

	<p style="text-align: center;">सीमा शुल्क के आयुक्त का कार्यालय सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात OFFICE OF THE PR. COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62, Email-adj-mundra@gov.in</p>
A. File No.	GEN/ADJ/COMM/530/2023-Adjn-O/o Pr. Commr- Cus-Mundra
B. Order-in-Original No.	MUN-CUSTM-000-COM-62-25-26
C. Passed by	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	10.03.2026 10.03.2026
E. SCN No. & Date	GEN/ADJ/COMM/530/2023-Adjn dated 12.03.2025
F. Importer	M/s. Emerald Polymer & Chemicals and others.
G. DIN	20260371MO000091489C

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ -/ 1000रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो 5000/- रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो 10,000/- रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंच आहरित ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:-

Whereas, specific intelligence received by SIIB Mundra indicated that M/s. Emerald Polymer & Chemicals, IEC No-AAGFE5216L, (*hereinafter also referred to as 'said Importer' also for the sake of brevity*), having its declared manufacturing premises at F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020; had imported huge quantities of duty-free PVC Resins under Advance Authorization Licenses claiming the benefit under Notification No. 18/2015 dated 01-04-2015. The imports were made against exports of manufactured product "Article such as Junction Boxes with lids switch and Socket boxes etc. made out of the PVC resins from its declared manufacturing facility shown as F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020 and at the premises of Supporting Manufacturer/Factory/ Premises/Project site situated at "F-31, Industrial Area, Bahadrad, Haridwar, Uttarakhand". The two Advance Authorization Licenses involved bearing No. 0510414410 dated 16-06-2020 and No. 0510414191 dated 18-05-2020 registered at ICD Tughlakabad and ICD Sonapat respectively. The Supporting Manufacturer/factory/ premises/ Project site mentioned as B-1, Plot No. 14, Kashipur Road, Sobti Continental NH-74, Rudrapur, Almora, Uttarakhand for license no. 0510413211 dated 18-05-2020.

1.1. Whereas, the importation of raw material or inputs without payment of Custom duty under the said Advance Authorization Scheme is only allowed to an 'Actual User' i.e. to the Importer himself on the condition that the resultant goods manufactured from the duty-free raw material in its declared factory/ premises or the premises of the supporting manufacturer as mentioned in the license which would subsequently be exported for fulfilling the export obligation. The information available on the GSTN portal showed that the GST Registration status of the importer's premises at Haridwar as "Cancelled".

1.2. Intelligence further indicated that the said Importer appeared to be suspicious thus, clearances of –

- live consignments covered under Bill of Entry No. 7980621 dated 23-06-2020 and;
- balance goods of previous consignments under 7962155 dated 20-06-2020 and 7962170 dated 20-06-2020,

were suspended till the verification of the declared factory premises and satisfying other credentials as it appeared that the goods were not brought to the manufacturing facility but sold in open market, causing loss to the Government Exchequer.

2.1. Whereas, the goods imported vide Bill of Entry No. 7980621 dated 23-06-2020 along with part/balance stock of consignments pertaining to Bills of Entry Nos. 7962155 dated 20-06-2020 and 7962170 dated 20-06-2020 summed up to 552750 kgs., of PVC Resin 67S valued at ₹3,26,78,218/-, the clearance of which had been suspended were imported under the declaration to avail the benefit of Notification No. 18/ 2015 – Customs dated 01-04-2015. Since, the initial investigations revealed that the Importer is non-existent, the goods were seized vide Seizure Memo dated 28-07-2020 (**RUD-05**).

2.2. Whereas, a Show Cause Notice DIN 20210771MO000000F985 bearing F.No. S/43-71/Inv-Emerald/SIIB-E/CHM/ 20-21 dated 22-07-2021 was issued for the seizure portion, as to why:

- i. the 552750 kgs. of PVC Resin 67S should not be confiscated under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulations) Act, 1992 and Rule 14 of Foreign Trade (Regulations) Rules, 1993. If the said goods are allowed redemption in terms of Section 125 (1) of the Customs Act, 1962, duty in terms of Sec 125(2) of the Customs Act, 1962 will also be recoverable on the same;
- ii. Penalty under Section 112 (a) and Section 112 (b), or Section 114A of the Customs Act, 1962 and penalty under Section 114AA of the Customs Act, 1962 should not be imposed on them.

2.3. The Show Cause Notice also proposed penal action on following entities/premises/individual:

- i. Mr. Anil Pandit- Authorised representative of M/s Emerald Polymer & Chemicals for recording of statement.
- ii. M/s Yashvi Shipping- Custom Broker.
- iii. M/s Choudhary Transport Co.- Transporter.
- iv. M/s Milap Logistics Pvt. Ltd.- Forwarder.
- v. M/s Baba Ramdevpir Shipping- Custom Broker.
- vi. M/s Tirupati International- High Sea Sellers.
- vii. M/s Ganesh polymers- High Sea Sellers.
- viii. M/s Elegant Commodities FZC.

3. Details of Imports:

3.1. The details of previous imports by M/s. Emerald Polymer and Chemicals (IEC AAGFE5216L), through Mundra port were checked from the Customs EDI (Electronic Data Interchange) system and it could be ascertained that the Importer had imported the following consignments of PVC Suspension

Resin without payment of Customs Duty under the benefit of Advance Authorization Scheme under Notification No. 018/2015 dated 01-04-2015. The details of the same imports are indicated hereunder:

Table-I

Sr. No.	BE No. & Date	CTH	Country	Qty. Kgs	Assessable value	Duty Foregone (BCD in ₹)	IGST (in ₹)
Bills of Entry filed by Customs Broker M/s. Baba Ramdevpir Shipping							
1.	7276976 Dt. 17-03-20	39041020	The Republic of Korea (KR)	72000	4934893	542838	985992
2.	7396219 Dt. 04-04-20	39041020	The Republic of Korea (KR)	111000	7823134	860545	1563062
3.	7495927 Dt. 21-04-20	39041020	Taiwan (TW)	136000	9963737	1096011	1990755
4.	7496116 Dt. 21-04-20	39041020	Taiwan (TW)	119000	8718270	959010	1741910
5.	7715050 Dt. 21-05-20	39041020	Taiwan (TW)	136000	9841837	1082602	1966399
6.	7715235 Dt. 21-05-20	39041020	Taiwan (TW)	119000	8611608	947277	1720599
7.	7715277 Dt. 21-05-20	39041020	Taiwan (TW)	136000	9841837	1082602	1966399
8.	7716123 Dt. 21-05-20	39041020	Taiwan (TW)	119000	8611608	947277	1720599
Bills of Entry filed by Customs Broker M/s. Yashvi Shipping							
9.	7898001 Dt. 13-06-20	39041090	Saudi Arabia (SA)	396000	24086154	2649477	4812414
10.	7908806 Dt. 16-06-20	39041090	Saudi Arabia (SA)	495000	30251234	3327636	6044197
11.	7962155 Dt. 20-06-20	39041090	Saudi Arabia (SA)	114500	7188925	1025599	1478614
12.	7962170 Dt. 20-06-20	39041090	Saudi Arabia (SA)	75250	4724599	683733	973500
TOTAL				2028750	134597836	15204607	26964440
TOTAL DUTY FOREGONE (BCD + IGST)						4,21,69,047/-	

4. Searches carried out and Statements recorded:

4.1. Acting on the above intelligence, jurisdictional Customs / CGST Authorities were requested to carry out searches at following premises:-

- I. Declared address of the Applicant mentioned in Advance Authorization License.
- II. Declared Address of the Supporting Manufacturer/factory/premises/project site.
- III. Declared premises of Forwarder M/s. Milap Logistics Pvt Ltd.
- IV. Declared Office premises of High Seas Seller M/s. Tirupati International.

4.2. Whereas, results of the searches conducted are as under :

Table-II

Sr. No.	Premises Searched	Address of Premises Searched	Result of Search
1.	Declared address of the Applicant mentioned in Advance Authorization License	F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020	The said importer does not exist at the declared address (RUD-01)
2.	Declared Address of the Supporting Manufacturer/factory/premises/project site.	F-31, Industrial Area, Bahadradab, Haridwar Uttarakhand	No such unit exist at the declared premises (RUD-03)
3.	Declared premises of Forwarder M/s. Milap Logistics Pvt Ltd.	G-18, Vishwakarma Colony, (Opp ICD-TKD), New Delhi – 110044	Documents withdrawn under Panchnama Proceeding dtd. 22.06.2021 (RUD-30)

4.	Declared Office premises of High Seas Seller M/s. Tirupati International.	Plot No. 89, Basement, Block-H: Sector-1: DSIIDC Industrial Area Bawana: Delhi-110039	Firm was not found at the provided address (RUD-15)
----	---	---	---

4.3. Further, statements of various persons were recorded under Section 108 of the Custom Act, 1962 which are discussed in subsequent paras of the Show Cause Notice. The name of the person whose statements are relied upon in this Notice are mentioned in the table below:

Table-III

Sr. No	Statements of Persons	Date
01.	Statement of Shri Anil Pandit, Authorized representative of said Importer	10-07-2020 (RUD- 07)
02.	Statement of Shri Renu Rallapati, G card holder of M/s. Yashvi Shipping, Gandhidham	15-07-2020 (RUD-08)
03.	Statement of Shri Ranjeet Singh Chaudhary, Son of Shri Bhagwanram Chaudhary, Proprietor of M/s. Chaudhary Transport Co.	08-06-2021 (RUD-29)
04.	Statement of Shri Jagmohan Kaushal, Director of M/s. Milap Logistics Pvt. Ltd (Aadhar No. 5572 7534 6532)	22-06-2021 (RUD-31)

4.4. Whereas, on the basis of the investigations carried out through analysis of documents, recording of statements of representatives of Importer, Custom Brokers, transporters and the search proceedings, it becomes evident that –

- i. the goods imported by the said Importer by using the license of Advance Authorization have never undergone the compliance as required under the Foreign Trade Policy in as much as the goods imported have never been used in manufacturing activities in either of the mentioned addresses of manufacturer and supporting manufacturer.
- ii. the advance authorization issued to the said Importer is on actual user basis condition and is not transferable;
- iii. since, the manufacturing premises have not been found to be existed, the imported goods appear to have been diverted in the open market;
- iv. with the Importer not existent at any of the declared addresses mentioned in the Advance Authorization License and IEC issued by DGFT and;
- v. the above narrated facts, could be reasonably believed that the goods are liable for confiscation under section 111 of the Customs Act, 1962 and;
- vi. therefore, it is reasonably believed that the goods are liable for confiscation under section 111 of the Customs Act, 1962 and;
- vii. thus, the data available in EDI 1.5, the said Importer had previously filed 12 Bills of Entry as mentioned in Table-I at Mundra Port for the import of **20,28,750 Kgs** of PVC Resin having declared value of **₹13,45,97,836/-**. It is pertinent to note that all Bills of Entry have been filed by availing the duty benefit under Notification No. 18/2015 dated 01-04-2015 under the mentioned Advance Authorization licenses.

5. Submission of documents from different Sources, Visit Reports, Summons not responded or returned back.

5.1 Documents received from Custom Brokers: -

Set of documents like Bills of Entry, copies of Commercial Invoices, Bills of Lading, High Seas Sales Agreement, Gate passes, copy of BE checklist, E-mail correspondence etc. were called from the Customs Broker who had handled custom clearance work for the said importer.

5.2 Documents received from Banks: -

KYC documents, copies of account opening documents, bank account statement, moveable/ immovable property details etc. related to said importer were called from ICICI Bank, New Delhi. However, vide email id pratish.memon@icicibank.com on 18-08-2020 **[RUD-11]** wherein, it has been communicated by the bank that there is no account with the given PAN no. and IEC code with them.

5.3. Documents received from Transporters: -

A) Bank statement vide letter dated 20-12-2020 (RUD-27).

5.4. Lorry Receipts along with invoices and E-way bills, respective commercial bills and other documents withdrawn vide Panchnama dated 04.02.2021 **(RUD-28)**.

5.5. Visit/Inquiry reports/ Outcome of Search Proceedings received from other Custom/CGST Authorities: -

The following visits/enquiry reports were received from various Commissionerates wherein, it has been reported that the premises in the document of said importer and High Seas Sellers are non-existent/fictitious:

- (i) Letter F. No. VIII(SB)10/Cus. Prev./Follow Up action/theta/104/2018 dated 07.07.2020 **[RUD-1]** received from the Deputy Commissioner of Customs, Customs Preventive, (Group-VI), NCH, New Delhi with respect to declared premises of said importer at F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020.
- (ii) Letter C. No. 20-Ct/DP/HDR/Emerald/07/2020 dated 09-07-2020 **[RUD-3]** is received from the Assistant Commissioner, Central Goods and Service Tax Division, Haridwar with respect to the declared premises of said importer at F-31, Industrial Area, Bahadrabad, Haridwar Uttarakhand.
- (iii) Letter F. No. VIII(SB)10/Cus.Prev/Gr-IV/458/Ahmedabad/2019 dated 12-03-2021 **[RUD-15]** was received from the jurisdictional Deputy Commissioner (Group-IV), Customs Preventive, New Custom House, New Delhi with respect to declared premise of High Seas Seller i.e. M/s. Tirupati International situated at Plot No. 89, Block-O, Pocket H, Sector 1, DSIIDC, Industrial Area, Bawana, New Delhi-110039.

5.6. Documents received from DGFT:-

Letter issued vide F.No. 05/25/40/340/AM-20/DES-I/CLA from office of ADGFT, New Delhi **(RUD-34)** vide which documents such as Copy of Application of Advance Authorization, RCMC/MSME, IEC, address of the supporting manufacturer and other relevant documents were forwarded to Mundra Custom authorities.

6. Documents received from Plastic Exporter Promotion Council (PEPC):-

Vide E-mail dated 29-09-2020, a copy of form of application for registration cum membership certificate with PCMC, copy of IEC, MSME Certificate.

7. Summons not responded or returned back for various reasons: -

- 7.1.** Summons sent to High Seas Seller M/s. Ganesh Polymers were not responded or returned with remarks "Address Left".
- 7.2.** Summons sent to High Seas Seller M/s. Umang Polymers were not responded or returned with remarks "bandh h".
- 7.3.** Summons sent to High Seas Seller M/s. Om Sai Trading were not responded or returned with remarks "Prapt karne vala yaha se Khali Kar Gaya h".
- 7.4.** Summons sent to High Seas Seller M/s. Shri Balaji Logistics were not responded or returned with remarks "Left Address".
- 7.5.** Summons sent to Sh. Sandeep Kumar were not responded or returned with remarks "No such person in H.No. 10, Sec-10, Return to sender".
- 7.6.** Summons sent to Sh. Kishan Kumar were not responded or returned with remarks "No Such firm at this address".
- 7.7.** Summons sent to Shri Ashutosh Teotia, M/s. ATSM & Co., T-08, Third Floor, Above City Centre, Vaibhav Khand, Indirapuram, Ghaziabad-201014.

8. Statements recorded of concerned persons:

During the course of investigation, statements of various persons concerned who dealt with the IEC and the imported goods were recorded under Section 108 of the Customs Act, 1962.

8.1. Statement of Mr. Anil Pandit, Authorized Representative of M/s. Emerald Polymer and Chemicals's statement was recorded on 10.07.2020 under section 108 of the Custom Act,1962, wherein, he had inter-alia stated that –

- Shri Anil Pandit had been authorized by M/s. Emerald Polymers & Chemicals, New Delhi; that their registered office is at F-84, Okhla Industrial Area, Phase-1, New Delhi – 110020 that he financed Shri Rakesh Kumar, one of the Partners of M/s. Emerald Polymers & Chemicals, New Delhi; his personal email-id is anil.2003@gmail.com;
- that he was related to M/s. Emerald Polymers & Chemicals to the extent of having provided finance to Shri Rakesh Kumar, Partner of M/s. Emerald Polymers & Chemicals, New Delhi;
- that he had not financed Shri Rakesh Kumar on any records or agreement. It was just a mutual understanding that as and when Shri Rakesh Kumar would require money he would call him (Anil Pandit) and he would lend him the money;
- that he came in touch with Shri Rakesh Kumar through a common friend who is an advocate in Delhi named Shri Vishal Bansal; that he had not seen any legal documents of the firm;
- that as far as he knew the Company was a manufacturing unit involved into the business of Polymers;

- that as per his knowledge, the registered unit is situated at F-84, Okhla Industrial Area, Phase-1, New Delhi – 110020 and the manufacturing unit is at Uttarakhand;
- that he had once met Shri Rakesh Kumar with the advocate Shri Vikash Bansal in his office 6 months ago and that there were one or two employees and one peon in his office,
- that he had also once visited the Uttarakhand unit but, no office was there and it was an open area and Shri Rakesh Kumar had stated that he was about to start his business;
- that he did not know when the Company came into existence but, he knew Shri Rakesh Kumar since last 7-8 months and as per his knowledge Shri Rakesh Kumar was into the business of import of Polymers and for that business he used to take money from him on interest basis as it was difficult for them to get the money immediately through bank;
- that he had lent him money on two occasions. First, he had lent him money 6 months ago and as he returned the money timely with interest, he again lent him money just three months ago;
- that he does not know anything about the Company's profile or the other details of the Partner of the Company;
- that the mobile no. of Shri Rakesh Kumar is 8700570481 and his advocate Shri Vishal Bansal's number is 9250924093 and that Shri Vishal had asked him to attend Customs office today and know about the exact reason of the case and to get extension in the date to appear in Customs office;
- that Shri Rakesh Kumar's advocate had asked to get the extension for appearing in the Customs department and told that Shri Rakesh would appear in the fourth week of the month and hence a fresh date be given in the fourth week of July; that he agreed to call over phone, Shri Rakesh Kumar enabling the Customs Officer to speak with him and know few details;
- that he called him several times but, Shri Rakesh Kumar did not pick up the phone call;
- that on sending a text message, he replied that he was in hospital since his father in law was very serious and admitted to hospital. On being asked about the imports or exports of the Company till date, he stated that he just lends money to Shri Rakesh Kumar and does not know anything about the Company and that he had come to the office just because he had been authorized by the Company to take an extension in the Summons date; that he does not know the forwarder or Custom Broker of the Company.

8.2. Statement of Shri Renu Rallapati, G card holder of M/s. Yashvi Shipping, Gandhidham was recorded under Section 108 of Customs Act, 1962 on 15.07.2020 [RUD-8], wherein he had inter-alia stated:-

- that his name is Renu Rallapati and he is G card holder of M/s. Yashvi Shipping and Authorized to give his statement against the Summons dated 13-07-2020; that he is looking after all the works related to

documentation and clearance of the import/ export consignments of their clients at Mundra port. Their email-id is yashvikandla@gmail.com;

- that he is holding G card No. CHM/G/5/2017 issued by the Assistant/Deputy Commissioner (CHA), Custom House, Mundra;
- that M/s. Yashvi Shipping had been authorized as Custom Broker by the Importer M/s. Emerald Polymers & Chemicals, New Delhi (IEC No. AAGFE5216L) and submitted a copy of the authorization letter was submitted herewith. He also stated that they had received the assignment through one of the Custom Brokers from Delhi;
- that the Customs Broker had asked him to take this consignment at Mundra and their complete address being G-18, Vishwakarma Colony, (Opp ICD-TKD), New Delhi – 110044 and name of the concerned person being Shri Jagmohan;
- that regarding verification of the genuineness of the client, they had verified various KYC documents of the importer as per their previous Bills of Entry filed at Mundra Port viz. IEC, PAN, AD code bank letter, IGST certificate, Bank details of company, Aadhar of Partner's of the firm. Endorsed copy of all is submitted. He further stated that they had not done physical verification of the premises;
- that the Bills of Entry were related to the said Importer;
- that after receiving detailed Invoice, packing list, BL, Certificate of Origin, Certificate of Analysis etc., they had filed the said Bills of Entries for the instant Importer. Other than this they had also filed BoE No. 7898001 dated 13-06-2020 and 7908806 dated 16-06-2020 for the said Importer. The goods of BoE No. 7898001 and 7908806 were cleared from Mundra Port. Further, Out of Charge was already given for the BoE No. 7962155 and 7962170 both dated 20-06-2020 but, about 1360 bags of BoE No. 7962170 and 950 bags of BoE No. 7962155 are still lying in the Landmark CFS. Rest of the goods have been transported to the Importer;
- that regarding the remittances received from the importer he stated that this being their first shipment of the 5 BoE's filed for the said Importer and as billing is yet to be done with the said Importer, no payments have been received; that they have received a payment of ₹ 6.30 lakhs from M/s. Milap Logistics Pvt. Ltd, New Delhi for paying to CFS at Mundra;
- that the transport has been arranged by M/s. Milap Logistics, Delhi, who in turn gave this order to Shri Ranjit Chowdhary;
- that he messaged the Transport details such as Driver's name and Truck number, thereafter receiving the details they get the goods loaded in the truck after the goods are given out of charge;
- that the goods gets out of CFS gate after proper custom procedure is followed;
- that they had released the goods/loaded the goods on the particular Truck, number of which has been messaged by M/s. Milap Logistics, Delhi/ Sh. Ranjeet Chowdhary, then give a copy of the Bill of Entry to the Truck driver and after the vehicle gets out of the gate of the CFS, no track is kept by them;

- that they would only inform the person that the vehicle has left with goods;
- that as per IEC and GSTN document, they came to know that the importer is a Partnership firm;
- that they do not have any contact details of either of the two Partners of the firm. They had got this consignment from M/s. Milap Logistics, New Delhi and all their communication was with M/s. Milap Logistics, New Delhi;
- that they had checked the previous Bills of Entry of the Importer;
- that they had verified that the Importer was importing the same goods under Advance License earlier;
- that other than that they do not know anything about the details of the firm or Partners of the firm.

