seizure Memo dated 07.11.2024 and 20.02.2025 was also issued for the goods detained under Panchanama dated 14.10.2024, 15.10.2024 & 16.10.2024. The same are as under:

Table-X

Sl. No	Item & Description of E-cigarettes and Foreign Origin Cigarettes	Sticks (in Nos)	Price as per market-driven valuation per stick (in Rs.)	Total illicit Market Value (in Rs.)
1	Assorted food items, toys and used clothes	In loose	-	-
2	Esse-lights, Foreign Origin Cigarette [made in Korea]	204800 (sticks)	12/-	24,57,600/-

3	Esse- Special Gold, Foreign Origin Cigarette (made in Korea)	59400 (sticks)	12/-	7,12,800/-
4	Benson & Hedges (spl. Filter) (Blue Gold), FOC, Made in London	20000 (sticks)	17/-	3,40,000/-
5	Benson & Hedges (spl. Filter) (Red Gold), FOC, (made in London)	20000 (sticks)	17/-	3,40,000/-
6	Gudang Garam International, FOC, (Made in Indonesia)	14400 (sticks)	12/-	1,72,800/-
7	E-Cigarettes, Alfakher Big Cloud 8000 Pro-Dual Mode, (made in China)	470 (sticks)	1372.80/-	6,45,216/-
8	E-cigarettes, Yuata Thomas 5000 Puffs (Mesh Coil), (made in China)	390 (sticks)	2800/-	10,92,000/-
9	E-cigarettes, ELIAB-EC10000, (made in China)	3823 (sticks)	3500/-	1,33,80,500/-
	Total of Foreign Origin Cigarettes	318600 (sticks)		40,23,900/-
	Total of E-Cigarettes	4683 (sticks)		1,51,17,716/-
	Total of Foreign Origin Cigarettes and E-Cigarettes	323283 (sticks)		1,91,40,916/-

16. From all the above Paras, it appeared that 4683 sticks of E-cigarettes and 318600 sticks of Foreign Origin Cigarettes, total of 323283 sticks of prohibited cigarettes, having total market value of INR 1,91,40,916/- (Rupees One Crore Ninety-One Lakh Forty Thousand Nine Hundred and Sixteen Only) have been seized and the same appeared to be liable to confiscation under Section 111 of the Customs Act, 1962. Further, loose food items, toys and used clothes, which were used for concealment of above E-cigarettes and Foreign Origin 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.

16.1. From the investigations conducted so far and Statement of the above persons, it was revealed that (i) Shri Samir Siddikbhai Memon, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001, (ii) Shri Dhallawala Umangani, 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001, (iii) Shri Anil Bhai, RjpurGompurTolnaka, Mahavir Flat, Near Nagri Mall, Ahmedabad 380021, (iv) Shri Rajes Rathod, Sarangpur Ni Paase, Kamdar Merlan Ekta Avenue, Nearby Kalidas Mill Compound, Gomitpur, Ahmedabad-380021, (v) Shri Khan Bhai, 426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat, (vi) Shri Ashas@Mumbai, (vii) Shri Rathod Sufiyan Yusuf, Floor-1 52, Ganesh Hari Parundekar Marg, Byculla, Rly STN W. Mumbai, Jacob Circle, Mumbai City Jacob Circle, Mumbai-400011 and (viii) Shri Pathan Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Pachad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210 appear to be the actual recipients/beneficial owner of the above illegally imported prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes. They are the main mastermind in the entire act of smuggling of prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes in the parcels attempted to be illegally imported by declaring the goods as "food items, toys and used clothes" into India through Foreign Post Office, Shahibaug, Ahmedabad. The details of quantity and value of prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes which were about to be received individually by themselves or to be the beneficial owner of the said prohibited goods, are as under:

Sr. No.	Name & Address of recipients of the parcels or actual beneficial owner of goods as revealed by the investigation.	No. of sticks of E-cigarettes or Foreign Origin Cigarettes		Value as derived from
		E-cigarettes	Foreign Origin Cigarettes	
01.	Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, Flat No. C-2, 4th Floor Marine Heights, Nr. Lion Circle, Bhavnagar-364001.	3823	-----	1,33,80,500/-
02.	Shri Dhallawala Umangani, 3293, Gafurji Ni Chali, Nr. Navi Masjid,	390	263830	44,57,600/-

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	Jantaipuri, Ahmedabad-380001			
03.	Shri Anil Bhai, KypurGompurTolbaka, Mahavir Flat, Near Nagn Mall, Ahmedabad 380021.	-----	27600	3,31,200/-
04.	Shri Rajes Rathod, Sangarpur Ni Passe, Kamdar Medan Ekta Avenue, Nearby Kalidas Vill Compound, Gomtipur, Ahmedabad-380021.	.	27300	3,26,400/-
05.	Shri Khan Bhai, 426, Nehru Nagar H/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat.	470	-----	6,44,216/-
06.	Shri Mohammed AshashMumbai, however the details as per SDR obtained Shri Mohammed Ashas Armar, Dongarapalli Road, Dongarapalli Road, Bhalkal-581320, India, Karnataka-581320	38/23	-----	1,33,80,500/-
07.	Shri Rathod Sufiyan Yusuf, Floor-1 52, Gansh Han Parundekar Marg, Hyrulla, Rly STN W Mumbai, Jamb Circle, Mumbai City-Jamb Circle, Mumbai-400011.	-----	57100	657600/-
08.	Shri Pathan Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Pachad, Sarkhej Road, Daskroi Ahmedabad, Gujarat 382210	470	-----	6,44,216/-

17. The above clearly indicates that total of 323283 sticks of E-cigarettes and Foreign Origin Cigarettes has been attempted to be imported illegally and smuggled into India in violation of the various provisions of the Customs Act, 1962 and other allied acts.

18. SUMMATION

18.1. Investigation has revealed that (i) Shri Samir Siddikbhai Memon, (ii) Shri Dhallawala Usmangani, (iii) Shri Anil Bhai, (iv) Shri Rajes Rathod, (v) Shri Khan Bhai, (vi) Shri Ashashbhai @Mumbai, (vii) Shri Rathod Sufiyan Yusuf and (viii) Shri Pathan Lalkhan Munawarkhan attempted to unlawfully import prohibited goods, specifically e-cigarettes and foreign-origin cigarettes. They did so by grossly mis declaring the shipments as items such as "dry food, used clothes, fish, herbs, meats, toys, games, and sports equipment," in an apparent effort to evade customs scrutiny

18.2. It has also been found that despite issuance of several summons to Shri Anil Bhai, Shri Rajes Rathod, Shri Khan Bhai, Shri Ashashbhai @Mumbai, Shri Rathod Sufiyan Yusuf and Shri Pathan Lalkhan Munawarkhan, no one turned in this office for recording of statements. Many of the summons got returned undelivered to this office from postal remarks as not known/left/incomplete address. Hence, they did not join the investigation.

18.3. From the foregoing paras, it appeared that in a very planned manner (i) Shri Samir Siddikbhai Memon, (ii) Shri Dhallawala Usmangani, (iii) Shri Anil Bhai, (iv) Shri Rajes Rathod, (v) Shri Khan Bhai, (vi) Shri Ashashbhai @Mumbai, (vii) Shri Rathod Sufiyan Yusuf and (viii) Shri Pathan Lalkhan Munawarkhan had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad

18.4. It also appeared that the said imported goods in respect to prohibited goods i.e. E-cigarette in violation of DGFT's Notification No 20/2015-2020, dated 26.09.2019 which prohibits the import of electronic cigarettes (made in China) and parts of components thereof and in respect of

Foreign Origin Cigarettes, the said packets/packing (made in London/Korea), 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 appeared that it does not satisfy the requirements of particulars to be there on every packing/packages/packet of cigarette in terms of Rule 3 CSR 727(E), Rule 2 clause 4 (b) 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.

18.5. It also appeared that the goods were attempted to be imported into India by way of concealment and mis-declaration in contravention of the relevant provisions of the Foreign Trade Policy, the Customs Act, 1962 and other allied Act. Hence the mis-declared goods, as well as, the declared goods, which were used for concealment were seized under Customs Act, 1962 vide seizure memo dated 07.11.2024 and 20.02.2025. The details of goods seized along with value have been tabulated below:

Table-XI

SN	Item & Description of E-Cigarettes and Foreign Origin Cigarettes	Sticks (in Nos)	Price as per market-driven valuation per stick (in Rs.)	Total Illicit Market Value (in Rs.)
1	Assorted food items, toys and used clothes	In loose	-	-
2	Base-blights, Foreign Origin Cigarette (made in Korea)	204800 (sticks)	12/-	24,57,600/-
3	Base- Special Gold, Foreign Origin Cigarette (made in Korea)	59400 (sticks)	12/-	7,12,800/-
4	Benson & Hedges (spl. Filter) (Blue Gold), FOC, Made in London	20000 (sticks)	17/-	3,40,000/-
5	Benson & Hedges (spl. Filter) (Red Gold), FOC (made in London)	20000 (sticks)	17/-	3,40,000/-
6	Gudang Garam International, FOC, (Made in Indonesia)	14400 (sticks)	12/-	1,72,800/-
7	E-Cigarettes, Alfakher Big Cloud 8000 Pro-Dual Mode, (made in China)	470 (sticks)	1372.80/-	6,45,216/-
8	E-cigarettes, Yunio Thanos-5000 Puffs, Mesh Coil, (made in China)	360 (sticks)	2800/-	10,02,000/-
9.	E cigarettes, ELBAR-100000, (made in China)	3823 (sticks)	2500/-	1,33,80,500/-
	Total of Foreign Origin Cigarettes	318000 (sticks)		40,23,200/-
	Total of E-Cigarettes	4683 (sticks)		1,51,17,716/-
	Total of Foreign Origin Cigarettes and E-Cigarettes	533283 (sticks)		1,91,40,916/-

18.6. The seized goods totally valued at Rs. 1,91,40,916/-, as aforesaid had already been handed over to the custodian of Foreign Post Office, Shahibaug, Ahmedabad, for safe custody under Supratnama dated 14.10.2024, 15.10.2024 and 16.10.2024. The value of seized goods was based on market-driven valuation derived from open net sources available because of such type of prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes are prohibited for import and sale in India as per applicable laws. Since these goods are not legally available in the domestic market, their valuation has been determined based on market-driven sources from open net data. The import, possession, and distribution of such prohibited goods are subject to legal action under the relevant provisions of Indian law. However, the value of

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'Assorted food items' used for concealing the above smuggled E-cigarettes and Foreign Origin have been taken as Nil.

19. LEGAL PROVISIONS:

19.1. The Customs Act, 1962:

(i) Section 2(33) of the Customs Act, 1962: "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

(ii) Section 2(39) of the Customs Act, 1962:- 'smuggling', in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

(iii) Section 110 of the Customs Act, 1962: Seizure of goods, documents and things:-

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(iv) Section 111 Confiscation of improperly imported goods, etc. -

- The following goods brought from a place outside India shall be liable to confiscation: -

(a)...(b)...(c)....

(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;

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

(f) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or ..

(g) any goods which do not correspond in respect of value or in any other particulars 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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

(vi) Section 112: Penalty for improper importation of goods, etc.

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other

manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty five per cent. of the penalty so determined

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty (not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees,) whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

(vi) Section 114AA: Penalty for use of false and incorrect material:-

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

(vii)Section 117: Penalties for contravention, etc., not expressly mentioned

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees

(viii)Section 119. Confiscation of goods used for concealing smuggled goods

Any goods used for concealing smuggled goods shall also be liable to confiscation
Explanation. - In this section, "goods" does not include a conveyance used as a means of transport

(ix) 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, -

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- (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;
- (h) 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.

Vide Notification No. 103/2016-Cus(N.T.), New Delhi, the 25th July, 2016:-

GSR... (E)- In exercise of the power conferred by sub section (2) of Section 123 of the Customs Act, 1962 (52 of 1962), and in suppression of the Notification of the Government of India in the Ministry of Finance (Department of Revenue) No.204/84-Customs, dated the 20th July, 1984, the Central Government hereby specifies the following other classes of goods, for the purposes of the said Section, namely: -

1. Silver Bullion.
2. Cigarettes.

[File No. 394/32/2007-Cus (AS)]

(x) Section 124 - Issue of show cause notice before confiscation of goods, etc.

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person-
(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral

Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

19.2. Section 18(1) of The Legal Metrology Act, 2009 regarding making declarations on pre-packaged commodities stipulates "No person shall ... import...any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed."

19.3. Proviso to Rule 3(1)(b) of the Cigarettes and other Tobacco Products (Packaging and Labelling) Rules, 2008 provides as under: -

"Provided further that on box, carton and pouch type of package, the specified health warning shall appear on both sides of the package, on the largest panels and for cylindrical and conical type of package, the specified health warning shall appear diametrically opposite to each other on two largest sides or faces of the package and the specified health warning shall cover eighty-five per cent (85%) of each side or face of the principal display area of the package of which

sixty per cent. (60%) shall cover pictorial health warning and twenty-five per cent. (25%) shall cover textual health warning”.

19.4. 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 2003)):-

Restrictions on trade and commerce in, and production, supply and distribution of cigarettes and other tobacco products. (1) No person shall, directly or indirectly, produce, supply or distribute the cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him bears thereon, or on its label, a [such specified warning including a pictorial warning as may be prescribed.] (2) No person shall carry on trade or commerce in cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products sold, supplied or distributed by him bears thereon, or on its label, the specified warning. (3) No person shall import cigarettes or any other tobacco products for distribution or supply for a valuable consideration or for sale in India unless every package of cigarettes or any other tobacco products so imported by him bears thereon, or on its label, the specified warning. (4) The specified warning shall appear on not less than one of the largest panels of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply for a valuable consideration. (5) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the nicotine and tar contents on each cigarette or as the case may be on other tobacco products along with the maximum permissible limits thereof: Provided that the nicotine and tar contents shall not exceed the maximum permissible quantity thereof as may be prescribed by rules made under this Act.

19.5. Section 8 of the Cigarettes and other Tobacco Products ((Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, (COTPA 2003)):- Manner in which specified warning shall be made. (1) The specified warning on a package of cigarettes or any other tobacco products shall be- (a) legible and prominent; (b) conspicuous as to size and colour; (c) in such style or type of lettering as to be boldly and clearly presented in distinct contrast to any other type, lettering or graphic material used on the package or its label and shall be printed, painted or inscribed on the package in a colour which contrasts conspicuously with the background of the package or its labels. (2) The manner in which a specified warning shall be printed, painted or inscribed on a package of cigarettes or any other tobacco products shall be such as may be specified in the rules made under this Act. (3) Every package containing cigarettes or any other tobacco products shall be so packed as to ensure that the specified warning appearing thereon, or on its label, is, before the package is opened, visible to the consumer.

19.6. Para 6 of the CBEC Circular No. 09/2017-Customs, issued vide F.No. 711/07/2003 Cus (A1) dated 29th March 2017. All tobacco products (whether domestically manufactured and sold or imported) are required to comply with the requirements contained in the Cigarettes and other Tobacco Products ((Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, (COTPA 2003)) and the Rules framed thereunder. Ministry of Health and Family and Welfare vide Notification GSR 727(E) dated 15.10.2014 notified the Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment (COTPA) rules, 2014, which came into effect from 01.04.2016 (G.S.R. 739 (E) dated 24.09.2015). The COTPA Rules are strict in

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nature and their compliance requires that the printing of pictorial and textual warning on cigarette packets is in specified format, colors, resolution, for and Language.

19.7. The Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011 apply to packaged commodity, which includes cigarettes. As the imported cigarettes packs are intended for retail sale, they are covered under the Legal Metrology (Packaged Commodity) Rules, 2011 which require a declaration on the packs containing the name and address of the manufacturer or importer or packer, quantity of the product, month and year of manufacturing or pre-packing or importation, the retail sale price, etc. In terms of the said Act and Rules it is illegal to manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless the package is in such standard quantities or number and bears thereon such declarations and particulars in such a manner as prescribed

19.8. As per CBEC instruction dated 30.11.2011, The Board has issued instructions to the Customs field formations dealing with clearance of these products to ensure strict compliance and implementation of the specified health warning on the cigarette and other tobacco products prescribed under "The Cigarettes and other Tobacco Products (Packaging and Labelling) Rules, 2008 Rules" in the manner in which the specified health warning shall be displayed on the tobacco product packs covering all types of tobacco products produced, supplied, imported and distributed in India.

19.9. Also, a set of new pictorial health warning has been issued by the Ministry of Health & Family Welfare vide Notification G.S.R. No. 592 (E) dated 21st July, 2022 which came into force from 1st December, 2022. Accordingly, all the tobacco products manufactured / packaged / imported for sale in India have to bear the new specified health warnings as prescribed in the said Notification.

19.10. Foreign Trade (Development and Regulation) Act, 1992.

- (a) As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.
- (b) As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly
- (c) As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.
- (d) As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.

19.11 The Prohibition of Electronic Cigarettes (Production,

Manufacture, Import, Export, Transport, Sale, Distribution, Storage And Advertisement) Act, 2019- Prohibition on the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes in the interest of public health to protect the people from harm and for matters connected therewith or incidental thereto -No person shall produce, manufacture, Import, Export, Transport, Sale, Distribute, Store and Advertise of electronic cigarette.

19.12DGFTNotificationNo. 20/2015-2020Dt 26.09.2019

To be published in the Gazette of India Extraordinary Part-II, Section-3, Sub-Section (ii)

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade
Notification No. 20/2015-2020
New Delhi, Dated: 26 September, 2019

Subject: Amendment in import policy electronic cigarettes.

S.O. (E) in exercise of powers conferred by Section 3 of F.T. (REG) Act, 1997, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby incorporates the following import policy for import of electronic cigarettes under HS Code 8543 and under Para 13 of General Notes regarding Import Policy and as policy condition No. 8 of Chapter 85 of ITC (HS), 2017 Schedule 1 (Import Policy)

Import of electronic cigarettes (e - cigarettes) or any parts or components thereof such as refill pods, atomizers, cartridges etc. including all forms of Electronic Nicotine Delivery Systems, heat not burn products, e - hookahs and the like devices by whatever name and shape, size or form it may have, but does not include any product banned under the Drugs and Cosmetics Act, 1980, under HS Code 8543 is prohibited in accordance with the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Ordinance, 2019.

Effect of the Notification: Import of electronic cigarettes and parts or components thereof is prohibited.



