



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor**, हडको भवन **HUDCO Bhawan**, ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20260371MN000000CA9D

क	फ़ाइल संख्या FILE NO.	S/49-420/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-918-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/209/2024-25 dated 02.12.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Kalpana Exim, Office No. B-11, Hotel Indraprasth, Near Shakti Nagar Circle, Adani Port Road, Mundra (K) - 370 421.

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

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रूपए.
	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 M/s. Kalpana Exim, Office No. B-11, Hotel Indraprasth, Near Shakti Nagar Circle, Adani Port Road, Mundra (K) – 370 421, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AKM/209/2024-25 dated 02.12.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the present matter originated from specific, actionable intelligence gathered by the Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit. The intelligence indicated the operation of a high-level, organized smuggling cartel involving a common set of individuals who utilized multiple dummy entities and front firms to facilitate the illegal importation of restricted and prohibited goods. Initial enforcement actions were triggered on September 1, 2022, by the interception of vehicle No. GJ12BV0610 near Palsana Chokdi, Surat. This vehicle was found to be carrying a consignment of 823 cartons cleared from Mundra Port (Container No. TLLU4615592). Upon detailed inspection at ICD Sachin, officers discovered a massive concealment of foreign-brand E-cigarettes of the "Yuotto" brand, totaling 85,600 pieces in various flavors such as Strawberry Watermelon and Blueberry Ice. These items were hidden behind a "cover" of declared household goods to deceive visual inspections.

2.1 Subsequent analysis of the Customs system data, combined with extensive field investigations and the recovery of incriminating digital records, revealed that this interception was merely the tip of a much larger operation. Investigations revealed that this was part of a larger operation involving 18 containers imported under the names of eight different dummy entities, including M/s. J.H. Enterprises.

2.2 The specific focus of this proceeding pertains to a high-value consignment imported in the name of M/s. J.H. Enterprises (IEC: AQIPH7863E) via Container No. TGBU5160748 under Bill of Lading No. YMLUS226013593. The investigation into this specific container highlighted

the syndicate's agility in attempting to evade detection once an enforcement action was initiated. As the DRI began intercepting related shipments, the importers, in connivance with the overseas shipper (M/s. Yiwu Surui Imp and Exp Co. Ltd.) and the shipping line (M/s. Huan Ming/Yang Ming Line), attempted a desperate "Change of Destination" (COD) while the vessel was still in transit to Mundra. They sought to divert the container to Jebel Ali, UAE, by manipulating the manifest and preparing two parallel sets of Bills of Lading—one declaring "Floor Clean MOP" for Mundra and another declaring "Household Items" for Jebel Ali. This fraudulent maneuver was intended to erase the shipment's connection to the Indian port and escape the jurisdiction of Indian Customs. Despite these elaborate attempts to divert the cargo, the DRI successfully placed the container on hold, and it was examined at Mundra Port under Panchnama dated September 16/17, 2022.

2.3 The physical examination of Container No. TGBU5160748 yielded an inventory of highly offending and prohibited goods that vastly differed from the manifest. While the documents declared 754 cartons of "Floor Clean MOP," the search actually recovered 200,400 pieces of foreign-brand E-cigarettes and 80,000 pieces of silicon "pop-up" toys. Additionally, the consignment contained 14,000 LCD writing pads and 2,500 head massagers that were used as structural concealment. The E-cigarettes, falling under HS Code 8543, are strictly prohibited for import into India under DGFT Notification No. 20/2015-2020 dated September 26, 2019, and the Prohibition of Electronic Cigarettes Act, 2019. The 80,000 toys were also classified as offending goods due to a total lack of mandatory Bureau of Indian Standards (BIS) compliance as required under Policy Condition 2 of Chapter 95 of the Customs Tariff (specifically IS: 9873 parts 1, 2, 3, 4, 7, and 9). The syndicate's failure to provide safety certifications and the deliberate concealment behind "Floor Clean MOPs" underscored a clear intent to bypass public health regulations and safety standards, posing a significant risk to the domestic market.

The investigation into the culpability of the parties involved established Shri Mohammad Asif Sathi as the central mastermind and "beneficial owner" of the cartel. He orchestrated the racket by acquiring IECs from dummy firms; in this specific instance, he utilized the services of Shri Tahir Menn to create the firm M/s. J.H. Enterprises by fraudulently using the identity documents of Shri Juma Hamir Halepotra, a caretaker of Asif's bungalow in Bhuj who had no knowledge of the business. The cartel's modus operandi involved a professional division of labor: Shri Baldevsinh Vala of M/s.