8.3. Statement of Sh. Ranjeet Singh Choudhary, Son of Shri Bhagwanram Chaudhary, Proprietor of M/s. Chaudhary Transport Co. and Director of M/s. BRL Logistic Private Limited both situated at E-204, Pushkar Heights, Opp Sitabag Society, Ishanpur-Vatva Road, Ishanpur Ahmedabad-382443 was recorded on 08-06-2021 under Section 108 of the Customs Act, 1962, wherein he had interalia stated as under:

- that M/s. Chaudhary Transport Co. is his Proprietorship firm and was established 8 to 10 years back;
- that M/s. BRL Logistic Private Limited was formed in Dec 2011 and he and his wife are the Directors of the said Company;
- that he was looking after all the work related to the above firms;
- that there are about 35-40 employees working in the firm;
- that they had branch offices at Gandhidham, Mundra, Morbi, Halvad, Kolkata, Mangalore, Bangalore and Gurgaon etc.;
- that they do not own any vehicles and were hiring vehicles from different transporters/ owners of the vehicles through Brokers;
- that one person, who used to introduce himself as Shri Rajesh had made the bookings for M/s. Emerald Polymer and Chemicals. He used to say that he is speaking from M/s. Emerald Polymer and Chemicals, he used to call from a number which always displayed as "Private Number" in the caller ID. He never disclosed/shared his contact details despite being asked about their details;
- that he used to make the payments on booking of the consignments and never kept the payments pending. The payments were always received before delivery of the goods;
- that he used to call every day on multiple occasions to take the updates;
- that he had asked to send the trucks to the concerned CFS and contact his local CHA for delivery of the goods;
- that the bookings were being made from Mundra Port to Delhi and the goods were transported to Delhi through the trucks arranged by M/s. Chaudhary Transport. However, the exact place of unloading is not

known as the goods were mostly unloaded from the trucks in small tempos at different places such as Alipore or Kheda Kalan;

- that the name of M/s. Emerald Polymers and Chemicals, F-84, Okhla Ind. Area, Phase-I, Okhla, New Delhi-110020 shown in the LRs is as per the booking and the documents such as Bills of Entry;
- that he agreed that the goods have not been delivered to any factory or godown; that the trucks drivers were being asked to come near some weighbridge or some parking etc. in the area of Alipore or Kheda Kalan thereafter, the goods were unloaded from there in some small tempos/ local vehicles;
- that the goods were never delivered at the premises mentioned in the documents;
- that he agreed that they have not received any payments from the bank accounts of M/s. Emerald Polymer and Chemicals;
- that the payments received by them were from M/s. Salasar Impex and M/s. Ganesh Polymers in respect of the goods transported on behalf of M/s. Emerald Polymers and Chemicals;
- that they do not know M/s. Salasar Impex and Shri Rajesh of M/s. Ganesh Polymers, who used to book the consignments on behalf of M/s. Emerald Polymer and Chemicals and used to say that these are their companies and there is no issue in receiving the payments from these companies;
- that the person who introduced himself as Shri Rajesh for booking, used to ask for the numbers of the trucks and mobile numbers of the drivers;
- that he admitted that the E-way Bills for the consignments of M/s. Emerald Polymers and Chemicals, were being generated by their staff or sometimes by the consignor on the basis of the documents;
- that he did not comment on being shown the letters received from the jurisdictional authorities which showed the non-existence of M/s. Emerald Polymer and Chemicals at the given addresses.

8.4. Statement of Shri Jagmohan Kaushal, Director of M/s. Milap Logistics Private Limited, the forwarding firm recorded under Section 108 of the Customs Act, 1962 on 22-06-2021 [RUD-31] wherein he interalia stated as under –

- that M/s. Milap Logistics Pvt. Ltd. was established in 2013. This Company deals in Customs Clearance of import and export and also provide facility of local transport;
- that besides him there are two more directors namely Shri Ram Kumar Yadav and Smt Gunjan Kaushal;
- that M/s. HPL Additives Ltd, Faridabad, M/s. Indo Max Industries, Roorkee, M/s. Alixa Panel, Dehradun, M/s. Emerald Chemical, M/s. Ganesh Polymers, Delhi, M/s. Tirupati International etc. are their clients along with others;
- that he came into contact with M/s. Emerald Chemical, M/s. Ganesh Polymers, Delhi, M/s. Tirupati International through reference of Shri

Ranjeet Choudhary, Director of M/s. BRL Logistics Pvt. Ltd., Ahmedabad during the first quarter (Jan-March) of 2020;

- that Shri Ranjeet Choudhary arranged a meeting with Shri Sushil and Shri Surender who introduced themselves as the owner of these firms and wanted M/s. Milap Logistics to deal in Customs Clearance of these firms;
- that after the meeting as mentioned earlier, all the required documents to file a Bill of Entry such as packing list, commercial invoice and Bill of Lading etc. were forwarded by either of the three persons Shri M. Sushil, Shri Surender, Shri Ganesh (at WhatsApp Group having active members (Shri Jagmohan Kaushal, 9310055716, Shri M. Sushil, +852 52447334, Shri Surender, +852 98024377 and Shri Ganesh, 7291843041), however, most of the correspondence were done by Shri Surender;
- that after filing the papers, M/s. Milap Logistics Pvt. Ltd. G- 18, Vishwakarma Colony, New Delhi-110044 used to charge fee which were deposited in the account of the Company (Bank of Maharashtra, A/c. No.60182302494) on various dates by M/s. Umang Polymers, M/s. Ganesh Polymers and M/s. Tirupati International;
- that M/s. Milap Logistics Pvt. Ltd. used to forward the required documents and consent mails through email addresses viz.

- i. ranbir@milaplogistics.in;
- ii. jagmohan@milaplogistics.in or;
- iii. seaimport1@milaplogistics.in

to;

ganeshpolymers20@gmail.com.

- Shri Jagmohan Kaushal further stated that he knows Shri Ranjeet Choudhary, Director of M/s. BRL Logistics Pvt. Ltd., Ahmedabad for 6 years since, he met him first at Mundra;
- that he deals in Logistics work;
- that when any client would require logistics support from Delhi to Mundra Port and vice-versa, Shri Ranjeet Chaudhary was being contacted by them;
- that the contact details of M/s. BRL Logistics Pvt. Ltd., Ahmedabad is E-204, Pushkar Heights, Opp. Sitabaug Society, Isanpur Vatva Road, Isanpur, Ahmedabad- 382443 having contact number 9099045731;
- that M/s. Milap Logistics Pvt. Ltd., New Delhi had never dealt with M/s. Umang Polymers, M/s. Om Sai Trading Company or M/s. Shri Balaji Trading Company;
- that their company never dealt with M/s. Chaudhary Transport. M/s. Milap Logistics has only dealt with M/s. BRL Logistics Pvt. Ltd., Ahmedabad as mentioned earlier.

9. Scrutiny of documents and analysis of evidences gathered during investigation:

On scrutiny of the documents pertaining to the Bills of entry shown above at **Table – I**, it was observed that M/s. Emerald Polymer and Chemicals has used the Advance Authorisation License (as detailed in TABLE – registered at ICD Sonapat ICD (**INBDM6**) and ICD-Tughlakabad (Code **INTKD6**). The type of

Authorisation is on “Actual User” basis and the same is not transferrable. The details mentioned in the Authorisation such as –

- The address as F-84, Okhla Ind. Area, Phase-I, Okhla, New Delhi – 110020;
- The exporters status is “One Star Export House”;
- The Import item allowed duty free is PVC Resin;
- The Supporting Manufacturer address is F-31 Industrial Area, Bahadrabad, Haridwar, Uttarakhand;
- One of the conditions laid down in the condition sheet is that –
 - The authorisation holder shall export/ supply the product(s) as per the quantity (ies) and value(s) specified in the Table at Serial no. 1 above within a period prescribed under Paragraph 4.22 of the Foreign Trade Policy 2015-2020.

9.1. Whereas, as detailed above at **Para 4.1.**, requests letters dated 03-07-2020 addressed to the Additional Commissioner of Customs, New Custom House, Delhi and the Joint/ Additional Commissioner (CGST), Dehradun seeking –

- verification of the declared factory premises;
- other credentials of the factory viz. storage & stock of the imported items, production capacity & inventory of final products;
- whether the unit is functional or otherwise along with any other relevant details in this matter.

In response, Letter F. No. VIII(SB)10/Cus. Prev./Follow Up action/theta/104/2018 dated 07-07-2020 **[RUD-1]** from the Deputy Commissioner of Customs, Customs Preventive, (Group-VI), NCH, New Delhi conveyed that the premises declared by M/s. Emerald Polymer & Chemicals at F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020 does not exist at that address and the premises belongs to M/s. Galaxy Automobiles Pvt. Ltd. It was also submitted by the General Manager, Customer Service of M/s. Galaxy Automobiles Pvt. Ltd. vide its letter dated 06-07-2020 **[RUD-2]** that M/s. Galaxy Automobiles Pvt. Ltd. had been working on the said premises since June 2018.

9.2. Another response vide letter C. No. 20-Ct/DP/HDR/Emerald/07/2020 dated 09-07-2020 **[RUD-3]** received from the Assistant Commissioner, Central Goods and Service Tax Division, Haridwar regarding verification of the premises at F-31, Industrial Area, Bahadrabad, Haridwar Uttarakhand conveyed that there is no such unit in the name of M/s. Emerald Polymers & Chemicals, New Delhi. Further enquiry revealed that plot no. F 31, Industrial Area, Bahadrabad, Haridwar had been taken on lease rent by Shri Mohit Garg on 29-07-2019 SIDCUL. At present, the plot has been taken by some Shri Arvind Singh on rent to use it as godown for his imported material. Both the parties do not have any information/whereabouts of M/s. Emerald Polymers & Chemicals. The detailed verification report is contained in enclosed Panchnama dated 08-07-2020 **[RUD-4]** drawn at the premises at Plot No. F-31, Industrial Area, Bahadrabad, Haridwar.

9.3. In response to a summons issued to M/s. Emerald Polymer and Chemicals, one person named Mr. Anil Pandit (Aadhar No. 772407506269) remained present on 10-07-2020 with a letter dated 09-07-2020 [RUD-6]

purportedly issued by M/s. Emerald Polymer and Chemicals and showing a signature in the name of by Rajesh Kumar (Partner) to give his statement in the matter of the Bills of Entry. His statement was recorded on 10-07-2020 under Section 108 of the Customs Act, 1962 [RUD-7]. From his statements Shri Anil Pandit comes under suspicion since on one side he says that he is financing Shri Rakesh Kumar, on the other hand he says that he is not financing on record or agreement. Further, he has also submitted that he had met Shri Rakesh Kumar, Partner in his office at Delhi. Whereas, as per the reports from the jurisdictional authorities, the company is non-existent at the give address. Further, there is no person as “Rakesh Kumar” as partner of the firm, as discussed in subsequent paras, whom he claims to have financed. Therefore, fresh Summons were issued to Shri Anil Pandit on 25.01.2021 & on 28.05.2021 to record his statement, but he has not turned up to tender his further statement.

9.4. Whereas, M/s. Yashvi Shipping, Rising House-1, First Floor, Plot No. 82, Sector 1/A, Gandhidham, the Customs Broker having filed the Bill of Entry No. 7980621 dated 23-06-2020 which was placed on hold for examination along with other Bills of entries previously filed by the importer. Therefore, investigation was extended to the Customs Broker and summons were issued for recording their statement in the matter. A statement of Shri Renu Rallapati, G-card holder of M/s. Yashvi Shipping, Gandhidham having office at Rising House-1, First Floor, Plot No. 82, Sector 1/A, Gandhidham was recorded under Section 108 of Customs Act, 1962 on 15-07-2020 [RUD-8], wherein, he has interalia stated that they had received the assignment through one of the Custom Brokers at Delhi, named M/s. Milap Logistics Pvt. Ltd, New Delhi. We have also been giving them work for Delhi. They asked to take this consignment at Mundra. Their complete address is G-18, Vishwakarma Colony, (Opp ICD-TKD), New Delhi – 110044 and name of the concerned person is Shri Jagmohan and they have received a payment of ₹ 6.30 lakhs from M/s. Milap Logistics Pvt. Ltd, New Delhi for paying to CFS at Mundra. Further, they stated that the transport has been arranged by M/s. Milap Logistics, Delhi, who in turn give this order to Shri Ranjit Chowdhary. Further, they also stated that they do not have any contact details of either of the two Partners of the firm. They had got this consignment from M/s. Milap Logistics, New Delhi and all their communication was with M/s. Milap Logistics, New Delhi.

9.5. Whereas, during the course of investigation it was revealed that M/s. Choudhary Transport Co, E-203, Pushkar Heights, Opp Sitabag Society, Ishanpur-Vatva Road, Ishanpur Ahmedabad-382443, the transport company had provided the transport services to the said importer for the said imported goods. Therefore, summons was issued to M/s. Choudhary Transport Co, calling for the records/ documents pertaining to the transportation and delivery of the goods. Summons were issued on 24-07-2020, 17-08-2020 & 11-12-2020. No body from M/s. Choudhary Transport Co. turned up to give the statement, they only submitted its bank statement [RUD-27] in Dec 2020. On scrutiny of the bank statement it was observed that M/s. Choudhary Transport Co. had received all the payments from the High Seas Seller M/s. Ganesh Polymers, Delhi, the forwarder M/s. Milap Logistics and others. M/s. Choudhary Transport Co. had not received any payments from the consignor or consignee in the present case. It appeared that M/s. Choudhary Transport Co. was in contact of the persons/ companies of the cartel and was in knowledge and possession of records/ documents necessary for the investigation.

Therefore, a letter F.No. S/43-71/Inv-Emerald/SIIB-E/CHM/20-21 dated 21-01-2021 was written to the jurisdictional authorities to carry out a search at its premises and resume the records / documents necessary for the investigation. The records/ documents were resumed from the premises of M/s. Choudhary Transport Co, Ahmedabad vide panchnama dated 04-02-2021 **[RUD-28]**.

9.6. Whereas, on scrutiny of the documents, it is observed that M/s. BRL Logistics Pvt. Ltd., E-204, Pushkar Heights, opp. Sitabaug Society, Isanpur-Vatva Road, Isanpur Ahmedabad-382443 had issued bills/invoice to M/s. Emerald Polymers & Chemicals and also in the name of M/s. Chaudhary Transport Co., E 204, Pushkar Heights, Isanpur, Ahmedabad for the goods transported from Mundra to Delhi along with the Consignee's name in the bills as "Emerald Polymers and Chemicals". The Lorry receipts / consignment notes for the transportation from Mundra to Delhi were issued by M/s. Choudhary Transport Co. as well as M/s. BRL Logistic Private Limited and delivery address mentioned in Consignment note/lorry receipt as "**Door Delivery**". It revealed that the address of M/s. BRL Logistics Pvt. Ltd and M/s. Choudhary Transport Co. are the same i.e. E-204, Pushkar Heights, opp. Sitabaug Society, Isanpur-Vatva Road, Isanpur Ahmedabad-382443 thus, it appeared that the delivery address mentioned as "Door Delivery" was to facilitate to conceal the actual delivery point of the goods as the Importer cum license holder M/s. Emerald Polymer & Chemicals is non-existent. Consequently, summons were again issued to M/s. Choudhary Transport Co. and M/s. BRL Logistics Pvt Ltd, for recording their statements under Section 108 of the Customs Act, 1962.

9.7. Statement of Shri Ranjeet Singh Chaudhary, Son of Shri Bhagwanram Chaudhary, Proprietor of M/s. Chaudhary Transport Co. and Director of M/s. BRL Logistics Private Limited both situated at E-204, Pushkar Heights, Opp Sitabag Society, Isanpur-Vatva Road, Isanpur Ahmedabad-382443, was recorded on 08-06-2021 [RUD-29] wherein, he stated and confessed that they had never delivered the goods to the addresses mentioned in the documents. He had also admitted that they had never received any payments from M/s. Emerald Polymer and Chemicals but, received from M/s. Ganesh Polymers, who happened to be one of the high seas seller and from another company in the name of M/s. Salasar Impex. The statement of Sh. Ranjeet Singh Choudhary construes that a group of people framed the bogus firm of M/s. Emerald Polymer and Chemicals and its High Seas Sellers to fraudulently avail the benefits of the Government Schemes and avoid paying the Government tax and duty.

9.8. Whereas, M/s. Milap Logistics Pvt. Ltd, New Delhi is the forwarder for the said imported goods and they have also made a payment of ₹ 6.30 Lacs to M/s. Yashvi Shipping, the investigation was extended to M/s. Milap Logistics Pvt. Ltd. by way of issuance of Summons. M/s. Milap Logistics Pvt. Ltd. through its letter dated 01-08-2020 **[RUD-9]** replied to the summons and stated that

"They have handled only 5 Import shipments at Mundra Vide B/E's 7898001 dtd. 13.06.20, 7908806 dtd. 16.06.20, 7962155 dtd. 20.06.20, 7962170 dtd. 20.06.20 & 7980621 dtd. 23.06.20. They further submitted that the CHA in the case M/s. Yashvi Shipping has already submitted Documents and details of Movement of Goods B/E wise for the same, which may be considered as being submitted. M/s. Milap Logistics Pvt. Ltd. He

further stated that for handling of these consignments, the following undermentioned persons were coordinating with them

1. *Mr. Surinder : Mob 8595866342 & +852-5244-7344*
2. *Mr. Vishal : Mob 9810008295 & +852-9802-4377 & 7291843041*

Further the Payment details received against these consignments along with Ledger & Statement has been enclosed with their letter and requested for considering the submitted document evidences for the same and requested exemption from appearing in person due to present Covid situation”.

9.9. Whereas, scrutiny of the ledgers and bank statement submitted by M/s. Milap Logistics Pvt. Ltd., revealed that they had not received any payments from M/s. Emerald Polymer and Chemicals. The payments shown by them were from M/s. Ganesh Polymers & M/s. Tirupati International both of whom happen to be High Seas sellers to the importer M/s. Emerald Polymer and Chemicals. So it appears that M/s. Milap Logistics Pvt. Ltd. were having commercial transactions with the High Seas Seller. They are the forwarders of the work to the Customs Broker and appear to themselves have not conducted any KYC regarding the importer and have never received any payments from the accounts of the importer. Therefore, further summons were issued to M/s. Milap Logistics Pvt. Ltd. on 24-07-2020, 18-09-2020, 11-12-2020. But they did not turn up to give their statement and did not co-operate in the matter.

9.10. M/s. Milap Logistics Pvt. Ltd, New Delhi, the forwarder for the consignments to the Customs broker and who had also made a payment of ₹6.30 Lacs to the CB M/s. Yashvi Shipping, did not appear for tendering its statement and submission of the records/ documents as called for in the multiple summons issued to them. They had not received any payments from M/s. Emerald Polymer and Chemicals but had received the payments from M/s. Ganesh Polymers & M/s. Tirupati International both of whom happen to be High Seas Sellers to the importer M/s. Emerald Polymer and Chemicals. So, it appeared that M/s. Milap Logistics Pvt. Ltd. was having commercial transactions with the High Seas Seller. The importer was found to be non-existent and the High Seas Sellers were also dubious entities, therefore a letter F.No. S/43-71/Inv-Emerald/SIIB-E/CHM/20-21 dated 21-01-2021 was written to the jurisdictional authorities to carry out a search at its premises and resume the records / documents necessary for the investigation.

9.11. A search was carried out at the premises of M/s. Milap Logistics Pvt. Ltd, New Delhi vide panchnama dated 22-06-2021 **[RUD-30]** and records/ documents as detailed therein were resumed. The scrutiny of the records/ whatsapp conversation reveals that the persons involved in the clearance of the goods were Mr. M Susheel mobile number +85252447334, Mr. Surender mobile number +85298024377 and mobile number 7291843041-Ganesh Polymers. A whatsapp group was formed for the clearance of the goods from Customs. Mr. Surender (+85298024377) and the person having number 7291743041 appear to be the main active persons in the clearance of the goods being imported illicitly by evading Customs Duty running into crores of rupees.

9.12. A statement of Shri Jagmohan Kaushal, Director of M/s. Milap Logistics Pvt. Ltd was recorded under Section 108 of the Customs Act, 1962 on 22-06-2021 **[RUD-31]** wherein, he interalia stated that they had came into contact with M/s. Emerald Chemical, M/s. Ganesh Polymers, Delhi, M/s. Tirupati International through reference of Shri Ranjeet Choudhary, Director

of M/s. BRL Logistics Pvt. Ltd., Ahmedabad around the first quarter (Jan-March) of 2020. Shri Ranjeet Choudhary arranged a meeting with Shri Sushil and Shri Surender who introduced themselves as the owner of these firms and wanted M/s. Milap Logistics to deal in Customs Clearance of these firms. He also stated that after the meeting as mentioned, all the required documents to file a Bill of Entry such as packing list, commercial invoice and Bill of Lading etc. were forwarded by any of the three persons Shri M Sushil, Shri Surender, Shri Ganesh (at WhatsApp Group having active members (Shri Jagmohan Kaushal, 9310055716, Shri M Sushil, +852 52447334, Shri Surender, +852 98024377 and Shri Ganesh, 7291843041). However, most of the correspondences were done by Shri Surender. He stated that, aafter filling the paper, M/s. Milap Logistics Pvt. Ltd. G-18, Vishwakarma Colony, New Delhi-110044, used to charge fee which was deposited in the account of Company (Bank of Maharashtra, A/c No.60182302494) on various dates by M/s. Umang Polymers, M/s. Ganesh Polymers and M/s. Tirupati International. Further, M/s. Milap Logistics Pvt. Ltd. used to forward the required documents and consent mails through email ranbir@milaplogistics.in, jagmohan@milaplogistics.in, or seainport1@milaplogistics.in to ganeshpolymers20@gmail.com. He further stated that he knows Shri Ranjeet Choudhary, Director of M/s. BRL Logistics Pvt. Ltd., Ahmedabad for 6 years since, he met him first at Mundra; he deals in Logistics work; when any clients need logistics support from Delhi to Mundra Port and vice-versa, Shri Ranjeet Chaudhary was being contacted by them. The contact details of M/s. BRL Logistics Pvt. Ltd., Ahmedabad are E-204, Pushkar Heights, Opp Sitabaug Society, Isanpur Vatva Road, Isanpur, Ahmedabad- 382443 having contact number 9099045731 but their company never dealt with M/s. Chaudhary Transport and only dealt with M/s. BRL Logistics Pvt. Ltd., Ahmedabad as mentioned earlier.

9.13. Whereas, from the statement of Shri Jagmohan Kaushal, Director of M/s. Milap Logistics Pvt. Ltd., evidences that the persons concerned with the import and clearance the goods illicitly were introduced to M/s. Milap Logistics by Shri Ranjeet Chowdhary, Proprietor of M/s. Chowdhary Transport Co. and Director of M/s. BRL Logistics Pvt. Ltd, Ahmedabad. The submissions of Shri Jagmohan Kaushal and Shri Ranjeet Chaudhary are contradictory. Shri Jagmohan Kaushal has given the names of the persons introduced to him by Shri Ranjeet Chaudhary, whereas, Shri Ranjeet Chaudhary in his statement has claimed that he does not know the persons. Shri Ranjeet Chaudhary appears to be hiding the facts and misleading the investigation by giving false and incorrect statement. He has tried to hide the identity of the persons involved in the fraud. He claims that the caller ID of the person calling him used to show "Private Number" on screen which cannot be accepted as true. It appears that Shri Ranjeet Chaudhary is trying to shelter the culprits and appears to be hand in gloves with the racketeer. The transportation of the goods from other ports i.e. Nhava Sheva for M/s. Emerald Polymer and Chemicals have also been managed by him only. So it appears that he is closely associated with these persons and is not cooperating with the investigation and further investigation in the matter is required to be carried out to reach the actual culprits in the case.