(Alok Verghese Chaturvedi)
Director General of Foreign Trade &
1/4, Office Secretary to the Government of India

(F No. Mon - 6822/AM/14/C 2 (A) - 17354)

19.13.Rule 3 of the Cigarettes and other Tobacco Products (Packaging and Labeling) Rules,2008 and its Amendment Rules, 2017, read -with Circular Na.09/2017-Customs, issued under F.No. 711/07/2003-Cus- (AS) dated 29.03.2017:

The manner of packing and labeling of the Cigarettes and other Tobacco products have been defined as under-

Manner of packing and labeling: -

- (i) Every person engaged directly or indirectly in the production, supply, import or distribution of cigarettes or any other tobacco product shall ensure that:
- (a) Every package of cigarettes or any other tobacco product shall have the specified health warning exactly as specified in the Schedule to these rules.
- (b) Para 3 of Circular No.09/2017-Customs dated 29.03.2017 states-

The Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011 apply to packaged commodity which includes cigarettes. As the imported cigarette packs are intended for retail sale, they are covered under the Legal Metrology (Packaged Commodity) Rules, 2011 which require a declaration on the packs containing the name and address of the manufacturer or importer or packer, quantity of the product, month and year of manufacturing or repackaging or importation, the retail sale price, etc. In terms of the said Act and Rules it is illegal to manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless the package is in such standard quantities or number and bears thereon such declarations and particulars in such a manner as prescribed.

- (b) Para 5 of Circular No.09/2017-Customs dated 29.03.2017 states-

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<i>'The Cigarette packets shall have, inter alia, specified health warning to cover 85% of the principal display area of the package; 60% shall cover pictorial warning and 25% shall cover textual health warning, the placement of the warning; the language to be used on the package; every package of Cigarette should have name of the product; name and address of the manufacturer or importer or packer; origin of the product (for import) quantity of the product and date of manufacture (Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution Act, 2003 (COTPA 2003) and rules may be referred.

<a>Cigarette Packets shall have the name and address of the manufacturer or packer or importer and the month and year in which the commodity is manufactured or pre-packed or imported (Legal Metrology (Packaged Commodity) Rules, 2011 refers)

Provided that for conical package, the widest end of the package shall be considered as the top edge of the package.

Provided further that on box, carton and pouch type of package, the specified health warnings shall appear on both sides of the package, on the largest panels and for cylindrical and conical type of package, the specified health warning shall appear diametrically opposite to each other on two largest sides or faces of the package and the specified health warnings shall cover eighty five per cent (85%) of each side or face of the principal display area of the package of which sixty per cent (60%) shall cover pictorial health warning and twenty-five per cent (25%) shall cover textual health warning;

- a) none of the elements of the specified warning are severed, covered or hidden in any manner when the package is sealed or opened;
- b) no messages, images or pictures that directly or indirectly promote the use or consumption of a specific tobacco brand or tobacco usage in general or any matter or statement which is inconsistent with, or detracts from, the specified health warning is inscribed on the tobacco product package;
- c) no product shall be sold unless the package contains the specified health warning. Provided that the specified health warnings shall be printed on every retail pack in which the tobacco product is normally intended for consumer use or retail sale, as well as any other external packaging, such as cartons or boxes and will not include other packaging such as gunny bags;
- d) the textual health warning shall be inscribed in the language used on the pack. Provided that where the language used on a package or on its label is:
 - (i) English, the health warnings shall be expressed in English
 - (ii) English and Indian languages, the health warnings shall be expressed in English and any one of the Indian languages in which the brand name appeared;
 - (iii) Hindi and other Indian languages, the health warnings shall be expressed in Hindi and any one of the Indian languages in which the brand name appeared;
 - (iv) any Indian language, the health warnings shall be expressed in such Indian language;
 - (v) Indian languages, the health warnings shall be expressed in any two Indian languages in which the brand name appeared;
 - (vi) foreign language, the health warnings shall be expressed in English;
 - (vii) foreign and Indian languages, the health warning shall be expressed in English and any one of the Indian languages in which the brand name appeared;

Provided further that the textual health warning shall appear in not more than two languages used on the package:

Provided also that the textual health warning in one language shall be displayed on one side or face of principal display area and the textual health warning in the other language shall be displayed on the other side or face of principal display area of the package

- (iv) notobaccoproduct;packageurlabelshallcontainanyinformation that isfalse,misleading,or deceptive,or that islikely or intendedto create an erroneous impressionabout the characteristics, health effects, or health or other hazards of the tobacco product orits emissions. This prohibition includes, but is not limited to, the use of words or descriptors,whether or not part of the brand name, such as "light", "ultra light", "mild", "ultra mild", "lowtar", "slim", "safer", or similar words or descriptors; any graphics associated with, or likelyorintendedtobeassociatedwith,such wordsordescriptors;and any product packagedesigncharacteristics,associatedwith,likelyorntendedtobeassocia tedwith,suchdescriptors.
- (v) ThespecifiedHealthwarninganintermsoftheScheduleis:"SmokingKills"(on smokingformsoftobaccoproducts)"andtheprescribedpictorialwarningsforca senreferenceisdepictedasunder:



20. VIOLATIONS & CONTRAVENTION OF VARIOUS PROVISIONS:

20.1. The seized goods, i.e. E-cigarettes and Foreign Origin Cigarettes, total of 323283 sticks of Cigarettes 'Made in China' and 'Made in Korea, London and Indonesia' respectively totally valued at Rs.1,91,40,916/- 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 "used cloths, dry food, fish, games etc." 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.

20.2. Further, the seized packets of E-cigarettes "Made in China" was also imported in violation of DGFT's Notification No. 20/2015-2020 dated 26.09.2019 and Prevention of Electronic Cigarette Act, 2019, which prohibits the import of electronic cigarettes and parts or components thereof. Further, foreign origin cigarettes "Made in Korea, London and Indonesia" 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 appeared 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 appeared that the seized parcels of E-Cigarettes/Foreign Origin Cigarettes, have been smuggled/ imported, contrary to the prohibitions imposed

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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) and 111 (j) of the Customs Act, 1962.

20.3. 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 of the Customs Act, 1962.

20.4. As per clause 5 of the Chapter 1A of the General Notes regarding Import Policy, 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 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 of the Customs Act, 1962.

20.5. The above E-cigarettes and Foreign Origin Cigarettes were not declared in the relevant parcels of CN-23 Customs Declarations and same were found concealed behind the declared goods viz. 'Dry food, used clothes, fish, meats, toys, games etc.' and the same also do not correspond in respect of value. Hence the same are liable to confiscation under the provisions of 111(d), 111(f) 111(i), 111(j) and 111(m) of the Customs Act, 1962.

20.6. Moreover, all the loose items i.e. food items etc., having assessable value NIL have been used for concealment of illegally imported E-cigarettes and Foreign Origin Cigarettes in parcels bearing different CN-23 Customs declaration and it's tracking no(s), hence, the same are also liable to confiscation under Section 119 of the Customs Act, 1962.

21. E-Cigarette and Foreign Origin Cigarettes are an item specified under Section 123 of Customs Act, 1962 by virtue of Notification No.103/2016-Cus (N.T.) dated 25.07.2016. The burden of proof that 323283 sticks of E-cigarettes

and Foreign Origin Cigarettes totally valued at Rs.1,91,40,916/ , placed under seizure are not smuggled goods lies with the legal owner/claimant/beneficiary/importer of such goods.

22. 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, 1962.

22.1.ROLE OF SHRI SAMIR SIDDIKBHAI MEMON:

22.1.1. It appeared that from the investigation and from the statements of Shri Samir Siddikbhai Memon recorded on 16.10.2024, 17.10.2024, 14.11.2024 and 11.03.2025 under Section 108 of the Customs Act, 1962, wherein it reveals that he had knowingly and intentionally involved himself in the smuggling of prohibited goods i.e. E-Cigarettes. Further, it appeared that Shri Samir Siddikbhai Memon is actively involved in an organized smuggling activity. He admitted to regularly receiving parcels containing E-cigarettes from UAE, which were falsely declared as "dry food, used clothes, fish, herbs, meats, toys, games and sports etc. This mis-declaration indicates in attempting to evade customs authority/scrutiny. As, he collected multiple parcels from the post office, which were sent in his name, yet he denied knowledge of their contents or recipients, despite physically handling them. His failure to update his address on official records suggests an intent to conceal his involvement. Additionally, he distanced himself from the sender, Mr. Abubaker Rabi Noorul Huda Shingari, which further raises suspicion regarding the illicit nature of these transactions. His repeated handling of parcels addressed to different individuals but linked to his contact details suggests his active role in facilitating the illegal importation and distribution of goods, possibly as part of a larger smuggling network.

22.1.2. Thus, it appeared that, Shri Samir Siddikbhai Memon, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

22.2. ROLE OF SHRI DHALLAWALA USMANGANI:

22.2.1. It appeared that from the investigation and from the statements of Shri Dhallawala Usmangani recorded on 03.12.2024 under Section 108 of the Customs Act, 1962, wherein it reveals that he had knowingly and intentionally involved himself in the smuggling of the parcels containing cigarettes/e-cigarettes concealed under the guise of used clothes, food items and toys, were imported by way of mis-declaring from UAE to India through Foreign Post office, Shahibaug, Ahmedabad and destined to different name and address, linking his mobile no as well as his relative mobile no. for the purpose of communication of receiving said parcels by himself. Further, it emerges that Shri Dhallawala Usmangani was involved in attempting to smuggle and receiving multiple parcels containing e-cigarettes and foreign origin cigarettes, falsely declared as used clothes, food items, and toys through Foreign Post Office, Shahibaug, Ahmedabad and to conceal their true nature and evade customs duty, which are restricted/prohibited under Indian customs law. His

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acknowledgment of mobile numbers, recipients, and past deliveries links him to a larger smuggling network operating via postal parcels from Dubai.

22.2.2. Thus, it appeared that, Shri Dhallawala Usmangani, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

22.3. ROLE OF SHRI ANIL BHAI:

22.3.1. It appeared that from the investigation that Shri Anil Bhai had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several Summones were also issued to Shri Anil Bhai as per the address of parcels as well as the address of Shri Anil Bhai, subscriber of Mobile No. 9702546914 being used in the relevant parcels of Shri Anilbhai but he did not appear in this office and did not join the investigation.

22.3.2. Thus, it appeared that, Shri Anilbhai, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

22.4. ROLE OF SHRI RAJES RATHOD:

22.4.1. It appeared that from the investigation that Shri Rajes Rathod had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several Summones were also issued to Shri Rajes Rathod as per the address of parcels as well as the address of Shri Rajes Rathod, subscriber of Mobile No. 7039631540 being used in the relevant parcels of Shri Rajes Rathod but he did not appear in this office and did not join the investigation.

22.4.2. Thus, it appeared that, Shri Rajes Rathod, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

22.5. ROLE OF SHRI KHAN BHAI:

22.5.1. It appeared that from the investigation that Shri Khan Bhai had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several Summones were also issued to Shri Khanbhai as per the address of parcels as well as the address of Shri Khan Bhai, subscriber of Mobile No. 9998681915 being used in the relevant parcels of Shri Khan Bhai but he did not appear in this office and did not join the investigation.

22.5.2. Thus, it appeared that, Shri Khan Bhai, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

22.6. ROLE OF SHRI ASHASBHAI@MUMBAI:

22.6.1. It appeared that from the investigation that Shri Ashasbhai@Mumbai had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several summons were also issued to Shri Ashasbhai@Mumbai as per the address of subscriber of Mobile No. 9986727954 being used in the relevant parcels of Shri Ashasbhai@Mumbai but he did not appear in this office and did not join the investigation.

22.6.2. Thus, it appeared that, Shri Ashasbhai@Mumbai, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

22.7. ROLE OF SHRI RATHOD SUFIYAN YUSUF:

22.7.1. It appeared that from the investigation that Shri Rathod Sufiyan Yusuf had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several summons were also issued to Shri Rathod Sufiyan Yusuf as per the address of subscriber of Mobile No. 9702546914 and Mobile No. 7039631540 being used in the relevant parcels of Shri Anilbhai and Shri Rajes Rathod respectively but he did not appear in this office and did not join the investigation.

22.7.2. Thus, it appeared that, Shri Rathod Sufiyan Yusuf, by his acts of commission and omission rendered the undeclared, as well as, declared goods

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liable to confiscation under the provisions of Section 111 and Section 119 of the Customs Act, 1962, as he knowingly and intentionally illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

22.8. ROLE OF SHRI PATHAN LALKHAN MUNAWARKHAN:

22.8.1. It appeared that from the investigation that Shri Pathan Lalkhan Munawarkhan had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several summons were issued to Shri Pathan Lalkhan Munawarkhan as per the address of subscriber of Mobile No. 9998681915 being used in the relevant parcels of Shri Khan Bhai but he did not appear in this office and did not join the investigation.

22.8.2. Thus, it appeared that, Shri Pathan Lalkhan Munawarkhan, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

23. Accordingly, a Show Cause Notice was issued to (i) Shri Samir Siddikbhai Memon and (ii) Shri Mohammad Ashasbhai Mumbai, as to why:

- (i) The seized 3823 sticks/pieces of E-Cigarettes which were not declared having total assessable value of Rs.1,33,80,500/- (Rupees One Crore Thirty-Three Lakh Eight Thousand and Five Hundred only), which were smuggled in various parcels, should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111(j) & 111(m) of the Customs Act, 1962;
- (ii) The seized loose food items etc., which were used for concealment of above E-Cigarettes mentioned at 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.

23.1. Further, a Show Cause Notice was issued to Shri Dhallawala Umangani, as to why:

- (i) The seized 390 sticks/pieces of E-Cigarettes and 263800 sticks of foreign origin cigarettes which were not declared having total assessable value of Rs.44,57,600/- (Rupees Forty-Four Lakh Fifty-Seven Thousand and Six Hundred only), which were smuggled in various parcels, should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111(j) & 111(m) of the Customs Act, 1962;
- (ii) The seized loose food items etc., which were used for concealment of above E-Cigarettes/F.O. Cigarettes mentioned at 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.

23.2. Further, a Show Cause Notice was issued (i) Shri Anil Bhai Shri and (ii) Rathod Sufiyan Yusuf, as to why:

- (i) The seized 27600 sticks of foreign origin cigarettes which were not declared having total assessable value of Rs.3,31,200/- (Rupees Three Lakh Thirty-One Thousand and Two Hundred only), which were smuggled in various parcels, should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111(j) & 111(m) of the Customs Act, 1962;
- (ii) The seized loose food items etc., which were used for concealment of above foreign origin cigarettes mentioned at 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.

23.3. Further, a Show Cause Notice was issued (i) Shri Rajes Rathod and (ii) Shri Rathod Sufiyan Yusuf, as to why:

- (i) The seized 27500 sticks of foreign origin cigarettes which were not declared having total assessable value of Rs.3,26,400/- (Rupees Three Lakh Twenty-Six Thousand and Four Hundred only), which were smuggled in various parcels, should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111(j) & 111(m) of the Customs Act, 1962;
- (ii) The seized food items etc., which were used for concealment of above foreign origin cigarettes mentioned at above (undeclared and concealed goods), should not be confiscated under the provisions of Section 119 of the Customs Act, 1962;

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- (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.

23.4. Further, a Show Cause Notice was issued (i) Shri Khan Bhai and (ii) Shri Pathan Lalkhan Munawarkhan, as to why:

- (i) The seized 470 sticks/pieces of E-cigarettes which were not declared having total assessable value of Rs.6,44,216/- (Rupees Six Lakh Fourty Four Thousand Two Hundred and Sixteen only), which were smuggled in various parcels, should not be confiscated under the provisions of Section 111(d) 111(f), 111(i), 111(j) & 111(m) of the Customs Act, 1962;
- (ii) The seized loose used clothes, toys, fish, herb, meats etc., which were used for concealment of above E-Cigarettes mentioned at 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.

24. DEFENSE REPLY AND RECORD OF PERSONAL HEARING:

24.1 Defense Reply of Noticee No.01 i.e. Shri Samir Siddikbhai Memon, S/o Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001 the noticee vide letter dated 06.09.2025 has submitted his written submission wherein he submitted that-

1 In the show cause notice, preposition of confiscation of goods, imposing penalty upon him was culminated out of the conclusion that he had actively involved in an organized smuggling activity. He had admitted to regularly receiving parcels containing E-cigarettes from UAE, which were falsely declared as 'dry food, used clothes, fish, herbs, meats, toys, games and sports etc. This mis-declaration indicates in attempting to evade customs authority/scrutiny. He submitted that he had collected multiple parcels from the post office, which were sent in his name, yet he denied knowledge of their contents or recipients, despite physically handling them. That he failed to update his address on official records suggests an intent to conceal his involvement. Thus, it appeared that, he, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

2. He submitted that, the said allegation leveled against him followed by the aforesaid preposition were not correct. The same deserved to be quashed and set aside. He had not participated in smuggling of any prohibited item or goods in India. That he had not placed order of any prohibited goods from any foreign country, he hadnot made any monetary transaction or received any monetary benefit, that he hadnot mis-declared any goods. That he hadnot received any prohibited goods at the Post office. That the allegations levelled in the Show cause notice are false, he was wrongly roped in the present case. he stated and submitted that the Show cause notice issued is illegal, *ex-facie* arbitrary, perverse, illogical, improper and the same deserves to be quashed and set aside.

3. At the outset and without prejudice to any other grounds raised herein the notice submit that the noticee/addressee is not owner of the goods in question, the alleged goods were not recovered from the possession of the notice/addressee, the said goods are not related to the notice/addressee, the notice/addressee has not ordered or imported or dealt in any alleged prohibited goods more particularly electronic cigarettes, also the notice has not filed any import document or made declaration before the authority/department and made any monetary transaction in connection with the alleged goods in the question. The noticee/addressee has no direct or indirect connection with the said goods; the notice has not received any pecuniary or monetary benefit from the goods in question. The noticee has no objection if the said alleged goods are confiscated, however notice/addressee has acted bonc-fide manner therefore, no penalty can be imposed against the notice/addressee. That the name, number and address of the noticee is misused by some unknown third party and the department when failed to catch actual sender/owner of the goods has wrongly roped present noticee in the said case.

4. He, further, submitted that he was not owner of any parcel in question. He had not placed any order for any prohibited item. That he was wrongly roped in the present case, he had not dealt in any prohibited item, nothing was recovered or discovered from his possession or his house. That he had not played any role in alleged smuggling.

5. He submitted that department had fauled to apprehend the sender of the parcels, it is an admitted fact that no consent from the receiver is required from booking a parcel, therefore his name was misused and alleged parcels were booked in his name, he had not direct or indirect connection to the said parcels in question. That he was wrongly roped in the present case. Further, he submitted tghatthe department had failed to apprehend or make the sender of the parcels a party in the present case, that no enquiry or case against the person booking/sending such alleged parrels was registered. Therefore, the present case against the applicant does not survive and no penalty can be imposed upon the present applicant

6. He stated and submitted that the alleged parcels received by him under bonc-fide belief that his wife placed the order did not contain any prohibited item, the same contained only goods declared on them, he received parcels only after seeing the declarations of goods made on them, he had not received any parcel containing the prohibited items. The department had not recovered any prohibited items from the goods received by him. Further, his name and mobile number was misused to falsely implicate him in the said offence, that he had not ordered, imported or received any prohibited item more specifically electronic cigarettes. That he received the parcel containing cloths, toys and

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food items and have not received any parcel of prohibited item or electronic cigarettes, no electronic cigarette was recovered from his possession, some unknown person had wrongly mentioned his name on parcel allegedly recovered by the department from post office wherein his name and number was allegedly mentioned and misused, he had not received those parcels containing alleged prohibited electronic cigarettes. That the parcel he allegedly took delivery from the post office of Bhavnagar contained toys, food items and cloths and did not contain any prohibited item or electronic cigarettes. Further, no such parcel with electronic cigarette was recovered by the department.

