



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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DIN - 20260171MN000041994A

क	फ़ाइल संख्या FILE NO.	S/49-225/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-661-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	27.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/129/ 2024-25 dated 28.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	27.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Baldevsinh N. Vala, 74, Pratapsinh Devubha Pati, Near Nagbai Mataji Mandir, At Gadhethad,Upleta, Dist Rajkot- 360 460.



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (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.
(g)	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 Baldevsinh N. Vala, 74, Pratapsinh Devubha Pati, Near Nagbai Mataji Mandir, At Gadhethad, Upleta, Dist Rajkot- 360 460, (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/129/ 2024-25 dated 28.08.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra.

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. The syndicate had successfully imported at least 18 different consignments across eight separate importers, including M/s. Aditi Trading Company (IEC No. AZHPR0377B). The current proceedings specifically focus on two of these import consignments involving Container Nos. TEMU6643503 and BMOU6923481, which were purportedly used to facilitate the clandestine entry of mis-declared and prohibited goods through the Mundra Special Economic Zone (SEZ) under the guise of miscellaneous low-value items.

2.2 Detailed physical examinations of the subject containers were conducted under various panchnamas in September 2022, unearthing



systemic and gross mis-declarations regarding the nature, quantity, and assessable value of the imported merchandise. The methodology employed by the cartel involved "stuffing" the rear of the containers with high-value or prohibited contraband while placing low-value "cover goods" near the container doors to mislead preventive officers during routine checks.

2.3 For Container No. TEMU6643503, the importer had filed Bill of Entry No. 2013050 dated August 30, 2022, declaring items such as "Vegetable Slicers," "Foot Pumps," and "Mobile Holders." However, actual physical examination revealed that these goods were merely a facade for 30,000 pieces of undeclared toys, including the "Dancing Cactus" and "Card Early Education" devices. These items are strictly regulated and require mandatory Bureau of Indian Standards (BIS) compliance under Policy Condition 2 of Chapter 95 of the Customs Tariff (specifically IS: 9873). The failure to provide these certificates posed significant consumer safety risks, as the quality and toxicity levels of the plastic and electronic components were unverified.

2.4 For Container No. BMOU6923481, the importer refrained from filing a Bill of Entry entirely. Investigators interpreted this as a tactical move to avoid interception once the DRI began seizing other containers linked to the cartel. Examination of this "orphaned" container revealed further concealed quantities of 17,258 toys, including robot cars and folding quadcopters, alongside mis-declared items like egg poachers and study books. The concealment was so thorough that even the quantity of the cover goods did not match the packing lists provided in the initial Import General Manifest (IGM).

Collectively, the goods were found to be grossly undervalued. For example, while thousands of pieces were recovered, the declared invoices reflected only a fraction of the actual quantity, and the unit prices were significantly lower than the fair market value. To bridge this gap, a Government-approved Chartered Engineer, Shri Kunal Ajay Kumar, was engaged to provide an independent valuation report, which ultimately served as the basis for re-calculating the evaded duty.

2.6 The investigation exposed a sophisticated conspiracy characterized by the use of "paper firms" and dummy Import Export Codes (IECs). Shri Asif Sathi was identified as the mastermind behind the entire racket, orchestrating the illegal imports from behind the scenes to maintain plausible deniability. He orchestrated the illegal imports by arranging IECs



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from various individuals—such as Shri Narayan Gourayya Rajkar (Proprietor of M/s. Aditi Trading Company)—in exchange for fixed monetary benefits ranging from ₹15,000 to ₹50,000 per consignment. Sathi managed the logistical movement of these goods to specialized warehouses in Bhiwandi, Maharashtra, and coordinated with a network of associates to offload the contraband to domestic buyers like "Raju Bhai" and "Sohail Bhai."