9.14. Whereas, on scrutiny of the Bills of entries filed by M/s. Emerald Polymer and chemicals, it was observed that they had shown the Bank AD Code as 6390092 in their documents filed with Customs. Therefore, a letter was written to the Branch Manager, ICICI Bank, Plot No. 05, Savitri Market, DP

Block, Pitampura New Delhi-110034 to get the details of the KYC documents and Bank statement through letter dated 03-08-2020 [RUD-10]. A reply is received from the bank through the email id pratish.memon@icicibank.com on 18-08-2020 [RUD-11] wherein, it has been communicated by the bank that there is no account with the given PAN no. and IEC code with them.

10. Whereas, it appears that M/s. Emerald Polymers have given false, fabricated and incorrect details to the department for clearance of their import goods.

11. Whereas, on scrutiny of the Bills of Entries and the supporting documents filed by M/s. Emerald Polymer and Chemicals, it is seen that they have been purchasing/importing the goods through High Seas Seller. They have been executing the High Seas Sales agreements with the different seller. The details of the different High Seas Sellers are as under:

TABLE - IV

Sr. No.	BE No. & Date	Item	High Seas Seller	Supplier	Quantity in Kgs	Assessable value in ₹
1	7276976/ 17.03.20	PVC SUSPENSION RESIN GRADELS100E	M/s. Umang Polymer, Plot No.238, Basement Pocket F, Sector 1, DSIIDC, Bawana Industrial Area, Delhi- 110039, India.	Sunshine International Pvt Ltd., Unit 05, 18/F, Sterling Centre, No.11, Cheng Yue Street, Kowloon, Hong Kong	72000	4934893
2	7396219/ 04.04.20	PVC SUSPENSION RESIN GRADE - LS100H			111000	7823134
3	7495927/ 21.04.20	PVC RESIN H-66 (SUSPENSION GRADE)			136000	9963737
4	7496116/ 21.04.20	PVC RESIN H-66 (SUSPENSION GRADE)			119000	8718270
5	7715050/ 21.05.20	PVC RESIN H-66 (SUSPENSION GRADE)	M/s. Om Sai Trading Co., Office No. 124, Plot No. 26, 1 st Floor, Vikash Royal Arcade, Road No..44, Community Centre, Pitampura, Delhi- 110034.		136000	9841837
6	7715235/ 21.05.20	PVC RESIN H-66 (SUSPENSION GRADE)			119000	8611608
7	7715277/ 21.05.20	PVC RESIN H-66 (SUSPENSION GRADE)	M/s. Shree Balaji Trading Co., Building No. A-2, Shop No.40 Type D, Ostwal, Wonder City, Boisar, Palghar, Maharashtra-401501.	Sunshine International Pvt Ltd., Unit 05, 18/F, Sterling Centre, No.11, Cheng Yue Street, Kowloon, Hong Kong	136000	9841837
8	7716123/ 21.05.20	PVC RESIN H-66 (SUSPENSION GRADE)			119000	8611608
9	7898001/ 13.06.20	PVC RESIN (PVC 67S) (SUSPENSION),	M/s. Ganesh Polymers, B-204, Sector-3, Bawana Industrial Area, New Delhi-110039, India.	Future Resources FZE, 201/Centurion Star Building Tower A, Port Saeed Deira, Dubai, UAE	396000	24086154
10	7962155/ 20.06.20	PVC RESIN(PVC 67S) (SUSPENSION),			114500	7188925
11	7908806/ 16.06.20	PVC RESIN(PVC 67S) (SUSPENSION),	M/s. Tirupati International, Plot No. 89, Block-O, Pocket H, Sector 1, DSIIDC, Industrial Area, Bawana, New Delhi-110039.		495000	30251234

12	7962170/ 20.06.20	PVC RESIN(PVC 67S) (SUSPENSION),	M/s. Ganesh Polymers, Bawana Industrial Area, New Delhi-110039, India.	Elegant Commodities FZC, E Lob Office No. E-59F-31, P.O Box 5 1230, Hamriyah Freezone-Sharjah UAE.	75250	4724599
TOTAL					20,28,750	13,45,97,836

12. An email dated 16.07.2020 [**RUD-12**] is received from the email ID RAVI RANJAN truipatiinternational20@gmail.com to siibmundra@gmail.com which is reproduced as under:

“Respected Sir,

With reference to the subject matter, we would like to inform you that we have sold PVC Resin 67S-495 Mts imported against B/L No. 203147292 and Invoice No. FRF-2021-027 on high seas sale basis to Emerald Polymer & Chemicals against High Seas Sale agreement Dt. 11-06-2020. The Buyer fails to fulfill his commitment for payment of the material before the delivery of the cargo being the reason best known to the buyer. We are requesting your good self to kindly cancel our high seas sale agreement and allow us the clearance of the cargo in the name of Tirupati International Only. The shipment is under heavy detention and demurrage Charges.

thanking you

Yours faithfully

TIRUPATI INTERNATIONAL”

13. Further a letter dated 09-09-2020 [RUD-13] has been received on the letter head of M/s. Tirupati International, Plot No. 89, Basement, Block-H: Sector-1: DSIIDC Industrial Area Bawana: Delhi-110039 wherein the following has been mentioned

*“In re: (1) Bill of Entry No. 7980621 dated 23-06-2020
(2) Seizure Memo dated 28-07-2020
(3) M/s. Emerald Polymer & Chemicals*

Sub: Provisional release of the goods under Section 110A of the Customs Act, 1962 seized through seizure memo dated 28-07-2020.

In reference to the aforesaid the undersigned firm i.e. M/s. Tirupati International, as a claimant of the said goods requested your good selves to provisionally release the goods on a reasonable terms and conditions as per the provisions of Section 110A of the Customs Act, 1962.

That the undersigned firm M/s. Tirupati International has entered into a High Seas Sale Agreement with M/s. Emerald Polymer and Chemical who has filed the bill of entry No. 7980621 dated 23.06.2020 for the purpose of clearance of the goods however, he has not made the payment against the said transaction despite the passage of substantial time therefore, M/s. Tirupati International has started the day to day follow up for the payment and then the partner of the firm informed that they are not in position to make the payment and if they want they are free to clear the cargo on their own name. That on 07-07-2020 he has given the NOC regarding the same and on the basis of the same M/s. Tirupati International has moved an application with request for cancellation of High Seas Sale Agreement however, they came to know that the goods are seized by the office of your

good selves through seizure memo dated 28.07.2020 with allegation of misuse of advance authorization.

As M/s. Tirupati International has not got the payment against the same so he is the actual owner of the goods and in the present scenario when the goods have been seized by the office of your good selves, requested to kindly release the same provisionally to M/s. Tirupati International under the provision of Section 110A of the Customs Act, 1962.”

14. M/s. Tirupati International, is one of the 5 High Seas Sellers who had sold the goods to M/s. Emerald Polymer and Chemicals on High Seas Sales basis. The address of M/s. Tirupati International, Plot No. 89, Block-O, Pocket H, Sector 1, DSIIDC, Industrial Area, Bawana, New Delhi-110039. They have been actively involved in these imports. They have purchased the goods from the overseas supplier and then have entered into a High Seas Sales agreement with M/s. Emerald Polymer and Chemicals. They have not stopped here, they have continued with their involvement with the goods and have made the payments to the forwarder M/s. Milap Logistics, who had entrusted the work of clearance to the Customs Broker M/s. Yashvi Shipping. It may be surprising to note that after the racket of fraud had been busted and goods were seized, (demand notice for which has been issued as mentioned in above paras 2 & 2.1) they had come forward to claim their goods. Therefore, summons were issued to M/s. Tirupati International for their submission of relevant documents and getting their statements recorded under Section 108 of the Customs Act, 1962 on 18-09-2020 & 11-12-2020. However, nobody appeared for giving his statements or submission of records/ documents.

15. Whereas, as the presence of M/s. Tirupati International, Plot No. 89, Block-O, Pocket H, Sector 1, DSIIDC, Industrial Area, Bawana, New Delhi-110039 was necessary and they were in possession of crucial/important documents relevant to the investigation, a letter F. No. S/43-71/Inv-Emerald/SIIB-E/CHM/20-21 dated 21-01-2021 **[RUD-14]** was written to the jurisdictional Customs Authorities to carry out a search at the address and to resume the documents as mentioned in the request letter.

15.1. Whereas, in response to the above, a letter F. No. VIII(SB)IO/Cus.Prev/Gr-IV/458/Ahmedabad/2019 dated 12-03-2021 **[RUD-15]** was received from the jurisdictional Deputy Commissioner (Group-IV), Customs Preventive, New Custom House, New Delhi, wherein, it was informed that the firm was not found at the provided address i.e. Plot No. 89, Block O, Pocket H, Sector 1, DSIIDC Industrial Area, Bawana, New Delhi 110039.

15.2. Whereas, as the search operations at the premises of M/s. Tirupati International, being one of the High Seas Seller resulted in no such entity at the address and the Summons to rest of the 4 High Seas Sellers being returned undelivered as detailed above at Paras 7.1 to 7.4 and again at Paras 16.1 & 16.2. It cannot be a mere coincidence that all the High Seas Sellers are found to be non-existent/ not traceable/ left addresses. So, construing that all these High Seas Seller firms have also been created by the same set of persons and the firms appear to be sham companies just to give an extra layer to the transactions. It also appears that all the High Seas Sellers are fake, non-existent and created to prepare a fake chain of entities enabling a conspiracy to avoid detection of the evasion of Customs duty as well elude uncover the identity/exposure of the persons/entities involved in the fraud.

16. Whereas, it appears that the High Seas Seller M/s. Tirupati International is also a fake firm created and controlled by the racketeers, who have created M/s. Emerald Polymer and Chemicals.

16.1. Whereas, Investigation was also extended to the below mentioned 4 High Seas Sellers by issuing summons:

- a. M/s. Umang Polymer, Plot No.238, Basement Pocket F, Sector 1, DSIIDC, Bawana Industrial Area, Delhi-110039, India,
- b. M/s. Om Sai Trading Company, Office No. 124, Plot No. 26, Ist Floor, Vikash Royal Arcade, Road No. 44, Community Centre, Pitampura, Delhi-110034.
- c. M/s. Shree Balaji Trading Co., Building No. A-2, Shop No.40 Type D, Ostwal Wonder City, Boisar, Palghar, Maharashtra-401501 and
- d. M/s. Ganesh polymers, B-204, Sector-3, Bawana Industrial Area, New Delhi-110039.

16.2. The Summons issued to all the 4 High Seas Sellers returned undelivered with the remarks:

- i. *“bandh hone ke karan vapis”* in case of M/s. Umang Polymers [**RUD-16**];
- ii. *“Prapt karne wala khali kar gaya”* in case of M/s. Om Sai Trading Company [RUD-17];
- iii. *“Left Address”* in case of M/s. Shri Balaji Trading Co. [**RUD-18**] and;
- iv. *“No such firm at this address”* in case of M/s. Ganesh Polymers [**RUD-19**].

17. Whereas, during the course of investigation a Letter dated 25-09-2020 was written to the Additional/ Joint Director DGFT, Office of Zonal Director General of Foreign Trade, Central Licensing Area, “A” Wing I.P Bhavan, I.P Estate, New Delhi-110002, requesting them not to allow further amendment in the license issued to M/s. Emerald Polymer and Chemicals and also the copies of the documents submitted by the IEC Holder submitted while applying for the license/ authorization.

18. Further, it was observed that M/s. Emerald Polymer and Chemicals is registered as a “Manufacturer Exporter” with the “The Plastic Export Promotion Export Council (PEPC)” with RCMC No. PLEPC/E/2019-2020 dated 19-06-2109. Therefore, a Letter dated 25-09-2020 was written to the Plastic Export Promotion Council, (Sponsored by the Ministry of Commerce & Industry Department of Commerce, Govt of India), Crystal Tower, Gundivali Road No. 03, Off Sir MV Road, Andheri (E) Mumbai-400069, requesting them to forward the documents submitted by the party while obtaining the Membership and Registration with the council such as the RCMC along with annexures, Membership Application, copy of the Demand Draft/Cheque drawn to the name of PEPC along with Bank Details, Branch Details, Bank Account No., Chartered Accountant’s Certificate, Addresses Proof of Proprietor/Partners/Directors with residential Address etc. Documents were received from the Plastic Exporter Promotion Council (PEPC) vide Email dated 29-09-2020 [**RUD-32**].

19. On scrutiny of the different documents submitted by the DGFT and Plastic Export Promotion Council, it is learnt that the names and addresses of the partners of M/s. Emerald Polymer and Chemicals are as under:

(1) Sh. Rajesh Kumar S/o Babu Ram Shrivastava, NW 60, Gali No. 10, Vishnu Garden, Tilak Nagar, West Delhi, Delhi.

(***All the KYC documents submitted by the CHA, Forwarders are self-attested by a stamp bearing the name Rajesh Kumar. All letters to Customs also bear a name Rajesh Kumar. Letter of Authority produced by Shri Anil Pandit to tender his statement also had the name & signature of Rajesh Kumar as partner.)

(2) Sh. Anand Kumar, Delhi - No detailed address visible in the produced documents

(3) Sh. Kishan Kumar S/o Sh. Sita Ram, 31-C, Rajpur Road, Civil Lines, Delhi-110054 Delhi, (name appearing in DGFT and PEPC Documents)

(4) Sh. Sandeep Kumar S/o Sh. Raja Ram, Plot no. 12, Sector 12, Nanak Nagar, Jammu (name appearing in DGFT and PEPC Documents)

Therefore, comprehensive investigations were carried out by issuing summons to all the above persons (except Shri Anand Kumar as the detailed address was not available) for recoding their statements under Section 108 of the Customs Act, 1962.

20. In response to the Summons dated 23-01-2021 issued to Shri Rajesh Kumar S/o Babu Ram Shrivastava, NW 60, Gali No. 10, Vishnu Garden, Tilak Nagar, West Delhi, Delhi, a hand written letter dated 02-02-2021 [**RUD-20**] is received by post on 10-02-2021, wherein Shri Rajesh Kumar has submitted that he has been a victim to the fraud carried out by one person Shri Praveen Kumar Sharma, who had given an advertisement in newspaper regarding “Loan under Pradhan Mantri Mudra Yojna” and had collected documents such as Pan Card, Aadhar card, Voter Id, Pass Book etc. That person has misused the documents in obtaining GST registrations and making of fake firms. The letter further states that on receipt of the summons, on being enquired from a CA, it was learnt that one firm M/s. Kumar Exports, C-12, Stall No. 03, Market Yamuna Vihar, Shahdara East, Delhi-110053 is made using his documents wrongly. Shri Rajesh Kumar, in his letter further requested that he has nothing to do with all this and strict actions should be taken against the person misusing his documents. He further stated that he was filing an FIR against the person misusing his documents. He has also submitted some documents such as the advertisement used to trap him, copy of complaint to Police etc.

20.1. Police Complaint Letter of Shri Rajesh Kumar S/o Shri Babu Ram Shrivastava:

आदर्श महीदय SHO जी
 स्थाना, नई दिल्ली

DD No 39A At 14:39
 दि 2/2/2021

महीदय जी, संविनय निवेदन यह है कि मैं राजेश कुमार श्रीवास्तव हूँ। मेरे पिता का नाम बाबू राम श्रीवास्तव है। एक साल पहले मैंने प्रधानमंत्री योजना के अंतर्गत तीन तैने के लिए अपने सारे documents जैसे Pan Card, Athar Card, Voter id Card, Passbook की Photo Copy इत्यादि सब "Ginni Financial Services" को दिये थे। यह ऑफिस Paschim Vihar में है। उसका फोन नं. - 8130859559, 9205215689 है। उस ऑफिस के मुखिया मुखियों का नाम Ravleen Kumar Sharma है। उस व्यक्ति ने मेरे सारे documents को लेकर भाग गया है और अपना office भी बंद कर दिया। और मेरे Pan Card से उसने Rajesh Kumar के नाम से GST ले ली है। और उस कंपनी का नाम Kumar Exports से पता रहा है। और यह कंपनी C-12, Stall no. 3, Market Yamuna Vihar, Shahdara, East Delhi, Delhi-110053 में चल रही है। महीदय यह सब हमें तब पता चला जब हमें 1 फरवरी 2021 को जब हमारे घर पर Notice आया Custom office Mumbai, Gujarat से आया था। हमने हमारे कम्पन कर महीदय इसकी कड़ी कार्यवाही की जाये। हमें बिना बताये हमारे सारे documents का misuse किया गया है। कृपया कर आप यह कंपनी को जो fake ID से चल रही है। उसे बंद करवाये। और जो मेरे नाम से GST Number लिया गया है उसे रद्द किया जाये। और यदि मेरे नाम से कोई Account भी उस व्यक्ति ने खोलवाया है उसे भी बंद किया जाये।

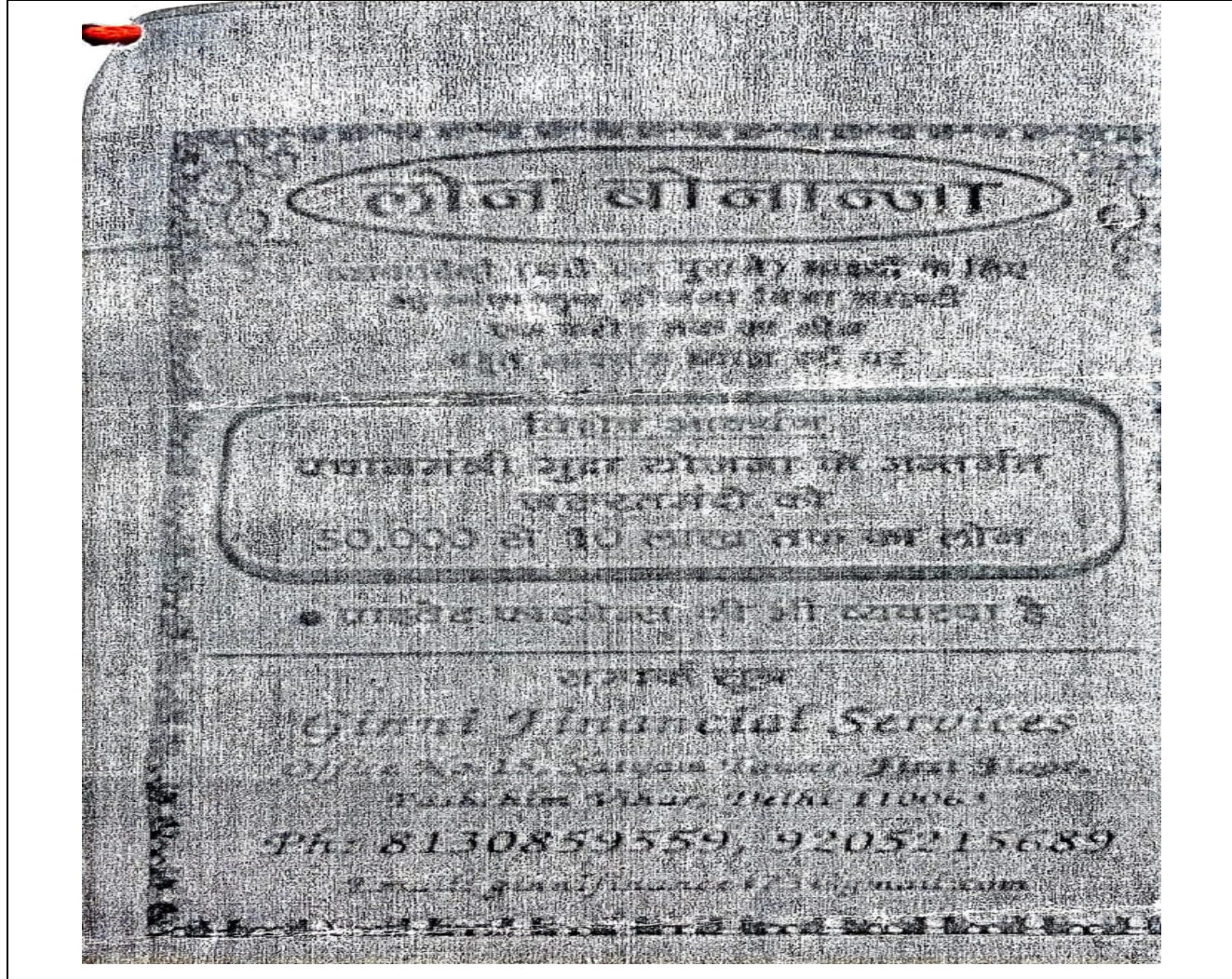
धन्यवाद

नाम - राजेश कुमार श्रीवास्तव
 फोन नं - 9599648493
 पता - N-w 60 gali no-10 Vahmugarden
 Khyala New delhi-18.

दिनांक - 02/02/2021

Rajesh Kumar

20.2. Copy of the Advertisement as sent by Shri Rajesh Kumar, against which he has deposited the documents [RUD-21] is appended hereunder:



21. Further, summons dated 23-01-2021 issued to the other partners i.e. Shri Kishan Kumar S/o. Shri Sita Ram, Delhi and Shri Sandeep Kumar S/o. Shri Raja Ram, Jammu returned undelivered with the remarks "Address Left" for Shri Kishan Kumar S/o. Shri Sita Ram, Delhi [RUD-22] and "No such person in H. No. 12, Sec. 12. Return to Sender" in case of Shri Sandeep Kumar S/o. Shri Raja Ram, Jammu. [RUD-23]

22. Whereas, it becomes evident that the firm M/s. Emerald Polymer & Chemicals had been created with the sole moto for cheating the Government

Exchequer. The unit i.e. the said Importer is/was never/not in existence at the declared addresses. There were/are no employees or offices found. The persons shown as partners have either denied to have any connections with the firm or are not traceable/ available at the given declared addresses. Even their High Seas Sellers are non-existent. They have not made any payments through any of their accounts either to the High Seas Sellers or their Customs Brokers or to the Transporters.