7. He submitted that this statement under Section 108 of the Custom Act, 1962 was wrongly recorded under threat and duress and it was manipulated by the officers of the department, that he had studied till class 12th only and he was not well versed in the English language, just to wrongly rope him in the present case. That the officers of the department recorded few lines on blank piece of paper and made him reproduce same exactly on bottom of a typed statement. That the officers of the department had recorded the statement on their own and made him write few lines on bottom of those statements and took his signature, the statements were not recorded as per information given by him, that statements were further manipulated to wrongly rope him in the present case. Therefore, no penalty can be imposed on the noticee/addressee.

8. He submitted that the complete case of the department was based on the Panchanam carried out at the post office, that at time of carrying out such panchanama the applicant was not present and no opportunity of cross-examination of such panch witnesses was provided to the present applicant. He submitted that there was no material evidence to show that the present applicant had received or possessed or imported any prohibited substance therefore, no penalty can be imposed. The noticee maybe granted opportunity of cross examination of panch witness before passing the final order.

9. He submitted that the valuation of the goods seized was wrongly done, that the alleged value of goods seized was highly inflated. He submitted that the valuation of seized goods was grossly incorrect and against the settled principle of the law. He submitted that the department had failed to provide the basis on which the department had arrived on the value of the goods. The valuation was highly inflated and wrongly done against the settled legal principles.

10. The noticee prayed for granted an opportunity of cross examination of the witnesses in the present case before deciding the present Show Cause notice in interest of justice.

11. The noticee prayed that the Show Cause Notice maybe quashed and no penalty imposed on him and such other further relief/(s) as deemed fit in the interest of the justice may kindly be granted to the noticee. The noticee/representative of the noticee also requested for heard in person.

24.2. Defense Reply of Noticee No.02 i.e. Shri Ashasbhai @. Mumbai, the noticee had not submitted any written defense reply against the allegation made against him in SCN.

24.3. Defense Reply of Noticee No.03 i.e. Shri Dhallawala Usmangani, 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001, the noticee

had not submitted any written defense reply against the allegation made against him in SCN.

24.4. Defense Reply of Noticee No.04 i.e. Shri Anil Bhal, RjpurGompurTolnaka, Mahavir Flat, Near Nagri Mail, Ahmedabad 380021, the noticee had not submitted any written defense reply against the allegation made against him in SCN.

24.5. Defense Reply of Noticee No.05 i.e. Shri Rathod Sufiyan Yusuf, Floor-1.52, Gansh Hari Parundekar Marg, Byculla, Rly STN W. Mumbai, Jacob Circle, Mumbai City-Jacob Circle, Mumbai-400011, the noticee had not submitted any written defense reply against the allegation made against him in SCN.

24.6. Defense Reply of Noticee No.06 i.e. Shri Rajesh Rathod, Sarangpur Ni Paase, Kamdar Medan Ekta Avenue, Nearby Kalidas Mill Compound, Gomitpur, Ahmedabad-380021, the noticee had not submitted any written defense reply against the allegation made against him in SCN.

24.7. Defense Reply of Noticee No.07 i.e. Shri Khanbhai, 426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat. The noticee had not submitted any written defense reply against the allegation made against him in SCN.

24.8. Defense Reply of Noticee No.08 i.e. Pathan Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Pachad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210 the noticee appeared for personal hearing on 23.07.2025 and submitted that his name is Mr. Munawar Khan Lal Khar: Pathan, and the name "Pathan Lalkhan Munawarkhan" mentioned in the SCN/ letter was of his father, who passed away nine years ago. He stated that the phone number 9998681915 listed in the show-cause notice belongs to him, but he does not know how his phone number appeared in the show-cause notice, and that someone misused his number. He stated that he did not order any cargo, including e-cigarettes and foreign-origin cigarettes, as mentioned in the show-cause notice. He stated that he is simply a driver who operates a daily-hire vehicle. He submitted that he has no dealings with the goods seized in the show cause notice nor does he know any of the names given in the show cause notice and requests not to impose penalty on him

25. PERSONAL HEARING: -

Adequate opportunities of personal hearing were given to all noticees in the Show Cause, which is summarized as under: -

25.1 Personal Hearing to Noticee No.01 i.e. Shri Samir Siddikbhai Memon, S/o Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights, Nr. Linn Circle, Bhavnagar-364001. The noticee was given opportunity for personal hearing on 23.07.2025, 18.08.2025 & 22.09.2025.

Shri Shubham Jhujharia, Advocate and authorised representative of Shri Samir Siddikbhai Memon present for personal hearing on dated 22.09.2025. Shri Samir Siddikbhai Memon was also present along with his Advocate and presented following submissions: -

1) That the written reply dtd. 06.09.2025 which was filed by the noticee, was reiterated in the Personal Hearing.

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- 2) That nothing was recovered or discovered from the possession of the noticee, that the department had also carried out a search at the house of the noticee and no imported prohibited material was recovered from the possession or house of the noticee. That on going through the Show Cause notice it was clear that the noticee had not imported and/or ordered any prohibited item more particularly e-cigarettes, that the details of the noticee was misused to wrongly sent the parcel in name of the noticee, the noticee had not received any parcel.
- 3) That the CCTV footage DRI had relied stating that noticee had received the 05 Parcels, in connection to that it was submitted that noticee had received same in bone-fide belief that order was placed by his wife and the parcel was in his name, that the parcels collected by the noticee did not contain any prohibited item, it contained only declared item such as chocolate, cloths etc., these parcels are also not recovered by the DRI. The noticee had not received any parcel containing any prohibited item.
- 4) It was submitted that the DRI had wrongly valued the goods to arrest and implicate the present noticee, the present noticee was arrested and his statement was recorded and the statement was manipulated by the officers of DRI to implicate the present noticee. The Panchanama at Foreign Post Office in Ahmedabad was not carried out in presence of the noticee, the name of noticee was misused, the noticee had not placed any order, not imported any goods, did not declare any goods and/or made any monetary transaction or received any monetary benefit.
- 5) That on going through the Show Cause notice it was clear that DRI had not made the sender of goods party in the noticee proceedings, that there was not corroborative evidence linking the present noticee directly or indirectly to the prohibited e-cigarettes. That the present noticee was wrongly roped and the sender was not made party in the notice, it clearly shows that the DRI had acted illegally and arbitrarily. That there was no direct or indirect connection between the noticee and the sender, the noticee was not known to the sender, there was nothing on record to show that the noticee was related to the sender, there was no transaction or connection between sender and noticee, the department had not proceeded against the sender who had declared and sent the items and wrongly roped present noticee in present case.
- 6) That the goods were wrongly valued, the DRI had valued seized goods very highly and arbitrarily against the settled principles of the law. That the statement of the Noticee during his custody was wrongly recorded and manipulated to implicate in present case.
- 7) Shri Shubham Jhajharia seeks a cross examination of Panchas and other witnesses in the Show Cause Notice, also Shri Shubham Jhajharia reserved his right to make further submissions after the cross-examination.
- 8) He submitted that there was no past antecedent or allegations of smuggling against the present noticee, noticee was not directly or indirectly linked to present case, noticee was not owner of the present prohibited goods, that no e-cigarettes were recovered from the possession of the noticee therefore, the goods maybe confiscated the noticee was not related to goods, however, noticee was wrongly implicated therefore, no penalty against noticee can be levied.

25.2. Personal Hearing to Noticee No.02 i.e. Shri Ashasbbai @ Mumbai the noticee was given opportunity for personal hearing on 23.07.2025, 31.07.2025&13.08.2025. The letters dispatched on the given address through speed post. But he failed to appear and represent his case. The letter for intimation for personal hearing was served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee has been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee was not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

25.3. Personal Hearing to Noticee No.03 i.e. Shri Dhallawala Umangani,3293, Gahurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001 the noticee was given opportunity for personal hearing on 23.07.2025, 31.07.2025&13.08.2025. The letters dispatched on the given address through speed post. The letter for intimation for personal hearing was served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee had been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

25.4. Personal Hearing to Noticee No.04 i.e. Shri Anil Bhai,RjpurGompur,Tolnaka, Mahavir Flat, Near Nagri Mall, Ahmedabad 380021the noticee was given opportunity for personal hearing on 23.07.2025, 31.07.2025 & 13.08.2025. The letters dispatched on the given address through speed post. The letter for intimation for personal hearing was served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee had been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

25.5. Personal Hearing to Noticee No.05 i.e. Shri Rathod Suflyan Yusuf, Floor-1,52, Ganesh Hari Parundekar Marg, Byculla, Rly STN W, Mumbai, Jacob Circle, Mumbai City-Jacob Circle, Mumbai-400011,the noticee was given opportunity for personal hearing on 23.07.2025, 31.07.2025&13.08.2025. The letters dispatched on the given address through speed post. The letter for intimation for personal hearing was served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee had been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense

25.6. Personal Hearing to Noticee No.06 i.e. Shri Rajesh Rathod,Sarangpur Ni Paase. Kamdar Medan Ekta Avenue, Nearby Kalidas Mill Compound, Gomitpur, Ahmedabad-380021the noticee was given opportunity for personal hearing on 23.07.2025, 31.07.2025&13.08.2025. The letters dispatched on the given address through speed post. The letter for intimation for personal hearing was served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his

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case. In the instant case, the noticee had been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

25.7. Personal Hearing to Noticee No.07 i.e. Shri Khanbhai,426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat. the noticee was given opportunity for personal hearing on 23.07.2025, 31.07.2025&13.08.2025.The letters dispatched on the given address through speed post. The letter for intimation for personal hearing was served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee had been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

25.8. Personal Hearing to Noticee No.08 i.e. Pathan Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Pachad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210,the noticee was given opportunity for personal hearing on 23.07.2025

The noticee appeared for personal hearing on 23.07.2025. The noticee Shri Munawar Khan Lal Khan Pathan stated that he received a letter requesting a personal hearing, in which his name was misspelled. He stated that his name is Mr. Munawar Khan Lal Khan Pathan, and the name on the letter is that of his father, who passed away nine years ago. He stated that the phone number 9998681915 listed in the show-cause notice belongs to him, but he does not know how his phone number appeared in the show-cause notice, and that someone misused his number. He stated that he did not order any cargo, including e-cigarettes and foreign-origin cigarettes, as mentioned in the show-cause notice. He stated that he is simply a driver who operates a daily-hire vehicle. He has no dealings with the goods seized in the show cause notice nor does he know any of the names given in the show cause notice and requests not to impose penalty on him.

26. DISCUSSION AND FINDINGS:

26.1 I have carefully gone through the case records, Show Cause Notice, relied upon documents to Show Cause Notice and Statements of the Noticees alongwith any submission made by the noticees at the time of personal hearing scheduled on various dates. Further, sufficient opportunities to be heard were extended to all the noticees of the SCN following the Principles of Natural Justice.

26.2 The issues for consideration before me in these proceedings are as under:-

- (a) Whether the total 4683 Stick/piece of seized E-Cigarettes and total 318600 stick/piece of forcing origin cigarettes, total 323283 sticks of prohibited cigarettes having total assessable value Rs 1,91,40,916/- which were smuggled in various parcels by Shri Samir Siddikibhai Memon & Shri Ashasbhai@, Mumbai, Shri Dhallawala Usmangani, Shri Anil Bhai & Shri Rathod Sufiyan, Shri Rajesh Rathod & Sathod Sufiyan Yusuf, Shri Khanbhai & Shri Pathan lalkhan Munawarkhan, each is liable for confiscation under Section 111 (d), 111 (f), 111 (j), 111 (l) & 111(m) of the Customs Act, 1962?

(b) Whether the seized loose loose foods items, used clothes, toys, herbs, fish, meat etc used for concealment of above E-Cigarettes by Shri Samur Siddikbhai Memon, Shri Dhallawala Usmangani, Shri Anil Bhai, Shri Rajesh Rathod and Sathod Sufiyan Yusuf, Shri Khanbhai and Shri Pathan Ialkhan Munawarkhan is liable for confiscation under Section 119 of the Customs Act, 1962?

(c) Whether Penalty should be imposed on by Shri Samur Siddikbhai Memon & Shri Ashasbhai @ Mumbai, Shri Dhallawala Usmangani, Shri Anil Bhai & Shri Rathod Sufiyan, Shri Rajesh Rathod & Sathod Sufiyan Yusuf, Shri Khanbhai & Shri Pathan Ialkhan Munawarkhan each on them under Section 112, Section, 114AA and 117 of the Customs Act, 1962?

26.3 I find that following the Section 122A of the Customs Act, 1962 ample opportunities were extended to **Shri Ashasbhai @ Mumbai, Shri Dhallawala Usmangani, Shri Anil Bhai, Shri Rathod Sufiyan Yusuf, Shri Rajesh Rathod and Shri Khanbhai** but they but they did not participate in the adjudication proceedings in spite of the fact that service of letters for personal hearings was done in terms of Section 153 of Customs Act, 1962.

Section 153 of the Customs Act, 1962 reads as under-

(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely: -

- a) *by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorized representative including employee, advocate or any other person or to any adult member of his family residing with him;*
- b) *by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorized representative, if any, at his last known place of business or residence;*
- c) *by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*
- d) *by making it available on the common portal;*
- e) *by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or;*
- f) *by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any*

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by

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the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]

Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that Personal Hearing letters were duly served to the Noticees through post as well as through notice board, but they did not respond as if they did not have anything to submit in their defense.

26.3. I find that (i) Shri Asheshbhai @ Mumbai, (ii) Shri Dhallawala Usinangani, (iii) Shri Anil Bhai, (iv) Shri Rathod Sufiyan Yusuf, (v) Shri Rajesh Rathod and (vi) Shri Khanbhai failed to appear for Personal Hearing, in spite of being given opportunity to appear in person several times as detailed in foregoing para for defending their case. Further, they have failed to file reply to Show Cause Notice. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte in terms of merit of the case.

26.4. With regard to proceeding to decide the case ex-parte, support is drawn from the following case laws:

26.4.1. Hon'ble High Court of Kerala in the case of United Oil Mills Vs. Collector of Customs & C.Ex. Cochin reported in 2000 (124) ELT 53 (Ker.) has held that:

19. No doubt hearing includes written submissions and personal hearing as well but the principle of Audi Alteram Partem does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.

21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations. Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See *Union of India and Another v. M/s. Jesus Sales Corporation* [1996 (83) E.L.T. 486 (S.C.) = J.T. 1996 (3) SC 597].

26.4.2. Hon'ble Tribunal of Mumbai in the case of *Sumit Wool Processors v. CC, Nhava Sheva* reported in 2014 [312] E.L.T. 401 (Tri - Mumbai) has observed as under:

"8.3 We do not accept the plea of Mr. Sunjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus, the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard."

26.4.3. Hon'ble High Court of Delhi in the case of *Saketh India Ltd Vs. Union of India* reported in 2002 (143) ELT 274 (Del), has observed that:

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. - Admittedly, the appellant herein did not respond to the show cause notice. Thereafter, the appellant was called for personal hearing on six subsequent dates. According to the Additional DGFT nobody appeared on behalf of the appellant inspite of various dates fixed for personal appearance of the appellant and in these circumstances, the Additional DGFT proceeded with the matter ex parte and passed the impugned order. The appellant had the knowledge of the proceedings but neither any reply to the show cause notice was given nor it chose to appear before the Additional DGFT to make oral submissions. Thus, it is a clear case where proper opportunity was given to the appellant to reply to show cause notice and to make oral submissions, if any. However, fault lies with the appellant in not availing of these opportunities. The appellant cannot now turn around and blame the respondents by alleging that the Additional DGFT violated principles of natural justice or did not give sufficient opportunity to the appellant to present its case."

26.4.4. The Hon'ble CESTAT, Mumbai in the case of *Gopinath Chem Tech. Ltd Vs. Commissioner of Central Excise, Ahmedabad-II* reported in 2004 (171) ELT 412 (Tri. Mumbai) has held that:

"Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated."

26.4.5. The Hon'ble Supreme Court in the case of *Jethmal Vs. Union of India* reported in 1999 (110) ELT 379 (S.C.) has held as under.

7. Our attention was also drawn to a recent decision of this Court in *A.K. Kripak v. Union of India* - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well known principle of *audi alterum partem* and it was argued that an *ex parte* hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to

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proceed on the material before him on the basis of the allegations in the show cause notice. Clearly, he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality.

26.4.6. Hon'ble Delhi Tribunal in the case of Commissioner of C.Ex. Vs. Pee Iron & Steel Co. (P) Ltd. reported in as 2012 (286) E.L.T. 79 (Tri. - Del) [upheld by Hon'ble Punjab & Haryana High Court reported in 2015 (316) E.L.T. A118 (P&H.)] has observed that:

"9. Notice to the respondent has been received back undelivered with the report that address is not correct. No other address of the respondent is available on record; therefore, the respondent cannot be served with the notice without undue delay and expense. Accordingly, we are constrained to proceed ex parte order against the respondent."

In view of the discussion held in Para 26.1 to 26.4.6. above, in case of Noticers i.e. (i) Shri Ashasbhai @ Mumbai, (ii) Shri Dhallowala Usmangani, (iii) Shri Anil Bhai, (iv) Shri Rathod Sufiyan Yusuf, (v) Shri Rajesh Rathod and (vi) Shri Khanbhai, I proceed to adjudicate the Show Cause Notice No.VIII/10-01/DR1/FPO/O&A/HQ/2025-26 dated 11.04.2025 ex parte.

27. Issue to be decided before me in the present case is whether total 4683 Stick/piece of seized E-Cigarettes and total 318600 stick/piece of forcing origin cigarettes, total 323283 sticks of prohibited cigarettes having total assessable value Rs. 1,91,40,916/- which were smuggled in various parcels by Shri Samir Siddikbhai Memon & Shri Ashasbhai@ Mumbai, Shri Dhallowala Usmangani, Shri Anil Bhai & Shri Rathod Sufiyan, Shri Rajesh Rathod & Rathod Sufiyan Yusuf, Shri Khanbhai & Shri Pathan Ialkhan Munawarkhan, each is liable for confiscation under Section 111 (d), 111 (f), 111 (i), 111 (j) & 111 (n) of the Customs Act, 1962? Further whether seized loose loose foods items, used clothes, toys, herbs, fish, meat etc used for concealment of above E-Cigarettes is also liable for confiscation under Section 119 of the Customs Act, 1962? Further, consequential Penalty should be imposed on by Shri Samir Siddikbhai Memon & Shri Ashasbhai@ Mumbai, Shri Dhallowala Usmangani, Shri Anil Bhai & Shri Rathod Sufiyan, Shri Rajesh Rathod & Rathod Sufiyan Yusuf, Shri Khanbhai & Shri Pathan Ialkhan Munawarkhan each on them under Section 112, Section, 114AA and 117 of the Customs Act, 1962?