Kalpana Exim managed the logistics of "crossing" containers—a process where cleared goods were moved between vehicles or containers at secret locations to evade e-way bill tracking and enforcement checkpoints between Mundra and Bhiwandi. Meanwhile, Shri Samir Sharma, a G-Card holder of a Customs Broker firm, was implicated in submitting manipulated documents to the authorities, often on the instructions of the forwarders rather than the actual IEC holders, whom he had never met.

2.5 Granular details of the coordination were recovered from the "Mm" WhatsApp group, where members discussed the "stuffing" of prohibited items in the containers. Chat logs showed Baldevsinh Vala advising other members to stack E-cigarettes away from the container doors to avoid detection during partial Customs examinations and suggesting that "crossing" was necessary to prevent the DRI from tracking the containers via electronic surveillance. Shri Asif Sathi admitted in his statement that he paid hefty sums—up to ₹17 Lakh per container—for the successful clearance of these prohibited consignments. The investigation also unearthed a financial circuit where cash was collected from domestic buyers like "Raju Bhai" or "Sohail Bhai" and deposited into the bank accounts of the dummy firms to facilitate formal remittances to the foreign suppliers in China, thereby giving the illicit trade a veneer of legitimate commerce.

2.6 The legal and financial implications of the seizure are substantial. Under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the transaction values declared in the documents were rejected due to gross mis-declaration and the absence of any credible price data. Consequently, the value was re-determined sequentially through Rules 4 to 9. Given the absence of identical or similar goods in the valuation database, the value was arrived at using Rule 9 (the residual method) based on a comprehensive market survey and a report from a Government-approved Chartered Engineer. The market price of the seized E-cigarettes alone was estimated at approximately ₹2,400 per piece, totaling ₹48,09,60,000. Combined with the mis-declared toys and electronics, the total value of the offending goods in this single container approached ₹50 Crore.

2.7 By knowingly concerning themselves with the removal, concealment, and dealing of prohibited and mis-declared goods, the noticees violated multiple sections of the Customs Act, including:

Section 111(d), (f), and (m): For importing goods contrary to prohibitions and for filing entries that did not correspond to the actual value or description of the goods.

Section 112(a) and (b): For acts of omission and commission—including the failure to examine goods and the facilitation of fraudulent clearances—that rendered the goods liable for confiscation.

Section 114AA: For the deliberate use of false and fraudulent documents, including forged invoices and manipulated packing lists, in the transaction of business with Customs.

2.8 The investigation concluded that the entire operation was a deliberate attempt to defraud the government exchequer of legitimate revenue and bypass essential quality standards intended for consumer safety. The cumulative evidence, including WhatsApp chats, voluntary statements under Section 108, and the physical recovery of contraband, established a "preponderance of probability" that the syndicate operated with full knowledge of the illegal nature of their trade.

2.9 On the basis of the investigation, Show Cause Notice was issued to M/s. J.H. Enterprises and other persons involved. Consequently, the Adjudicating Authority confirmed the liability of the goods for confiscation and the imposition of significant personal penalties on M/s. J.H. Enterprises and other accomplices under Sections 112 and 114 of the Customs Act, 1962, for their roles in a "well-hatched conspiracy" to defraud the national exchequer. The Adjudicating Authority passed the following order in respect of the appellant.

(A) In respect of offending goods i.e E-Cigarettes and toys :-

- (I) He imposed penalty of Rs. 7,00,000/- upon the appellant under Section 112(a)(i) of the Customs Act, 1962.

(B) In respect of dutiable goods where bills of Entry not filed :-

- (I) He imposed penalty of Rs. 5,000/- upon the appellant under Section 112(a)(ii) 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. In the Grounds of Appeal, the appellant has contended as under:

3.1 The appellant contends that the impugned order is a non-speaking order because it fails to address all grounds raised during the adjudication process.

3.2 The appellant hereby says and submit that Ld. Adjudicating Authority has nowhere held that the appellant was involved in any import/clearance related activity in relation to the imported goods.

3.3 The Ld. Adjudicating Authority has erred in failing to appreciate that the notice does not bring out any evidence to show that the appellant had either any occasion to deal with them or he was part of any whatsapp group. Hence, no omission or commission that allegedly rendered goods liable to confiscation under Section 111 can be attributed to appellant. On this basis, the appellant say and submit that he was not liable to penalty under Section 112 (a) and/or 112 (b) and Section 114AA of Customs Act, 1962.