23. A letter dated 12-09-2020 [**RUD-24**] on the letter head of M/s. Rex Legalis, Advocate and Law Consultants, 12B Bhagrathi Bhuvan, Prof. U.U.Bhatt Road, Matunga, Mumbai 400019 has been received wherein it has been mentioned that –

“Subject: Release of Shipment having Bill of Lading No. 203266846 dated 15-06-2020

We act on instructions of Our Client, Elegant Commodities FZC, having address at E-LOB Office No. E-59F-31, P.O. Box- 51230, Hamriyah Free Zone, Sharjah, UAE and write to you as under:

1. Our Clients state that, on receiving an order from one M/s. Tirupati International for import of the commodity ‘PVC Resin 67S’, a shipment was finalized and the commodity ‘PVC Resin 67S’ was agreed to be shipped in 20 containers after due negotiations. Due Procedure was followed by Our Client and a Bill of Lading No. 203266846 dated 15-06-2020 was issued by Our Client. Enclosed herein is the Bill of Lading No. 203266846. Our Client exported the commodity ‘PVC Resin 67S’ in 20 containers having the following container numbers as mentioned below (Hereinafter collectively referred to as ‘said goods’).

2. Our Client states that the said goods duly reached Mundra Port on 21-06-2020 and the Bill of Entry No. 7890621 was filed by one M/s. Emerald Polymer and Chemicals for the said goods on 23-06-2020. (Hereinafter referred to as ‘said Bill of Entry’).

3. Our Clients state that pursuant to filing of the said Bill of Entry on 23-06-2020, the said goods have been pending for clearance for over 2 months and the said goods have not been cleared by the consignee till date due to which Our Client incurred heavy losses. Our Client further states that they have no control over the clearing of the said goods as they are merely the shippers of the said goods.

4. Our Client states that with respect to the said goods, a Summons dated 08-07-2020 was issued to M/s. Emerald Polymer and Chemicals by your office and thereafter the said goods have been seized by your office and a Seizure Memo dated 28-07-2020 was issued to M/s. Emerald Polymer and Chemicals by your office. The Summons dated 08-07-2020 and the Seizure Memo dated 28-07-2020 are enclosed herein. Our Client states that the consignee despite being apprised of the situation, has not taken any action towards clearing the said goods and Our Client is unable to establish contact with the consignee. Furthermore, we also issued a legal notice dated 05-09-2020 to M/s. Tirupati International and M/s. Emerald Polymer and Chemicals asking them to clear the said goods pursuant to payment of the requisite duty and fine and hand them over to Our Clients. No response has been received from M/s. Tirupati International and M/s.

Emerald Polymer and Chemicals till date nor have they cleared the said goods and handed them over to Our Client. Enclosed herein is the copy of the legal notice dated 05-09-2020.

5. Our Client states that the said goods were delivered at Mundra Port on 21-06-2020 and have been kept pending for clearance since 21-06-2020. Our Client reiterates that clearing of the said goods are beyond their control as they are only the shippers of the said goods and the Bill of Entry was filed by one M/s. Emerald Polymer and Chemicals and not by Our Clients.

6. Therefore, due to the unforeseeable delay to clear the said goods owing to factors beyond the control of Our Client, it is hereby requested that the said goods be released and Our Client be allowed to recall the said goods or in the alternative, Our Client be allowed to resell the said goods within India. Our Client is willing to pay the requisite reasonable amount of duty and penalty due on the said goods to serve their purpose. It is therefore requested that you advise Our Client regarding the release of the said goods. Your assistance in this matter shall be highly appreciated.

Thanking You,

Rohan Janardhanan □ For Rex Legalis”

23.1. Whereas, the above application transpires that, though M/s. Rex Legalis, 12-B, Bhagrathi Bhavan, Prof, U.U. Bharat Road, Matunga, Mumbai-400019 had mentioned in its letter that M/s. *Elegant Commodities FZC*, having address at E-LOB Office No. E-59F-31, P.O. Box- 51230, Hamriyah Free Zone, Sharjah, UAE, were their clients and they were in possession of the documents regarding the ongoing investigation such as the copy of summons dated 08-07-2020 and seizure memo dated 28-07-2020 issued to M/s. Emerald Polymer and Chemicals by this office and mentioned that their client has been in regular touch of the importer (though no direct sales have been made between the two parties), a letter F. No. S/43-71/Inv-Emerald/SIIB-E/CHM/20-21 dated 28-09-2020 **[RUD-25]** was written to M/s. Rex Legalis requesting them to submit the following details and documents to expedite the investigation:-

1. E-mail id, Name of Contact persons, Mobile No./Contact No. from whom their client had received above mentioned summons and seizure memo.
2. Bank account details vide which their client has received payment from Emerald Polymers & Chemicals.
3. E-mail id and contact details of their client.
4. Any other documents and details related to the M/s. Emerald Polymers & chemicals.

23.2. A reply mail dated 15-03-2021 [RUD-26] is received from M/s. Rex Legalis wherein they have replied to the letter dated 28-09-2020 and submitted as under

“Subject: Your letter dated 28-09-2020 having Ref. No. F.No.S/43-71/Inv Emerald/SIIB-E/CHM/20-21 ('said Letter')

We act for and on behalf of Elegant Commodities FZC, having address at E-LOB Office No. E-59F-31, P.O. Box- 51230, Hamriyah

Free Zone, Sharjah, UAE (Hereinafter referred to as 'Our Client') and write to you as under:

- I. We are in receipt of the said Letter mentioned above.*
- II. That in our previous notice dated 12-09-2020, we have elucidated the facts of the matter and that the same is not repeated herein for the sake of brevity. Our Client states and reiterates the contents of our notice dated 12-09-2020.*
- III. That vide the said Letter dated 28-09-2020, we were requested to furnish certain details and documents in order to expedite your investigation.*
- IV. That mentioned below are the details and documents as requested by you:*

1. The Summons and the Seizure Memo was received from the consignee, i.e., M/s. Tirupati International (Mr. Surinder Garg). The email used by M/s. Tirupati International to communicate was tirupatiinternational20@gmail.com and the contact number of Mr. Surinder Garg is +919873958229.

2. Our Client states that their client was Tirupati International and that they were not aware of any further sale of the material. Our Clients were unaware of the fact that the goods have been sold to one, to M/s. Emerald Polymer and Chemicals by Tirupati International via a High Seas sale. Our Client has received no payment from M/s. Emerald Polymer and Chemicals and hence do not possess their bank account details. Our Client has no relationship with M/s. Emerald Polymer and Chemicals whatsoever. That the original importer on the Bill of Entry too is mentioned as Tirupati International.

3. The email ID of Our Client is info@elegantsteelgroup.com.

4. Our Client do not possess any other information with respect to M/s. Emerald Polymer and Chemicals.

5. That all the information in possession of Our Client with respect to M/s. Emerald Polymer and Chemicals have been provided hereinabove and Our Client is ready and willing to cooperate to the best of their ability to expedite your investigation.

6. Our Client states that their goods are yet to be cleared till date. Our Client further states that the goods have not been cleared due to factors beyond the control of Our Client. It is hereby requested that the said goods be released and Our Client be allowed to recall the said goods or in the alternative, Our Client be allowed to resell the said goods within India. Therefore, keeping in mind the cooperation of Our Client, it is requested that you advise Our Client regarding the release of their goods i.e., the commodity 'PVC Resin 67S' which was exported in 20 containers and the details of the said containers have been provided in our notice dated 12-09-2020. Your assistance in this matter shall be highly appreciated.”

23.3. The above two submissions i.e. the letter dated 12-09-2020 and the letter dated 15-03-2021 submitted in reply to the co-operation sought/ queries raised vide letter dated 25-09-2020 appear contradictory to each other. Whereas in

letter dated 12-09-2020 it is submitted in para (2) that “Our Client states that the said goods duly reached Mundra Port on 21-06-2020 and the Bill of Entry No. 7890621 was filed by one M/s. Emerald Polymer and Chemicals for the said goods on 23-06-2020. (Hereinafter referred to as ‘said Bill of Entry’)” where as in the letter dated 15-03-2021, it is submitted in para (2) that “Our Client states that their client was Tirupati International and that they were not aware of any further sale of the material. Our Clients were unaware of the fact that the goods have been sold to one, to M/s. Emerald Polymer and Chemicals”.

23.4. Further in their letter dated 12-09-2020 they mention that “with respect to the said goods, a Summons dated 08-07-2020 was issued to M/s. Emerald Polymer and Chemicals by your office and thereafter the said goods have been seized by your office and a Seizure Memo dated 28-07-2020 was issued to M/s. Emerald Polymer and Chemicals by your office.”, whereas, they submit in their letter dated 15-03-2021 that they are not aware that M/s. Emerald Polymers is the importer of the goods.

23.5. From the above it appears that the submissions made by M/s. Elegant Commodities FZC, showing address at E-LOB Office No. E-59F-31, P.O. Box-51230, Hamriyah Free Zone, Sharjah are not only incorrect but, also contradictory. They also appear to be a part of the larger racket. They also appear to be handled by the same set of racketeers, who are handling M/s. Emerald Polymer and Chemicals & other parties, shown as the High Seas Sellers of the goods. So M/s. Elegant Commodities FZC, having address at E-LOB Office No. E-59F-31, P.O. Box-51230, Hamriyah Free Zone, Sharjah, is also engaged in the large conspiracy orchestrated by the persons behind the creation of M/s. Emerald Polymer and Chemicals.

24. During the course of investigations, it was observed that in case of 08 of the Bills of entries for the earlier periods (out of a total of 13 Bills of entries filed by M/s. Emerald Polymer and Chemicals), the Customs Broker was M/s. Baba Ramdevpir Shipping, Office No. 41-42, GMA Building, Plot No. 297, Ward-12/B, Gandhidham, Kachchh-370201. Therefore, summons have also been issued to M/s. Baba Ramdevpir Shipping, on 24-07-2020 to appear on 30-07-2020, on 17-08-2020 to appear on 26-08-2020, on 18-09-2020 to appear on 23-09-2020. In response to the summons dated 23-09-2020 M/s. Baba Ramdev Shipping has replied vide letter dated 07-10-2020 (received on 09-10-2020) **(RUD-33)** that –

“As per current Covid -19 condition we are unable to appear personally so you can please give us your Queries in writing which will be answered by our side sincerely.

Due to some circumstances we have been late in giving reply to you. Our representative Mr. Divesh Trivedi Mob No. +918347984949 will receive query letter personally if you want or can assist you with your requirement.”

24.1. M/s. Baba Ramdevpir Shipping was again summoned on 11-12-2020 to appear on 23-12-2020, however they have not appeared for giving their statement. They have also been asked to submit the documents viz. (i) Details of clearances handled for M/s. Emerald Polymer and Chemicals with Copies/details of all correspondences with importer (ii) Details of all Financial Transactions/Remittance details with respect to clearances/ handling/ transportation of the goods for M/s. Emerald Polymer& Chemicals, (iii) Details of transportation of the goods viz. copy of LR of transporter, correspondence with

the transporter, contact details and details of payments to transporter if arranged by them etc. M/s. Baba Ramdev Shipping has neither submitted the records till date nor have they appeared for tendering their statement.

25. Utilization of Advance License and quantification of duty:-

25.1. From the investigation carried out, it was noticed that the said importer was issued 03 Advance Authorizations for duty free import for goods worth Rs 29,73,23,640/- from March-2020 to June-20 which has enabled the syndicate to import of PVC Resin worth of ₹ 4,21,69,047/-. It was also noticed that the said importer were issued Advance Authorisation No. 0510414191 dated 18.05.2020 registered at ICD Sonapat ICD (**INBDM6**), Authorisation no. 0510413211 dated 18-05-2020 registered at ICD Sonapat ICD (**INBDM6**) and the Advance Authorisation no. 0510414410 dated 16-06-2020 registered at ICD Tughlakabad (Code INTKD6) for import of the Duty Free goods under Notification No. 018/2015 dated 01-04-2015 and the type of Authorisation is on "Actual User" basis and the same is not transferrable.

Table-V

Sr. No.	Authorization No.	FOB to be achieved (in ₹)	CIF Entitlement (in ₹)	Port of Registration
01.	0510414191/1 8-05-2020	11,98,37,142/-	9,91,07,880/-	ICD Sonapat ICD (INBDM6)
02.	0510413211/1 8-05-2020	11,98,37,142/-	9,91,07,880/-	ICD Sonapat ICD (INBDM6)
03.	0510414410/1 06-06-2020	11,98,37,142/-	9,91,07,880/-	ICD-Tughlakabad (Code INTKD6)

25.2. From the data available on records and bills of entry made, it came into notice that though the Advance Authorizations were issued at ICD Sonapat (INBDM6) and ICD Tughlakabad INTKD6) as port of registration, consignments were cleared from Mundra Sea Port (INMUN1). It was noticed the clearance of 20,28,750 Kgs. of imported goods viz. PVC Resins from Mundra Sea Port involving Custom duty of Rs 4,21,69,047/- (excluding the Custom Duty demanded vide SCN No. S/43-71/Inv-Emerald/SIIB-E/CHM/ 20-21 dated 22-07-2021) by the said importer. The details are further summarized hereunder:

Table-VI

Importer	Qty (in Kgs)	Assessable Value (in ₹)	Custom Duty not paid (in ₹)
M/s. Emerald Polymers & Chemicals	20,28,750/-	13,45,97,836/-	4,21,69,047/-

25.3. In view of the fraudulent diversion of the imported goods as described below which were entered for clearance under Customs Notification No. 18/2015-CUS 01.04.2015 read with the provisions of Advance Authorizations Scheme notified under Chapter 4.03 of FTP 2015-2020, by using Advance Authorizations in the name of said importer, appears liable for confiscation under Section 111(o) of the Customs Act, 1962, read with Section 11 of the Foreign Trade (Development Regulation) Act, 1992 and Rule 14 of the Foreign Trade (Regulations) Rules 1993 and failing to comply with the condition no. (x) prescribed for clearance of the said goods duty free and condition no. (ii) (a) in

as much as there was no manufacturing facilities found at the declared addresses.

- (a) the imported goods having declared assessable value of ₹ 13,45,97,836/- which were cleared by the said importer under bills of entry as mentioned above in Table-I

25.4. Further, the imported goods, appears to be liable for absolute confiscation under Section 111(d) of the Customs Act, 1962, as these goods have been imported in contravention of the provisions of Section 11 of the Foreign Trade (Development Regulation) Act, 1992 and Rule 14 of the Foreign Trade (Regulations) Rules 1993.

25.5. Further, the imported goods, appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962, read with the provisions of Section 11 of the Foreign Trade (Development Regulation) Act, 1992 and Rule 14 of the Foreign Trade (Regulations) Rules 1993, as these goods have been imported by way of mis-declaration before Customs, and cleared in the name of dummy importer and providing false particular.

25.6. Further, by their various acts of commission and omission, which have rendered above mentioned goods liable for confiscation, the said importer and all the persons/companies/firms involved are liable to penalty under various Sections of the Customs Act, 1962, for their respective roles as discussed in subsequent paras.

26. Important Legal Provisions relevant to the instant case:

26.1. The Foreign Trade (Development and Regulation) Act, 1992.

SECTION 11 - Contravention of provisions of this Act, rules, orders and foreign trade policy.

(1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

26.2. The Foreign Trade (Regulation) Rules, 1993

Rule 14 - Prohibition regarding making, signing of any declaration, statement or documents

(1) No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining an authorisation or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

(2) No person shall employ any corrupt or fraudulent practice, for the purposes of obtaining any authorisation or importing or exporting any goods.

26.3. The Foreign Trade Policy, 2015-20

Chapter 4 - DUTY EXEMPTION /REMISSION SCHEMES

4.00 Objective

Schemes under this Chapter enable duty free import of inputs for export production, including replenishment of inputs or duty remission

4.01 Schemes

(a) Duty Exemption Schemes.

The Duty Exemption schemes consist of the following:

- Advance Authorization (AA) (which will include Advance Authorization for Annual Requirement).
- Duty Free Import Authorization (DFIA)

4.03 Advance Authorization

(a) Advance Authorization is issued to allow duty free import of input, which is physically incorporated in export product (making normal allowance for wastage).

In addition, fuel, oil, catalyst which is consumed / utilized in the process of production of export product, may also be allowed.

(b) Advance Authorization is issued for inputs in relation to resultant product, on the following basis:

(i) As per Standard Input Output Norms (SION) notified (available in Handbook of Procedures)

or

(ii) ...

4.16 Actual User Condition for Advance Authorisation

(i) Advance Authorisation and/or material imported under Advance Authorisation shall be subject to "Actual User" condition. The same shall not be transferable even after completion of export obligation. However, Authorisation holder will have the option to dispose of product manufactured out of duty free input once export obligation is completed.

26.4. Relevant Notifications under Customs Tariff Act, 1975:

Section 3. Levy of additional duty equal to excise duty, sales tax, local taxes and other charges -

"(7) Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty percent as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under Sub-section (8) or Sub-section (8), as the case may be."

26.5. Relevant Notifications under Customs Act, 1962:

➤ Notification No. 18/ 2015 - Customs dated 1st April, 2015:G.S.R. 254 (E).-

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts materials imported into India against a valid Advance Authorisation issued by the Regional Authority in terms of paragraph 4.03 of the Foreign Trade Policy (hereinafter referred to as the said authorisation) from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the whole of the additional duty, safeguard duty, transitional product specific safeguard duty and anti-dumping duty leviable thereon, respectively, under sections 3, 8B, 8C and 9A of the said Customs Tariff Act, subject to the following conditions, namely :-

- (i) that the said authorisation is produced before the proper officer of customs at the time of clearance for debit;
- (ii) that the said authorisation bears,-

(a) *the name and address of the importer and the supporting manufacturer in cases where the authorisation has been issued to a merchant exporter; and*

(b) *the shipping bill number(s) and date(s) and description, quantity and value of exports of the resultant product in cases where import takes place after fulfillment of export obligation; or*

(c) *the description and other specifications where applicable of the imported materials and the description, quantity and value of exports of the resultant product in cases where import takes place before fulfillment of export obligation;*

(iii) *that the materials imported correspond to the description and other specifications where applicable mentioned in the authorisation and are in terms of para 4.12 of the Foreign Trade Policy and the value and quantity thereof are within the limits specified in the said authorization;*

(iv) *that in respect of imports made before the discharge of export obligation in full, the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials;*

(v) to (vii) ...

(viii) *that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within the period specified in the said authorisation or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorisation:*

(ix) ...

(x) *that the said authorisation shall not be transferred and the said materials shall not be transferred or sold;*

Provided that the said materials may be transferred to a job worker for processing subject to complying with the conditions specified in the relevant Central Excise notifications permitting transfer of materials for job work;

Provided further that, no such transfer for purposes of job work shall be effected to the units located in areas eligible for area based exemptions from the levy of excise duty in terms of notification Nos. 32/1999-Central Excise dated 08.07.1999, 33/1999-Central Excise dated 08.07.1999, 39/2001- Central Excise dated 31.07.2001, 56/2002- Central Excise dated 14.11.2002, 57/2002- Central Excise dated 14.11.2002, 49/2003- Central Excise dated 10.06.2003, 50/2003- Central Excise dated 10.06.2003, 56/2003- Central Excise dated 25.06.2003, 71/03- Central Excise dated 09.09.2003, 8/2004- Central Excise dated 21.01.2004 and 20/2007- Central Excise dated 25.04.2007;

(xi) ...

➤ **Section 2(33) of Customs Act, 1962 –**

“prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to

which the goods are permitted to be imported or exported have been complied with.

➤ **Section 2(39) of Customs Act, 1962–**

“Smuggling”, in relation to any goods, means any act or omission which will render such goods liable to confiscation under Section 111 or Section 113.

➤ **Section 28. Recovery of duties not levied or not paid or short-levied or short- paid] or erroneously refunded. -**

(1)...

(2)...

(3) ...

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been ¹¹[so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

➤ **Section 28AAA. Recovery of duties in certain cases. -**

(1) Where an instrument issued to a person has been obtained by him by means of-

(a) collusion; or

(b) wilful misstatement; or

(c) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by such person or his agent or employee and such instrument is utilized under the provisions of this Act or the rules [or regulations made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under Section 28.

(2) Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under Section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilisation of the instrument till the date of recovery of such duty.

(3) ...

(4) ...

(5) Where the person referred to in sub-section (3) fails to repay the amount within the period of thirty days specified therein, it shall be recovered in the manner laid down in sub-section (1) of Section 142.

➤ **Section 46 of Customs Act, 1962.**

Entry of goods on importation. — (1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed :

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed].

(4A) The importer who presents a bill of entry shall ensure the following, namely :—

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]

➤ **Section 111 of Customs Act, 1962.**

Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation:

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

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

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

➤ **Section 112. Penalty for improper importation of goods, etc.- Any person, -**

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

or

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

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5[not exceeding the value of the goods or five thousand rupees], whichever is the greater;

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

➤ **Section 114AA of Customs Act, 1962. Penalty for use of false and incorrect material. –**

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

27. Role Played by Various members of the Smuggling Syndicate:-

From the investigations carried out as discussed above, as described in foregoing paras, the Role played by various members of Smuggling Syndicate appears to emerge as under :-

27.1. Role played by M/s. Emerald Polymer & Chemicals (IEC No-AAGFE5216L):

From the evidences gathered during investigation so far and as discussed in the foregoing paras, the following facts have emerged in respect of the goods detailed in TABLE-I that M/s. Emerald Polymer & Chemicals (IEC No-AAGFE5216L), showing its addresses as F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020 and address of the supporting Manufacturer as F-31, Industrial Area, Bahadrabad, Haridwar, Uttarakhand, is engaged in large scale evasion of Customs Duty by mis-utilising the Advance Authorisation scheme in the import of PVC resin. They have filed the detailed Bills of Entry through its Customs Brokers M/s. Yashvi Shipping and M/s. Baba Ramdevpir Shipping for the import of 20,28,750 Kgs. of PVC Resin totally valued at ₹ 170876055/- by availing Customs duty exemption under Notification No. 018/2015 dated 01-04-2015 and imported the goods availing the benefit of Advance Authorisation license Nos. –

- i. 0510414191/18-05-2020 registered at ICD Sonapat ICD (**INBDM6**)
- ii. 0510413211/18-05-2020 registered at ICD Sonapat ICD (**INBDM6**)
- iii. 0510414410/106-06-2020 registered at ICD-Tughlakabad (Code INTKD6)

27.2. It was further observed during the course of scrutiny of the documents that the Advance Authorisations issued to M/s. Emerald Polymer and Chemicals were issued for import of the Duty Free goods under Notification No. 018/2015 dated 01-04-2015 on “Actual User” basis and the same were not transferrable. M/s. Emerald Polymer and Chemicals were under the obligation of manufacturing of the goods falling under Chapter 39172390, using the goods imported duty free and to export the same to earn foreign currency. M/s. Emerald Polymer and Chemicals had declared its address as F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020” and the Name and Address of the Supporting Manufacturer /factory/ premises/ Project site as “F-31, Industrial Area, Bahadrabad, Haridwar, Uttarakhand” for the two licenses No. 0510414410 dated 16-06-2020 and no. 0510414191 dated 18-05-2020 and Address of the Supporting Manufacturer /factory/ premises/ Project site as B-

1, Plot No. 14, Kashipur Road, Sobti Continental NH-74, Rudrapur, Almora, Uttarakhand for license no. 0510413211 dated 18-05-2020.