27.1 I find that in the present case, DRI had investigation based on the intelligence that that various import consignment/post parcels, arrived from UAE into India through Foreign Post Office, Shahibaug, Ahmedabad, were suspected to be containing contraband/prohibited items for smuggling into India. Acting on the said intelligence, the officers of DRI visited the Foreign Post Office, Shahibaug, Ahmedabad on 14.10.2024 and analyzed the Item Internal Manifest of the post parcels. During the examination, of suspected parcel it was discovered that the segregated postal parcels contained contraband/prohibited items, namely E-cigarettes and foreign-origin cigarettes. These items were wrongly declared as "dry food, used clothes, fish, herbs, meats, toys, games, and sports goods." Subsequently, all similar postal parcels that arrived on 14.10.2024, 15.10.2024 & 16.10.2024 were also segregated and examined. Upon examination, it was found that these parcels likewise contained contraband/prohibited items, specifically E-cigarettes and foreign-origin cigarettes, which were concealed under the pretense of "food items etc." and same were attempted to be imported by way of grossly mis-declaring the same as "dry food, used clothes, fish, herbs, meats, toys, games and sports etc." Subsequently all the parcels were placed under seizure vide seizure memo dated 07.11.2024 & 20.02.2025.

27.2 I find that the quantity and estimated value of contraband or prohibited items, such as e-cigarettes and foreign-origin cigarettes, were determined individually for each recipient or beneficial owner of the postal parcels. The valuation was based on the Maximum Retail Price (MRP) available from open market sources, as detailed in the table below. However, the value of food items and used cloths used for concealing the contraband/prohibited items i.e. E-cigarettes and Foreign Origin Cigarettes were taken as NIL. The valuation of seized goods are arrived as under:

Table-V

Sr. No.	Postal Tracking Number	Date	Name of recipients mentioned at Post parcels	E-Cigarette Cigarette	No. of Stock	Price per Unit in Rs	Total Market Value
01.	FE41248379 AE	14.10.2024	Amil Bhan	Cigarette	27602	12/-	3,31,204/-
Total			Amil Bhan	Cigarette	27602		3,31,204/-
02.	FE41248379 AE	14.10.2024	Rajes Rathind	Cigarette	27202	12/-	3,26,400/-
Total			Rajes Rathind	Cigarette	27202		3,26,400/-
03.	FE41244394 AE	14.10.2024	Dhallawala Amrith Usmanangani	Cigarette	20002	17/-	3,40,000/-
	EE412416085 AE	15.10.2024	Dhallawala Amrith Usmanangani	Cigarette	29802	12/-	3,57,600/-
	EE412416077 AE	15.10.2024	Dhallawala Amrith Usmanangani	Cigarette	29202	12/-	3,50,400/-
Total			Dhallawala Amrith Usmanangani	Cigarette	79002		1,138,000/-
04.	EE412333942 AE	14.10.2024	Burawala Mehman	Cigarette	20002	17/-	3,40,000/-
Total			Burawala Mehman	Cigarette	20002		3,40,000/-
05.	EE412333960 AE	14.10.2024	Iqbalibhai Mananawa	Cigarette	14402	12/-	1,72,800/-
Total			Iqbalibhai Mananawa	Cigarette	14402		1,72,800/-
06.	EE412441878 AE	14.10.2024	Sanur	E-Cigarette	381	400/-	15,30,000/-
	FE412441864 AE	14.10.2024	Sanur	E-Cigarette	370	3500/-	12,95,000/-
	EE412416355 AE	15.10.2024	Sanur	E-Cigarette	385	3500/-	13,47,500/-
	EE412416365 AE	15.10.2024	Sanur	E-Cigarette	385	3500/-	13,47,500/-
	EE412401777 AE	15.10.2024	Sanur	E-Cigarette	386	3500/-	13,51,000/-
	FE412401785 AE	15.10.2024	Sanur	E-Cigarette	387	3500/-	13,54,500/-
	FE412416703 AE	16.10.2024	Sanur	E-Cigarette	385	3500/-	13,47,500/-
	EE412416695 AE	16.10.2024	Sanur	E-Cigarette	385	3500/-	13,47,500/-
Total			Sanur	E-Cigarette	3164		1,17,21,500/-
07.	FE412441881 AE	14.10.2024	Lohiya Sabir, (necant for Sanur)	E-Cigarette	380	3500/-	13,30,000/-
	EE412416372 AE	15.10.2024	Lohiya Sabir (necant for Sanur)	E-Cigarette	380	3500/-	13,30,000/-
Total			Lohiya Sabir (necant for Sanur)	E-Cigarette	760		26,60,000/-
08.	EE412413058 AE	14.10.2024	Khanbhai	E-Cigarette	250	1372.80/-	3,43,200/-
	EE412413027 AE	14.10.2024	Khanbhai	E-Cigarette	250	1372.80/-	3,43,200/-
Total			Khanbhai	E-Cigarette	470		6,45,216/-
09.	EE412416050 AE	15.10.2024	Mananawala Altaf	Cigarette	30000	12/-	3,60,000/-
	EE412416062 AE	15.10.2024	Mananawala Altaf	Cigarette	29200	12/-	3,50,400/-
Total			Mananawala Altaf	Cigarette	59200		7,10,400/-
10.	FE412467457 AE	16.10.2024	Shahzukhan Mehbubkhan Pathan	Cigarette	17200	12/-	2,06,400/-
				E-Cigarette	180	2800/-	5,04,000/-
	EE412416274 AE	16.10.2024	Shahzukhan Mehbubkhan Pathan	E-Cigarette	24800	12/-	2,97,600/-
Total				E-Cigarette	70	2800/-	1,96,000/-
				Cigarette & E-cigarette	41800 & 250		12,01,600/-
11.	FE412416433 AE	16.10.2024	Barafwala Aayusha	Cigarette	24800	12/-	2,97,600/-
				E-Cigarette	70	2800/-	1,96,000/-
Total			Barafwala Aayusha	Cigarette & E-cigarette	24800 & 70		493,600/-
12.	EE412416465 AE	16.10.2024	Barafwala Ilyas Sultanibhai	Cigarette	24800	12/-	2,97,600/-
				E-Cigarette	70	2800/-	1,96,000/-
Total			Barafwala Ilyas Sultanibhai	Cigarette & E-cigarette	24800 & 70		493,600/-

28. I find that as during the examination of the suspected post parcel, contraband goods viz. E- Cigarette and foreign origin Cigarette were found concealed under dry food, used clothes, fish, herbs, meats, toys, games, and sports goods, it is pertinent to look into the contravention of the Act/Rule

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and Regulation time being force. I find contravention of the Act/Rule and Regulation in the present case which are mentioned as below:

28.1 LEGAL PROVISIONS:

28.1. The Customs Act, 1962:

(i) Section 2(33) of the Customs Act, 1962 - 'prohibited goods' means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

(ii) Section 2(39) of the Customs Act, 1962 - 'smuggling', in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

(iii) Section 110 of the Customs Act, 1962 - Seizure of goods, documents and things -

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(iv) Section 111: Confiscation of improperly imported goods, etc. -

- The following goods brought from a place outside India shall be liable to confiscation: -

(a)....(b)....(c)....

(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;

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

(f) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or....

(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 transshipment, with the declaration for transshipment referred to in the proviso to sub section (1) of section 54;

(iv) Section 112: Penalty for improper importation of goods, etc. -

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty five per cent. of the penalty so determined

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees.] whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

(vi) Section 114AA. Penalty for use of false and incorrect material:

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

(vii) Section 117: Penalties for contravention, etc., not expressly mentioned

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.

(viii) Section 119. Confiscation of goods used for concealing smuggled goods.

Any goods used for concealing smuggled goods shall also be liable to confiscation.
Explanation. - In this section, "goods" does not include a conveyance used as a means of transport.

(ix) 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 -

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- (a) in a case where such seizure is made from the possession of any person, -
 (iii) on the person from whose possession the goods were seized; and
 (iv) 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

Vide Notification No. 103/2016-Cus(N.T.), New Delhi, the 25th July, 2016:-

CSR .. (F)- In exercise of the power conferred by sub-section (2) of Section 123 of the Customs Act, 1962 (52 of 1962), and in suppression of the Notification of the Government of India in the Ministry of Finance (Department of Revenue) No 204/84-Customs, dated the 20th July, 1984, the Central Government hereby specifies the following other classes of goods, for the purposes of the said Section, namely: -

3. Silver Bullion.
4. Cigarettes.

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(x) Section 124 - Issue of show cause notice before confiscation of goods, etc.

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person-
 (a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter;

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral

Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

28.2. Section 18(1) of The Legal Metrology Act, 2009 regarding making declarations on pre-packaged commodities stipulates "No person shall ... import...any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed."

28.3. Proviso to Rule 31(b) of the Cigarettes and other Tobacco Products (Packaging and Labelling) Rules, 2008 provides as under: -

"Provided further that on box, carton and pouch type of package, the specified health warning shall appear on both sides of the package, on the largest panels and for cylindrical and conical type of package, the specified health warning shall appear diametrically opposite to each other on two largest sides or faces of the package and the specified health warning shall cover eighty-five per cent

(85%) of each side or face of the principal display area of the package of which sixty per cent. (60%) shall cover pictorial health warning and twenty-five per cent. (25%) shall cover textual health warning".

28.4. 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 2003)):-

Restrictions on trade and commerce in, and production, supply and distribution of cigarettes and other tobacco products. (1) No person shall, directly or indirectly, produce, supply or distribute the cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him bears thereon, or on its label 1 (such specified warning including a pictorial warning as may be prescribed.) (2) No person shall carry on, trade or commerce in cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products sold, supplied or distributed by him bears thereon, or on its label, the specified warning (3) No person shall import cigarettes or any other tobacco products for distribution or supply for a valuable consideration or for sale in India unless every package of cigarettes or any other tobacco products so imported by him bears thereon, or on its label, the specified warning. (4) The specified warning shall appear on not less than one of the largest panels of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply for a valuable consideration. (5) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the nicotine and tar contents on each cigarette or as the case may be on other tobacco products along with the maximum permissible limits thereof: Provided that the nicotine and tar contents shall not exceed the maximum permissible quantity thereof as may be prescribed by rules made under this Act.

28.5. Section 8 of the Cigarettes and other Tobacco Products ((Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003. (COTPA 2003)):- Manner in which specified warning shall be made-(1) The specified warning on a package of cigarettes or any other tobacco products shall be- (a) legible and prominent; (b) conspicuous as to size and colour; (c) in such style or type of lettering as to be boldly and clearly presented in distinct contrast to any other type, lettering or graphic material used on the package or its label and shall be printed, painted or inscribed on the package in a colour which contrasts conspicuously with the background of the package or its labels. (2) The manner in which a specified warning shall be printed, painted or inscribed on a package of cigarettes or any other tobacco products shall be such as may be specified in the rules made under this Act. (3) Every package containing cigarettes or any other tobacco products shall be so packed as to ensure that the specified warning appearing thereon, or on its label, is, before the package is opened, visible to the consumer.

28.6. Para 6 of the CBEC Circular No. 09/2017-Customs, issued vide F.No. 711/07/2003-Cus (A5) dated 29th March 2017: - All tobacco products (whether domestically manufactured and sold or imported) are required to comply with the requirements contained in the Cigarettes and other Tobacco Products ((Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, (COTPA 2003)) and the Rules framed thereunder. Ministry of Health and Family and Welfare vide Notification GSR 727(E) dated 15.10.2014 notified the Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment (COTPA) rules, 2014, which came into effect from

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 Of 04.2016 (G.S.R. 739 (E) dated 24.09.2015). The COTP Rules are strict in nature and their compliance requires that the printing of pictorial and textual warning on cigarette packets is in specified format, colors, resolution, for and Language.

28.7. The Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011 apply to packaged commodity, which includes cigarettes. As the imported cigarettes packs are intended for retail sale, they are covered under the Legal Metrology (Packaged Commodity) Rules, 2011 which require a declaration on the packs containing the name and address of the manufacturer or importer or packer, quantity of the product, month and year of manufacturing or pre packing or importation, the retail sale price, etc. In terms of the said Act and Rules it is illegal to manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless the package is in such standard quantities or number and bears thereon such declarations and particulars in such a manner as prescribed.

28.8. As per CBEC instruction dated 30.11.2011, The Board has issued instructions to the Customs field formations dealing with clearance of these products to ensure strict compliance and implementation of the specified health warning on the cigarette and other tobacco products prescribed under "The Cigarettes and other Tobacco Products (Packaging and Labelling) Rules, 2008 Rules" in the manner in which the specified health warning shall be displayed on the tobacco product packs covering all types of tobacco products produced, supplied, imported and distributed in India.

28.9. Also, a set of new pictorial health warning has been issued by the Ministry of Health & Family Welfare vide Notification G.S.R. No. 592 (E) dated 21st July, 2022 which came into force from 1st December, 2022. Accordingly, all the tobacco products manufactured / packaged / imported for sale in India have to bear the new specified health warnings as prescribed in the said Notification.

28.10. Foreign Trade (Development and Regulation) Act, 1992.

- (e) As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.
- (f) As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly
- (g) As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.
- (h) As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.

28.11 The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage And Advertisement) Act, 2019:- Prohibition on the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes in the interest of public health to protect the people from harm and for matters connected therewith or incidental thereto –No person shall produce, manufacture, Import, Export, Transport, Sale, Distribute, Store and Advertise of electronic cigarette.

28.12 DGFT Notification No. 20/2015-2020 Dt 26.09.2019

To be published in the Gazette of India Extraordinary Part-II, Section-3, Sub-Section (ii)
Government of India
Ministry of Commerce & Industry
Department of Commerce
Director General of Foreign Trade

Notification No. 20/2015-2020
New Delhi, Dated: 26 September, 2019

Subject: Amendment in import policy electronic cigarettes

S.O. (E) in exercise of powers conferred by Section 3 of FT (DRI) Act, 1952, read with paragraph 14.2 and 14.3 of Basic Customs Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby incorporates the following import policy for import of electronic – cigarettes under HS Code 8543 and under Para 13 of General Notes regarding Import Policy and its policy condition No. 15 of Chapter 85 of ITC (HS), 2017, Schedule – I (Import Policy):

"Import of electronic cigarettes (e – cigarettes) or any parts or components thereof such as refill pods, atomisers, cartridges etc, including all forms of Electronic Nicotine Delivery Systems, Heat Not Burn Products, e – Hookah and the like devices by whatever name and shape, size or form it may have, but does not include any product licenced under the Drugs and Cosmetics Act, 1940, under HS Code: 8543 is Prohibited in accordance with the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Exports, Transport, Sale, Distribution, Storage and Advertisement) Ordinance, 2019.

Effect of the Notification: Import of electronic cigarettes and parts or components thereof is prohibited.

(Alok Vardhan Chaturvedi)
Director General of Foreign Trade &
Ex-officio Secretary (DRI) Government of India

(F.No. Mon – 6879/AM01/PG-2 (A) P-12304)

28.13 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:

The manner of packing and labeling of the Cigarettes and other Tobacco products have been defined as under-

Manner of packing and labeling: -

- (2) Every person engaged directly or indirectly in the production, supply, import or distribution of cigarettes or any other tobacco product shall ensure that,
- (a) Every package of cigarettes or any other tobacco product shall have the specified health warning exactly as specified in the Schedule to these rules.
- (b) Para 3 of Circular No 09/2017 Customs dated 29.03.2017 states-

The Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011 apply to packaged commodity which includes cigarettes. As the imported cigarette packs are intended for retail sale, they are covered under the Legal Metrology (Packaged Commodity) Rules, 2011 which require a declaration on the packs containing the name and address of the manufacturer or importer or packer, quantity of the product, month and year of manufacturing or pre-packing or importation, the retail sale price, etc. In terms of the said Act and Rules it is illegal to manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless the package is in such standard quantities or number and bears thereon such declarations and particulars in such a manner as prescribed.

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Q Para 5 of Circular No. 09/2017-Customs dated 29.03.2017 states.

<i>"The Cigarette packets shall have, inter alia, specified health warning to cover 85% of the principal display area of the package; 60% shall cover pictorial warning and 25% shall cover textual health warning, the placement of the warning; the language to be used on the package; every package of Cigarette should have name of the product; name and address of the manufacturer or importer or packer; origin of the product (for import) quantity of the product and date of manufacture (Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003) and rules may be referred.

<ii> Cigarette Packets shall have the name and address of the manufacturer or packer or importer and the month and year in which the commodity is manufactured or pre-packed or imported (Legal Metrology (Packaged Commodity) Rules, 2011 refers)

Provided that for conical package, the widest end of the package shall be considered as the top edge of the package:

Provided further that on box, carton and pouch type of package, the specified health warnings shall appear on both sides of the package, on the largest panels and for cylindrical and conical type of package, the specified health warning shall appear diametrically opposite to each other on two largest sides or faces of the package and the specified health warnings shall cover eighty five per cent (85%) of each side or face of the principal display area of the package of which sixty per cent (60%) shall cover pictorial health warning and twenty-five per cent (25%) shall cover textual health warning:

- (a) none of the elements of the specified warning are severed, covered or hidden in any manner when the package is sealed or opened;
- (b) no messages, images or pictures that directly or indirectly promote the use or consumption of a specific tobacco brand or tobacco usage in general or any matter or statement which is inconsistent with, or detracts from, the specified health warning is inscribed on the tobacco product package;
- (c) no product shall be sold unless the package contains the specified health warning: Provided that the specified health warnings shall be printed on every retail pack in which the tobacco product is normally intended for consumer use or retail sale, as well as any other external packaging, such as cartons or boxes and will not include other packaging such as gunny bags;
- (d) the textual health warning shall be inscribed in the language used on the pack: Provided that where the language used on a package or on its label is:
 - (i) English, the health warnings shall be expressed in English
 - (ii) English and Indian languages, the health warnings shall be expressed in English and any one of the Indian languages in which the brand name appeared;
 - (iii) Hindi and other Indian languages, the health warnings shall be expressed in Hindi and any one of the Indian languages in which the brand name appeared;
 - (iv) any Indian language, the health warnings shall be expressed in such Indian language;
 - (v) Indian languages, the health warnings shall be expressed in any two Indian languages in which the brand name appeared;
 - (vi) foreign language, the health warnings shall be expressed in English;
 - (vii) foreign and Indian languages, the health warning shall be expressed in English and any one of the Indian languages in which the brand name appeared;

Provided further that the textual health warning shall appear in not more than two languages used on the package:

Provided also that the textual health warning in one language shall be displayed on one side or face of principal display area and the textual health

warning in the other language shall be displayed on the other side or face of principal display area of the package.

