



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल **4th Floor**, हडको भवन **HUDCO Bhawan**, ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**
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DIN - 20260171MN000000FA15

क	फ़ाइल संख्या FILE NO.	S/49-235/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-657-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	23.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/140/2024-25 dated 20.09.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	23.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगों के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रूपए.
	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील :- अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

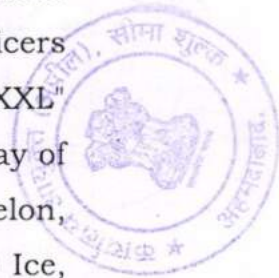


ORDER-IN-APPEAL

Appeal has been filed by Shri Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AK/140/2024-25 dated 20.09.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the present matter pertains to a complex, multi-layered investigation and the subsequent seizure of import goods relating to eighteen (18) separate consignments processed through eight (08) distinct importers. These activities were identified by the Directorate of Revenue Intelligence (DRI) as part of a highly organized and systematic operation managed by a common smuggling cartel. The investigation was precipitated by specific, actionable intelligence gathered by the DRI, which indicated that a transport vehicle moving toward Mumbai was laden with concealed foreign-brand electronic cigarettes that had been cleared through Mundra Port. Following a rigorous analysis of system data by the DRI Gandhidham unit, Vehicle No. GJ12BV0610 was identified as the carrier of Container No. TLLU4615592. The vehicle was intercepted by the DRI Surat Regional Unit on September 1, 2022, near Palsana Chokdi on the National Highway.

2.1 A meticulous search of Container No. TLLU4615592 was conducted in the presence of two independent Panchas and documented under the Panchnama dated September 1/2, 2022. During the examination, officers recovered 107 cartons containing a total of 85,600 units of "DK123 XXL" (Yuotto brand) electronic cigarettes. These products were found in an array of flavors designed for the domestic market, including Strawberry Watermelon, Two Apples, Blueberry Ice, Watermelon Ice, Peach Ice, Mint Ice, Grape Ice, Energy Drink, Mango Ice, Pina Colada, Aloe Black Currant, Passion Fruit, and Milk Coffee.



2.2 The investigation established that these electronic cigarettes fall under HS code 85434000. Their importation is explicitly prohibited vide Notification 20/2015-2020 dated September 26, 2019, and the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019. Consequently, the entire consignment was detained and later formally seized under the provisions of the Customs Act, 1962, as the goods were knowingly used for concealment and represented a direct violation of national health and trade policies. This interception served as the catalyst for a wider inquiry into the syndicate's use of multiple dummy entities and "benami" importers to facilitate illegal trade.

2.3 The specific scope of this impugned order focuses on an import consignment associated with M/s. JYM Global Trading Company (IEC No. ANUPG6581F) involving Container No. TEMU7694450. In this instance, the goods were declared in the manifest and IGM No. 2320512 as "754 carton Floor Clean MOP (Misc. Item non-popular brand)" under HS Code 96039000. However, physical examination conducted by DRI officials under the Panchnama dated September 12, 2022, revealed a total absence of the declared moulds or mops.

2.4 Instead, the container was found to be entirely stuffed with 98,000 pieces of "Pop-up Toys" and 24,000 pieces of "Dancing Cactus" toys. It was observed that the importer deliberately refrained from filing a Bill of Entry (B/E) for this specific consignment. This was identified as a strategic omission—a "wait and watch" tactic—intended to evade interception after the syndicate realized that the DRI had already initiated enforcement actions against their other containers at Mundra Port. By withholding the B/E, the cartel attempted to distance the entity from the physical goods once they became "hot."

2.5 Beyond the gross mis-declaration of the items, these toys were found to be in direct contravention of Policy Condition 2 of Chapter 95 of the Customs Tariff. This regulation is a critical safety safeguard, mandating that all imported toys (under EXIM Codes 95030010, 95030020, 95030030, and 95030090) must be accompanied by certificates demonstrating compliance with Bureau of Indian Standards (BIS) safety norms. These standards include:
 IS: 9873 (Part 1): Safety aspects related to mechanical and physical properties.
 IS: 9873 (Part 2): Flammability requirements.