27.3. The investigation carried out at the declared address of M/s. Emerald Polymer and Chemicals at F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020, revealed that M/s. Emerald Polymer & Chemicals did not exist at that address and the premises pertains to M/s. Galaxy Automobiles Pvt. Ltd. It was also informed and submitted by the General Manager-Customer Service of M/s. Galaxy Automobiles Pvt. Ltd. vide its letter dated 06-07-2020 that M/s. Galaxy Automobiles Pvt. Ltd. had been working on the said premises since June 2018. Further, the investigation carried out at the declared address of M/s. Emerald Polymer and Chemicals at F-31, Industrial Area, Bahadrabad, Haridwar, Uttarakhand, revealed that M/s. Emerald Polymer & Chemicals is not located at the given address. The said address i.e. plot no. F 31, Industrial Area, Bahadrabad, Haridwar had been taken on lease rent by Shri Mohit Garg on 29-07-2019 SIDCUL, Uttarakhand and presently the same has been taken by some Shri Arvind Singh on rent to use it as godown. Both the parties i.e. the owner/ lease holder as well as the tenant do not have any information/ whereabouts of M/s. Emerald Polymers & Chemicals.

27.4. As the advance authorisations had been issued to M/s. Emerald Polymer and Chemicals on an actual user basis and the importer was not existent at either of the addresses given in the Advance Authorisation i.e. neither at F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020, nor at F-31, Industrial Area, Bahadrabad, Haridwar Uttarakhand, therefore, it appears that the importer has not fulfilled the conditions stipulated in the license and the goods had been imported improperly by M/s. Emerald Polymers & Chemicals, without payment of Customs duty and diverted/sold in local market, which appeared offending in nature and contravention of the Foreign Trade Policy.

27.5. During the course of investigation, it is forthcoming that M/s. Emerald Polymer & Chemicals are not having any factory or manufacturing units established at the addresses declared by them. They have obtained the Authorization certificates fraudulently by using, making, signing fake documents and by making false declarations before the DGFT and Customs. They have even obtained the IEC by using documents, procured fraudulently. The persons shown as partners of the firm are either non-traceable or have submitted that their documents have been procured fraudulently by giving advertisement regarding "Loan under Pradhan Mantri Mudra Yojna". Further the goods imported have also not been delivered to the registered addresses of the importer as confirmed by the transporter in his statement. Further, it appears that the payments to the Custom brokers for their services with regards clearance of imported goods against the said IEC appears to have been routed to the illegitimate account. Further, it appears that the duty free imported goods have been sold in the open market by using dummy IEC. Further, it appears that fake import invoices have been raised to enable the sale of duty free goods by using dummy IEC. Thus, the Customs duty foregone for the above said 12 previous bills of entry amounting to ₹ 4,21,69,047/- involved on the duty free goods valued at ₹13,45,97,836/- needs to be recovered under the provisions of Section 28AAA of the Customs Act, 1962.

27.6. Now, as the said importer i.e. M/s. Emerald Polymer and Chemicals are not having any factory or manufacturing units established at the addresses declared by them. They have obtained the Authorization certificates fraudulently by using, making, signing fake documents and by making false

declarations before the DGFT and Customs. They have even obtained the IEC by using documents, procured fraudulently. The persons shown as partners of the firm are either non-traceable or have submitted that their documents have been procured fraudulently by giving advertisement regarding "Loan under Pradhan Mantri Mudra Yojna". Further the goods imported have also not been delivered to the registered addresses of the importer as confirmed by the transporter in his statement, it construes that the Importer is not available, non-existent.

27.7. Whereas, the investigations conducted also reveals that the Importer is non-existent and the addresses are also fake. Therefore, recovery of the Government revenue is likely not to be recovered. Thus, action under Sub-section (5) of Section 28AAA of the Customs Act, 1962 needs to be initiated.

27.8. All these acts of M/s. Emerald Polymer and Chemicals have rendered the goods liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development, and Regulation) Act, 1992 and Rule 14 of the Foreign Trade (Regulation) Rules, 1993, as various conditions prescribed for clearance of the said goods duty free have not been fulfilled and have also rendered M/s. Emerald Polymer and Chemicals liable for penalty under Section 112 (a) and Section 112 (b), or Section 114A of the Customs Act, 1962 & Under Section 114AA of the Customs Act, 1962.

27.9. Role played by Mr. Anil Pandit (Aadhar No. 772407506269):-

During the course of investigation, it has been observed that Mr. Anil Pandit (Aadhar No. 772407506269) remained present before the investigation on 10-07-2020 with a letter dated 09-07-2020 purportedly issued by M/s. Emerald Polymer and Chemicals and showing a signature in the name of Rajesh Kumar (Partner) authorizing to give his statement on 10-07-2020 under Section 108 of the Customs Act, 1962. He had claimed in his statement that he had financed Shri Rakesh Kumar, who is one of the Partners of M/s. Emerald Polymers & Chemicals, New Delhi. But, it would be pertinent to note that none of the documents viz. IEC, Documents from DGFT and documents from PEPC, establishes the fact that there is any person named Rakesh Kumar as a Partner in the firm. He also failed to disclose the quantum of loan/ finance and stated that he had financed Shri Rakesh Kumar without any agreement or record. He has not submitted any bank statement supporting his claims. His statement cannot be taken as correct as he failed to disclose any details about the partner, whom he claims to finance. He further stated that he had met Shri Rakesh Kumar in his office (i.e. Office of M/s. Emerald Polymer and Chemicals) and also claimed to have visited once their Uttarakhand unit, whereas as per the reports from the jurisdictional authorities, the company is non-existent at the given address. The statement of Shri Anil Pandit is totally incorrect and unsupported by any evidences. It appears that he has just told a concocted story. He appears to be in knowledge of much more facts and has not co-operated in the investigation. He has tried to shelter the offenders and appears to be having financial interest in the transactions. It appears that Shri Anil Pandit has abetted in the offence committed by M/s. Emerald Polymer and Chemicals, which has rendered the goods liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 and have rendered himself liable for penalty under Section 112 and Section 114AA of the Customs Act, 1962.

27.10. Role played by Sh. Ranjeet Chaudhary, Proprietor of M/s. Choudhary Transport Co., Ahmedabad and Director of M/s BRL Logistics Pvt. Ltd., Ahmedabad:-

Investigations revealed that Shri Ranjeet Chaudhary, Proprietor of M/s. Choudhary Transport Co, E-203, Pushkar Heights, Opp Sitabag Society, Ishanpur-Vatva Road, Ishanpur Ahmedabad-382443 is the main and only transporter who had done the transportation of the goods from Mundra. It was observed that they had not received any payment from the importer or CHA in respect of the transportations. They received all the payments from the High Seas Seller M/s. Ganesh Polymers, Delhi, the forwarder M/s. Milap Logistics and others. Further, he has also been transporting the goods for this importer from other ports also. They have not received any payments directly from the importer in those cases also. Further, he connived with the importer by issuing the Lorry receipts by showing the delivery address as "Door Delivery" whereas they have, at no point of time made the deliveries at the places mentioned in their Lorry Receipts. Further he has also been trying to shelter the actual culprits. Shri Ranjeet Chaudhary in his statement has claimed that he does not know the persons and also did not disclose the identity of the persons involved in the scam. Whereas as per the statement of the Director of M/s. Milap Logistics, Shri Ranjeet Chaudhary had introduced and arranged a meeting with the persons engaged in this import and clearance of the goods. So, it appears that Shri Ranjeet Chaudhary of M/s. Choudhary Transport Co. is hand in gloves with the racketeers and helped them by issued manipulated Lorry Receipts, showing incorrect delivery place and thus assisted in diversion of the goods. They have also been engaged in the transportation of the goods which are liable for confiscation under Section 111(o) of the Customs Act, 1962. Thus, they have acquired possession of and have been involved in carrying removing, depositing, keeping, and dealing with the goods which they knew and had reason to believe that were liable to confiscation under section 111(d), 111(m) and 111(o) of the Customs Act, 1962. Thus, M/s Chaudhary Transport Co., Ahmedabad and its Proprietor Shri Ranjeet Singh Chaudhary have also rendered themselves liable for penal action under Section 112 (a) and (b) and Section 114AA of the Customs Act, 1962.

27.11. Role played by M/s. Yashvi Shipping, Custom Broker Firm-

In view of the investigations carried out, it is observed that M/s. Yashvi Shipping, Gandhidham is the Customs Broker, who has filed the Bill of Entry No. 7980621 dated 23.06.2020 for the importer M/s. Emerald Polymer and Chemicals. They have also filed the Bills of Entry in case of earlier 4 consignments (including the 2 consignments, in which partial quantities have been seized i.e. Bill of entry No. 7962155 dated 20.06.2020 and Bill of entry No. 7962170 dated 20.06.2020). They have received the assignment through M/s. Milap Logistics Pvt. Ltd, New Delhi. They have received the documents from the forwarder and not the importer. They have not received any payments from the importer. The payments received by them are from the forwarder. They have not carried out the verification of the documents properly. They are stating that they do not have any contact details of either of the two Partners of the firm and that all their communication was with M/s. Milap Logistics, New Delhi. They have failed to give the contact details of the importer. They have failed to perform their duties as a customs broker. They have used the documents viz. Authorisation Certificates fraudulently procured by the importer. They have also used and uploaded such documents on system and

presented before Customs. Thus by not performing their duties properly and by using the fake documents and by making false declarations they have rendered the subject goods liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 and also rendered themselves liable for penal action under Section 112 (a) and (b) and Section 114AA of the Customs Act, 1962.

27.12. Role played by M/s. Milap Logistics Pvt. Ltd, New Delhi, Forwarding Agent-

In view of the investigations carried out, it is observed that M/s. Milap Logistics Pvt. Ltd, New Delhi is the forwarder for these consignments and they have received the documents from the persons involved in this scam of illicit import of goods, who in turn had carried out these imports without paying the Customs duty on the basis of documents issued utilising fake documents procured deceitfully. After having received such documents, forwarded the same to the Customs Broker for use in improper import of the goods. They have not received the payments for their services directly from the importer instead, received it from entities functioning as High Seas Sellers, who had been created to facilitate the crime/illegal activity. M/s. Milap Logistics Pvt. Ltd., stated that they had been introduced to these Swindlers by Shri Ranjeet Chaudhary, Son of Shri Bhagwanram Chaudhary, Proprietor of M/s. Chaudhary Transport Co.

27.13. All the documents had been received by them through email or WhatsApp. They have never tried to verify the genuineness of the documents before utilising it for the said imports. In spite of handling import of thousands of tons of cargo for the importer and being situated at Delhi themselves, they never tried to verify the genuineness and existence of the importer. In their letter dated 01.08.2020, they have given the names of the contact persons as Mr. Surinder: Mob 8595866342 & +852-5244-7344 and Mr. Vishal: Mob 9810008295 & +852-9802-4377 & 7291843041, whereas, in his statement, the Director of M/s. Milap Logistics had stated that the contact persons in the case were Mr. M Sushil, +852 52447334, Shri Surender, +852 98024377 and Ganesh, 7291843041 and that most of the correspondence were done by Shri Surender. Further verification/ investigation in respect of these numbers is yet to be carried out as the details are revealed recently during the search at their premises i.e. M/s. Milap Logistics Pvt. Ltd. So it appears that M/s. Milap Logistics Pvt. Ltd is not only connected with the persons engaged in carrying out this fraud, they are also having financial transactions with them and also received, forwarded and made others use the fake documents and to make false declarations, by all these acts of omission and commission, they have rendered themselves liable for penal action under Section 112 and Section 114AA of the Customs Act, 1962.

27.14. Role played by M/s. Baba Ramdevpir Shipping, Custom Broker Firm-

From the investigation carried out, it is forthcoming that M/s. Baba Ramdevpir Shipping, Gandhidham have filed 8 Bills of entries for M/s. Emerald Polymer and Chemicals for previous periods. They have not been cooperating with the investigation. Despite having issued multiple summons, as discussed in earlier paras of this notice, they have not come forward to give their statement and submit the documents/ records called for. Their non-cooperation in the investigation and the facts that have emerged during the course of investigation, show that they have also used the fake and improper documents for filing of the Bills of Entries for M/s. Emerald Polymer and

Chemicals. They have not carried out proper verification of the KYC documents and have not verified/ checked the existence of the importer though the goods were being imported duty free under Advance Authorisation on Actual User Basis. They have not submitted their financial details/ bank statements which could lead to the persons involved in the case and help the investigation. Thus they have abetted with the importer in carrying out the fraud and their receiving and using the fake documents and making false declarations has rendered the subject goods liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 and also rendered themselves liable for penal action under Section 112 and Section 114AA of the Customs Act, 1962.

27.15. Role Played by the five High Seas Sellers:-

27.15.1. In view of the investigations carried out, it is observed that there are five High Seas Sellers viz. (i) M/s Tirupati International, (ii) M/s Ganesh Polymers, (iii) M/s Umang Polymer, (iv) M/s Om Sai Trading Company and (v) M/s Shree Balaji Trading Co. who have made high sea sales agreements with M/s Emerald Polymer and Chemicals played a crucial role in fact they are a part of the cartel. From the investigation, it is forthcoming that not only the importer M/s Emerald Polymer and Chemicals is non-existent, the high seas sellers are also found to be non-existent at the declared address. They have not made a normal financial /commercial transaction with M/s Emerald Polymer and Chemicals. They are controlled by the same set of persons, who have created M/s Emerald Polymer and Chemicals and all the high seas sellers. The documents are shared in the same WhatsApp group created with M/s Milap Logistics and payments are being made to the Customs Broker/ forwarder and the transporter from their accounts. They are a part of the same cartel and have abetted in the act of import of the PVC Resin, without paying the Customs duty by wrongly availing the benefit of the Advance Authorisation Scheme. When the importer's consignment is held by the Customs and placed under seizure, they have come forward as a B team of the importer by sending email and letters to claim the goods. However, they never responded to the summons and also on verification, found to be non-existent. This clearly shows that all the high seas sellers are fake firms, created and controlled by the racketeers, who have created M/s Emerald Polymer and Chemicals and have abetted with the importer in carrying out the fraud and their connivance and making of the High sea sales agreements with these non-existent entities and using and forwarding these fake documents and making to file false declarations has rendered the subject goods liable for confiscation under Section 111(d) 111(m) and 111(o) of the Customs Act, 1962 and also rendered themselves liable for penal action under Section 112 (a) and (b) and Section 114AA of the Customs Act, 1962.

27.15.2. Role Played by the Supplier i.e. M/s Elegant Commodities FZC:-

From the investigations carried out, it appears that M/s Elegant Commodities FZC, having address at E-LOB Office No. E-59F-31, P.O. Box- 51230, Hamriyah Free Zone, Sharjah, UAE is one of the foreign based suppliers, who has supplied/sold the goods to the above said high seas sellers who in turn have sold the goods to M/s Emerald Polymer and Chemicals on high seas sales basis in respect of the goods pertaining to the Bills of Entry filed by M/s Emerald Polymer and Chemicals. M/s Elegant Commodities FZC is also a supplier, who has sold the goods to high seas sellers, who in turn have sold the goods to M/s Emerald Polymer and Chemicals on high seas sales basis in

respect of the goods pertaining to the Bill of Entry filed by M/s Emerald Polymer and Chemicals.

27.15.3. M/s Elegant Commodities FZC, Hamriyah Free Zone, Sharjah, UAE in its email letter dated 12.09.2020 has requested for release of the shipment under Bill of Lading No. 203266846 dated 15.06.2020 (which corresponds to the Bill of Entry No. 7980621 dated 23.06.2021, filed by M/s Emerald Polymer and Chemicals). They have also enclosed the copies of Summons dated 08.07.2020 issued to M/s Emerald Polymer and Chemicals and also the copy of the seizure memo dated 28.07.2020 issued while placing the goods under seizure. They have claimed that they have not received the payments and the goods be released or they may be allowed to recall the said goods or in the alternative, be allowed to resell the said goods within India and they have written that they are willing to pay the requisite reasonable amount of duty and penalty due on the said goods to serve their purpose.

27.15.4. As discussed in earlier paras of this notice, M/s Elegant Commodities FZC was requested to co-operate in the investigation by disclosing the details about the buyers and importer. In their email dated 15.03.2021 sent in reply to the queries raised, they avoided to disclose the details and gave contradictory submissions. Whereas in letter dated 12.09.2020 they submitted in para (2) that "Our Client states that the said goods duly reached Mundra Port on 21.06.2020 and the Bill of Entry No. 7890621 was filed by one M/s Emerald Polymer and Chemicals for the said goods on 23.06.2020. (Hereinafter referred to as 'said Bill of Entry')" where as in the latter dated 15.03.2021, they submitted in para (2) that "Our Client states that their client was Tirupati International and that they were not aware of any further sale of the material. Our Clients were unaware of the fact that the goods have been sold to one, to M/s. Emerald Polymer and Chemicals"

27.15.5. Further in their letter dated 12.09.2020 they mention that "with respect to the said goods, a Summons dated 08.07.2020 was issued to M/s Emerald Polymer and Chemicals by your office and thereafter the said goods have been seized by your office and a Seizure Memo dated 28.07.2020 was issued to M/s Emerald Polymer and Chemicals by your office. Whereas they submit in their letter dated 15.03.2021 that they are not aware that M/s Emerald Polymers is the importer of the goods.

27.15.6. Thus it appears that the submissions made by M/s Elegant Commodities FZC, Sharjah are not only incorrect but are contradictory. They also appear to be a part of the larger racket. They also appear to be handled by the same set of racketeers, who have created M/s Emerald Polymer and Chemicals & other parties, shown as the high sea sellers of the goods. So M/s Elegant Commodities FZG, is also engaged in the large conspiracy orchestrated by the persons behind the creation of M/s Emerald Polymer and Chemicals and they are attempting the get the goods released, which is also a part of the conspiracy to get the goods released, after the efforts of M/s Tirupati International, the fake high sea seller's attempts to get the goods release did not result fruits. Therefore it appears that M/s Elegant Commodities FZC, Sharjah has also abetted with the abetted with the importer in carrying out the fraud and their connivance and making sales to the non-existent buyers (M/s Tirupati International and M/s Ganesh Polymers in this case) and further chain of fake documents and filing of import documents on the basis of such documents have rendered the subject goods liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 and also rendered

themselves liable for penal action under Section 112 (a) and (b) and Section 114AA of the Customs Act, 1962.

27.16. From the investigations carried out, it appears that Overseas Suppliers as detailed in TABLE IV to para 11 above supplied/sold the goods to the above referred respective High Seas Sellers who in turn had sold the goods to M/s. Emerald Polymer and Chemicals on High Seas Sales basis.

27.17. Thus, it appears that the High Seas Sellers were fake entities created to evade the payment of Customs duty and were part of the conspiracy to get the goods released, without payment of the duty. Therefore, as all the 5 High Seas Sellers have also abetted with the importer in carrying out the fraud and their connivance and making sales to their non-existent buyer and further the bind the chain of fake documents by filing of import documents on the basis of such documents have rendered the subject goods liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 and also rendered themselves liable for penal action under Section 112 (a) and (b) and Section 114AA of the Customs Act, 1962.

27.18. Role played by M/s BRL Logistics Pvt. Ltd., Ahmedabad:-

Investigations revealed that M/s. BRL Logistics Pvt. Ltd, E-204, Pushkar Heights, Opp. Sitabaug Society, Isanpur Vatva Road, Isanpur, Ahmedabad-382443, is the transporter who had done the transportation of the goods from Mundra. M/s. BRL Logistics Pvt. Ltd., had issued bills/invoice to M/s. Emerald Polymers & Chemicals for the goods transported from Mundra to Delhi along with the Consignee's name in the bills as "Emerald Polymers and Chemicals".

The Lorry receipts / consignment notes for the transportation from Mundra to Delhi were issued by M/s. BRL Logistic Private Limited and delivery address mentioned in Consignment note/lorry receipt as "**Door Delivery**".

It is revealed that the address of M/s. BRL Logistics Pvt. Ltd and M/s. Choudhary Transport Co. are one and the same i.e. E-204, Pushkar Heights, opp. Sitabaug Society, Isanpur-Vatva Road, Isanpur Ahemdabad-382443, thus, it appeared that the delivery address mentioned as "Door Delivery" was to facilitate to conceal the actual delivery point of the goods as the Importer cum license holder M/s. Emerald Polymer & Chemicals is non-existent.

Further M/s. BRL Logistics Pvt. Ltd appeared to have connived with the importer by issuing the Lorry receipts by showing the delivery address as "Door Delivery" whereas they have at no point of time made the deliveries at the places mentioned in their Lorry Receipts.

So, it appears that the company - M/s. BRL Logistics Pvt. Ltd. is hand-in-gloves with the racketeers and helped them by issuing manipulated Lorry Receipts, showing incorrect delivery place and thus assisted in diversion of the goods. They have also been engaged in the transportation of the goods which are liable for confiscation under Section 111(o) of the Customs Act, 1962.

Thus, it appears that M/s. BRL Logistics Pvt. Ltd. have acquired possession of and have been involved in carrying removing, depositing, keeping, and dealing with the goods which they knew and had reason to believe to be liable to confiscation under section 111(d), 111(m) and 111(o) of the Customs Act, 1962. Thus, M/s. BRL Logistics Pvt. Ltd have also rendered themselves liable for penal action under Section 112 (a) and (b) and Section 114AA of the Customs Act, 1962.

28. Charges Framed against the various members of the alleged Smuggling Syndicate:-

28.1. Now, therefore, M/s. Emerald Polymer & Chemicals (IEC No-AAGFE5216L), F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020 are hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:-

- I. Duty of Customs foregone amounting to ₹4,21,69,047/- (Rupees Four Crores Twenty-One Lakhs Sixty-Nine Thousand Forty-Seven Only) involved in its previous imports of 20,28,750 Kgs of PVC Resin totally valued at ₹ 13,45,97,836/- under above mentioned 12 Bills of Entry as detailed in Table-I should not be demanded and recovered from them under Section 28(4) and or Section 28AAA of the Customs Act, 1962;
- II. 20,28,750 Kgs. of PVC Resin totally valued at ₹ 13,45,97,836/- cleared under the benefit of the Advance Authorisation should not be placed under absolute confiscation under Section 111(o) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 14 of Foreign Trade (Regulations) Rules, 1993.
- III. Interest on the duty should not be recovered under the provisions of Sub-Section (2) of 28AAA of the Customs Act, 1962;
- IV. Penalty under Section 112 or Section 114A of the Customs Act, 1962 and penalty under Section 114AA of the Customs Act, 1962 should not be imposed on them.