3.4 The appellant hereby says and submit that insofar as preparing invoice is concerned, there is no evidence to show that the appellant had any prior knowledge about the actual nature of goods imported by the importer. This may be verified from the statements of various persons including Shri Asif Sathi, Shri Baldevsinh Vala, Authorized Person of M/s. Kalpana Exim and Shri Samir Sharma of Custom Broker M/s. All Cargo Services. Hence, the appellant is not liable to penalty under Section 112 (a) and/or 112 (b) and Section 114AA of Customs Act, 1962

3.5 The appellant had also sought cross-examination of abovenamed persons, which has since been brushed aside without any findings. Hence, the impugned order is also passed in violation of the principles of natural justice.

3.6 The entire investigation was carried out behind his back inasmuch as DRI



never recorded his statement before making allegations qua goods imported by M/s. JH Moreover, there is no evidence to show that the appellant had any prior knowledge about the actual nature of goods imported by the importer This may be verified from the statements of various persons including Shri Asif Sathi, Shri Baldevsinh Vala, Authorized Person of M/s. Kalpana Exim and Shri Samir Sharma of Custom Broker M/s. All Cargo Services. Hence, Ld. Adjudicating Authority has erred in imposing penalty on appellant under Section 112 (a) and/or 112 (b) and Section 114AA of Customs Act, 1962.

3.7 It is an admitted position that no bill of entry was filed in respect of goods imported in the name of M/s. JH Therefore, there is no question of issuance of any invoice in lieu of transportation, forwarding etc. by appellant. The show cause notice as well as impugned order also does not pinpoint any invoice issued by appellant in respect of goods imported by M/s. JYM. Therefore, on this ground also, the impugned order is not tenable in the eyes of law

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 10.12.2025 following the principles of natural justice wherein Shri Vikas Mehta, Consultant, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

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

5.1 The Appellant has contended that they had no knowledge of the illicit nature of the cargo imported in the name of M/s J.H. Enterprises. However, a granular analysis of the evidence unearthed by the Directorate of Revenue Intelligence (DRI) reveals a sophisticated and deliberate involvement that far exceeds the scope of legitimate commercial agency. The investigation established a direct and recurring link between the mastermind of the syndicate, Shri Mohammad Asif Sathi, and Shri Baldevsinh Vala of M/s Kalpana Exim. In his statement dated 10.03.2023, recorded under Section 108 of the Customs Act, 1962, Shri Asif Sathi explicitly named Shri Baldevsinh Vala as the person

responsible for managing the "logistics and customs coordination" for their illicit imports.

5.2 Crucially, Shri Sathi revealed that the Appellant was not just hired to move containers, but was integrated into the planning phase. The Appellant provided the necessary "infrastructure of deception," which included identifying dummy IECs and ensuring that the documentation reflected "low-risk" items like "Floor Clean Mops" to bypass the Risk Management System (RMS) of Customs. The Appellant's claim of being a "stranger" to the transaction is belied by the fact that the entire pre-import coordination was routed through them.

5.3 The most damning evidence of complicity arises from the digital footprints recovered from the mobile devices of the syndicate members. Shri Baldevsinh Vala was an active participant in a WhatsApp group titled "Mm," which served as the operational command center for the smuggling activities. The chat logs show Shri Baldevsinh Vala advising other members on the "safe ratio" of prohibited goods. In one specific instance, he instructed that the prohibited items should not exceed 30% of the total volume of the container, while the remaining 70% must be the declared cover cargo. This instruction is a clear indicator of mens rea, as a legitimate logistics provider would have no reason to provide "stealth ratios" for cargo loading.

5.4 The chats further reveal the Appellant discussing the "valuation" of the goods. Shri Baldevsinh assured the group that he would "manage the invoice values" to ensure that the declared value remained below the threshold that triggers intensive scrutiny. The investigation found that M/s Kalpana Exim was the primary point of contact for the dummy IEC holders. The "owners" of entities like M/s J.H. Enterprises were often indigent individuals whose documents were procured by the syndicate. The Appellant handled the KYC formalities for these dummy entities, knowingly presenting them as legitimate importers to the Customs authorities.