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IS: 9873 (Part 3): Migration of certain elements (ensuring no toxic heavy metals are present).

IS: 15644: Safety of Electric Toys (specifically relevant to the "Dancing Cactus" models).

2.6 The investigation confirmed that no such compliance certificates were produced. In the absence of mandatory BIS compliance and NABL accredited lab testing, the toys were classified as "offending goods." They were held liable for absolute confiscation under Sections 111(d), 111(f), and 111(m) of the Customs Act, 1962, as they posed a potential risk to public safety and bypassed essential quality control protocols designed to protect children.

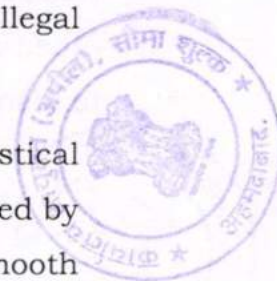
2.7 The DRI investigation identified Shri Asif Sathi as the primary architect and beneficial owner of the smuggling racket. Acting as the mastermind, he utilized a network of front or "benami" entities to import prohibited, restricted, and grossly undervalued products. The syndicate's operational methodology involved the acquisition of Import Export Codes (IECs) from various firms by offering fixed monetary benefits to the proprietors—ranging from INR 15,000 to INR 50,000 per consignment—in exchange for their signatures on blank or fraudulent import documents.

2.8 Shri Asif Sathi effectively remained "behind the curtain," managing the operations through a sophisticated logistical chain. He utilized encrypted communication and WhatsApp groups, such as the group named "Mm," to coordinate with associates. These communications included instructions on how to "stuff" containers to hide prohibited items like e-cigarettes and managing the "crossing" of containers—moving goods from one vehicle to another after customs clearance—to avoid tracking through e-way bills.

2.9 Several key associates were found to have facilitated these illegal clearances:

Shri Baldevsinh Vala (M/s. Kalpana Exim): Acted as the primary logistical coordinator at Mundra. He was instrumental in forging documents provided by foreign suppliers, manipulating invoice values, and ensuring the smooth transition of goods from the SEZ to warehouses in Bhiwandi.

Shri Samir Sharma (G-Card Holder, M/s. Al Cargo Services): Misused sub-login IDs on the SEZ online portal—a practice deemed unauthorized under the SEZ Act—to file clearances for dummy importers without ever verifying the



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genuineness of the IEC holders. He allegedly received between INR 2.5 lakh to INR 3 lakh per consignment for facilitating these high-risk clearances.

Shri Mohammed Tahir Menn: Acted as a primary coordinator, introducing the mastermind to customs clearers and managing the administrative needs of the dummy firms, including M/s. MM Enterprises and M/s. JH Enterprises.

Shri Hanif Kapadia: A business associate of Shri Asif Sathi who managed firms in China, such as M/s. AH International Trading Co. Limited and M/s. HK Longcheng Trade Co. Limited. These entities were used to route mis-declared and undervalued goods to India, providing the necessary international leg of the smuggling operation.

2.10 The financial infrastructure of the cartel was designed to obscure the true source of funds. Cash deposits and bank transfers from domestic purchasers were funneled through the accounts of dummy firms to settle liabilities with foreign suppliers. This "closed-loop" financial system allowed the syndicate to bypass traditional banking scrutiny. When the DRI initiated its crackdown in September 2022, the syndicate attempted desperate evasive maneuvers. For example, in the case of Container No. TGBU5160748, the importers in connivance with the shipper attempted to change the port of discharge from Mundra to Jebel Ali, Dubai, and even changed the name of the importer to "Sasco Global Logistics" to divert the contraband and avoid seizure. These efforts were unsuccessful as the DRI had already flagged the containers.