2.7 The cartel utilized a WhatsApp group named "Mm" to share incriminating documents, coordinate the loading of "copy" or counterfeit goods, and discuss strategies to avoid tracking by enforcement agencies. Shri Baldevsinh Vala of M/s. Kalpana Exim played a critical role by forging and manipulating shipping documents (Invoices, Packing Lists, and Bills of Lading) provided by foreign suppliers. These manipulated documents were then used by the Customs Broker to file false declarations. To fund these operations, Sathi would deposit cash collected from domestic sales into the bank accounts of these dummy firms, which were then used to remit payments to overseas suppliers, thereby laundering the proceeds of the smuggling operation through seemingly legitimate banking channels.

2.8 The scheme was further aided by the failure of critical regulatory safeguards and the active or passive cooperation of certain professionals. Shri Samir Sharma, the G-Card holder for the Customs Broker firm M/s. Al Cargo Services, failed to perform mandatory due diligence or verify the genuineness of the IEC holders. Despite being a licensed professional, he never met the proprietors in person and relied solely on documents provided by the "forwarder," Shri Baldevsinh Vala. Sharma further assisted the cartel by submitting E-way bills containing names of unrelated parties to facilitate the "crossing" of containers and avoid detection by state tax authorities.

2.9 Furthermore, the investigation highlighted the negligence of the then Preventive Officer, Shri Vipin Sharma. Despite specific system directions to "check goods, inspect the lot, and check description/quantity," the officer submitted a generic examination report without actually de-stuffing the container or verifying the contents. This dereliction of duty facilitated the "Out of Charge" (OOC) status for consignments that contained massive quantities of concealed, restricted toys. The lack of a thorough 100% examination, as required for suspicious cargo, allowed the cartel to move prohibited goods into the Domestic Tariff Area (DTA) with official clearance.



2.10 Reports submitted by the Chartered Engineer confirmed that the declared transaction values were not at arm's length and did not reflect the true transaction value under Section 14 of the Customs Act, 1962. The investigation found that the declared values were suppressed by as much as 70-80% of the actual market rate. Consequently, the declared values were rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, on the grounds of significant mis-declaration of parameters such as description, quality, and quantity. The assessable values were re-determined under Rule 9 (Residual Method) using reasonable means consistent with the principles of the valuation rules.

2.11 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 (such as the BIS mandate for toys) 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.



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.

2.13 On the basis of the investigation, Show Cause Notice was issued to M/s. Aditi Trading Company 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. Aditi Trading Company 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.

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Vide impugned order, following penalties were imposed on the appellant :-

(A) IN RESPECT OF DUTIABLE GOODS WHERE BILLS OF ENTRY FILED FOR DTA CLEARANCE:

- (i) He imposed penalty of Rs. 1,00,000/- on the appellant under section 112(a)(ii) of the Customs Act, 1962.

(B) IN RESPECT OF DUTIABLE GOODS WHERE BILL OF ENTRY NOT FILED FOR DTA CLEARANCE:

- (i) He imposed penalty of Rs. 5,000/- on the appellant under section 112(a)(ii) of the Customs Act, 1962.

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

- (i) He imposed penalty of Rs. 2,00,000/- on the appellant under section 112(a)(i) of the Customs Act, 1962.

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

- (i) He imposed penalty of Rs. 2,00,000/- upon appellant under Section 114(AA) 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 first contends that the Order-in-Original is a non-speaking order because the Adjudicating Authority failed to address all the grounds and submissions raised during the adjudication process. Furthermore, the appellant argues that the penalty is legally untenable because it is partially based on the alleged importation of e-cigarettes by M/s. Aditi Trading Company, an accusation that was never actually made in the original Show Cause Notice.



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3.2 A significant portion of the appeal challenges the evidentiary basis for the penalties imposed under Section 114AA. The appellant asserts that the Adjudicating Authority failed to cite even a single document to prove that the appellant forged or fabricated shipping documents. Additionally, the appellant argues that the statements of various individuals, such as Shri Mohammad Tahir Menn and Shri Dirgesh Dedhia, are irrelevant to this specific case because they pertain to different importers or containers not covered by the notice in question.