- (p) not a tobacco product package or label shall contain any information that is false, misleading, or deceptive, or that is likely or intended to create an erroneous impression about the characteristics, health effects, or health or other hazards of the tobacco product or its emissions. This prohibition includes, but is not limited to, the use of words or descriptors, whether or not part of the brand name, such as "light", "ultra light", "mild", "ultra mild", "lowtar", "slim", "safer", or similar words or descriptors; any graphics associated with, or likely or intended to be associated with, such words or descriptors; and any product package design characteristics, associated with, likely or intended to be associated with, such descriptors.

The specified Health warning in terms of the Schedule is: "Smoking Kills" (on smoking forms of tobacco products) and the prescribed pictorial warnings for case of reference is depicted as under

29. Actual recipient/beneficial of contraband/prohibited items i.e. E-cigarettes and Foreign Origin Cigarettes:

29.1 Role of Shri Samir Siddikbhai Memon: I find that post post parcels containing contraband/prohibited items i.e. E-cigarettes and Foreign Origin Cigarettes including dry food, used clothes, fish, herbs, meats, toys, games, and sports goods wherein the name and address of recipients/beneficial owner were found as under -

Sr. No	Postal Tracking Number	Date	Name of recipients mentioned at Post parcels	Address mentioned at Post parcels	Mob. No mentioned at Post Parcels
01	EE412383703AE	14.10.2024	Anil Bhai	Shri Anil Bhai, Rjpur Gompur Tolnaka, Mahavir Plat, Near Nagri Mall, Ahmedabad-380021.	9702546914
02	EE412383759AE	14.10.2024	Rajes Rathod	Shri Rajes Rathod, Sarangpur Ni Paise, Kamdar Medan Ekta Avenue, Nearby Kaldas Mill Compound, Gomutpur, Ahmedabad-380021.	7039631540
03	EE412333956AE	14.10.2024	Dhallawala Amirba	Shri Dhallawala Amirbanu Usmanangani, 3293, Gafaru Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001.	9723820140
04	EE412416085AE	15.10.2024	Lismangani		9824498265
05	EE412416077AE	15.10.2024			
06	EE412333942AE	14.10.2024	Botawala Mohsin	Shri Botawala Mohsin, 2655-3, Jiva Shahidni Darga, Opp Navi Masjid, Ahmedabad-380001, Gujarat	9723820140
07	EE412333960AE	14.10.2024	Iqbalbhai Mananawala	Shri Iqbalbhai Mananwala, 2763 3, Ishishere, Jamalpur, Ahmedabad-380001.	9375746729
08	EE412341878AE	14.10.2024	Samir	Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001.	9898170195
09	EE412341864AE	14.10.2024			
10	EE412416355AE	15.10.2024			
11	EE412416369AE	15.10.2024			
12	EE412301777AE	15.10.2024			
13	EE412301785AE	15.10.2024			
14	EE412416704AE	16.10.2024			
15	EE412416695AE	16.10.2024			
16	EE412341881AE	14.10.2024	Lohiya Sabir, (meant for Samir)	Shri Lohiya Sabir, S/o Lohiya Iqbal Bhai, Dave No. Delo Lamellwadi	9725790057
17	EE412416372AE	15.10.2024			

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				Sadak Ramika, Bhavnagar, Gujarat-364001	
18	EE412412058AE	14.10.2024	Khanbhai	Shri Khan Bhai, 426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat.	9998681915
19	EE412412027AE	14.10.2024			
20	EE412416050AE	15.10.2024	Mananawala Altaf	Shri Mananawala Altaf, 12780/11 Lambhakeri, Nav Masjid, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265
21	EE412416063AE	15.10.2024			
22	EE412416457AE	16.10.2024	Shahrukh Mehboobkhan Pathan	Shri Shahrukh Mehboobkhan Pathan, 1353, Ramrahim Nagar, opp. Dastan Factory, Rehrampura Ahmedabad, Gujarat-380022.	9824498265
23	EE412416474AE	16.10.2024			
24	EE412416443AE	16.10.2024	Barafwala Aayshabano	Shri Barafwala Aayshabano, 2271, Motipole Kadasheti, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265
25	EE412416465AE	16.10.2024	Barafwala Sultanbhai		

29.2 Based on the name and address of recipients/beneficial owner mentioned in the post parcels, investigation was stretched to the involved persons and who were conduct in delivery of the parcels to the beneficial. I hereby discuss the role of each recipients/beneficial owner in whose name the said parcels were arrived at FPO Ahmedabad.

29.3 Since the largest quantity and highest value of E-cigarettes were recovered from post parcels belonging to Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, a search was conducted at his residence Flat No. C-2, 4th Floor, Marine Heights, near Lion Circle, Bhavnagar-364001 under Panchnama dated 16.10.2024 and wherein some documents related to import of goods through Foreign Post Office, Shahibaug, Ahmedabad were resumed.

29.4 Statement of Shri Samir Siddikbhai Memon was recorded on 16.10.2024 & 17.10.2024 under the Section of 108 of the Customs Act, 1964 where he interalia admitted that he agreed that the said parcel was destined to him and the mobile number mentioned in the same belongs to him as mentioned in the copy of slip no. CN 23 of Customs Declaration issued by EMS Mumtaz Post bearing number EE412341864AE for the parcel having office of origin Happiness service Center-Al Khor and date of posting 08.10.2024 and destined to the name of Samir, mobile number 9898170199, Orchid Heights Flat No. 101 Opp Isab Masjid Shishuvihar Circle, Bhavnagar, Gujarat-364001; that that he is using mobile number 9898170199 presently and before that he was using mobile number 9725790057; that he was shown copy of slip of CN 23 of Customs Declaration issued by EMS Mumtaz Post bearing number EE310192382AE for the parcel having office of origin Happiness service Center-Al Khor and date of posting 20.12.2023 and destined to the name of Samir mobile number 9725790057 Prabhudas Talav Lion Circle Marina Heights 4Floor, C2, Gujarat Bhavnagar 364001; that the said slip was resumed under panchnama dated 16.10.2024 from his residence; that he perused the same and stated that the said parcel was destined to his home address and he further admitted that as mentioned in the slip, Parts and Accessories from UAE under HSN code 90109000 were imported.

29.5 I find that Panchnama dated 24.10.2024 was drawn at the Head Post Office, Bhavnagar, 3396, High Court Road, Navapera, Bhavnagar 36001 to ensure the

correct details of the parcels delivered to Shri Samir Siddikbhai Memon and also received by himself and also for obtaining CCTV footages of dates 08.10.2024, 09.10.2024, 14.10.2024 and 16.10.2024 of the day on which Shri Samir Siddikbhai Memon visited the Post Office for receiving the said parcels. vide this Panchanama dated 24.10.2024, CCTV footages of dated 08.10.2024, 09.10.2024, 14.10.2024 and 16.10.2024 and the parcels containing tracking No. delivered to and received by Shri Samir Siddikbhai Memon on 08.10.2024, 09.10.2024 and 14.10.2024. I find that since the involvement of Shri Samir Siddikbhai Memon was found in smuggling of contraband and prohibited goods, he was recipient/beneficial owner of such parcels i.e. prohibited items like E-cigarettes and thereby committed offence under section the provision of Section 135(1)(a)&(b) of the Customs Act, 1962 and was found punishable under Section 135(1)(i)(A) & (C) of the Customs Act, 1962. Accordingly, he was arrested on 17.10.2024 vide Arrest Memo dated 17.10.2024 under the provisions of Section 104 of the Customs Act 1962, after getting required order from the competent authority. Further, he was produced before the Hon'ble ACMM Court, Ahmedabad on 17.10.2024. The Court had granted judicial custody.

29.6 I find that as during the investigation it was revealed that that Shri Samir S. Memon was actively engaged in importing such type of prohibited goods i.e. E-cigarettes, illegally imported/smuggled into India by mis-declaring the same as food items through Foreign Post Office, Shahibaug, Ahmedabad and later on found to be enabled the circulation of smuggled E-cigarettes into the local based market or Mumbai market and found to be the facilitator of such type of illegal or prohibited goods to Mumbai-Based Distributors i.e. Shri Ashashbhai@Mumbai and therefore, to know whereabouts of Mumbai-Based Distributors/Beneficiary i.e. Shri Ashashbhai@Mumbai, investigation was stretched to M/s. Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M. V. School, Bhavnagar who had transported the parcels from Bhavnagar to Mumbai. Statement dated 24.10.2024 of Shri Mer Shyam Jigneshbhai, Mer, authorized person of M/s. Sunny Travels, 1, Bhavnagar was recorded where he inter alia identified the the photograph of person named Shri Samir S. Memon and recognized by him and said that he has sent parcels through their travels agency many times; that he had received the parcels from Shri Samir S. Memon, of which he had official records and CCTV footage of dated 08.10.2024, 09.10.2024 and 14.10.2024; that Samir had come their office on 01.10.2024 for booking of 2 parcels, on 09.10.2024 for booking of 3 parcels and on 14.10.2024 for booking of 4 parcels, destined to Shri Ashashbhai@Mumbai mentioning Mob. No. 9986727954; the said parcels were sent to their Khetvadi Branch, Near Khetvadi, 3d Street, Nr. Alankar Cinema, Mumbai for delivery of said parcels to Shri Ashashbhai@Mumbai; that he has provided the copies of manual receipts for dated 09.10.2024, copies of digital entry for dated 08.10.2024, 09.10.2024 and 14.10.2024 and also provided the CCTV footage of dated 08.10.2024, 09.10.2024 and 14.10.2024 during the period for which Shri Samir S. Memon had come to book parcels at their office or godown. Further, to corroborate at the received end Sunny Travels, at Mumbai, Statement of Shri Triveni Sanjay Pravinchandra, authorized person of Sunny Travels, Khetvadi Branch located Nr. Khetvadi, 3rd/4th Street, Nr. Alankar Cinema, Mumbai-400004 was recorded wherein he admitted and agreed with the parcels (in respect of Samir) booked by his head office i.e. Bhavnagar Branch having address as 1, Municipal Shopping Centre, Crescent Chowk, M.V. School, Bhavnagar and destined to Sunny Travels, Khetvadi, Branch; that Shri Ashash Bhai had visited their branch three times for receiving of the said parcels i.e. on dated 08.10.2024 for 02 parcels having Bill of Supply No. 7990, on dated 09.10.2024 for 03 parcels having Bill of Supply No. 8051 and on dated 14.10.2024 for 04 parcels having Bill of Supply No. 8291 (02 Parcels) and 8292 (02 parcels); that Shri Ashash Bhai used to show the Bill of

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Supply copy of the respective parcels and he (Sunny Travels, Khetwadi Branch) used to match/tally the said Bill of Supply Copy of the parcels with Bill of Supply copy along with the respective parcels, provided by driver of the Bus of our Tours and Travels.

29.7 FORENSIC EXAMINATION OF ELECTRONIC DEVICES; Further, I find that mobile phone submitted by Shri Samir Siddikbhai Memon under his statements dated 16.10.2024 was sent to the Campus Director, NFSU, Gandhinagar Campus, Gujarat for forensic examination The Jr. Scientific Officer, NFSU, Gandhinagar, Gujarat provided the extracted data along with certificate under Section 65-B of Indian Evidence Act, 1872 vide their letter No. NFSU/CoEDF/DEL/288/2024-25 dated 23.10.2024 after completion of process of retrieval of all the data from the digital exhibits. The data so extracted from mobile phone Model No. Vivo V31/V2036 belonging to Shri Samir Siddikbhai Memon were examined and it was found that there were some images meant for delivering of parcels, pertaining to E-cigarettes. As the images are already mentioned at Para 11.3 of the SCN, it is needless to reproduce the same. I find that said images were shown to said Shri Samir Siddikbhai Memon during recording of his statement on dated 14.11.2024 under Section 108 of the Customs Act, 1962 wherein he admitted the genuineness of the images as well as cctv footage obtained from the Head Post Office, Bhavnagar vide letter No.L-11/CCTV Footage/Parcel details/2024 dated 23.10.2014/ Panchnama drawn at the said Post office on 24.10.2024 and admitted that that CCTV footages is of the Head Post Office, Bhavnagar, 336, High Court Road, Navapara, Bhavnagar-364001 and the person who had been seen in the CCTV footages is himself (Shri Samir Siddikbhai Memon). Further, he was shown the CCTVE Footage of Sunny Travels, Bhavnagar and he admitted that he had brought the parcels to the Sunny Travels and packed the same into black covering to dispatch the same to Mumbai, Khetvadi and admitted that a person namely Shri Ashas, belonging to Mumbai contacted him on whatsapp and took his details. However, he did not know the address or whereabouts of Shri Ashas. He also admitted that Shri Ashashbhai@Mumbai instructed him to go the post office of Bhavnagar where some post parcels like cloths, E-cigarettes, chocolates etc. will arrive from UAE in his name and address.

29.8 I find that further statement of Shri Samir Siddikbhai Memon was recorded on 11.03.2025 where he interalia admitted that correctness of statement dated 24.10.2024 of Shri Mer Shyam Jigneshbhai booking clerk of Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M.V.School, Bhavnagar alongwith Parcel Outward Register, submitted by Sunny Travels, Bhavnagar and stated that the parcels of E-Cigarette were mainly for Shri Ashashbhai having mobile number 9986727954 and he had also booked all the current and previous parcels destined to Shri Ashashbhai; that he in the Parcel Outward Register as shown the names of Mahmud Bhai (8105161623), Mohamad Bhai (9324568396 and 8105161623) and Hasan Bhai (8105161623) were for namesake only;

29.9 I find that M/s Airtel, Reliance Jio, Vodafone-Idea provided the details of Subscriber Records of the respective mobile no(s), the details of which are as under:

Table-

Sr. No.	Recipients of the post parcels as mentioned in the Post Parcels and other details as recorded during investigation	Mobile used in Parcels	Details as per SDR as provided by the respective Telecom Service Provider
01.	Shri Anil Bhai, RparGompuTolwaka, Mahavir Flat, Near Nagra Moli, Ahmedabad-380021	9702540914	Rathod Sudyan Yusuf, Floor-1.52, Ganesh Hari Parundekar Marg, Byculla, Rly STN W Mumbai, Jacob Circle, Mumbai City-Jacob
02.	Shri Rajes Rathod, Sarangpur Ki Prasec, Kamdar Medan Ekta Avenue, Nearby Kaldas Mili Compound, Gomutpur, Ahmedabad-380021.	7030631540	

			Circle, Mumbai-400011, Maharashtra, India
03.	Smt. Dhallawala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001.	9723820140	Dhallawala Usmangani, 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur Ahmedabad-380001
04.	Shri Botawala Mohan, 2655-3, Jiwa, Shahidni Darga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat.	9723820140	Usmangani Sahrbhai Dhallawala, 3293, Gafurji Nichali, Nr. Navi Masjid, Jamalpur Ahmedabad-380001
05.	Smt. Dhallawala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001	9824498265	Usmangani Sahrbhai Dhallawala, 3293, Gafurji Nichali, Nr. Navi Masjid, Jamalpur Ahmedabad-380001
06.	Shri Mananavala Ahal 12760/11, Labishcheri, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001.	9824498265	
07.	Shri Shafrukhan Mehboobkhan Pathan, 1353, Ramrahim Nagar, opp. Distan Factory, Behrampur Ahmedabad, Gujarat-380002	9824498265	
08.	Shri Barafwala Ayyubkhan, 2271, Motipole Kariasheri, Jamalpur, Ahmedabad, Gujarat-380001	9824498265	
09.	Barafwala Ilyas Sultanbhai, 2271, Motipole Kariasheri, Jamalpur, Ahmedabad, Gujarat-380001	9824498265	
10.	Shri Iqbalbhai Mananwala, 2763-3, Labishcheri, Jamalpur, Ahmedabad-380001.	9375746729	Kandawala Salimbhai, 2666, Khajuri, Ni Pole, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001
11.	Shri Samir Siddikbhai Memon, son of Shri Siddikbhai, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001.	9898170199	Memon Siddikbhai, Flat No.102, Plot No.484, Orchid Hight, Bhavnagar, Shishuvihar Circle, Bhavnagar-364001
12.	Shri Lohiya Sabir, S/o Lohiya Iqbal Bhai, Dave No. Dolo Limdiwali Sadak Ranika, Bhavnagar, Gujarat-364001	9725790057	Kalyanbhaillabhai Suthar, 509K Sutharws Kamboikanbakrez, Banaskantha-385001
13.	Shri Khan Bhai, 426, Nehru Nagar, B/E Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat.	9998681915	Fathar Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Panchad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210
14.	Mahmad Bhai as provided by M/s. Sunny Travels, Bhavnagar, during the course of Statement recorded under section 108 of the Customs Act, 1962.	8105161623	Mohammed Aslam Rukanuddin Nawar, 890, Azad Nagar 1st Cross Jali, Bhatkal, Uttara Kannada, Karnataka-581320
15.	Mahmad Bhai as provided by M/s. Sunny Travels, Bhavnagar, during the course of Statement recorded under section 108 of the Customs Act, 1962.	9324568396	Husnan Sajju Sheikh, Basement No.2 city Centre Bellasa Road, Mumbai Central, West Mumbai-400008
16.	Mohammed Ashas as provided by Shri Samir and M/s. Sunny Travels, Bhavnagar during the course of Statement recorded under section 108 of the Customs Act, 1962.	9986727954	Mohammed Ashas Ammar, Dimgarapalli Road, Dimgarapalli Road, Bhatkal-581320, India, Karnataka-581320

29.10 I find that 03 (three) summons dated 20.12.2024, 26.12.2024, 03.01.2025, 13.01.2025 and 24.03.2025 were issued to all the parcel recipients mentioned in Table above (as mentioned on the parcels) as well as to the subscribers of the mobile no., which were mentioned on the said parcels. However, except (i) Shri Samir Siddikbhai Memon (ii) Smt. Dhallawala Amirbanu Usmangani and (iii) Shri Dhallawala Usmangani, none of them join with the investigation.

29.11 I find from the statements dated 16.10.2024, 17.10.2024, 14.11.2024 and 11.03.2024 of Shri Samir Siddikbhai Memon, wherein he agreed about the parcels destined to him as well as to Shri Lohiya Sabir, S/o Lohiya Iqbal Bhai, Dave No. Dolo Limdiwali Sadak Ranika, Bhavnagar, Gujarat-364001, were meant for him and also agreed for the mobile no. 9898170199 (details as per SDR Memon Siddikbhai, Flat No.102, Plot No.484, Orchid Hight, Bhavnagar, Shishuvihar Circle, Bhavnagar-364001) and 9725790057 (details as per SDR, Kalyanbhaillabhai Suthar, 509K Sutharws Kamboikanbakrez, Banaskantha-385001), used by Shri Samir Siddikbhai Memon and he was supposed to receive all the parcels. Further, the name of Mahmad Bhai having mobile no.8105161623, 9324568396 and Mohammed Ashas@Mumbai, having mobile no. 9986727954 as derived during the course of statements of Shri Mer Shyam

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Jigneshbhai, authorized person M/s. Sunny Travel, Bhavnagar and from the statements of Shri Samir S. Memon recorded under section 108 of the Customs Act, 1962. The details of such mobile no(s). 8105161623, 9324568396 and 9986727954 were found out as (i) Mohammed Aslam Rukanuddin Nuwair, 890, Azad Nagar 1st Cross Jali, Bhatkal, Uttara Kannada, Karnataka-581320, (ii) Hannen Saiju Shekh, Basement No.2 city Centre Bellasis Road, Mumbai Central, West Mumbai-400008 and (iii) Mohammedashas Armar, Dongarapalli Road, Dongarapalli Road, Bhatkal-581320, India, Karnatak-581320 (as per SDR) respectively. Accordingly, for gathering evidences, summons dated 26.12.2024, 03.01.2025 and 13.01.2025 were issued to the said persons such as Shri Mahmad Bhai and Shri Mohammed Ashas@Mumbai at their respective address but none of them join the investigation and they wished to escape from the investigation.