2.11 Due to the systematic and gross mis-declaration in terms of description, classification, and quantity, the transaction values declared in the associated invoices (such as Invoice No. YY2022117) were rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The investigation noted that actual transaction values were unavailable because the goods found bore no relation to the goods declared. A formal redetermination of value was performed in accordance with Rule 9 (Residual Method), utilizing market price assessments provided by a government-approved Chartered Engineer, Shri Kunal Ajay Kumar. The value of the toys found in the JYM Global consignment was reassessed at INR 2,44,20,000/-.

2.12 On the basis of the investigation, Show Cause Notice dtd. 30.08.2023 was issued to M/s. JYM Global Trading Company and other persons involved including the appellant. Consequently, the Adjudicating Authority confirmed the liability of the goods for confiscation and the



imposition of significant personal penalties on M/s. JYM Global Trading Company, Shri Asif Sathi, Shri Hanif Kapadia, and other accomplices under Sections 112(a) and 114AA of the Customs Act, 1962, for their roles in a "well-hatched conspiracy" to defraud the national exchequer. Vide impugned order, following penalty was imposed on the appellant.

(A) IN RESPECT OF OFFENDING GOODS I.E. TOYS, IMPORTED WITHOUT MANDATORY BIS:

- (i) He imposed penalty of Rs. 8,00,000/- on the appellant under section 112(a)(i) of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The Appellant contends that the Impugned Order was passed in clear violation of the principles of natural justice, specifically the rule of audi alteram partem. Despite multiple written and telephonic requests from the Appellant's advocate to schedule a common personal hearing for five related Show Cause Notices arising from the same investigation, the Respondent failed to provide a proper opportunity to be heard. The Respondent allegedly informed the advocate that no further hearing would be granted because three notices had already been issued, a stance the Appellant argues is a procedural failure that justifies quashing the order.

3.2 The Appellant asserts that the Department failed to produce any incriminating evidence showing his personal involvement in the alleged mis-declaration, undervaluation, or concealment of goods. He maintains that his role was strictly limited to being the proprietor of M/s. Exemplar Trading and that he had no connection to the imports made under the name of M/s. Skyblue International Trading Company, which is the subject of the present case.

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Furthermore, the Appellant argues that during his interrogation, the Department only questioned him regarding e-cigarettes—which were not found in the containers relevant to this specific case—and provided no opportunity to address the valuation or mis-declaration charges.

3.3 A major point of the appeal is that the Appellant's only confirmed action was lending his Importer-Exporter Code (IEC) to Shri Asif Sathi, an act he argues is not prohibited or illegal under the Customs Act, 1962. Citing judicial precedents, the Appellant contends that an IEC holder is not required to be the actual consumer or buyer of the goods and that the Department cannot impose penalties solely for "name-lending" without proving a specific violation of the law. He further notes that he received a fixed commission (Rs. 1.5 lakh) for the use of his IEC and received no additional benefits that would suggest knowledge of a smuggling conspiracy.

3.4 The Appellant argues that the penalties imposed under Section 112(a) of the Customs Act are unsustainable because there is no proof of mens rea (guilty mind). He asserts that he did not actively or knowingly involve himself in any illegal act, nor did he have reason to believe the goods were liable for confiscation. Since the Department failed to show that he "abetted" the offence as defined under the Indian Penal Code—which requires instigation, conspiracy, or intentional aid—the Appellant maintains that the legal threshold for imposing a penalty has not been met.



PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 18.12.2025 following the principles of natural justice wherein Shri Hardik Modh , Advocate, appeared for the hearing on behalf of the appellant and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.