28.2. Now, therefore, Mr. Anil Pandit (Aadhar No. 772407506269), Ashmat A-12, Sector-3, Shrushti Complex Mira Road, Mumbai is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon him.

28.3. Now, therefore, M/s. Choudhary Transport Co., and its Proprietor Shri Ranjeet Singh Chaudhary, E-203, Pushkar Heights, Opp Sitabaug Society, Ishanpur-Vatva Road, Ishanpur, Ahmedabad-382443, are hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.4. Now, therefore, M/s. Yashvi Shipping, Rising House-1, First Floor, Plot No. 82, Sector 1/A, Gandhidham is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra,

Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.5. Now, therefore, M/s. Milap Logistics Pvt. Ltd, G-18, Vishwakarma Colony, (Opp ICD-TKD), New Delhi – 110044 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.6. Now, therefore, M/s. Baba Ramdevpir Shipping, Office No. 41-42, GMA Building, Plot No. 297, Ward-12/B, Gandhidham, Kachchh-370201 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.7. Now, therefore, M/s. Tirupati International, Plot No. 89, Block-O, Pocket H, Sector 1, DSIIDC, Industrial Area, Bawana, New Delhi-110039 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.8. Now, therefore, M/s. Ganesh polymers, B-204, Sector-3, Bawana Industrial Area, New Delhi-110039 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.9. Now therefore, M/s. Umang Polymers, Plot No. 238, Basement Pocket F, Sector 1, DSIIDC Bawana Industrial Area, Bawana, New Delhi is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.10. Now, therefore, M/s. Om Sai Trading, Office No. 124, Plot No. 26, 1st Floor, Vikash Royal Arcade Road No. 44, Community Centre, Pithampura, Delhi – 110034 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why:

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.11. Now, therefore, M/s. Shree Balaji Trading Co., Building No. A-2, Shop No.40 Type D, Ostwal, Wonder City, Boisar, Palghar, Maharashtra-401501 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.12. Now, therefore, M/s. Elegant Commodities FZC, E Lob Office No. E-59F-31, P.O Box 5 1230, Hamriyah Freezone-Sharjah UAE, is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why

- Penalty under 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

28.13. Now, therefore, M/s. BRL Logistics Pvt. Ltd., E-204, Pushkar Heights, opp. Sitabaug Society, Isanpur-Vatva Road, Isanpur Ahemdabad-382443 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Principal Commissioner of Customs, Custom House Mundra, Office of the Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421, as to why

- Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

RECORD OF PERSONAL HEARING:

29. Following the principle of natural justice and the provisions laid down in the Customs Act, 1962, Opportunities of personal hearing in the case were given to the noticees on 06.01.2026, 28.01.2026, 30.01.2026, 12.02.2026, 13.02.2026, 26.02.2026 and 27.02.2026.

29.1 Ist PH on 06.01.2026:-

No one appeared in the personal hearing fixed on 06.01.2026.

29.2 2nd PH on 28.01.2026 and 30.01.2026

No one appeared in the personal hearing fixed on 28.01.2026 and 30.01.2026.

29.3 3rd PH on 12.02.2026 and 13.02.2026.

Shri G.S Arora ,Advocate appeared before me on 12.02.2026 on behalf of Noticee No 04 (M/s Yashvi Shipping) and 05 (M/s Milap Logistics Pvt.Ltd).He

reiterated the submissions and contentions already placed in their written reply dated 05.01.26 and requested that the case may be considered in a fair and judicious manner based on the written submissions .

29.4 4th PH on 26.02.2026 and 27.02.2026.

Shri Shubham Jhajharia, Advocate appeared before me on 27.02.2026 on behalf of Noticee No.03 (Shri Ranjeet Singh Choudhary, Proprietor of M/s Choudhary Transport Co.) and 13 (M/s BRL Logistic Pvt. Ltd.) He reiterated the submissions and contentions already placed in their written reply dated 23.04.25 and requested that the case may be considered in a fair and judicious manner based on the written submissions.

29.5 Further, it is observed that none of the noticees (Except Noticee No 03, 04, 05 and 13 of the Show Cause Notice) submitted written reply, despite the specific and categorical direction contained in Para 44 of the SCN requiring them to file a written submission within 30 days of its receipt. This deliberate non-compliance indicates that the noticees chose not to contest the allegations on merits.

29.6 I find that all the noticees were afforded sufficient opportunities to submit their written reply as well as to appear for personal hearings. However, neither any reply was filed nor was any of the hearings attended by the noticees (Except Noticee No 03, 04, 05 and 13 of the Show Cause Notice). Accordingly, I hold that the requirement of compliance with the Principles of Natural Justice, as envisaged under Section 122A of the Customs Act, 1962, stands duly satisfied.

29.7 Further, I note that adjudication proceedings cannot be unduly prolonged and are required to be completed within a reasonable period, in accordance with the principles of natural justice and the statutory mandate. In view of the foregoing, and to ensure compliance with the provisions of law, I proceed to adjudicate the matter based on the evidence and material available on record.

WRITTEN SUBMISSION:-

30. M/s. Yashvi Shipping in their submission, interalia, submitted that-

1. The noticee denies all allegations made in the Show Cause Notice except those specifically admitted. They are a licensed Customs Broker with a clean record and have acted in accordance with the Customs Act, 1962 and CBLR, 2018. The SCN does not establish mens rea, connivance, or prior knowledge of the alleged fraud.

2. The noticee filed Bills of Entry (including B/E No. 7980621, 7962155, 7962170) for import of PVC Resin in the name of M/s. Emerald Polymer & Chemicals. The assignment for clearance was received through M/s. Milap Logistics Pvt. Ltd., New Delhi, a logistics forwarder. Their role was limited to document processing and customs clearance. After Out of Charge and handing over goods to the transporter, they had no control over the cargo.

3. Compliance with KYC Requirements- The noticee states that they collected and verified all standard KYC documents, including: IEC, PAN, AD Code letter GST/IGST certificate Aadhaar details of partners.

These documents were issued by government authorities, giving them no reason to doubt their authenticity. The alleged fraud involved sophisticated forgery which even departmental investigation took time to detect.

4. Importer's Credentials- The importer allegedly held the status of a Star Trading House, which created a presumption of genuineness. The Advance Authorisations were valid and registered at ICD Tughlakabad and ICD Sonipat. The importer was already registered in the Customs EDI system, indicating prior verification by government systems.

5. Financial Transactions- Payments of approximately ₹6.30 lakh were received from M/s. Milap Logistics, which had assigned the clearance work. Such payments are normal commercial transactions between logistics intermediaries and Customs Brokers. There were no cash payments, hawala transactions, or profit sharing in the alleged fraud.

6. Alleged Syndicate Responsible for Fraud- According to the noticee, the fraud was orchestrated by a syndicate involving the fake importer, high seas sellers, and transporter Ranjeet Chaudhary. Ranjeet Chaudhary introduced the business to Milap Logistics, who then engaged the noticee. The noticee was therefore two levels removed from the alleged masterminds.

7. Diversion of Goods- The diversion allegedly occurred after customs clearance during transportation. It is alleged that Ranjeet Chaudhary manipulated lorry receipts to falsely show door delivery. Once goods left the CFS gate, the noticee had no role or control over their movement.

8. Contradictory Statements of Co-Noticees- Ranjeet Chaudhary claimed he dealt with an unknown person through a private number. However, Milap Logistics stated that Chaudhary introduced them to the masterminds. These contradictions allegedly show that Chaudhary is concealing facts and that the noticee was unaware of the conspiracy.

9. Legal Submissions- Penalty under Section 112 (abetment) or Section 114AA (use of false documents) requires knowledge or intent. The SCN allegedly contains no evidence such as communications or confessions linking the noticee to the fraud. Reliance is placed on case law stating that a Customs Broker is not required to conduct investigative verification if documents appear genuine.

10. Bonafide Conduct- The noticee claims to have cooperated with the investigation and facilitated the appearance of the importer's representative before authorities. They contend that they were victims of fraud perpetrated by other parties.

11. Request for Cross-Examination- The noticee seeks cross-examination of Shri Ranjeet Chaudhary to establish the true facts and demonstrate lack of involvement.

30.1 M/s. Choudhary Transport vide its submission, interalia, submitted that-

1. Preliminary Objection

- The noticee submits that an earlier Show Cause Notice dated 22.07.2021 was already issued on the same cause of action.
- The present SCN dated 12.03.2025 is therefore a second SCN arising from the same facts and proceedings, which is not permissible in law.
- Hence, the present SCN is alleged to be without jurisdiction and time-barred.

2. Allegations in SCN

- The SCN proposes penalty under Section 112 and Section 114AA of the Customs Act, 1962.
- It alleges that the noticee:
 - aided and abetted M/s. Emerald Polymer & Chemicals,
 - knowingly transported goods liable to confiscation under Section 111, and
 - issued manipulated transport documents.

3. Denial of Allegations

- The noticee denies all allegations and submits that:
 - they did not connive or assist the importer in any illegal activity.
 - goods were transported bonafide on the basis of valid invoices, Bills of Entry and E-way bills.
 - Lorry Receipts (LRs) were issued based on documents provided by the consignor.

4. Nature of Business of the Noticee

- M/s. Choudhary Transport Co. is a proprietorship firm engaged in transport booking.
- The firm does not own trucks and arranges vehicles from different truck owners through brokers.
- Their role is limited to transportation of goods as per booking instructions.

5. Transport Bookings

- Transport bookings were made through one Shri Rajesh, who represented himself as the authorised representative of the importer.
- Lorry Receipts were prepared based on the details mentioned in invoices and transport documents.

6. Payment for Transportation

- Freight payments were received through bank accounts of M/s. Salasar Impex and M/s. Ganesh Polymers, stated to be sister concerns of the importer.
- Payments were made in advance for transport bookings.
- The noticee claims they received only transport charges and no other gratification.

7. Delivery of Goods

- Delivery addresses were mentioned in LRs based on information provided by the booking party.
- “Door delivery” was mentioned in the LRs as a standard transport practice.
- Goods were handed over as per the instructions of the booking party who claimed to have multiple premises and warehouses.

8. Lack of Knowledge of Import Activity

- The noticee submits that they were only transporting goods after customs clearance.
- As a transporter they had no knowledge about the import transactions, duty exemptions, or Advance Authorisations.
- They were not expected to verify the legality of the importer's import benefits.

9. Statement under Section 108

- Statement of Shri Ranjeet Singh Chaudhary was recorded on 08.06.2021 under Section 108.
- The noticee claims that all information was truthfully provided and nothing was concealed.

10. Dispute with Statement of Milap Logistics

- The SCN relies on the statement of Shri Jagmohan Kaushal of M/s. Milap Logistics Pvt. Ltd.
- The noticee denies the allegation that he arranged meetings with the alleged masterminds Sushil and Surendra.
- The statement is claimed to be false and unreliable.

11. Request for Cross-Examination

- The noticee requests cross-examination of Shri Jagmohan Kaushal and other witnesses.
- It is argued that statements cannot be relied upon without cross-examination.

12. Legal Submissions on Section 112

- Penalty under Section 112 requires that the person:
 - abetted acts rendering goods liable to confiscation, or
 - dealt with goods knowing they were liable for confiscation.
- The noticee claims:
 - they transported goods only after import and clearance,
 - had no knowledge or reason to believe that goods were liable to confiscation.

13. Legal Submissions on Section 114AA

- Section 114AA applies when a person knowingly or intentionally uses false documents in customs transactions.
- The noticee submits that:
 - they did not make or sign any customs declaration,
 - LRs and E-way bills were issued only for domestic transportation,
 - such documents were not used for customs transactions.

14. Case Law Relied Upon

- Reliance placed on Adarsh Kumar vs. Commissioner of Customs – 2000 (122) ELT 830 (Tri.) to argue that penalty cannot be imposed without proof of knowledge.

30.2 M/s. Milap Logistics, interalia, submitted that-

- **Role Limited:** Milap Logistics acted only as a forwarding/clearing agent, forwarding documents received from clients to the CHA, without fabricating or altering them.
- **Good Faith:** The company operated in good faith, relying on documents issued/registered by government authorities (Advance Authorisation, IEC, GST certificates).
- **Industry Practice:** Clients were introduced through a long-standing associate (Shri Ranjeet Chaudhary). Accepting referred clients is standard commercial practice.

- **No Knowledge of Fraud:** At the time of handling, documents were valid in DGFT/Customs systems. Milap Logistics had no reason to suspect fraud.
- **Victim of Fraud:** Like the department, Milap Logistics was deceived by Emerald Polymer & Chemicals and associated entities.
- **Payments Transparent:** Payments were received through banking channels from high seas sellers (Ganesh Polymers, Tirupati International, etc.), which is common in trade practice. No illicit cash/hawala transactions.
- **₹6.30 Lakhs Payment:** This was reimbursement of clearance expenses paid to Yashvi Shipping, a routine logistics service.
- **Cooperation with Investigation:** Director Jagmohan Kaushal proactively provided names, numbers, and WhatsApp group details of racketeers, aiding the department.
- **Contradictory Statements of Ranjeet Chaudhary:** His evasive and inconsistent testimony undermines the case against Milap Logistics.
- **Legal Position:** • Penalties under Sections 112, 114A, 114AA require proof of “knowledge/intent.” No direct evidence of complicity exists against Milap Logistics.
- **Prayer:**
 - Drop proceedings against Milap Logistics for lack of evidence of mens rea or abetment.
 - Alternatively, allow cross-examination of Ranjeet Chaudhary and other witnesses before any adverse inference.
 - Reserve right to submit judicial precedents and further documents during personal hearing.

30.3 M/s. BRL Logistics, interalia, submitted that-

1. **No involvement in import or alleged offence**
 - The noticee did not connive, aid or abet the importer **M/s. Emerald Polymer & Chemicals** in any alleged violation under the Customs Act, 1962.
2. **Role limited to transportation**
 - The noticee is merely a transporter and only transported goods under valid **Lorry Receipts (LRs), invoices, and E-way Bills** in the normal course of business.
3. **Goods transported after Customs clearance**
 - The goods were transported **only after being cleared by Customs authorities**, therefore the transporter had no role in the import transaction or duty exemption.
4. **Transport arranged through intermediary**
 - The transportation was arranged through **M/s. Choudhary Transport**, and the noticee had **no direct dealing with the importer** or its associates.
5. **Documents verified before transport**
 - The goods were accepted for transportation **only after verifying accompanying documents** such as invoices and Bills of Entry.
6. **No knowledge of alleged illegality**
 - The transporter had **no knowledge or reason to believe** that the goods were liable for confiscation under Section 111 of the Customs Act.
7. **Normal transport practice followed**
 - Delivery locations mentioned in LR's were based on documents provided by the consignor, and door-step delivery or alternate delivery locations are **common transport practices**.
8. **No connection with import benefits or licenses**
 - The transporter is not concerned with **Advance Authorization, duty benefits, or customs compliance** of the importer.
9. **Separate legal entity**
 - **M/s. BRL Logistics Ltd.** is a separate legal entity and cannot be treated as the same entity as **M/s. Choudhary Transport**.
10. **No undue financial benefit**

- The noticee received only **normal transportation charges**, and no illegal gratification or extra payment was received.

11. Ingredients of Section 112 not satisfied

- Penalty under **Section 112(a) or 112(b)** requires knowledge or reasonable belief that the goods are liable to confiscation.
- The noticee had **no such knowledge**, as it only transported goods after clearance.

12. Transport after import cannot render goods liable to confiscation

- Transportation of goods **after import and clearance** cannot make the transporter liable for acts related to importation.

13. No false declaration for Section 114AA

- The noticee **did not knowingly or intentionally make or use any false declaration or document**.

14. LRs and E-way Bills not related to Customs transaction

- The documents issued by the transporter (LRs and E-way Bills) are **for domestic transport purposes**, not for any transaction under the Customs Act.

15. No evidence establishing knowledge or involvement

- There is **no material evidence** showing that the noticee knew or had reason to believe that the goods were liable for confiscation.

16. Reliance on case law

- Reliance placed on **Adarsh Kumar vs. Commissioner of Customs, 2000 (122) ELT 830 (Tri.)**, wherein penalty cannot be imposed without proving knowledge or involvement.

DISCUSSION AND FINDINGS:-

31. I have carefully examined the Show Cause Notice, the relied upon documents (RUDs), and all other evidence available on record. The present case relates to duty-free imports of PVC Resin made by the noticee firms under the Advance Authorization Scheme, wherein it is alleged that the said duty free imported material was diverted and sold in the domestic market, without being delivered to the declared premises and without fulfilment of the prescribed export obligation.

32. From the evidence gathered during investigation, it has emerged that M/s. Emerald Polymer & Chemicals (IEC No. AAGFE5216L) has indulged in large-scale evasion of Customs duty by fraudulently misusing the Advance Authorisation Scheme for duty-free import of PVC Resin. The firm imported 20,28,750 Kgs. of PVC Resin valued at ₹13,45,97,836/- through various Bills of Entry, availing exemption under Notification No. 18/2015-Cus dated 01.04.2015 against Advance Authorisation licences issued on "Actual User" and non-transferable basis, without fulfilling the stipulated export obligation. Investigation revealed that the importer did not exist at any of the declared premises, nor had any manufacturing facility or supporting manufacturer at the stated addresses, and the licences, IEC and related documents were obtained by making false declarations and using forged and fabricated documents. The duty-free imported goods were neither used for manufacture nor delivered to the declared premises but were diverted and sold in the

domestic market through dummy IEC with the aid of fake invoices, while payments to customs brokers were routed through illegitimate accounts. The persons shown as partners were found to be non-traceable or victims of fraudulent misuse of their documents. In view of the investigation and its findings, the show cause notice proposes the recovery of the customs duty foregone amounting to ₹4,21,69,047/- on goods valued at ₹13,45,97,836/- along with applicable interest, confiscation of the diverted goods under Section 111(o) of the Customs Act, 1962, and imposition of penalties on the firms and persons concerned under Section 112(a)/112(b) and 114AA of the Act.

33. Based on the allegation made in the Show cause Notice, the following issues arises for Adjudication:-

- I. Whether the Duty of Customs foregone amounting to ₹4,21,69,047/- (Rupees Four Crores Twenty-One Lakhs Sixty-Nine Thousand Forty-Seven Only) involved in its previous imports of 20,28,750 Kgs of PVC Resin totally valued at ₹ 13,45,97,836/- under 12 Bills of Entry as detailed in Table-I is required to be demanded and recovered from M/s. Emerald Polymer & chemicals under Section 28(4) and or Section 28AAA of the Customs Act, 1962;
- II. Whether 20,28,750 Kgs. of PVC Resin totally valued at ₹ 13,45,97,836/- cleared under the benefit of the Advance Authorisation is liable be absolute confiscation under Section 111(o) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 14 of Foreign Trade (Regulations) Rules, 1993.
- III. Whether Interest on the duty is required to be recovered under the provisions of Sub-Section (2) of 28AAA of the Customs Act, 1962;
- IV. Whether Penalty under Section 112 or Section 114A of the Customs Act, 1962 and penalty under Section 114AA of the Customs Act, 1962 are required to be imposed on M/s. Emerald Polymer & chemicals and other noticees.

34. For a proper and comprehensive appreciation of the aforesaid issues, it is essential, at the outset, to examine the outcome of the searches conducted at the declared business address as mentioned in Advance Authorisation License as well as supporting manufacturer premises of the noticee firms, their High Sea Sales partners and Forwarder. Since the genuineness and existence of such premises have a direct and substantive nexus with the fulfilment of the conditions prescribed under the relevant Exemption Notification, and any discrepancy or non-existence thereof would vitiate the eligibility of the noticee to avail the benefit of the said exemption.

OUTCOME OF VARIOUS SEARCHES CARRIED OUT BY JURISDICTIONAL CUSTOMS/CGST AUTHORITIES / SUBMISSION OF DOCUMENTS FROM DIFFERENT SOURCES, VISIT REPORTS, SUMMONS NOT RESPONDED OR RETURNED BACK

35. SEARCHES CARRIED OUT

35.1 I find that searches were conducted at the declared address of the noticee as specified in the Advance Authorisation Licence, as well as at the premises of the supporting manufacturer, factory/project site, and the declared

premises of the freight forwarder and the High Sea Seller associated with the noticee firm. The outcome of the aforesaid searches is set out in the table below:—

Sr. No.	Premises Searched	Address of Premises Searched	Result of Search
1.	Declared address of the Applicant mentioned in Advance Authorization License	F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020	The said importer does not exist at the declared address .
2.	Declared Address of the Supporting Manufacturer/ factory/premises/project site.	F-31, Industrial Area, Bahadrabad, Haridwar Uttarakhand	No such unit exist at the declared premises .
3.	Declared premises of Forwarder M/s. Milap Logistics Pvt Ltd.	G-18, Vishwakarma Colony, (Opp ICD-TKD), New Delhi – 110044	Documents resumed/withdrawn under Panchnama Proceeding dtd. 22.06.2021.
4.	Declared Office premises of High Seas Seller M/s. Tirupati International.	Plot No. 89, Basement, Block-H: Sector-1: DSIIDC Industrial Area Bawana: Delhi-110039	Firm was not found at the provided address .

35.2 From the outcome of the searches conducted at the aforesaid premises, I find that the declared address of M/s. Emerald Polymer and Chemicals at F-84, Okhla Industrial Area, Phase-I, Okhla, New Delhi-110020 did not exist as such, and it was further revealed that the said premises pertained to M/s. Galaxy Automobiles Pvt. Ltd. In this regard, the General Manager (Customer Service) of M/s. Galaxy Automobiles Pvt. Ltd., vide letter dated 06-07-2020, informed and confirmed that the said company had been operating from the aforesaid premises since June, 2018.

35.3 Further, the investigation carried out at the other declared address of M/s. Emerald Polymer and Chemicals at F-31, Industrial Area, Bahadrabad, Haridwar, Uttarakhand revealed that the said firm was not located at the given address. It was found that Plot No. F-31, Industrial Area, Bahadrabad, Haridwar had been taken on lease by Shri Mohit Garg on 29-07-2019 from SIDCUL, Uttarakhand, and that the said premises is presently under the occupation of Shri Arvind Singh, who is using the same as a godown.