5.5 The modus operandi adopted by the syndicate, with the Appellant's active assistance, involved the "layering" of cargo. The prohibited e-cigarettes and non-BIS compliant toys were packed deep inside the container, while the front portions were packed with "Floor Clean Mops." The Appellant's role was to ensure that the Bill of Lading and the subsequent Bill of Entry reflected only the "Mops." The Appellant's defense that "no Bill of Entry was filed" is a technicality that does not absolve them. Section 112(a) and (b) penalize any person who is "in any way concerned in any fraudulent evasion or attempt at evasion of any duty." The act

of bringing the prohibited goods into the Indian Customs Waters with the intent to mis-declare them constitutes a completed act of "improper importation" under Section 2(25) of the Act.

5.6 A standard freight forwarder operates on the basis of documents provided by the client. However, when the forwarder starts giving instructions on how to pack the container to avoid detection and how to manipulate the value, they cross the line from a service provider to a co-conspirator. The Appellant's active involvement in the "Mm" WhatsApp group and the specific instructions found therein destroy the "innocent agent" defense.

5.7 In conclusion, the evidence of complicity is not merely circumstantial but is supported by direct testimony of the mastermind, inculpatory digital evidence, documentary evidence of managing dummy IECs, the deliberate concealment strategy. Therefore, the findings of the adjudicating authority regarding the Appellant's role in the "Evidence of Complicity and Modus Operandi" are well-founded, legally sound, and supported by the overwhelming weight of the investigative record.

5.8 The Appellant argues that statements were recorded under duress and should be discarded. However, it is a settled principle that statements recorded before Gazetted Officers of Customs under Section 108 are admissible as substantive evidence. Unlike police officers, Customs officers are not "police officers" within the meaning of Section 25 of the Evidence Act. The Hon'ble Supreme Court in **K.I. Pavunny v. Assistant Collector (HQ), Central Excise (1997)** held that voluntary confessions under Section 108 carry full evidentiary weight. Since the Appellant failed to provide any contemporaneous evidence of "force" or "coercion" beyond a mere retraction during cross-examination, the original statements are held as valid evidence.

5.9 The cornerstone of this issue lies in the definition of "prohibited goods" under Section 2(33) of the Customs Act, 1962, which includes any goods the import or export of which is subject to any prohibition under the Act or any other law for the time being in force. The import of e-cigarettes is explicitly prohibited under the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019. Furthermore, the Directorate General of Foreign Trade (DGFT) issued Notification No. 20/2015-2020 dated 26.09.2019, which revised the import policy for Electronic Cigarettes, classifying them as "Prohibited." Under the Toys (Quality Control) Order, 2020, issued by the Ministry of

Commerce and Industry, the import of toys is subject to mandatory Bureau of Indian Standards (BIS) certification. Goods imported in violation of such Quality Control Orders (QCOs) are treated as "prohibited goods" as they fail to meet the safety standards prescribed for the protection of human health and safety.

5.10 In the instant case, the prohibition on e-cigarettes is rooted in public health concerns, specifically to prevent nicotine addiction among the youth. Similarly, the BIS requirement for toys is to prevent the entry of hazardous or toxic materials into the hands of children. When a prohibition is based on Public Policy, Health, and Safety, the courts have consistently held that absolute confiscation is the appropriate remedy.

5.11 The Appellant's argument that "no Bill of Entry was filed" is irrelevant to the status of the goods. The moment the goods entered the Indian Customs Waters (the "territorial waters" as defined under Section 2(28)) with the intent to evade the prohibition, the "improper importation" was complete under Section 111.

5.13 The evidence clearly establishes that the Appellant was an active participant in an organized smuggling cartel. They utilized their logistics expertise not for legitimate trade, but to forge documents and coordinate the movement of prohibited items to evade detection. Such actions warrant severe penalties to maintain the integrity of the Indian Customs frontier. The adjudicating authority correctly invoked Sections 111 and 112, and the findings regarding the Appellant's culpability are based on both oral testimony and digital corroboration.

6. In view of the detailed discussion and findings above, I find no merit in the appeal filed by M/s Kalpana Exim. The findings of the Adjudicating Authority in the impugned order are correct, legal, and proper.

7. The appeal filed by M/s. Kalpana Exim is hereby rejected.



(Handwritten signature)

(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-420/CUS/MUN/2024-25
258 10259

Date: 30.03.2026

By Speed post A.D/E-Mail

To,
M/s. Kalpana Exim,
Office No. B-11, Hotel Indraprasth,
Near Shakti Nagar Circle,
Adani Port Road,
Mundra (K) – 370 421.



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, Custom House Mundra.
4. Guard File.