5.1 The Appellant has vehemently argued that the impugned order is bad in law as it was passed in violation of the principles of natural justice. Specifically, the Appellant contended that they were denied the opportunity of a meaningful personal hearing and that their request for the cross-examination of co-noticees and investigating officers was unfairly rejected. I have examined the record of proceedings before the Adjudicating Authority. It is observed that the Show Cause Notice (SCN) was issued on 30.10.2023. Subsequently, multiple opportunities for personal hearings were granted to the Appellant. Specifically, hearings were scheduled on various dates, and the Appellant was represented by their authorized consultant/advocate. The record indicates that the Appellant filed a detailed written submission. Therefore, the plea that the Appellant was not "heard" is factually incorrect. The requirement of audi alteram partem is satisfied if the party is given a reasonable opportunity to represent their case, which was clearly provided here.

5.2 Regarding the request for cross-examination, it is a settled position of law that cross-examination is not an absolute right in quasi-judicial proceedings under the Customs Act. The Hon'ble Supreme Court in **Kanungo & Co. vs. Collector of Customs (1983 (13) E.L.T. 1486 (S.C.))** held that:

"The principles of natural justice do not require that in matters like this, the persons who have given information should be allowed to be examined and cross-examined by the persons who is to be affected... It is enough if the person who is to be affected is told what the information is and is given an opportunity to explain."

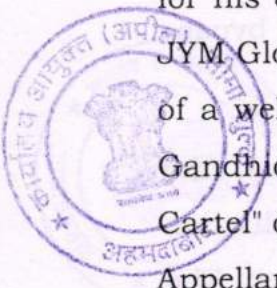
5.3 In the present case, the Adjudicating Authority relied upon the voluntary statements of the Appellant himself, recorded under Section 108 of the Customs Act, 1962, as well as the statements of Shri Asif Sathi and Shri Baldevsinh Vala. The Hon'ble Supreme Court in **Surjeet Singh Chhabra vs. Union of India (1997 (89) E.L.T. 646 (S.C.))** has categorically ruled that a confession made before a Customs Officer is a binding document and the petitioner cannot seek cross-examination of witnesses when his own statement is the basis of the charge. The Appellant's statement was never retracted within a reasonable timeframe, making it a valid piece of evidence. Furthermore, the request for cross-examination must be justified by showing how it would help in the defense. The Appellant failed to demonstrate any discrepancy in the statements that required oral cross-examination. Given that the investigation involved a complex smuggling cartel with digital evidence, the Adjudicating

Authority correctly concluded that cross-examination was not feasible and would merely serve as a dilatory tactic.

5.4 I further find that all the Relied Upon Documents (RUDs), including the statements of co-noticees, the Panchnamas, and the digital forensic reports of the WhatsApp chats, were provided to the Appellant. The Appellant had full knowledge of the evidence against him and had ample opportunity to rebut the same in his written and oral submissions. This fulfills the requirement of fair play. Reliance is also placed on the judgment of the Hon'ble Bombay High Court in **Patel Engineering Ltd. vs. Union of India 2014 (307) E.L.T. 862 (Bom.)**, where it was held that if the documents relied upon are sufficient to prove the charges and the noticee has been given the documents, the denial of cross-examination does not vitiate the proceedings. In the instant case, the recovery of mis-declared toys and the digital trail of "crossing" logistics provide overwhelming independent evidence. Therefore, I hold that there has been no violation of the principles of natural justice.

5.5 The goods found in Container No. TEMU7694450 were 1,22,000 pcs of toys mis-declared as "Plastic Chocolate Moulds". These toys are subject to mandatory BIS certification under DGFT Notification No. 33/2015-2020 dated 02.12.2019. Import without such certification and under a false description is a clear violation of Section 11 of the Customs Act, 1962. The facts establish a clear case of "outright smuggling" via concealment.