35.4 Further, from the visit note submitted by the Deputy Commissioner, Customs Preventive, New Delhi, I find that the declared office premises of the High Sea Seller, M/s. Tirupati International, were not found to be in existence at Plot No. 89, Basement, Block-H, Sector-1, DSIIDC Industrial Area, Bawana, Delhi-110039.

35.5 Further, I find from the KYC documents, copies of account opening forms, bank account statements and details of moveable/ immovable property pertaining to the said importer, as submitted to ICICI Bank, New Delhi, as well as from the communication received from the said bank, that no bank account exists with ICICI Bank in the name of the importer against the PAN no. and IEC code furnished by them.

35.6 The outcome of the aforesaid searches conclusively establishes that the noticee firms were never operating from their declared IEC or manufacturing unit addresses, and that their partners were also not traceable at the declared premises which conclusively establishes that fictitious and non-functional

premises were deliberately declared by the noticees at the time of obtaining the IECs and Advance Authorisations, with the sole intent to mislead the Customs authorities. Such deliberate misdeclaration of operational premises clearly demonstrates that the noticees never harboured any bona fide intention to set up or operate manufacturing units for fulfilment of export obligations, and that the Advance Authorisations were obtained solely to procure duty-free PVC Resin for diversion into the domestic market.

35.7 The factual position emerging from the aforesaid searches stands further corroborated by the statements recorded under Section 108 of the Customs Act, 1962. The admissions made in the said statements constitute crucial evidence elucidating the modus operandi adopted for diversion of the imported material.

DISCUSSION ON STATEMENTS RECORDED OF THE CONCERNED PERSONS UNDER SECTION 108 OF THE CUSTOMS ACT, 1962.

36. From the statement dated 10.07.2020 of Shri Anil Pandit, Authorised Representative of M/s. Emerald Polymers & Chemicals (RUD-07), it is clearly established that no such unit was in existence at the declared premises and that no manufacturing, import, or export activity was being carried out by M/s. Emerald Polymers & Chemicals at the said address. He, inter alia, admitted that he had been authorised by the firm, whose registered office was stated to be at F-84, Okhla Industrial Area, Phase-I, New Delhi-110020, and that his association with the firm was limited to providing financial assistance to Shri Rakesh Kumar, Partner of the firm, on the basis of mutual understanding without any written agreement or documentary record. He further deposed that he met Shri Rakesh Kumar through a common friend, an advocate, and that he had not examined any legal or statutory documents of the firm. He confirmed that, the firm was engaged in the business of polymers with a purported manufacturing unit in Uttarakhand; however, upon visiting the said Uttarakhand premises, he found no functional office and only an open area.

36.1 From the statement of Shri Renu Rallapati, G-Card holder of M/s. Yashvi Shipping, Gandhidham, recorded on 15.07.2020 (RUD-08), it is clear that he holds G-Card No. CHM/G/5/2017, that M/s. Yashvi Shipping had been appointed as Customs Broker by the importer, M/s. Emerald Polymers & Chemicals, New Delhi (IEC No. AAGFE5216L), on the basis of an authorisation letter received through another Customs Broker from Delhi, with all communications and logistics being routed through M/s. Milap Logistics, New Delhi. He further deposed that KYC documents of the importer, including IEC, PAN, AD code bank letter, IGST registration, bank details and Aadhaar of partners, were verified on the basis of previous Bills of Entry filed at Mundra, though no physical verification of the premises was undertaken. He stated that upon receipt of import documents such as invoice, packing list, bill of lading, certificate of origin and certificate of analysis, Bills of Entry were filed for the said importer, some of which were cleared and others partly lying at Landmark CFS despite Out-of-Charge having been granted, and that transportation was arranged through M/s. Milap Logistics and its transporter Shri Ranjit Chaudhary. He further stated that after release of goods and exit of vehicles from the CFS gate, no further tracking was undertaken by them, and that they were unaware of the business details, operations, or partners of the importer

firm, except that it was a partnership concern importing similar goods earlier under Advance Authorisation.

36.2. The statement of Shri Ranjeet Singh Choudhary, Proprietor of M/s. Chaudhary Transport Co. and Director of M/s. BRL Logistic Private Limited, both situated at E-204, Pushkar Heights, Opp. Sitabag Society, Ishanpur-Vatva Road, Ishanpur, Ahmedabad-382443, was recorded on 08.06.2021(RUD-29) wherein he admitted that bookings for transportation of consignments pertaining to M/s. Emerald Polymers & Chemicals were made by a person introducing himself as Shri Rajesh, who claimed to represent the said firm and contacted him through calls displaying "Private Number," without disclosing his contact details, though he regularly followed up for movement of consignments and made advance payments without keeping dues pending. He confirmed that consignments were booked from Mundra Port to Delhi and that, although the Lorry Receipts reflected delivery to M/s. Emerald Polymers & Chemicals at F-84, Okhla Industrial Area, Phase-I, New Delhi-110020 as per booking instructions and import documents, the goods were not delivered to any factory or godown at the said address but were unloaded at different locations such as Alipore or Kheda Kalan, near weighbridges or parking areas, and thereafter shifted into small tempos or local vehicles. He admitted that the goods were never delivered at the premises mentioned in the documents and that no payments were received from the bank accounts of M/s. Emerald Polymers & Chemicals; instead, payments were received from M/s. Salasar Impex and M/s. Ganesh Polymers, whose association with the consignments was stated by Shri Rajesh. He further admitted that E-Way Bills for consignments of M/s. Emerald Polymers & Chemicals were generated either by his staff or sometimes by the consignor based on the available documents.

36.3. From the statement of Shri Jagmohan Kaushal, Director of M/s. Milap Logistics Private Limited, recorded on 22.06.2021(RUD-31) wherein he admitted that during the first quarter of 2020, he came into contact with M/s. Emerald Chemical, M/s. Ganesh Polymers, Delhi and M/s. Tirupati International through the reference of Shri Ranjeet Choudhary, Director of M/s. BRL Logistics Pvt. Ltd., Ahmedabad, who arranged a meeting with Shri Sushil and Shri Surender, who introduced themselves as owners of the said firms and sought customs clearance services. He further confirmed that thereafter the documents required for filing Bills of Entry, such as packing lists, commercial invoices and Bills of Lading, were forwarded through a WhatsApp group comprising the said persons, with most correspondence handled by Shri Surender, and that upon filing of documents, service charges were deposited into the company's bank account by M/s. Umang Polymers, M/s. Ganesh Polymers and M/s. Tirupati International. He cleared that the company used to forward documents and consent emails from its official email IDs to ganeshpolymers20@gmail.com, and that he has known Shri Ranjeet Choudhary for about six years in connection with logistics work, particularly for movement of consignments between Delhi and Mundra Port. He further confirmed that M/s. Milap Logistics Pvt. Ltd., New Delhi had never dealt with M/s. Umang Polymers, M/s. Om Sai Trading Company or M/s. Shri Balaji Trading Company, and that the company had never dealt with M/s. Chaudhary Transport, having engaged only with M/s. BRL Logistics Pvt. Ltd., Ahmedabad for logistics arrangements.

DISCUSSION ON EVIDENCES GATHERS DURING INVESTIGATION:

37. In pursuance of letter dated 03.07.2020, the Deputy Commissioner of Customs, Customs Preventive,(Group-VI),NCH,New Delhi vide his letter Letter F. No. VIII(SB)10/Cus. Prev./Follow Up action/theta/ 104/2018 dated 07-07-2020 [RUD-1] confirmed that the premises declared by M/s. Emerald Polymers & Chemicals at F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020 does not exist at that address and the premises belongs to M/s Galaxy Automobiles Pvt.Ltd since June-2018.

37.1 Another response vide letter C. No. 20-Ct/DP/HDR/Emerald/07/2020 dated 09-07-2020 [RUD-3] received from the Assistant Commissioner, Central Goods and Service Tax Division, Haridwar regarding verification of the premises at F-31, Industrial Area, Bahadradab, Haridwar Uttarakhand conveyed that there is no such unit in the name of M/s. Emerald Polymers & Chemicals, New Delhi. On Further enquiry, He revealed that plot no. F 31, Industrial Area, Bahadradab, Haridwar had been taken on lease rent by Shri Mohit Garg on 29-07-2019 SIDCUL. And at present, the plot has been taken by some Shri Arvind Singh on rent to use it as godown for his imported material. That Both the parties do not have any information/whereabouts of M/s. Emerald Polymers & Chemicals. Further, it is also confirmed about the non existence of the unit by the detailed verification report i.e. Panchnama dated 08-07-2020 [RUD-4] drawn at the premises at Plot No. F-31, Industrial Area, Bahadradab, Haridwar.

37.2 Further, on scrutiny of bank statement which was submitted by M/s. Chaudhary Transport Co. in December 2020 (RUD-27), it was revealed that payments had been received from the High Seas Seller M/s. Ganesh Polymers, the forwarder M/s. Milap Logistics and others, and not from the consignor or consignee. This indicated that M/s. Chaudhary Transport Co. was in contact with the entities forming part of the cartel and was in possession of material records relevant to the investigation, Further scrutiny revealed that M/s. BRL Logistics Pvt. Ltd., having the same address, had issued invoices to M/s. Emerald Polymers & Chemicals as well as to M/s. Chaudhary Transport Co. for transportation of goods from Mundra to Delhi, with consignee shown as "Emerald Polymers and Chemicals" and delivery terms mentioned as "Door Delivery" in the lorry receipts issued by both entities, thereby indicating an attempt to conceal the actual place of delivery, particularly as the importer-cum-licence holder was found to be non-existent. Shri Ranjeet Singh Chaudhary in his statement dated 08.06.2021 (RUD-29), categorically admitted that the goods were never delivered at the addresses mentioned in the documents and that no payments were received from M/s. Emerald Polymers & Chemicals, but the same was received from M/s. Ganesh Polymers and M/s. Salasar Impex, which admissions clearly establish that a group of persons had created a bogus firm along with associated High Seas Sellers with the intent to fraudulently avail benefits under Government schemes and evade payment of applicable taxes and duties.

37.3 On scrutiny of the ledgers and bank statements submitted by M/s. Milap Logistics Pvt. Ltd. revealed that no payments whatsoever were received from the importer, M/s. Emerald Polymer and Chemicals, and that all payments reflected therein had been received from M/s. Ganesh Polymers and M/s. Tirupati International, both of whom were High Seas Sellers to the said

importer, thereby indicating that M/s. Milap Logistics Pvt. Ltd. was having direct commercial transactions with the High Seas Sellers and not with the importer. It further appeared that M/s. Milap Logistics Pvt. Ltd., acting as a forwarder to the Customs Broker and having also made a payment of ₹6.30 lakhs to M/s. Yashvi Shipping, had neither conducted any independent KYC verification of the importer nor received any consideration from the importer's accounts. Despite issuance of multiple summons dated 24.07.2020, 18.09.2020 and 11.12.2020, M/s. Milap Logistics Pvt. Ltd. failed to appear or cooperate in the investigation, necessitating issuance of a letter dated 21.01.2021 to the jurisdictional authorities for conducting a search at its premises. Consequently, a search was conducted at the premises of M/s. Milap Logistics Pvt. Ltd., New Delhi, under panchnama dated 22.06.2021 (RUD-30), during which relevant records and documents were resumed, and scrutiny thereof, including WhatsApp communications (RUD-30A), revealed that the clearance of the consignments was being coordinated through a WhatsApp group involving persons identified as Shri M. Susheel (+85252447334), Shri Surender (+85298024377) and a person using mobile number 7291843041 associated with M/s. Ganesh Polymers, with Shri Surender and the said person emerging as the principal and active facilitators in the clearance of goods imported illicitly by evading customs duty running into crores of rupees.

37.4 Shri Jagmohan kaushal, Director of M/s. Milap Logistics Pvt. Ltd. during his statement dated 22.06.2021 also confirmed the facts that all documents required for filing Bills of Entry, including packing lists, commercial invoices and Bills of Lading, were forwarded through a WhatsApp group by Shri M. Sushil, Shri Surender or Shri Ganesh, though most of the correspondence was handled by Shri Surender, and that after filing the documents, M/s. Milap Logistics Pvt. Ltd., G-18, Vishwakarma Colony, New Delhi-110044, charged its fees which were credited to its Bank of Maharashtra account by M/s. Umang Polymers, M/s. Ganesh Polymers and M/s. Tirupati International. He further stated that the requisite documents and consent emails were forwarded from the official email IDs of M/s. Milap Logistics Pvt. Ltd. to ganeshpolymers20@gmail.com, and that he has known Shri Ranjeet Choudhary, Director of M/s. BRL Logistics Pvt. Ltd., Ahmedabad, for about six years in connection with logistics work, with M/s. Milap Logistics dealing only with M/s. BRL Logistics Pvt. Ltd., Ahmedabad for logistics support and never with M/s. Chaudhary Transport.

37.5 On scrutiny of the Bills of Entry filed by M/s. Emerald Polymer and Chemicals, it was observed that the Bank AD Code declared therein was 6390092, and accordingly a letter dated 03.08.2020 (RUD-10) was addressed to the Branch Manager, ICICI Bank, Plot No. 05, Savitri Market, DP Block, Pitampura, New Delhi-110034, seeking KYC details and bank statements. In response, ICICI Bank, vide email dated 18.08.2020 (RUD-11), categorically informed that no bank account existed with them in respect of the said PAN and IEC code. This clearly establishes that M/s. Emerald Polymer and Chemicals furnished false, fabricated and incorrect banking particulars to the Customs authorities for clearance of import consignments. Further scrutiny of the Bills of Entry and supporting documents reveals that the imports were effected through execution of High Seas Sale agreements with 1) M/s Umang Polymer, 2) M/s Om Sai Trading Co., 3) Shree Balaji Trading Co., 4) M/s Ganesh Polymer and 5) M/s Tirupati International all High Seas Sellers, .

37.6 M/s. Tirupati International, Plot No. 89, Block-O, Pocket-H, Sector-1, DSIIDC Industrial Area, Bawana, New Delhi-110039, one of the High Seas Sellers, was actively involved in the imports by purchasing goods from overseas suppliers, executing High Seas Sale agreements with M/s. Emerald Polymer and Chemicals, and making payments to the forwarder M/s. Milap Logistics for clearance through the Customs Broker; however, despite issuance of summons dated 18.09.2020 and 11.12.2020 under Section 108 of the Customs Act, 1962, no representative appeared or produced records. Consequently, a search was ordered vide letter dated 21.01.2021 (RUD-14), and the jurisdictional Customs authorities reported vide letter dated 12.03.2021 (RUD-15) that no such firm existed at the declared address. Similar non-traceability of the remaining High Seas Sellers further establishes that these entities were sham, non-existent firms created by the same set of persons to fabricate a layered transaction chain, conceal the actual beneficiaries, and facilitate evasion of customs duty. Accordingly, M/s. Tirupati International is also found to be a fake entity created and controlled by the racketeers who floated M/s. Emerald Polymer and Chemicals.

37.7 The investigation was further extended to the remaining four High Seas Sellers, namely M/s. Umang Polymers, M/s. Om Sai Trading Company, M/s. Shree Balaji Trading Co. and M/s. Ganesh Polymers, by issuance of summons; however, all such summons were returned undelivered with remarks indicating non-existence or vacating of the premises, viz. "closed," "addressee has vacated," "left address," and "no such firm at the given address," respectively, thereby establishing that none of the said High Seas Sellers was traceable at the declared addresses.

37.8 Further investigation revealed that M/s. Emerald Polymer and Chemicals was registered as a *Manufacturer Exporter* with the Plastic Export Promotion Council (PEPC) vide RCMC No. PLEPC/E/2019-2020 dated 19-06-2019; accordingly, vide letter dated 25-09-2020, PEPC was requested to furnish all documents submitted for obtaining such registration, which were received vide email dated 29-09-2020 (RUD-32). Scrutiny of the records obtained from DGFT and PEPC disclosed the names and addresses of the partners as Shri Rajesh Kumar, Shri Anand Kumar (address not available), Shri Kishan Kumar and Shri Sandeep Kumar, with all KYC documents, correspondence with Customs and the Letter of Authority bearing the name and signature of Shri Rajesh Kumar as partner. Consequently, summons were issued to all the aforesaid persons, except Shri Anand Kumar due to non-availability of his detailed address, for recording their statements under Section 108 of the Customs Act, 1962.

37.9 In response to the summons dated 23-01-2021, Shri Rajesh Kumar, vide handwritten letter dated 02-02-2021 received on 10-02-2021 (RUD-20), claimed that his personal documents were fraudulently misused by one Shri Praveen Kumar Sharma, who had allegedly procured them on the pretext of arranging a loan under the Pradhan Mantri Mudra Yojana, and that such misuse resulted in the creation of fake firms and GST registrations, including M/s. Kumar Exports, without his knowledge or consent; he disclaimed any involvement therein, sought action against the said person, stated that he was lodging an FIR, and enclosed supporting documents such as a police complaint and the relevant advertisement (RUD-21). Further, summons issued to the other partners, namely Shri Kishan Kumar and Shri Sandeep Kumar, were

returned undelivered with postal remarks indicating non-availability at the given addresses (RUD-22 and RUD-23).

37.10 From the detailed investigation and material on record as narrated above, it is evident that the firm M/s. Emerald Polymer & Chemicals was created solely with the intent to defraud the Government exchequer; the said importer was never in existence at the declared addresses, no office, manufacturing unit, or employees were found at such premises, the persons shown as partners have either categorically denied any association with the firm or were not traceable at the declared addresses, the purported High Seas Sellers were also found to be non-existent, and no payments whatsoever were made from the firm's bank accounts to the alleged High Seas Sellers, Customs Brokers, or Transporters, thereby establishing the fictitious and sham nature of the entity and its transactions.

UTILISATION OF ADVANCE LICENSE CLAIMING THE BENEFIT UNDER THE NOTIFICATION NO 18/2015 AND QUANTIFICATION OF DUTY.

38. I find that, upon a comprehensive examination of the records and investigation reports placed before me, the said importer had been issued three Advance Authorisations during the period from March 2020 to June 2020, permitting duty-free import of goods aggregating to a CIF entitlement of ₹29,73,23,640/-. These authorisations enabled the importer to import PVC Resin without payment of applicable Customs duties. I observe that the said Advance Authorisations were issued under the provisions of the Advance Authorisation Scheme in terms of Chapter 4 of the Foreign Trade Policy (FTP) 2015–2020 and were governed by the conditions stipulated under Customs Notification No. 18/2015-Cus dated 01.04.2015. The authorisations were issued on an "Actual User" basis and were expressly non-transferable in nature.

38.1 I find that the imported goods were entered for clearance under Customs Notification No. 18/2015-Cus dated 01.04.2015, read with the provisions of the Advance Authorisation Scheme under Chapter 4 of FTP 2015–2020. However, in view of the findings recorded during investigation regarding fraudulent diversion of the imported goods and the absence of any manufacturing facility at the declared premises, I observe that the importer has failed to comply with the essential conditions of the exemption notification and the Advance Authorisation Scheme.

38.2 On a conjoint reading of Paragraphs 4.03 and 4.16 of the Foreign Trade Policy (FTP) 2015–20, which lay down the 'Actual User Condition' applicable to Advance Authorizations, in conjunction with Notification No. 18/2015-Cus dated 01.04.2015, it is evident that the exemption from payment of Customs Duty on imported input materials is strictly conditional. The duty free imported goods must be physically incorporated in the resultant export product and are prohibited from being transferred, sold, or used for manufacture of any product meant for domestic sale or use in the Domestic Tariff Area (DTA). However, the importer firms imported duty-free Poly Vinyl Chloride (PVC) Resin under Advance Authorization and diverted the same to the domestic market, in clear violation of the terms and conditions prescribed under the said Notification and the FTP provisions.

38.3 In view of the above, it is pertinent to refer to the relevant clauses of the Notification No. 18/2015 as reproduced below:-

➤ **Notification No. 18/ 2015 - Customs dated 1st April, 2015:G.S.R. 254 (E).**-

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts materials imported into India against a valid Advance Authorisation issued by the Regional Authority in terms of paragraph 4.03 of the Foreign Trade Policy (hereinafter referred to as the said authorisation) from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the whole of the additional duty, safeguard duty, transitional product specific safeguard duty and anti-dumping duty leviable thereon, respectively, under sections 3, 8B, 8C and 9A of the said Customs Tariff Act, subject to the following conditions, namely :-

(i) that the said authorisation is produced before the proper officer of customs at the time of clearance for debit;

(ii) that the said authorisation bears,-
(a) the name and address of the importer and the supporting manufacturer in cases where the authorisation has been issued to a merchant exporter; and
(b) the shipping bill number(s) and date(s) and description, quantity and value of exports of the resultant product in cases where import takes place after fulfillment of export obligation; or
(c) the description and other specifications where applicable of the imported materials and the description, quantity and value of exports of the resultant product in cases where import takes place before fulfillment of export obligation;

(iii) that the materials imported correspond to the description and other specifications where applicable mentioned in the authorisation and are in terms of para 4.12 of the Foreign Trade Policy and the value and quantity thereof are within the limits specified in the said authorisation;

(iv) that in respect of imports made before the discharge of export obligation in full, the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials;

(viii) that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within the period specified in the said authorisation or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorisation:

(ix) ...

(x) that the said authorisation shall not be transferred and the said materials shall not be transferred or sold;

Provided that the said materials may be transferred to a job worker for processing subject to complying with the conditions specified in the relevant Central Excise notifications permitting transfer of materials for job work;

Provided further that, no such transfer for purposes of job work shall be effected to the units located in areas eligible for area based exemptions from the levy of excise duty in terms of notification Nos. 32/1999-Central Excise dated 08.07.1999, 33/1999-Central Excise dated 08.07.1999, 39/2001- Central Excise dated 31.07.2001, 56/2002- Central Excise dated 14.11.2002, 57/2002- Central Excise dated 14.11.2002, 49/2003- Central Excise dated 10.06.2003, 50/2003- Central Excise dated 10.06.2003, 56/2003- Central Excise dated 25.06.2003, 71/03- Central Excise dated 09.09.2003, 8/2004- Central Excise dated 21.01.2004 and 20/2007- Central Excise dated 25.04.2007;

(xi) ...

In view of the above discussion and findings and clauses of the notification above, I find that-

(a) There was non-fulfilment of Condition No. (x) of the notification relating to utilisation of imported goods for the specified purpose; and
(b) There was violation of Condition No. (ii)(a), inasmuch as no functional manufacturing facility was found at the declared address of the importer, thereby negating the "Actual User" condition attached to the authorisations.