3.3 The appellant also highlights his limited role, stating he was primarily engaged for transportation and possessed no specialized knowledge of customs procedures, valuation, or mandatory BIS compliance for toys. He maintains that he acted only as a conduit, passing documents and messages between the beneficial owner, Shri Asif Sathi, and the licensed Customs Broker, Shri Samir Sharma. Because he had no means to verify the accuracy of the documents provided by the owner, the appellant argues he did not knowingly commit any act that would render the goods liable for confiscation.

3.4 Finally, the appellant contests the use of WhatsApp chat messages as evidence, noting that they were used without the mandatory certificate required under Section 138C of the Customs Act, 1962. The appeal claims the investigation was incomplete and that the reliance on "stray" or potentially

tampered messages—especially since other accused parties had deleted their histories—is a misplaced basis for imposing penalties.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 07.11.2025 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. He also submitted that he will file additional submissions in a week's time but has not filed the same.

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 contends that his role was restricted to providing logistical support and arranging transportation. However, a meticulous examination of the evidence reveals a far more deep-rooted and active participation in the smuggling operation. The distinction between a "logistical provider" and a "co-conspirator" lies in the knowledge of the illegality and the active measures taken to facilitate it. In this case, the Appellant crossed that line through several documented actions like documentary fabrication and forgery. Shri Mohammad Asif Sathi, the mastermind, in his statement dated 21.09.2022, explicitly named the Appellant as the person who managed to "change/forged/fabricate" documents provided by foreign suppliers. This included altering descriptions and quantities in invoices and packing lists to match the false declarations intended for Customs. A mere transporter does not involve himself in the alteration of statutory import documents. Shri Mohammad Tahir Menn, in his statement dated 24.09.2022, deposed that the Appellant "assured" the cartel that he would clear consignments of toys without the mandatory BIS certification by resorting to concealment. This proactive assurance proves that the Appellant was not a passive recipient of instructions but a problem-solver for the cartel's illegal objectives.

5.2 The investigation uncovered WhatsApp chats in the group "Mm" where the Appellant instructed other members on how to "load" restricted goods. Specifically, he advised that restricted items should be limited to 30% of the container and, crucially, instructed that such goods should not be placed near the "gate" or "front side" of the container to avoid detection during routine checks. Such tactical advice is characteristic of a seasoned conspirator, not a logistics clerk. The OIO notes that the Appellant charged a hefty sum of Rs. 17 Lakh per container specifically for the clearance of restricted goods. This exorbitant amount, which far exceeds any legitimate transportation or handling fee, is clearly a "risk premium" or "commission" for facilitating smuggling, which establishes his financial stake in the success of the illegal venture.

5.3 The Appellant arranged for the IEC of M/s Exemplar Trading to be used by Shri Asif Sathi in exchange for a consideration of Rs. 15,000 per container. By facilitating the use of dummy/front entities, the Appellant helped shield the actual beneficial owners from the scrutiny of enforcement agencies. Therefore, the Appellant's role was pivotal. He acted as the bridge between the foreign supplier's actual cargo and the Customs Department's false record, using his logistical business as a front to mask a sophisticated smuggling operation.

His defense of being a "mere logistical provider" is dismissed as a post-facto attempt to minimize his criminal liability.

5.4 The Appellant argues that the statements recorded under Section 108 were "taken under pressure" and should be disregarded. However, this contention fails to withstand legal scrutiny. Unlike confessions before police officers, which are often inadmissible under the Indian Evidence Act, statements recorded by Customs Officers under Section 108 of the Customs Act, 1962, are of a distinct legal character. Customs Officers are not "police officers" for the purpose of Section 25 of the Evidence Act. A person summoned under Section 108 is legally bound to state the truth. The proceedings are "quasi-judicial," and the statement constitutes a piece of substantive evidence. The plea of "coercion" or "duress" is a routine defense often adopted as an afterthought. To invalidate a statement recorded under Section 108, the burden lies heavily on the person making the claim to prove the alleged pressure with contemporaneous evidence. In the present case, the Appellant failed to provide any objective proof of physical or mental duress. A vague allegation made months later during the adjudication stage carries no evidentiary weight.