29.12 From the facts narrated herein above, it reveals that Shri Samir Siddikbhai Memon was the intended recipient of parcels containing concealed cigarettes/e-cigarettes attempted to be imported/smuggled from the UAE into India through the Foreign Post Office, Shahibaug, Ahmedabad. Though, the said parcels were addressed to different individuals such as Shri Samir, Shri Lohiya Sabir etc., these parcels were actually meant for Shri Samir Siddikbhai Memon, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001. He was in communication regarding the deliveries of the said parcels with Shri Ashasbhai@Mumbai, confirming his involvement in the import and actual recipient of the goods/parcels. It also revealed from the facts that after receiving the said parcels, Shri Samir Siddikbhai Memon used to divert the said parcels to Shri Ashasbhai@Mumbai through local road transport i.e. Sunny Travels, Bhavnagar. However, Shri Samir Siddikbhai Memon used to mention the names of Mahamad Bhai (8105161623), Hasan Bhai (8105161623) and Mohamad Bhai (9324568396) etc. on the parcels only for namesake at the time of booking of said parcels for ease of delivery purpose to Shri Ashasbhai@Mumbai, as direction received from Shri Ashasbhai@Mumbai, only as to hide his personal information (e.g. complete address, Mob. No. etc.), but the said parcels were only meant for Shri Ashasbhai@Mumbai. The parcels which were supposed to be received by Shri Samir Siddikbhai Memon, the details are as under:

Table-

Sr.No	Postal Tracking Number	Date	Name of recipients mentioned at Post parcels	E-Cigarette Or Cigarette	No. of Sticks	Price per Item in Rs	Total Market Value
01	EE412341878AE	14.10.2024	Samir	E-Cigarette	380	3500/-	13,30,000/-
	EE412341864AE	14.10.2024	Samir	E-Cigarette	370	3500/-	12,95,000/-
	EE412416353AE	15.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE412416369AE	15.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE412301777AE	15.10.2024	Samir	E-Cigarette	385	3500/-	13,51,000/-
	EE412301783AE	15.10.2024	Samir	E-Cigarette	387	3500/-	13,54,500/-
	EE412416704AE	16.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
	EE412416695AE	16.10.2024	Samir	E-Cigarette	385	3500/-	13,47,500/-
Total			Samir	E-Cigarette	3063		1,07,20,500/-
02	EE412341881AE	14.10.2024	Lohiya Sabir, (meant for Samir)	E-Cigarette	380	3500/-	13,30,000/-
	EE412416372AE	15.10.2024	Lohiya Sabir (meant for Samir)	E-Cigarette	380	3500/-	13,30,000/-
Total			Lohiya Sabir (meant for Samir)	E-Cigarette	760		26,60,000/-
Total of Sr. No. 01 & 02				E-Cigarette	3823		1,33,80,500/-

29.13 From the investigation, it appeared that the parcels which were destined to (i) Shri Samir S. Memon and (ii) Shri Lohiya Sabir, were meant for Shri Samir Siddikbhai Memon and he was supposed to receive all the parcels such as 3823 sticks of E-cigarettes, valued of Rs.1,33,80,500/- Therefore, it reveals that Shri Samir S. Memon was the the recipients/beneficiary in respect of 3823 sticks of E-cigarettes, valued of Rs.1,33,80,500 attempted to be smuggled under all the parcels mentioned at table above are liable for confiscation under Section 111 111(d), 111(f), 111(i), 111(j) & 111(m) of the Customs Act, 1962. And the falsely declared goods as used clothes, food items, and toys used for concealment of aforesaid Foreign Origin Cigarettes and E-cigarettes is also liable for confiscation under Section 119 of the Customs Act, 1962.

29.14 Thus, it appeared that Shri Samir S. Memon was involved in attempting to smuggle and receiving multiple parcels containing e-cigarettes and foreign origin cigarettes, falsely declared as used clothes, food items, and toys through Foreign Post Office, Shahibaug, Ahmedabad and to conceal their true nature and evade customs duty, which are restricted/prohibited under Indian customs law. His such act has rendered the 3823 sticks of E-cigarettes, valued of Rs.1,33,80,500/- goods liable for confiscation under Section 111 111(d), 111(f), 111(i), 111(j) & 111(m) of the Customs Act, 1962 and mis declared goods as as used clothes, food items, and toys used for concealment of aforesaid Foreign Origin Cigarettes and E-cigarettes liable for confiscation under Section 119 of the Customs Act, 1962 which act has rendered Shri Dhallawala Usmangan liable for penalty under Section 112 of the Customs Act, 1962. Further, I find that Shri Samir S. Memon *knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, false declaration*, in the document hence, for the said act of contravention, he is liable for penalty under Section 114AA of the Customs Act, 1962.

29.15 Further, the noticee **Shri Samir Siddikbhai Memon** had mentioned in his written submission dated **06.09.2025** that, the allegation leveled against him followed by the aforesaid preposition were not correct. The same deserved to be quashed and set aside. He had not participated in smuggling of any prohibited item or goods in India. That he hadnot placed order of any prohibited goods from any foreign country, he had not made any monetary transaction or received any monetary benefit, that he hadnot mis-declared any goods. That he hadnot received any prohibited goods at the Post office. That the allegations levelled in the Show cause notice were false, He stated that he was wrongly roped in the present case. He stated and submitted that the Show cause notice issued is illegal, *ex-facie* arbitrary, perverse, illogical, improper and the same deserves to be quashed and set aside.

29.16 I find that statements of Shri Samir Siddikbhai Memon were recorded on 16.10.2024 & 17.10.2024 under the Section of 108 of the Customs Act, 1962. Thus, from the above statements of Shri Samir Siddikbhai Memon admitted/confirmed that the parcels containing E-cigarettes which were addressed/destined to him as well as the parcels containing E-cigarettes also addressed/destined to Mr. Lohiya Shabbir, having Mobile No. 9725790057, used for communication, were belonging to him and the said Mobile No. i.e. 9725790057 was belonging to his father Shri Siddikbhai Memon but he denies the actual recipients/ownership of E-cigarettes which were attempted to smuggle into India through FPO, Ahmedabad. From the facts narrated above, it appeared that Shri Samir Siddikbhai Memon was actively involved in an organized smuggling activity. He admitted to regularly receiving parcels

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containing E-cigarettes from UAE, which were falsely declared as "dry food, used clothes, fish, herbs, meats, toys, games and sports etc. This mis-declaration indicates in attempting to evade customs authority/scrutiny. As, he collected multiple parcels from the post office, which were sent in his name, yet he denied knowledge of their contents or recipients, despite physically handling them. His failure to update his address on official records suggests an intent to conceal his involvement. Additionally, he distanced himself from the sender, Mr. Aboobakar Rabi Noorul Huda Shingeri@UAE, which further raises suspicion regarding the illicit nature of these transactions. His repeated handling of parcels addressed to different individuals but linked to his contact details suggests his active role in facilitating the illegal importation and distribution of goods, possibly as part of a larger smuggling network. Accordingly, Shri Samir Siddikbhai Memon appeared to be the recipient/beneficial owner of such parcels i.e. prohibited items like E cigarettes and committed offence under section the provision of Section 135(1)(a) &(b) of the Customs Act, 1962 and was found punishable under Section 135(1)(i)(A) & (C) of the Customs Act, 1962. Accordingly, he was arrested on 17.10.2024 vide Arrest Memo dated 17.10.2024 under the provisions of Section 104 of the Customs Act, 1962, after getting required order from the competent authority. Further, he was produced before the Hon'ble ACMM court, Ahmedabad on 17.10.2024.

29.17 I find that the mobile phone voluntarily submitted by Shri Samir Siddikbhai Memon under his statements dated 16.10.2024 was sent to the Campus Director, NFSU, Gandhinagar Campus, Gujarat for forensic examination and data retrieval of the said device. Accordingly, the Jr. Scientific Officer, NFSU, Gandhinagar, Gujarat provided the extracted data along with certificate under Section 65-B of Indian Evidence Act, 1872 vide their letter No. NFSU/CoEDF/DEL/288/2024-25 dated 23.10.2024 after completion of process of retrieval of all the data from the digital exhibits. The data so extracted from mobile phone Model No. Vivo V31/V2036(mentioned in para 11.03 of this order), was belonging to Shri Samir Siddikbhai Memon, were belongs to delivering of parcels, pertaining to E-cigarettes.

29.18 I find that statement of Shri Samir Siddikbhai Memon, which was recorded on 14.11.2024 under Section 108 of the Customs Act, 1962, wherein, he stated that the parcels wherein the name appeared "Samir" is also meant for him. He also perused the CCTV footages obtained from the Head Post Office, Bhavnagar and he had stated/confirmed that said CCTV footages were pertained to the Head Post Office, Bhavnagar, and the person who had been seen in the CCTV footages was himself (Shri Samir Siddikbhai Memon). He perused the above said CCTV footage dated 8.10.2024, 9.10.2024 & 14.10.2024 and confirmed that the person entering into the Post Office and collecting the Parcels, is himself. He also perused the above said CCTV footage dated 8.10.2024, 9.10.2024 & 14.10.2024 and stated that the person was seen to be calling an auto rickshaw was himself and stated that he had called the said auto rickshaw to carry the parcels (taken from the Post Office, Bhavnagar). Further, he stated that he himself loaded the above said parcels and left in the said auto rickshaw. He stated that he himself carried the said parcels in the auto rickshaw to Sunny Travels, Bhavnagar to dispatch the same to Kheivadi, Mumbai. He perused the acknowledgement/receipt of the post parcels destined/delivered to him by the postal authority, Bhavnagar. He admitted that the parcels had been received by him and the said acknowledgement signature/name belongs to him. He perused the CCTV footages obtained from the Sunny Travels, Bhavnagar. He further stated the he had brought the parcels to the Sunny Travels and packed the same into black covering to

dispatch the same to Mumbai, Khetwadi. He also stated that a person namely Shri Ashas, belonging to Mumbai contacted him on whatsapp and took his details. However, he did not know the address or whereabouts of Shri Ashas. He perused the extracted images/photos from his mobile having make: Vivo, Model: V2036, IMEI-1: 866052053838458 and IMEI 2: 866052053838441, provided by NFSU, Gandhinagar vide F. No. Ref: NFSU/CoEDF/DFI./287/24 dated 23.10.2024 and stated in regard to the images that he received a call via What's up from Mob. No. 9986727954 on around 01.10.2024 or 02.10.2024 from an un-known person, who introduced himself as Shri Ashasbhai, belonging to Mumbai. Shri Samir Siddikbhai Memon further stated that Shri Ashas got his mobile number from any third person and he sought for his name and postal address. Further, Shri Samir Siddikbhai Memon wanted to know about the purpose for seeking his name and address, against which Shri Ashas replied that he had to order post parcels like cloths, chocolates, E-cigarettes etc. on his name and postal address from UAE through Foreign Post Office, Shahubaug, Ahmedabad to be delivered at his residential place, Bhavnagar, for which he agreed. He further stated that he lured him of Rs. 500/- per post parcels to be delivered through his name and address and he agreed for the same. He stated that Shri Ashasbhai@Mumbai instructed him to go the post office of Bhavnagar where some post parcels like cloths, E-cigarettes, chocolates etc. will arrive from UAE in his name and address. Further, Shri Ashas instructed him to pick up the said post parcels and load these post parcels in the rickshaw which to be destined to Shri Ashasbhai, Khetwadi, Mumbai through Sunny Travels, Transport, Bhavnagar. Shri Samir Siddikbhai Memon stated that as per instruction given by Shri Ashasbhai@Mumbai, he alongwith his son used to visit the post office, Bhavnagar and received the said post parcels. After receiving these post parcels, he used to load on rickshaw for dispatching the same to Shri Ashasbhai, Khetwadi, Mumbai through Sunny Travels, Transport, Bhavnagar. Further, he stated that he had not received any amount on account of this executed work.

29.19 I find that Statements of Shri Samir Siddikbhai Memon were recorded on 14.11.2024 & 11.03.2025 under the Section of 108 of the Customs Act, 1962 and from the above statements clear that Shri Samir Siddikbhai Memon was the intended recipient of parcels containing concealed cigarettes/cigarettes attempted to be imported/smuggled from the UAE into India through the Foreign Post Office, Shahubaug, Ahmedabad. Though, the said parcels were addressed to different individuals such as Shri Samir, Shri Lohiya Sabir etc., these parcels were actually meant for Shri Samir Siddikbhai Memon, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001. He was in communication regarding the deliveries of the said parcels with Shri Ashasbhai@Mumbai, confirming his involvement in the import and actual recipient of the goods/parcels. It also appeared from the facts that after receiving the said parcels, Shri Samir Siddikbhai Memon used to divert the said parcels to Shri Ashasbhai@Mumbai through local road transport i.e. Sunny Travels, Bhavnagar. However, Shri Samir Siddikbhai Memon used to mention the names of Mahamad Bhai (8105161623), Hasan Bhai (8105161623) and Muhammad Bhai (9324568396) etc. on the parcels only for namesake at the time of booking of said parcels for ease of delivery purpose to Shri Ashasbhai@Mumbai, as direction received from Shri Ashasbhai@Mumbai, only as to hide his personal information (e.g. complete address, Mob. No. etc.), but the said parcels were only meant for Shri Ashasbhai@Mumbai.

29.20 I find that a Panchnama dated 24.10.2024 was drawn at the Head Post Office, Bhavnagar, 339/6, High Court Road, Navapara, Bhavnagar-360001 to

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ensure the correct details of the parcels delivered to Shri Samir Siddikbhai Memon and also received by himself and also for obtaining CCTV footages of dates 08.10.2024, 09.10.2024, 14.10.2024 and 16.10.2024 of the day on which Shri Samir Siddikbhai Memon visited the Post Office for receiving the said parcels. Vide this Panchanama dated 24.10.2024, CCTV footages of dated 08.10.2024, 09.10.2024, 14.10.2024 and 16.10.2024 and the parcels containing tracking No. delivered to and received by Shri Samir Siddikbhai Memon on 08.10.2024, 09.10.2024 and 14.10.2024 were resumed.

29.21 I also find that a statement of Shri Mer Shyam Jigneshbhai, son of Shri Jigneshbhai Haribhai Mer, authorized person of M/s. Sunny Travels, 1, Municipal Shopping Centre, Crescent Chowk, M. V. School, Bhavnagar was recorded on dated 24.10.2024 under Section 108 of the Customs Act, 1962, wherein, he said that Shri Samir S. Memon, has sent parcels through their travels agency many times, that he had received the parcels from Shri Samir S. Memon, of which he had official records and CCTV footage of dated 08.10.2024, 09.10.2024 and 14.10.2024; that Samir had come their office on 01.10.2024 for booking of 2 parcels, on 09.10.2024 for booking of 3 parcels and on 14.10.2024 for booking of 4 parcels, destined to Shri Ashashbhai@Mumbai mentioning Mob. No. 9986727954; the said parcels were sent to their Khetvadi Branch, Near Khetvadi, 3rd Street, Nr. Alankar Cinema, Mumbai for delivery of said parcels to Shri Ashashbhai@Mumbai; that he has provided the copies of manual receipts for dated 09.10.2024, copies of digital entry for dated 08.10.2024, 09.10.2024 and 14.10.2024 and also provided the CCTV footage of dated 08.10.2024, 09.10.2024 and 14.10.2024 during the period for which Shri Samir S. Memon had come to book parcels at their office or godown

29.22 I find from the statements, documents, CCTV footages, mobile data retrieval by forensic examination etc. that it clearly reveals/proves that Shri Samir S. Memon was actively engaged in importing such type of prohibited goods i.e. e-cigarettes, illegally imported/smuggled into India by mis-declaring the same as food items through Foreign Post Office, Shahibaug, Ahmedabad and later on found to be enabled the circulation of smuggled e-cigarettes into the local based market or Mumbai market. Further, he also appeared to be the facilitator of such type of illegal or prohibited goods to Mumbai-Based Distributors i.e. Shri Ashashbhai@Mumbai.

29.23 Further, I find that during the personal hearing which was held on 22.09.2025 and same was attended by Shri Samir Siddikbhai Memon along with his advocate and authorised representative Shri Shubham Jhajharia. During personal hearing, they seek a cross examination of Panchas and other witness in the SCN. They did not mention any reason for seeking cross examination. I rely on the following decision of Hon'ble Kolkatta Tribunal rendered in case Fortune Impex v. Commissioner — 2001 (138) E.L.T. 556 (Tribunal) wherein it has been interalia stated as under:

"12..... But it is not required that in each and every case cross-examination should necessarily be allowed. There is no absolute right of cross-examination provided in the Customs Act. This was the view held by the Calcutta High Court in the case of Tapan Kumar Biswas v. UOI, 1996 (63) ECR 546. Cross-examination of witnesses cannot be demanded as of right. The presumption is that unless the noticee makes out a case for cross-examination he will not be granted cross examination. The Appellate Tribunal in the case of Debu

Saha v. Collector of Customs, 1990 (48) E.L.T. 302 (T) held that "It is no doubt true that in all cases, cross-examination need not be granted, but it all depends on the circumstances of each case." The Tribunal also observed in that case that if the Collector comes to the conclusion that the cross-examination is not material then by assigning reasons, he can reject the prayer. We find that the learned Advocate, in his letter dated 9-3-1996 had given a list of 26 persons for cross-examination without indicating the specific reasons for cross-examining them. Some of the persons mentioned therein are co-noticees and some of them are Director/partner/employee of his clients. It has been held by the Tribunal in the case of *Calicut Rubber Co. v. CCE, Cochin, 1996 (81) E.L.T. 320 (T)* that if the Appellants are accused persons the question of calling them for cross-examination does not arise. Again he had mentioned a number of officers by designation without indicating their names and role played by them in the investigation of the matter against his client. We also note that the learned Advocate has not disputed the fact that the cartons contained very old/used/broken QTMs of clocks and the value was only Rs. 80,000/- as against the declared value of Rs. 29,88,500/-. There is also no rebuttal by the learned Advocate that these goods were sent for export through Kishan Daga. In view of these facts and circumstances we are of the view that it cannot be claimed by him that there was violation of principles of natural justice by not allowing the cross examination of the persons sought by him. The Apex Court in *Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.)* held that "in view of confession made by him, it binds him and, therefore, in the facts and circumstances of this case the failure to give him the opportunity to cross-examine the witness is not violative of principles of natural justice." In that case the petitioner contended that as he had retracted his statement within 6 days from the confession he is entitled to cross-examine. We also do not find infirmity in granting of personal hearing to the learned Advocate by the Adjudicating Authority on a day when the entire city of Calcutta was observing a holiday, as the Central Government offices, admittedly, were not closed."