5.6 The Appellant has contended that he was merely a "lender of IEC" for his own firm and had no direct connection with the import made by M/s. JYM Global Trading Company. I find this contention to be a gross simplification of a well-orchestrated criminal conspiracy. The evidence collected by the DRI Gandhidham reveals that the Appellant was an integral member of a "Smuggling Cartel" operated by Shri Asif Sathi. In his statement recorded on 27.01.2023, the Appellant admitted that he worked for Shri Asif Sathi and coordinated the logistics of various containers. He explicitly stated that he was involved in "crossing" the containers, which involves illicitly moving goods from one vehicle to another or altering the transit path to evade customs/GST enforcement. Such an admission, unless proven to be under duress, is a strong piece of evidence against him. In **Naresh J. Sukhawani vs. Union of India (1996 (83) E.L.T. 258 (S.C.)**), the Hon'ble Supreme Court held that the statement of a co-accused can be used as substantive evidence against others in a conspiracy. Here, the



Appellant's own admission is further bolstered by the statements of Shri Baldevsinh Vala and Shri Asif Sathi.

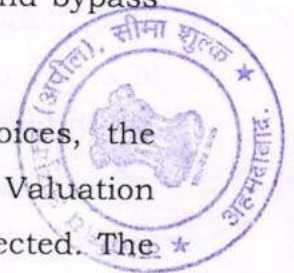
5.7 The investigation recovered highly incriminating WhatsApp chats from the Appellant's mobile phone. These chats, part of a group titled "Mm", show that the Appellant was actively managing the movement of containers, including those belonging to dummy firms like M/s. JYM Global Trading Company. The chats contain discussions on "GP" (Gate Pass), vehicle numbers, and instructions on how to avoid "checking." This digital trail proves that the Appellant was not just a passive lender of an IEC but a functional manager of the cartel's logistics.

5.8 Section 112(a) of the Customs Act, 1962, provides for penalty on any person who, in relation to any goods, does or omits to do any act which renders such goods liable to confiscation under Section 111. By coordinating the "crossing" of smuggled goods and facilitating the cartel's operations, the Appellant has directly abetted the act of smuggling.

5.9 The Appellant's claim that he has no link with M/s. JYM Global Trading Company is belied by the fact that the logistics for M/s. JYM were being handled by the same group of people with whom the Appellant was in constant touch. In a cartel, individual members handle different segments of the crime—some handle paperwork, some handle finance, and some (like the Appellant) handle logistics. The fact that the Appellant handled the "crossing" for the cartel makes him liable for all goods smuggled by that cartel, regardless of which dummy firm's name was on the Bill of Entry. Therefore, I find that the Adjudicating Authority has correctly appreciated the evidence. The Appellant was a willing participant in a conspiracy to defraud the exchequer and bypass import prohibitions.

5.10 Since the goods were totally different from the invoices, the transaction value was rightly rejected under Rule 12 of the Customs Valuation Rules, 2007. Hence the Appellant's challenge to the valuation is rejected. The redetermination under Rule 9 (Residual Method) based on a Chartered Engineer's report is the correct legal sequence when identical/similar goods data is unavailable due to the clandestine nature of the import.

5.11 The evidence on record, including WhatsApp chats, statements of co-conspirators (Shri Baldevsinh Vala and Shri Asif Sathi), and the physical recovery of mis-declared goods, clearly points to the Appellant's role as a key



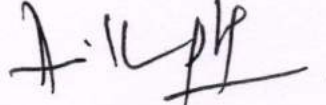
facilitator in a large-scale smuggling operation. The Appellant's actions led to the import of prohibited/restricted goods, causing a threat to public safety (due to non-BIS toys) and loss to the exchequer. The findings of the Adjudicating Authority are comprehensive and based on solid evidence. The penalty under Section 112(a) (i) is proportionate to the gravity of the offence.

6. In view of the detailed discussion and findings hereinabove, I find no merit in the appeal filed by the appellant.

7. The appeal filed by Shri Dirgesh Dedhia is rejected.

सत्यापित/ATTESTED

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


(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-235/CUS/MUN/2024-25
5613

Date: 23.01.2026

By Speed post /E-Mail

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Shri Dirgesh Dedhia,
Plot No.156, Ghanshyam Park,
Baroi Road, Mundra-Kutch



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.