5.5 The most compelling reason to accept the Appellant's statement is its seamless corroboration with the statements of other key players in the cartel. The details regarding the "Mm" WhatsApp group, the financial arrangements with Shri Asif Sathi, and the specific methodology of concealment were independently confirmed by co-accused Shri Asif Sathi and Shri Tahir Menn. When multiple individuals provide matching details of a complex conspiracy, it removes any doubt regarding the voluntary nature and truthfulness of the disclosures. In *Surjeet Singh Chhabra v. Union of India* [1997 (89) E.L.T. 646 (S.C.)], the Apex Court emphasized that since Customs Officers are not police officers, the confession made before them, even if later retracted, is an admission and binding on the maker. Therefore, the initial statements of the Appellant, which were detailed, factually rich, and corroborated by independent evidence, represent the true facts of the case. The subsequent retraction is found to be a tactical maneuver to escape the rigors of the law and is hereby rejected.

5.6 The Appellant's defense that he was unaware of BIS requirements is untenable. As a person actively involved in the forwarding and clearance business, he is expected to know the basic regulatory requirements. The presence of 47,258 pieces of concealed toys cannot be dismissed as a "supplier mistake." The concealment was a deliberate act to evade the "prohibition"

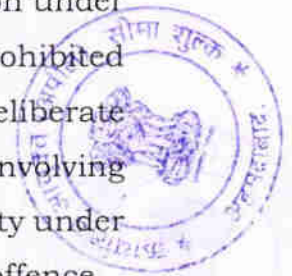



attached to such goods (absence of BIS). Under Section 111(d), goods imported contrary to any prohibition are liable to confiscation. Under Section 111(m), goods that do not correspond to their value or particulars in the entry are liable to confiscation. The Appellant's role in ensuring these goods were "placed away from the gates" of the container (as per WhatsApp chats) proves clear mens rea.

5.7 Regarding the WhatsApp chats, while the Appellant cites Arun Kumar v. Commissioner, it is noted that the Adjudicating Authority has relied on a variety of corroborative evidence. The chats recovered from the mobile of Shri Tahir Menn were supported by a certificate under Section 138C as mentioned in the OIO findings. Even if the Appellant's personal chat certificate was contested, the overwhelming corroboration from the statements of multiple parties and the physical seizure of mis-declared goods is sufficient to establish the case.

5.8 The Appellant has also contested the penalty imposed under Section 112(a)(i). This section provides for the imposition of a penalty on any person 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. In the instant case, the toys are imported without mandatory BIS certification rendering them prohibited under Section 11 of the Customs Act read with the relevant DGFT notifications. The investigation has established that the Appellant was not a mere bystander but was actively involved in the logistics of concealment and the preparation of fraudulent documents that allowed these prohibited goods to be imported. His actions directly facilitated the improper importation of goods liable to confiscation under Section 111(d) and 111(m). Under Section 112(a)(i), in the case of prohibited goods, the penalty can extend up to the value of the goods. Given the deliberate nature of the concealment and the scale of the smuggling operation involving prohibited items, the Adjudicating Authority's decision to impose a penalty under this section is legally sound and commensurate with the gravity of the offence.

5.9 Section 114AA of the Customs Act, 1962, was introduced specifically to deter the use of fraudulent documents in Customs transactions. It mandates a penalty on any person who knowingly or intentionally makes, signs or uses 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. The Appellant's liability under this section is absolute and substantiated by the following findings that the investigation has clearly established that the



Appellant received genuine invoices from foreign suppliers through Shri Asif Sathi. Instead of presenting these to Customs, he actively participated in "changing" and "fabricating" these documents to reflect lower values and mis-declared descriptions (such as declaring Dancing Cactus toys as generic plastic items to avoid BIS). By handing over these forged documents to the Customs Broker, the Appellant "used" false documents for the purpose of the Act.