Further Hon'ble Mumbai Tribunal in case of **Divine Impex Versus Commissioner of Customs (E), Nhava reported in E.L.T. 858 (Tri. - Mumbai) 2019 (369)** wherein it has been interalia stated as under:

"510 Appellants have contended that they were denied the opportunity of cross-examination. In our view it is not the right of the noticee to cross-examine each and every witness. It is for the noticee to make a request for cross-examination of witnesses supported by the reasons for asking such cross-examination. It is then for the adjudicating authority to decide whether such a request can be allowed or not. In para 50 of his order Commissioner have recorded rejecting the request for cross-examination stating as follows:

"50. Their contention was that in case of relying upon the statements secured from various persons in this matter for confirming the confiscation and penalty, they should be allowed to cross-examine such persons before deciding the matter. I find that it is not necessary

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to allow cross-examination in each and every case. It all depend upon the merit of the case and in the subject case I do not find any merit for allowing cross-examination of others. In case of *Fortune Impex v. Commissioner of Customs, Calcutta* reported in 2001 (138) E.L.T. 556(Tri.-Kolkata), it was observed by the tribunal that "It is not required that in each and every case cross-examination should necessarily be allowed. There is no absolute right of cross-examination provided in the Customs Act." It was also held in that order that there is no violation of principles of natural justice when no specific reasons were given for cross-examination."

39.24 I find that Shubham Jhajharia, Advocate and authorised representative of Shri Samir Siddikbhai Memon, during personal hearing, had sought cross examination of Panchas and other witness in the SCN. I find that advocate has not mentioned the reason for seeking cross examination. I find that Shubham Jhajharia represented Shri Samir Siddikbhai Memon who is main accused in the present case. I find that Panchnama dated 14.10.2024 & 15.10.2024 & 16.10.2024, drawn at the Foreign Post Officer were seen by Shri Samir Siddikbhai Memon has appended his signature with dated 17.10.2024 in token of having been seen. Seizure Memo dated 07.11.2024 were delivered to him, Search panchnama dated 16.10.2024 carried out at his residential at the premises of C-Flat, 4th Floor, Marina Height, Anand Vihar Road, Anand Nagar, Krishna Nagar, Bhavnagar and he was present during the said search panchnama and some documents related to imported goods through FPO were recovered in his presence. Further, his statement was recorded on 16.10.2024 wherein he has admitted the receipt of good covered under CN 23 of Customs Declaration issued by EMS Muntaz post bearing EE310192382AE destined to his residence at Bhavanagar and also admitted the recovery of CN 23 of Customs Declaration under panchnama dated 16.10.2024 carried out at his residence at Bhavanagar. His further statement was recorded on 17.10.2024 and he admitted that he was using Mobile No. 9898170199 & 972570057. Further from the CCTV footage recovered under Panchnama dated 24.10.2024 at Head Post Office, Bhavagar, and this Panchnama was shown to him and he has appended his signature with dated 14.11.2024 in token of having been also admitted that he was actual person who collect the parcel as seen in CCTV footage. Further, Shri Shyam Mer, authorised person of Sunny Travels in his statement dated 24.10.2024, on being shown the photograph of said Shri Samir Siddikbhai Memon, identified him and stated that he (Shri Samir Siddikbhai Memon) had sent parcels through his travel agency many times and also from the CCTV footage from the office of Sunny Travels, it was proved that said Shri Samir Siddikbhai Memon for booking of four parcels, also provided the Parcel outward registered wherein the name of Ahas Bhai Mahmud Bhai as admitted by Shri Samir Siddikbhai Memon is reflected. Further, statement of Shri Samir Siddikbhai Memon was recorded on 14.11.2024 wherein he admitted the receipt of parcels. Further Shri Samir Siddikbhai Memon in his statement recorded on 11.03.2025 have admitted above the parcels received

and sent to said Shri Ashashbhai who name and mobile No appeared in Parcel Register of M/s. Sunny Travels. Thus, I find that Shri Samir Siddikbhai Memon has admitted of having been receipt of the foreing parcels which corroborates with the CCTV Footage, slips resumed from his office as well as images of parcels and message from his mobile nos. I find it worth to reproduce the content of Section 58 of the Evidence Act, which reads as follows :-

"58.Facts admitted need not be proved. - No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which, by any rule of pleading in force at the time they are deemed to have admitted by their pleadings :

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions ".

Further, Hon'ble Supreme Court in the case of *CCE, Madras v. Systems Components Pvt. Ltd.*, reported in 2004 (165) E.L.T. 136 (S.C.), has held that for the proposition that what is admitted need not be prove".

In the view of above, it is clear that there is no absolute right of cross-examination provided in the Customs Act, and there is no violation of principles of natural justice when no specific reasons were given for cross-examination as there are ample evidences in form of admitted statements as well other documentary evidence.

30.1. Role of Shri Dhallowala Usmangani : Further, being the second highest volume of quantity and value of post parcels was destined to the name and address of Smt. Dhallowala Amirbanu Usmangani, 3293, Gafurji Nichali Nr Navi Masjid Jamalpur, Ahmedabad-380001, search proceedings were recorded under the panchnama dated 24.10.2024. Chief Post master, Ahmedabad GPO, Ahmedabad vide their letter CR/foreign article/Corr./24-25 dated 28.11.2024 provided the details of the parcels delivered to Smt. Dhallowala Amirbanu Usmangani . on going through the details of the parcels delivered to Smt. Dhallowala Amirbanu Usmangani, submitted by the Chief Post Master, Ahmedabad GPO, Ahmedabad vide their letter CR/foreign article/Corr./24-25 dated 28.11.2024, it is amply clear that Shri Dhallowala Usmangani, husband of Smt. Dhallowala Amirbanu Usmangani used to receive the parcels not only of Smt. Dhallowala Amirbanu Usmangani but also of Shri Mananwala Altaf, the same was also confronted/affirmed in the statement of Shri Dhallowala Usmangani, recorded on dated 03.12.2024 under the Customs Act, 1962 which proves that Shri Dhallowala Usmangani is actively concerned himself in importing of such type of prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes, illegally imported/smuggled into India by mis-declaring the same as food items through Foreign Post Office, Shahibaug, Ahmedabad. Further, statement of Smt. Dhallowala Amirbanu Usmangani was recorded on 02.12.2024 wherein on being shown the copies of CN 23 Customs Declarations recorded under panchnamas dated 14.10.2024 and 15.10.2024 drawn at Foreign Post Office, Ahmedabad, she admitted that that post parcels were destined to her home address i.e. 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-

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380001, is of her; that on being perusal of copy of Seizure Memorandum dated 07.11.2024 and stated that the parcels containing Foreign Origin Cigarettes had been found at Sr. No.03 under the examination dated 14.10.2024, at Sr. No.01,02 under the examination dated 15.10.2024. She further stated that the said parcels were destined to her however she had no idea about this; further on being perusal of CN 23 Customs Declarations having tracking numbers EE412333956AE, EE412416085AE, EE412416077AE and stated that the parcels were originated from Happiness service Center-Al Khor and destined to the name of Dhallowala Amirbanu Usmangani, mobile numbers 9723820140 and 9824498265, 3293, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001, description of goods was used clothes, foods items/toys etc. She further stated that the said parcels were destined to her and the mobile number i.e. 9723820140 mentioned in the same belong to her husband Usmangani Dhallowala and 9824498265 belong to her residence; that she perused CN 23 Customs Declarations having tracking numbers EE412333942AE, EE412416050AE, EE412416063AE, EE412416457AE, EE412416474AE, EE412416443AE, EE412416465AE and stated that the parcels were originated from Happiness service Center-Al Khor and having mobile numbers 9723820140 and 9824498265, description of goods were used clothes, foods items/toys etc. She further stated that the mobile numbers i.e. 9723820140 belong to her husband Usmangani Dhallowala and 9824498265 belong to her residence. Further, she stated that the above said parcels were not related to him and she had no idea how the said mobile numbers had been mentioned on the said declarations; on being asked about the mobile No(s) such as **9723820140, 9824498265, 9375756729, 9898170199, 9725790057, 9986727951, 8105161623, 9324568396, 9702546914, 7039631540, 9998681915**, she stated that the mobile number i.e. 9723820140 belongs to her husband Usmangani Dhallowala and 9824498265 belongs to her residence. Thus, I find from the statements of Smt. Dhallowala Amirbanu Usmangani, it appeared that she acknowledged that parcels containing E-cigarettes and foreign-origin cigarettes were addressed to her but denied any knowledge or involvement of her. She clarified that the mobile numbers mentioned on the post parcels, also belong to her husband i.e. Shri Dhallowala Usmangani but she shown her ignorance to know the recipients address and mobile no., how those were used in the declarations of post parcels. She further disassociates herself from the recipients and beneficial owner of the said post parcels. Further, statement of Shri Dhallowala Usmangani was recorded on 03.12.2024 wherein also he admitted the facts as stated and admitted by her wife Smt. Dhallowala Amirbanu Usmangani in her statement recorded on 02.12.2024. Further, from the statement of Shri Dhallowala Usmangani, it appeared that the parcels containing cigarettes/e-cigarettes were concealed under the guise of food items, were attempted to be imported and smuggled into India by way of mis-declaring from UAE through Foreign Post office, Shahibaug, Ahmedabad. These goods were destined to Smt. Dhallowala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001, were meant for Shri Dhallowala Usmangani. He was supposed to receive the said parcels. Further, from his statement, it also appeared that the post parcels destined to the name of (i) Shri Botawala Mohsin, 2655-3, Jiva, Shahidni Darga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat, (ii) Shri Mananawala Altaf, 12780/11, Lambisheri, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001, (iii) Shri Shahrul Khan Mehubkhan Pathan, 1353, Ramrahim Nagar, opp. Dastan Factory, Behrampur Ahmedabad, Gujarat-380022. (iv) Shri Barafwala Aayshabanu, 2271, Motipole Kadiasheri, Jamalpur, Ahmedabad, Gujarat-380019 and (v) Shri Iqbalbhai Mananawala also known as Kandawala Salimbhai, were also meant for Shri Dhallowala Usmangani. He was about to receive all the said parcels. Furthermore, it also revealed that the mobile no(s)

i.e. 723820140 and 9824498265 used for communication and delivery of the said parcels belongs to Shri Dhallawala Usmangani and Mobile No. i.e. 9375756729 used for similar communication and delivery of the said parcels, was also known with Shri Dhallawala Usmangani (pertaining to Iqbalbhai Mananwala, actually it was identified as Kandawala Salumbhai as per the statement of Shri Dhallawala Usmangani) It also emerged from the facts that he had received such types of parcels from Dubai in past time too as evident from delivery manifest provided by Ahmedabad's Chief Post Master.

30.2 From the above discussion, it reveals that that Shri Dhallawala Usmangani was the intended recipient/beneficial owner of parcels containing concealed prohibited goods i.e. cigarettes/c-cigarettes attempted to be imported and smuggled from the UAE into India through the Foreign Post Office, Shahibaug, Ahmedabad. Though, the said parcels were addressed to different individuals, these parcels were actually meant for Shri Dhallawala Usmangani. He was in communication regarding the deliveries using mobile numbers linked to him, confirming his involvement in attempting to import and receipt of the said goods. The parcels which were about to be received by Shri Dhallawala Usmangani, are as under:

Table-

Sr No	Postal Tracking Number	Date	Name of recipients mentioned at Post parcels	E-Cigarette Or Foreign Origin Cigarette	No. of Sticks	Price per Unit in Rs.	Total Market Value
01	EE412333956A E	14.10.2024	Dhallawala Amrbanu Usmangani	Cigarette	20000	17/-	3,40,000/-
	EE412416085A E	15.10.2024	Dhallawala Amrbanu Usmangani	Cigarette	29800	12/-	3,57,600/-
	EE412416077A E	15.10.2024	Dhallawala Amrbanu Usmangani	Cigarette	29200	12/-	3,50,400/-
Total			Dhallawala Amrbanu Usmangani	Cigarette	79000		10,48,000/-
02	EE412333942A E	14.10.2024	Botawala Mohsin	Cigarette	20000	17/-	3,40,000/-
Total			Botawala Mohsin	Cigarette	20000		3,40,000/-
03	EE412333960A E	14.10.2024	Iqbalbhai Mananwala	Cigarette	14400	12/-	1,72,800/-
Total			Iqbalbhai Mananwala	Cigarette	14400		1,72,800/-
04	EE412416050A E	15.10.2024	Mananwala Altaf	Cigarette	30000	12/-	3,60,000/-
	EE412416060A E	15.10.2024	Mananwala Altaf	Cigarette	29200	12/-	3,50,400/-
Total			Mananwala Altaf	Cigarette	59200		7,10,400/-
05	EE412416457A E	16.10.2024	Shahrukhan Mehboobkhan Pathan	Cigarette	17200	12/-	2,06,400/-
				E-Cigarette	180	2800/-	5,04,000/-
	EE412416474A E	16.10.2024	Shahrukhan Mehboobkhan Pathan	Cigarette	24600	12/-	2,95,200/-
				E-Cigarette	70	2800/-	1,96,000/-
	Total			Cigarette & E-cigarette	41800 & 250		12,01,600/-
06	EE412416443A E	16.10.2024	Barafwala Aaythabhanu	Cigarette	24800	12/-	2,97,600/-
				E-Cigarette	70	2800/-	1,96,000/-
Total			Barafwala Aaythabhanu	Cigarette & E-cigarette	24800 & 70		4,93,600/-
07	EE412416465A E	16.10.2024	Barafwala Sultanbhai Ilyas	Cigarette	24600	12/-	2,95,200/-
				E-Cigarette	70	2800/-	1,96,000/-
Total			Barafwala Sultanbhai Ilyas	Cigarette & E-cigarette	24600 & 70		4,91,200/-

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Total of Sr. No. 01. To 07.		Cigarette & E- cigarette	26380 0 & 390	33,65,600/- & 10,92,000/-

30.3. From the investigation conducted so far, it reveals that the parcels which were destined to (i) Shri Dhallawala Amirbanu Usmangani, (ii) Shri Botawala Mohsin (iii) Shri Iqbalbhai Mananawala (iv) Shri Mananawala Altaf (v) Shri Shahrukh Khan Mehbubkhan Pathan (vi) Shri Barafwala Aayshabanu (v) Shri Barafwala Ilyas Sultanbhai, were actually meant for Shri Dhallawala Usmangani. Therefore, it reveals that Shri Dhallawala Usmangani was the the recipients/beneficiary in respect of 263800 sticks of Foreign Origin Cigarettes, valued of Rs.33,65,600/- and 390 sticks of E-cigarettes, valued of Rs.10,92,000/- and total of Rs.44,57,600/- attempted to be imported and smuggled under all the parcels mentioned at table above are liable for confiscation under Section 111 111(d), 111(f), 111(i), 111(l) & 111(m) of the Customs Act, 1962. And the falsely declared goods as as used clothes, food items, and toys used for concealment of aforesaid Foreign Origin Cigarettes and E-cigarettes is also liable for confiscation under Section 119 of the Customs Act, 1962.

30.4. Thus, it appeared that Shri Dhallawala Usmangani was involved in attempting to smuggle and receiving multiple parcels containing e-cigarettes and foreign origin cigarettes, falsely declared as used clothes, food items, and toys through Foreign Post Office, Shahibaug, Ahmedabad and to conceal their true nature and evade customs duty, which are restricted/prohibited under Indian customs law. His such act has rendered the 263800 sticks of Foreign Origin Cigarettes, valued of Rs.33,65,600/- and 390 sticks of E-cigarettes, valued of Rs.10,92,000/- and total of Rs.44,57,600/- goods liable for confiscation under Section 111 111(d), 111(f), 111(i), 111(l) & 111(m) of the Customs Act, 1962 and mis declared goods as as used clothes, food items, and toys used for concealment of aforesaid Foreign Origin Cigarettes and E cigarettes liable for confiscation under Section 119 of the Customs Act, 1962 which act has rendered Shri Dhallawala Usmangani liable for penalty under Section 112 of the Customs Act, 1962. Further, I find that Shri Dhallawala Usmangani knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, false **declaration**, in the document hence, for the said act of contravention, he is liable for penalty under Section 114AA of the Customs Act, 1962.

30.5 I find that the as per statement of Smt. Dhallawala Amirbanu Usmangani dated 02.12.2024, she acknowledged that parcels containing E-cigarettes and foreign-origin cigarettes were addressed to her but denied any knowledge or involvement of her. She clarified that the mobile numbers mentioned on the post parcels, also belong to her husband i.e. Shri Dhallawala Usmangani but she shown her ignorance to know the recipients address and mobile number, how those were used in the declarations of post parcels. She further disassociates herself from the recipients and beneficial owner of the said post parcels.

30.6 I find from the statement of Shri Dhallawala Usmangani dated 03.12.2024, it appeared that the parcels containing cigarettes/e-cigarettes were concealed under the guise of food items, were attempted to be imported and smuggled into India by way of mis-declaring from UAE through Foreign Post office, Shahibaug, Ahmedabad. These goods were destined to Smt.

Dhallawala Amirbanu Usmangani, 3293, Gafurji Nichali Nr. Navi Masjid Jamalpur, Ahmedabad-380001, were meant for Shri Dhallawala Usmangani. He was supposed to receive the said parcels. Further, from his statement, it also appeared that the post parcels destined to the name of (i) Shri Botawala Mohsin, 2655-3, Jiva, Shahidni Darga, Opp. Navi Masjid, Ahmedabad-380001, Gujarat, (ii) Shri Mananawala Altaf, 12780/11, Lambisher, Navi Masjid, Jamalpur, Ahmedabad, Gujarat-380001, (iii) Shri Shahrukh Khan Mehbubkhan Pathan, 1353, Ramrahim Nagar, opp. Dastan Factory, Behrampur Ahmedabad, Gujarat-380022, (iv) Shri Barafwala Aayshabanu, 2271, MoutpoleKadiasheri, Jamalpur, Ahmedabad, Gujarat-380019 and (v) Shri Iqbalbhai Mananawala also known as Kandawala Salimbhai, were also meant for Shri Dhallawala Usmangani. He was about to receive all the said parcels. Furthermore, it also revealed that the mobile no(s) i.e. 723620140 and 9824498265 used for communication and delivery of the said parcels belongs to Shri Dhallawala Usmangani and Mobile No. i.e. 9375756729 used for similar communication and delivery of the said parcels, was also known with Shri Dhallawala Usmangani (pertaining to Iqbalbhai Mananawala, actually it was identified as Kandawala Salimbhai as per the statement of Shri Dhallawala Usmangani). It also emerged from the facts that he had received such types of parcels from Dubai in past time too as evident from delivery manifest provided by Ahmedabad's Chief Post Master.