5.10 The Appellant's defense that he had "no means to verify" the documents is a blatant falsehood. As the coordinator for the group "Mm" and the person receiving specific loading instructions to hide restricted goods, he was fully aware that the cargo in the containers did not match the cargo described in the Bills of Entry. The intent was clearly to evade the prohibition on non-BIS toys. The Appellant facilitated the use of the IEC of M/s Exemplar Trading and M/s Aditi Trading Company by providing the login credentials to the mastermind. This orchestrated use of front entities to file false declarations is a classic hallmark of fraud under Section 114AA. The Appellant's actions go beyond mere negligence; they represent a calculated attempt to deceive the department through a forged paper trail. Consequently, the penalty under Section 114AA is upheld as being both legally sound and factually necessary.

5.11 The Appellant has repeatedly sought to shift the entire burden of the mis-declaration onto the Customs Broker, Shri Samir Sharma, claiming he relied entirely on the Broker's expertise. This defense is legally flawed. The Customs Broker acts on the information and documents provided by the importer or their authorized associates. In this case, the investigation revealed that it was the Appellant who provided the "fabricated" and "changed" documents to the Broker. A Customs Broker cannot be held responsible for the factual falsity of an invoice that has been forged by his client or the client's associate before being handed over. The "prime mover" of the fraud is the person providing the false data, which in this case is the Appellant.

5.12 The liability of a Customs Broker under the Customs Broker Licensing Regulations (CBLR) for "lack of due diligence" is a separate administrative and penal issue. However, the presence of a Broker does not grant immunity to the importer or his associates under the Customs Act. Even if a Broker is negligent, the Appellant remains liable for "abetting" the smuggling under Section 112(a) by knowingly providing false descriptions and facilitating the concealment of prohibited goods. The legal framework of the Customs Act does not view the Broker-Client relationship as a shield for the client's criminal



acts. If the Appellant's logic were accepted, every smuggler could escape liability simply by hiring a Broker and claiming ignorance. The law expects the person "interested" in the goods to ensure that the declarations are true.

5.13 The Appellant was part of a well-organized smuggling syndicate. His claim of being a "novice" is belied by the intricate nature of the documentation and logistical coordination he provided to hide prohibited e-cigarettes and non-BIS toys. The Adjudicating Authority has correctly analyzed the evidence, including the statements recorded under Section 108 and the physical evidence of concealment. The Appellant was not a passive bystander; he was the conduit through which false information reached the Broker. His attempt to use the Broker as a scapegoat is a classic case of suppressio veri (suppressing the truth) regarding his own active role in the forgery. Consequently, the defense is dismissed, and his liability for the mis-declaration is upheld. The penalties imposed are proportionate to the gravity of the offense. There is no merit in the Appellant's arguments for set-aside.

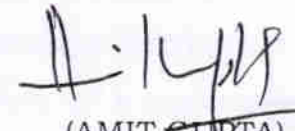
6. In view of the above discussions and findings, I find no merit in the appeal filed by Shri Baldevsinh N. Vala. The findings of the Adjudicating Authority in Order-in-Original No. MCH/ADC/AK/129/2024-25 dated 28.08.2024 are legal, proper, and based on sound evidence.

7. The appeal filed by Shri Baldevsinh N. Vala, is hereby rejected



संस्थापित/ATTESTED

 SUPERINTENDENT
 सीएस बुल्क (अपील्स), अहमदाबाद,
 CUSTOMS (APPEALS), AHMEDABAD


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

F. No. S/49- 225/CUS/MUN/2024-25
 5643

Date: 27.01.2026

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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.