30.7 I find that that Shri Dhallawala Usmangani was the intended recipient/beneficial owner of parcels containing concealed prohibited goods i.e. cigarettes/c-cigarettes attempted to be imported and smuggled from the UAE into India through the Foreign Post Office, Shahibaug, Ahmedabad. Though, the said parcels were addressed to different individuals, these parcels were actually meant for Shri Dhallawala Usmangani. He was in communication regarding the deliveries using mobile numbers linked to him, confirming his involvement in attempting to import and receipt of the said goods.

30.8 I find that the parcels which were destined to (i) Shri Dhallawala Amirbanu Usmangani, (ii) Shri Botawala Mohsin (iii) Shri Iqbalbhai Mananawala (iv) Shri Mananawala Altaf (v) Shri Shahrukh Khan Mehbubkhan Pathan (vi) Shri Barafwala Aayshabanu (v) Shri Barafwala Ilyas Sultanbhai, were actually meant for Shri Dhallawala Usmangani. Hence, he appeared to be the recipients/beneficiary in respect of 263800 sticks of Foreign Origin Cigarettes, valued of Rs.33,65,600/- and 390 sticks of E-cigarettes, valued of Rs.10,92,000/- and total of Rs.44,57,600/- attempted to be imported and smuggled under all the parcels mentioned at table "VII" of the SCN. Thus, it appeared that Shri Dhallawala Usmangani was involved in attempting to smuggle and receiving multiple parcels containing e-cigarettes and foreign origin cigarettes, falsely declared as used clothes, food items, and toys through Foreign Post Office, Shahibaug, Ahmedabad and to conceal their true nature and evade customs duty, which are restricted/prohibited under Indian customs law. His acknowledgment of mobile numbers, recipients, and past deliveries links him to a larger smuggling network operating via postal parcels from Dubai.

31. ROLE OF SHRI ANIL BHAI:

31.1 It reveals that from the investigation that Shri Anil Bhai had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several Summones were also issued to Shri Anil Bhai as per the

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address of parcels as well as the address of Shri Anil Bhai, subscriber of Mobile No. 9702546914 being used in the relevant parcels of Shri Anilbhai but he did not appear in this office and did not join the investigation.

31.2 Thus, I find that, Shri Anilbhai, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

32. ROLE OF SHRI RAJES RATHOD:

32.1. It reveals that from the investigation that Shri Rajes Rathod had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several Summones were also issued to Shri Rajes Rathod as per the address of parcels as well as the address of Shri Rajes Rathod, subscriber of Mobile No. 7039631540 being used in the relevant parcels of Shri Rajes Rathod but he did not appear in this office and did not join the investigation.

32.2. Thus, I find that, Shri Rajes Rathod, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

33. ROLE OF SHRI KHAN BHAI:

33.1. It reveals that from the investigation that Shri Khan Bhai had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several Summones were also issued to Shri Khanbhai as per the address of parcels as well as the address of Shri Khan Bhai, subscriber of Mobile No. 9998681915 being used in the relevant parcels of Shri Khan Bhai but he did not appear in this office and did not join the investigation.

33.2 Thus, I find that, Shri Khan Bhai, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

34 ROLE OF SHRI ASHASBHAI@MUMBAI:

34.1 It reveals that from the investigation that Shri Ashasbhai@Mumbai had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several summons were also issued to Shri Ashasbhai@Mumbai as per the address of subscriber of Mobile No. 9986727954 being used in the relevant parcels of Shri Ashasbhai@Mumbai but he did not appear in this office and did not join the investigation.

34.2. Thus, I find that, Shri Ashasbhai@Mumbai, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

35 ROLE OF SHRI RATHOD SUFIYAN YUSUF:

35.1 It reveals that from the investigation that Shri Rathod Sufiyan Yusuf had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several summons were also issued to Shri Rathod Sufiyan Yusuf as per the address of subscriber of Mobile No. 9702546914 and Mobile No. 7039631540 being used in the relevant parcels of Shri Anilbhai and Shri Rajes Rathod respectively but he did not appear in this office and did not join the investigation.

35.2 Thus, I find that, Shri Rathod Sufiyan Yusuf, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

36 ROLE OF SHRI PATHAN LALKHAN MUNAWARKHAN:

36.1 It reveals that from the investigation that Shri Pathan Lalkhan Munawarkhan had knowingly and willingly involved themselves in the smuggling of prohibited goods i.e. E-Cigarettes and Foreign Origin Cigarettes along with the declared goods illegally imported into India, through Foreign Post Office, Shahibaug, Ahmedabad. However, several summons were issued to Shri Pathan Lalkhan Munawarkhan as per the address of subscriber of Mobile No. 9998681915 being used in the relevant parcels of Shri Khan Bhai but he did not appear in this office and did not join the investigation. However, Shri **Pathan Lalkhan Munawarkhan attended the** personal hearing held on 23.07.2025 and stated that he did not order any cargo, including e-cigarettes and foreign-origin cigarettes, as mentioned in the show-cause notice and he

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had dealings with the goods seized in the show cause notice nor does he know any of the names given in the show cause notice. I find that said Pathan Lalkhan Munawarkhan had never co-operated in the investigation inspite of several summon were issued to him and he has even not filed reply to the Show Cause Notice and only during PH held on 23.07.2025 alleged that he had not ordered the said goods and he has nothing to do with seized goods is nothing but an after thought to shirk from the penal provision. I find that he has not disputed the address of subscriber of Mobile No. 9998681915 being used in the relevant parcels and no contrary evidence in this regard has been submitted.

36.2 Thus, I find that, Shri Pathan Lalkhan Munawarkhan, 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 illegally imported the said parcels into India, through Foreign Post, Office, Shahibaug, Ahmedabad, and caused to be made, 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.

37 From the above findings, it was revealed that (i) Shri Samir Siddikbhai Memon, Flat No. C-2, 4th Floor, Marine Heights, Nr. Lion Circle, Bhavnagar-364001, (ii) Shri Dhallawala Usmangani, 3203, Gafurji Ni Chali, Nr. Navi Masjid, Jamalpur, Ahmedabad-380001, (iii) Shri Anil Bhai, RipurGompurTolnaka, Mahavir Flat, Near Nagri Mall, Ahmedabad 380021, (iv) Shri Rajes Rathod, Sarangpur Ni Paase, Kamdar Medan Ekta Avenuc, Nearby Kalidas Mill Compound, Gomitpur, Ahmedabad-380021, (v) Shri Khan Bhai, 426, Nehru Nagar, B/H Sangam Cinema, Sarkhej Road, Ahmedabad, Gujarat, (vi) Shri Ashas (Mumbai), (vii) Shri Rathod Sufiyan Yusuf, Floor-1.52, Ganesh Hari Parundekar Marg, Byculla, Rly STN W, Mumbai, Jacob Circle, Mumbai City-Jacob Circle, Mumbai-400011 and (viii) Shri Pathan Lalkhan Munawarkhan, 426/427, Nehru Nagar Society, Sangam Cinema Pachad, Sarkhej Road, Daskroi Ahmedabad, Gujarat-382210 appear to be the actual recipients/beneficial owner of the above illegally imported prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes. They are the main mastermind in the entire act of smuggling of prohibited goods i.e. E-cigarettes and Foreign Origin Cigarettes in the parcels attempted to be illegally imported by declaring the goods as "food items, toys and used clothes" into India through Foreign Post Office, Shahibaug, Ahmedabad. The details of quantity and value of prohibited goods i.e. E cigarettes and Foreign Origin Cigarettes which were about to be received individually by themselves or to be the beneficial owner of the said prohibited goods.

38. From the above findings, it is revealed that the mis-declared goods viz. E-cigarettes and Foreign Origin Cigarettes were attempted to be illegally imported in parcels, concealing the same under the guise of declared goods i.e. "food items, toys and used clothes" in violation of the provisions of the Customs Act, 1962. Further, it evidently appeared that the assorted "food items, toys and used clothes" were used to conceal the smuggled prohibited goods i.e. E-Cigarettes and Foreign Origin 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 E-cigarettes were also non-compliant to the provision of the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019; Violation of DGFT's Notification No. 20/2015-2020 dated 26.09.2019, which suggests import of electronic cigarettes and parts or components thereof is prohibited. Further, the said Foreign Origin Cigarettes were also non-compliant to the provisions of Section 3(a), 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. E-cigarettes and Foreign Origin Cigarettes along with assorted food items, toys and used clothes, 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.

39. Further, I find that the value of E-cigarettes bearing the marking 'Made in China' and foreign-origin cigarettes labelled as 'Made in Korea/London/Indonesia' have been determined based on market-driven valuation derived from open net sources available. Since these goods are not legally available in the domestic market, their valuation has been determined based on market-driven sources from open net data. The import, possession, and distribution of such prohibited goods are subject to legal action under the relevant provisions of Indian law. However, the value of 'Assorted food items, toys and used clothes' used for concealing the above smuggled E-cigarettes and Foreign Origin have been taken as NIL. It appeared that 4683 sticks of E-Cigarettes and 318600 sticks of Foreign Origin Cigarettes, total of 323283 sticks of prohibited cigarettes, having total market value of Rs.1,91,40,916/- (Rupees One Crore Ninety-One Lakh Forty Thousand Nine Hundred and Sixteen only) have been seized and the same appeared to be liable to confiscation under Section 111 of the Customs Act, 1962. Further, loose food items, toys and used clothes, which were used for concealment of above E-cigarettes and Foreign Origin Cigarettes were also seized under Section 110 of the Customs Act, 1962 as the same is liable to confiscation under Section 119 of the Customs Act, 1962.

40 Further, I find that the seized goods, i.e. E-cigarettes and Foreign Origin Cigarettes, total of 323283 sticks of Cigarettes 'Made in China' and 'Made in Korea, London and Indonesia' respectively totally valued at Rs.1,91,40,916/- 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 "used cloths, dry food, fish, games etc." 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.

41 Further, the seized packets of E-cigarettes "Made in China" was also imported in violation of DGFT's Notification No. 20/2015-2020 dated 26.09.2019 and Prevention of Electronic Cigarette Act, 2019, which prohibits the import of electronic cigarettes and parts or components thereof. Further, foreign origin cigarettes "Made in Korea, London and Indonesia" 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

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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 appeared 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, 1973, the import of cigarettes or any other tobacco product is 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 appeared that the seized parcels of E-Cigarettes/Foreign Origin 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) and 111(j) of the Customs Act, 1962.

42 Thus, I find that 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 of the Customs Act, 1962.

43 I find that as per clause 5 of the Chapter 1A of the General Notes regarding Import Policy, 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 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 of the Customs Act, 1962.

44 I find that the above E-cigarettes and Foreign Origin Cigarettes were not declared in the relevant parcels of CN-23 Customs Declarations and same were found concealed behind the declared goods viz. 'Dry food, used clothes, fish, meats, toys, games etc.' and the same also do not correspond in respect of value. Hence the same are liable to confiscation under the provisions of 111(d), 111(f) 111(i), 111(l) and 111(m) of the Customs Act, 1962.

45 I find that all the loose items i.e. food items etc., having assessable value NIL have been used for concealment of illegally imported E-cigarettes and Foreign Origin Cigarettes in parcels bearing different CN-23 Customs declaration and it's tracking no(s). hence, the same are also liable to confiscation under Section 119 of the Customs Act, 1962.

46 Further, I find that the E-Cigarette and Foreign Origin Cigarettes are an item specified under Section 123 of Customs Act, 1962 by virtue of Notification No 103/2016-Cus (N.T.) dated 25.07.2016. The burden of proof that 4683 sticks of E-cigarettes and 318600 sticks of Foreign Origin Cigarettes, total of 323283 sticks of prohibited cigarettes, having total market value of **Rs.1,91,40,916/-** (Rupees One Crore Ninety-One Lakh Forty Thousand Nine Hundred and Sixteen only) placed under seizure are smuggled goods.

47. Accordingly, I pass the following Order:

ORDER

- i. I order **absolute confiscation** 4683 sticks of E-cigarettes and 318600 sticks of Foreign Origin Cigarettes, total of 323283 sticks of prohibited cigarettes, having total market value of **Rs.1,91,40,916/- (Rupees One Crore Ninety One Lakh Forty Thousand Nine Hundred and Sixteen only)**, which were smuggled in various parcels and placed under seizure under panchnama dated 15.10.2024 and 24.10.2024 and seizure memo order dated 07.11.2024 and 20.02.2025 under Section 111(d), 111(f), 111(i), 111(l) and 111(m) of the Customs Act, 1962;
- ii. I order absolute confiscation loose food items, toys and used clothes, which were used for concealment of E-Cigarettes and Foreign Origin Cigarettes mentioned at above (undeclared and concealed goods), under Section 119 of the Customs Act, 1962.
- iii. I impose a penalty of **Rs.33,00,000/- (Rupees Thirty-Three Lakh Only)** on **Shri Samir Siddikbhai Memon & Shri Mohammad Ashasbhai @ Mumbai** under the provisions of Section 112(a) & Section 112(b) of the Customs Act 1962.
- iv. I impose a penalty of **Rs.12,00,000/- (Rupees Twelve Lakhs Only)** on **Shri Dhallowala Usman** under the provisions of Section 112(a) & Section 112(b) of the Customs Act 1962.
- v. I impose a penalty of **Rs.80,000/- (Rupees Eighty Thousand Only)** on **Shri Anil Bhai & Shri Rathod Sufiyan Yusuf** under the provisions of Section 112(a) & Section 112(b) of the Customs Act 1962.
- vi. I impose a penalty of **Rs.75,000/- (Rupees Seventy-Five Thousand Only)** on **Shri Rajes Rathod & Shri Rathod Sufiyan Yusuf** under the provisions of Section 112(a) & Section 112(b) of the Customs Act 1962.

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- vii. I impose a penalty of **Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only)** on **Shri Khan Bhai&Shri Pathan Lalkhan Munawarkhan** under the provisions of Section 112(a) & Section 112(b) of the Customs Act 1962.
- viii. I impose a penalty of **Rs.65,00,000/- (Rupees Sixty Five Laks Only)** on **Shri Samir Siddikbhai Memon& Shri Mohammad Ashasbhai@Mumbai** under the provisions of Section 114AA of the Customs Act, 1962.
- ix. I impose a penalty of **Rs.22,00,000/- (Rupees Twenty Two Lakhs Only)** on **Shri Dhallowala Usmangani** under the provisions of Section 114AA of the Customs Act, 1962.
- x. I impose a penalty of **Rs.1,60,000/- (Rupees One Lakh Sixty Thousand Only)** on **Shri Anil Bhai&Shri Rathod Sufiyan Yusuf** under the provisions of Section 114AA of the Customs Act, 1962.
- xi. I impose a penalty of **Rs.1,60,000/- (Rupees One Lakh Sixty Thousand Only)** on **Shri Rajes Rathod&Shri Rathod Sufiyan Yusuf** under the provisions of Section 114AA of the Customs Act, 1962.
- xii. I impose a penalty of **Rs.3,20,000/- (Rupees Three Lakhs Twenty Thousand Only)** on **Shri Khan Bhai&Shri Pathan Lalkhan Munawarkhan** under the provisions of Section 114AA of the Customs Act, 1962.
- xiii. I impose a penalty of **Rs.2,00,000/- (Rupees Two Lakhs Only)** on **Shri Samir Siddikbhai Memon& Shri Mohammad Ashasbhai@Mumbai** under the provisions of Section 117 of the Customs Act, 1962.
- xiv. I impose a penalty of **Rs.1,00,000/- (Rupees One Lakh Only)** on **Shri Dhallowala Usmangani** under the provisions of Section 117 of the Customs Act, 1962.
- xv. I impose a penalty of **Rs.50,000/- (Rupees Fifty Thousand Only)** on **Shri Anil Bhai&Shri Rathod Sufiyan Yusuf** under the provisions of Section 117 of the Customs Act, 1962.
- xvi. I impose a penalty of **Rs.50,000/- (Rupees Fifty Thousand Only)** on **Shri Rajes Rathod &Shri Rathod Sufiyan Yusuf** under the provisions of Section 117 of the Customs Act, 1962.
- xvii. I impose a penalty of **Rs.1,00,000/- (Rupees One Lakh Only)** on **Shri Khan Bhai&Shri Pathan Lalkhan Munawarkhan** under the provisions of Section 117 of the Customs Act, 1962.

48 Accordingly, the Show Cause Notice No. VIII/10-01/ DRI/ FPO/ O&A/ HQ/ 2025-26 dated 11.04.2024 stands disposed of.

Digitally signed by
Shravan Ram
Date: 03-11-2025
10:30:54
Additional Commissioner
Customs, Ahmedabad.

DIR:20251071MN000000D8E9
F. No. VIII/10-01/DR/ FPO/ O&A/ HQ/ 2025-26
BY RPAD/E-MAIL

Date: 31-10-2025
03.11.2025

To,

- (1) . Shri Samir Siddikbhai Memon,
S/o Shri Siddikbhai,
Flat No. C-2, 4th Floor,
Marine Heights, Nr. Lion Circle,
Bhavnagar-364001
- (2). Shri Ashashbhai@Mumbai
- (3). Shri Dhallawala Usmangani,
3293, Gafurji Ni Chali, Nr. Navi Masjid,
Jamalpur, Ahmedabad-380001
- (4). Shri Anil Bhai,
RajpurGompur Tol-naka,
Mahavir Flat, Near Nagri Mall,
Ahmedabad 380021
- (5). Shri Rathod Sufiyan Yusuf,
Floor-1.52, Ganesh Hari Parundekar Marg,
Byculla, Rly STN W. Mumbai, Jacob Circle,
Mumbai City-Jacob Circle, Mumbai-400011
- (6). Shri Rajes Rathod,
Sarangpur Ni Paase,
Kamdar Medan Ekta Avenue,
Nearby Kalidas Mill Compound,
Gomitpur, Ahmedabad-380021
- (7). Shri Khan Bhai,
426, Nehru Nagar, B/H Sangam Cinema,
Sarkhej Road, Ahmedabad, Gujarat-382210
- (8). Shri Pathan Lalkhan Munawarkhan,
426/427, Nehru Nagar Society,
Sangam Cinema Pachad, Sarkhej Road,
Daskroi Ahmedabad, Gujarat-382210

Copy to:

- (i) The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)
- (ii) The Deputy Commissioner of Customs (TRC), Ahmedabad.
- (iii) The Deputy Commissioner of Customs (Prosecution), Ahmedabad.
- (iv) The Deputy/Assistant Commissioner of Customs, FPO, Ahmedabad
- (v) The Deputy/ Assistant Commissioner of Customs (Preventive), Ahmedabad
- (vi) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
- (vii) The Deputy/Assistant Director, DRI, AZU, Ahmedabad
- (viii) Guard File.