38.4 Therefore, in view of the above, I hold that the importer is liable to pay duties of Customs amounting to Rs. 4,21,69,047/- in terms of bond executed by the importer as provided in Condition no. iv of the Notification no. 18/2015-Cus dated 01.04.2015. The details of duty free import are as given below:-

Importer	Qty (in Kgs)	Assessable Value (in ₹)	Custom Duty not paid (in ₹)
M/s. Emerald Polymers & Chemicals	20,28,750/-	13,45,97,836/-	4,21,69,047/-

38.5 It is observed that the show cause notice has invoked recovery of duties under Section 28 and/or Section 28AAA of the Customs Act, 1962. In the present matter, however, the liability to pay duties of customs arises on account of non-fulfilment of the conditions attached to the Advance Authorisations issued and utilised by the importer. The provisions of Section 28AAA, on the other hand, are attracted only in cases where such instruments are utilised by a person other than the one to whom they were originally issued. Therefore, the importer is liable to pay duties of Customs amounting to Rs. 4,21,69,047/- in terms of bond executed by the importer as provided in Condition no. iv of the Notification no. 18/2015-Cus dated 01.04.2015 read with Section 28(4) of the Customs Act, 1962 alongwith interest under Section 28AA of the Customs Act, 1962.

CONFISCATION OF GOODS-

39. As discussed above, I hold that the subject goods having an assessable value of ₹13,45,97,836/- and cleared duty-free under the aforesaid Bills of Entry are liable for confiscation under Section 111(o) of the Customs Act, 1962, for contravention of the conditions of exemption.

39.1 I further hold that the import of the said goods was effected in contravention of the provisions of Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 14 of the Foreign Trade (Regulation) Rules, 1993 thereby rendering the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

39.2 I further find that the goods were imported by way of mis-declaration before the Customs authorities and were cleared in the name of a non-genuine or dummy importer by furnishing false particulars with respect to the existence and operational status of the declared premises. Such acts constitute material mis-declaration affecting eligibility to exemption. Therefore, I hold that the said goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.

REDEMPTION FINE:-

39.3 As the impugned goods are found to be liable for confiscation under Section 111 of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation. I find that, in the present case, the subject goods are not physically available for confiscation at this stage. The goods have already been cleared and are no longer under the control of Customs. Therefore, physical confiscation of the goods is not feasible. However, I note that the Hon'ble CESTAT, Ahmedabad, in the case of M/s. Van Oord India Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this point was already settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)]. Para 23 of the said Judgment is as follows:

“The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, “Whenever confiscation of any goods is authorised by this Act ...”, brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

39.4 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same has not been challenged by any of the parties concerned. Hence, from the

above discussion and relying on the above judgements, I find that goods are liable for confiscation and redemption fine can be imposed. Considering the nature of the violation and the principle that redemption fine should not be excessive, the ends of justice would be met if the redemption fine is restricted to approx. 50% of the differential duty.

ROLE OF EACH NOTICEE AND PENALTIES THEREON:-

M/s. Emerald Polymer & Chemicals

40. I find that M/s. Emerald Polymer & Chemicals (IEC No. AAGFE5216L) has fraudulently availed the benefit of duty exemption under Notification No. 18/2015-Customs, by misusing the Advance Authorisations issued in its favour on an "Actual User" and non-transferable basis. The said firm imported 20,28,750 Kgs of PVC Resin valued at ₹13,45,97,836/-, involving customs duty amounting to ₹4,21,69,047/-, without fulfilling the mandatory conditions prescribed under the said notification which require utilisation of the imported goods in the manufacture of export products and fulfilment of the stipulated export obligation. Since the duty demand in the present case has been determined under Section 28(4) of the Customs Act, 1962, on account of suppression of facts, mis-declaration and wilful contravention of statutory provisions with intent to evade payment of duty, the provisions of Section 114A of the Customs Act, 1962 are squarely attracted. Accordingly, M/s. Emerald Polymer & Chemicals is liable to penalty equal to the duty so determined under Section 114A of the said Act. However, once penalty is imposed under Section 114A of the Customs Act, 1962, no separate penalty is imposable under Section 112 of the said Act in terms of the fifth proviso to Section 114A.

41. With respect to penal provisions under Section 114AA of the Customs Act, 1962, I find that the importer made false declarations before the Directorate General of Foreign Trade while applying for Advance Authorisations in order to avail exemption from customs duties leviable under Section 12 of the Customs Act, 1962 read with the Customs Tariff Act, 1975. I further observe that, in terms of clause (iv) of Notification No. 18/2015-Customs, the importer had executed a bond at the time of clearance of the imported goods, binding itself to pay on demand an amount equal to the duty leviable, but for the exemption contained therein, together with applicable interest, in the event of non-fulfilment of the conditions of the notification. However, the investigation has established that the importer had no manufacturing premises or supporting manufacturer as declared and had diverted the imported goods into the domestic market. Thus, the bond executed by the importer was based on false declarations and fabricated documents, knowingly submitted despite the absence of any manufacturing facility, thereby rendering the importer liable to penal action under Section 114AA of the said Act.

Mr. ANIL PANDIT (AADHAR No- 772407506269)

42. I find that Shri Anil Pandit appeared before the investigating authority on 10.07.2020 and produced a letter dated 09.07.2020 purportedly issued by M/s. Emerald Polymer & Chemicals, bearing a signature in the name of one Rajesh Kumar (Partner), authorising him to tender a statement under Section 108 of the Customs Act, 1962. I observe that in his statement, Shri Anil Pandit claimed to have financially supported one Shri Rakesh Kumar, allegedly stated to be a Partner of the said firm. However, I find that no documentary evidence, including IEC records, DGFT documents, or other statutory filings, establishes

the existence of any such person as a partner of the firm. Further, Shri Anil Pandit failed to disclose the amount of the alleged finance, produced no agreement, record, or bank statement in support of his claim, and could not substantiate his assertions in any credible manner. The statement tendered by Shri Anil Pandit is thus found to be unsubstantiated and misleading. His conduct reflects deliberate withholding of material facts and an attempt to shield the main offenders. In view of the above, I find that Shri Anil Pandit had knowledge of the fraudulent activities of M/s. Emerald Polymer & Chemicals and has actively abetted the improper importation and diversion of duty-free goods, thereby rendering the goods liable to confiscation under Sections 111(d), 111(m), and 111(o) of the Customs Act, 1962. Accordingly, I hold that he is liable to penalty under Section 112 of the Customs Act, 1962 for abetment of acts rendering the goods liable to confiscation.

43. I further find that Shri Anil Pandit produced a letter dated 09.07.2020 purportedly issued by M/s. Emerald Polymer & Chemicals and bearing the signature of one Rajesh Kumar (Partner), authorising him to tender a statement under Section 108 of the Customs Act, 1962. However, the investigation has not established the existence of any such person as a partner of the said firm in the IEC records, DGFT documents or any other statutory filings. By producing and relying upon such unverified and false documentation during the course of investigation, Shri Anil Pandit has knowingly used a false document in connection with proceedings under the Customs Act, thereby rendering himself liable to penal action under Section 114AA of the said Act.

SHRI RANJIT CHOUDHARY, PROPRIETOR OF M/S CHOUDHARY TRANSPORT.

44. I find that the investigation has clearly established that Shri Ranjeet Chaudhary, Proprietor of M/s. Choudhary Transport Co., was the principal transporter engaged in moving the subject consignments from Mundra Port and other ports. I observe that no transportation charges were received from the importer or the Customs Broker; rather, all payments were received from third parties such as the High Seas Seller and the freight forwarder. I further find that Shri Ranjeet Chaudhary issued Lorry Receipts indicating "Door Delivery" at the declared addresses of the importer, despite the fact that no such deliveries were effected at those locations. The investigation revealed that the declared premises were non-existent and that the goods were diverted elsewhere. His conduct in issuing manipulated Lorry Receipts with false delivery details, coupled with his failure to disclose the identities of the persons involved and his role in introducing and arranging meetings for the import and clearance of the goods, clearly demonstrates conscious knowledge and active connivance in the fraudulent scheme. I therefore find that Shri Ranjit Chaudhary knowingly dealt with, transported, and facilitated the diversion of goods which were liable to confiscation under Sections 111(d), 111(m), and 111(o) of the Customs Act, 1962. Accordingly, I hold that he is liable to penalty under Section 112(b) of the Customs Act, 1962 for knowingly dealing with goods liable to confiscation. However, the imposition of penalty under Section 112(a) in addition to the penalty already imposed under Section 112(b) would amount to duplication of penal action for the same set of acts and omissions. Since the noticee has already been held liable to penalty under Section 112(b) of the Customs Act, 1962, imposition of a separate penalty under Section 112(a) for the same conduct would not be warranted.

45. Further, I find that Shri Ranjit Chaudhary issued manipulated lorry receipts indicating "Door Delivery" at the declared addresses of the importer. Such issuance and use of manipulated transport documents constitute the use of false and incorrect documents in connection with the transaction of business relating to the Customs Act, 1962, and therefore squarely fall within

the scope of Section 114AA of the said Act, rendering him liable for penal action thereunder.

46. The noticee has contended that an earlier Show Cause Notice dated 22.07.2021 had already been issued on the same cause of action and therefore the present Show Cause Notice dated 12.03.2025 is not sustainable. I find that the said contention is not acceptable as the earlier Show Cause Notice dated 22.07.2021 was issued during the course of investigation on the basis of the material available at that stage and was primarily concerned with confiscation of seized goods and demand of duty against the importer. The said SCN dated 22.07.2021 is yet to be adjudicated. All the submissions made with respect to that SCN shall be dealt at the time of its adjudication under the law. The present Show Cause Notice has been issued after completion of detailed investigation and brings on record additional evidences, statements and facts relating to the role of various persons including the transporter and the subject SCN is issued for the past imports.

46.1 The noticee has also sought cross-examination of Mr. Jagmohan Kaushal, Director of M/s. Milap Logistics. However, I do not find any merit in allowing the said request. It is observed that the findings in the present proceedings are not based solely on the statement of Shri Jagmohan Kaushal, but are supported by documentary evidence and other material collected during the course of investigation. The statement of Shri Jagmohan Kaushal is only corroborative in nature and forms part of a larger body of evidence, including transport documents, Bills of Entry, and financial records. In such circumstances, permitting cross-examination would not have any material bearing on the outcome of the proceedings. The contention of the noticee that Shri Jagmohan Kaushal incorrectly stated that Shri Ranjit Chaudhary had introduced the importer to M/s. Milap Logistics cannot, by itself, be considered a sufficient ground for granting cross-examination. Moreover, the statement of Shri Ranjit Singh Chaudhary himself contains admissions indicating that the goods were unloaded at locations different from those mentioned in the Lorry Receipts/E-way Bills, which is self-incriminating in nature. Therefore, the request for cross-examination of Shri Jagmohan Kaushal is not warranted and is accordingly rejected. Accordingly, the request for cross-examination of Shri Jagmohan Kaushal is rejected.

47. I find that the Show Cause notice has proposed penalty under 112(a), 112(b) and 114AA of the Customs Act, 1962 upon M/s. Chaudhary Transport Co., and its Proprietor Shri Ranjeet Singh Chaudhary, however, penalty upon the firm and its proprietor amounts to double jeopardy. In this regard, I rely upon the following judgements:-

(i) Delhi High Court in the case of Anil Kumar Mahensaria vs. Commissioner of Customs reported as [2008 (228) ELT 166(Del)] wherein it was held that only one set of penalty can be imposed either on the appellant or upon his proprietorship firm.

(ii) Customs Appeal No. 50105 of 2016 in the case of Shahid Ali Vs. Pr. Commr. Customs (Import) New Delhi (ICD-TKD) [02.06.2021]

Therefore, penalty under Section 112(a), 112(b) and 114AA are not sustainable upon M/s. Chaudhary Transport Co. when the same have been found to be imposable upon its Proprietor Shri Ranjeet Singh Chaudhary.

M/s YASHVI SHIPPING, CUSTOMS BROKER FIRM.

48. I have carefully considered the role of M/s. Yashvi Shipping, Gandhidham, who acted as the Customs Broker in the present case and had filed Bill of

Entry No. 7980621 dated 23.06.2020 for the importer M/s. Emerald Polymer & Chemicals, along with earlier Bills of Entry including B/E No. 7962155 dated 20.06.2020 and B/E No. 7962170 dated 20.06.2020. It is observed from the records that the assignment for clearance of the consignments was received by the said Customs Broker through M/s. Milap Logistics Pvt. Ltd., New Delhi, and the import documents were also forwarded to them by the said entity. It is further noticed that the Customs Broker did not have any direct interaction with the importer and all communications and instructions were received through the forwarding agent.

49. I further find that the Bills of Entry filed by the said Customs Broker contained details of the Authorised Dealer (AD) Code and bank particulars of the importer. However, investigation has revealed that the bank account corresponding to the said AD Code was not operational with the concerned bank. This discrepancy was capable of being verified with minimal due diligence by the Customs Broker at the time of filing the Bills of Entry.

50. It is also observed that the Customs Broker did not receive any professional or clearance charges from the importer, but instead received payments from the forwarding agent, i.e., M/s. Milap Logistics Pvt. Ltd. Further, the consignments were handed over to transporters who have been found during investigation to be actively involved in the improper importation and diversion of the duty-free goods.

51. I find that the cumulative circumstances, namely failure to verify the bank details linked with the AD Code, absence of direct dealing with the importer, receipt of payments only through intermediaries, and delivery of goods to transporters involved in the fraudulent diversion, cannot be treated as mere procedural lapses. In adjudication proceedings under the Customs Act, the standard of proof is preponderance of probabilities, and not proof beyond reasonable doubt. On the basis of the material available on record and the surrounding circumstances, I find that the conduct of M/s. Yashvi Shipping indicates that they facilitated the clearance and movement of goods in a manner which enabled the improper import and subsequent diversion of duty-free goods. In view of the above facts and circumstances, I hold that there are sufficient reasons to believe, on the basis of circumstantial evidence and the test of preponderance of probabilities, that M/s. Yashvi Shipping, Gandhidham had abetted the improper importation and diversion of the duty-free goods which were liable to confiscation under the provisions of the Customs Act, 1962. Accordingly, I hold that the said Customs Broker is liable to penalty under Section 112(b) of the Customs Act, 1962 for dealing with goods which they had reason to believe were liable to confiscation, and also under Section 114AA of the Customs Act, 1962 for use of incorrect or false material particulars in documents filed before the Customs authorities. The penalties proposed in the Show Cause Notice are therefore sustainable and liable to be imposed upon M/s. Yashvi Shipping, Gandhidham. However, the imposition of penalty under Section 112(a) in addition to the penalty already imposed under Section 112(b) would amount to duplication of penal action for the same set of acts and omissions. Since the noticee has already been held liable to penalty under Section 112(b) of the Customs Act, 1962, imposition of a separate penalty under Section 112(a) for the same conduct would not be warranted.

M/S BABA RAMDEVPIR SHIPPING, CUSTOM BROKER FIRM:-

52. I find that M/s. Baba Ramdevpir Shipping, Gandhidham, who acted as the Customs Broker in respect of the goods imported by M/s. Emerald Polymer & Chemicals, had filed eight Bills of Entry relating to such imports. Unlike the case of M/s. Yashvi Shipping, who appeared during investigation and placed their submissions on record, it is observed that M/s. Baba Ramdevpir Shipping have not cooperated with the investigation at any stage. Despite repeated summons issued during the course of investigation, they have failed to appear before the investigating authority, failed to tender their statement, and failed to produce the documents and records sought by the Department. Further, they have not filed any reply to the Show Cause Notice nor appeared for personal hearing, thereby deliberately withholding material information which could have assisted in ascertaining the true facts of the case. As a licensed Customs Broker, they occupy a position of trust and act as a vital interface between the importer and the Customs administration, and are therefore expected to exercise due diligence in verifying the credentials and antecedents of their clients in terms of the obligations cast upon them under the applicable Customs Broker regulations. Their failure to verify the credentials of the importer, coupled with their non-submission of financial, banking and transactional details despite repeated directions, which could have assisted the investigation in identifying the actual beneficiaries of the fraudulent imports, reflects a conscious disregard of statutory obligations and lends strong circumstantial support to the allegation that they facilitated the fraudulent import transactions.

53. In view of the foregoing facts and circumstances, I find that the conduct of M/s. Baba Ramdevpir Shipping indicates their involvement in facilitating the improper importation and subsequent diversion of duty-free goods. The material available on record, including the surrounding circumstances and their failure to cooperate with the investigation and adjudication proceedings, leads to an inference, on the basis of preponderance of probabilities and the circumstantial evidence available, that their acts and omissions were connected with the impugned import transactions. Such conduct has rendered the goods liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. Accordingly, I hold that M/s. Baba Ramdevpir Shipping are liable to penalty under Section 112(b) of the Customs Act, 1962 for acts and omissions which rendered the goods liable to confiscation, and are also liable to penalty under Section 114AA of the Customs Act, 1962 for knowingly using, or causing to be used, false or fabricated documents in connection with the Customs clearance of the said goods. However, the imposition of penalty under Section 112(a) in addition to the penalty already imposed under Section 112(b) would amount to duplication of penal action for the same set of acts and omissions. Since the noticee has already been held liable to penalty under Section 112(b) of the Customs Act, 1962, imposition of a separate penalty under Section 112(a) for the same conduct would not be warranted.

M/s MILAP LOGISTICS PVT. LTD., NEW DELHI FORWARDING AGENT:-

54. I find that the investigation has clearly established that M/s. Milap Logistics Pvt. Ltd., New Delhi, acted as the freight forwarder in respect of the subject consignments and played a crucial role in facilitating the improper import of goods. I observe that they received import documents from persons

involved in the fraudulent scheme and, without undertaking any due diligence or verification of their authenticity, forwarded the same to the Customs Broker for clearance of the goods under the benefit of duty exemption. The documents so utilised were found to be fabricated and procured deceitfully for availing exemption under the Advance Authorisation Scheme.

55. I further find that M/s. Milap Logistics Pvt. Ltd. did not receive payment for their services from the importer, but from entities functioning as High Seas Sellers, which were themselves created to facilitate the fraudulent imports. Despite handling substantial quantities of cargo and being located in the same city as the declared importer, they made no effort to verify the existence or genuineness of the importer. The documents were admittedly received through email and WhatsApp, and were acted upon without verification. The discrepancies in the names and contact details of the persons involved, as revealed in their correspondence and statements, further indicate conscious association with the persons orchestrating the fraud.

56. M/s. Milap Logistics Pvt. Ltd. submits that the Show Cause Notice dated 12.03.2025 alleging their involvement in abetting fraudulent imports by M/s. Emerald Polymer & Chemicals is misconceived and unsupported by evidence. The noticee states that their role was limited to forwarding import-related documents to the Customs House Agent and that they acted in good faith in the normal course of business. The company describes itself as a reputable logistics and forwarding agent engaged in customs clearance and transportation activities for various clients and claims to have consistently complied with statutory requirements and industry practices. The noticee submits that the assignments relating to the subject imports were received through Shri Ranjeet Chaudhary, Director of M/s. BRL Logistics Pvt. Ltd. and proprietor of M/s. Choudhary Transport Co., who was a long-standing business associate. They contend that the clients, including M/s. Emerald Polymer & Chemicals and other entities, were introduced through him and that it is common commercial practice to accept clients referred by known associates. According to the noticee, all documents such as Advance Authorisations, IEC and GST registrations were issued by government authorities and appeared valid at the time of processing. Since the authorisations were duly registered in the Customs EDI system, the noticee argues that there was no reason to doubt their authenticity or suspect that the importer was a fictitious entity. The noticee further states that it merely forwarded documents such as invoices, packing lists and bills of lading received from the client via email or WhatsApp to the Customs Broker and did not generate or fabricate any documents. It is argued that penalties under Section 114AA of the Customs Act, 1962 require knowing or intentional use of false documents, which is absent in their case. The noticee also contends that payments received from High Seas Sellers such as M/s. Ganesh Polymers and M/s. Tirupati International were part of normal commercial arrangements in high seas sale transactions and were received through proper banking channels, as reflected in the ledgers and bank statements provided to the department. Similarly, the payment of ₹6.30 lakh to M/s. Yashvi Shipping is stated to be reimbursement of clearance-related expenses incurred on behalf of the client. The noticee emphasises that they cooperated with the investigation and that Shri Jagmohan Kaushal provided information identifying key persons allegedly involved in the racket, including contact details and communication channels used for coordination. It is further argued that the main coordination

of the transactions was carried out by Shri Ranjeet Chaudhary, who introduced the parties and facilitated logistics arrangements. The noticee submits that despite his central role, Shri Chaudhary later denied knowledge of the parties involved and provided contradictory statements regarding transport documents and delivery details, which undermines the department's case. In view of these contradictions, the noticee has requested permission to cross-examine Shri Ranjeet Chaudhary and other witnesses relied upon in the Show Cause Notice.

56.1 The submission of the noticee that receipt of payments from High Seas Sellers was a normal commercial practice is not acceptable. The investigation has revealed that the entities shown as High Seas Sellers were fake and non-existent firms created only for the purpose of facilitating the fraudulent import transactions. Despite this, the noticee received payments from these entities and subsequently forwarded the same to the Customs Broker towards clearance of the consignments. This pattern of financial transactions indicates that the noticee was not merely forwarding documents but was also actively handling the financial flow connected with the clearance of the goods. The fact that payments originated from non-existent entities and were routed through the noticee to the Customs Broker constitutes a significant circumstantial factor which raises serious doubts regarding the claim of bona fide conduct. Therefore, the plea that the payments were part of normal High Seas Sale practice cannot be accepted, and the role of the noticee in receiving and channeling such payments assumes relevance in establishing their involvement, at least on the basis of preponderance of probability and surrounding circumstances, in facilitating the impugned transactions.

56.2 The request of the noticee for cross-examination of Shri Ranjeet Chaudhary and other persons whose statements have been relied upon in the Show Cause Notice is not acceptable. It is observed that the present proceedings are primarily based on documentary evidence, financial records, and material gathered during investigation, and not solely on the statements of the said individuals. The statements recorded during investigation are corroborative in nature and are supported by independent evidence such as Bills of Entry, transport documents, financial transactions, and other records forming part of the investigation. Further, the noticee has not demonstrated how the cross-examination of the said persons would materially alter the evidentiary value of the documentary records relied upon in the proceedings. Mere contradictions alleged by the noticee in the statements of Shri Ranjeet Chaudhary do not by themselves necessitate cross-examination, particularly when the role of the noticee is being examined on the basis of the surrounding circumstances and documentary evidence available on record.

57. In view of the above facts, I find that M/s. Milap Logistics Pvt. Ltd. had knowledge of, and actively facilitated, the improper import and diversion of duty-free goods, thereby rendering the goods liable to confiscation under Section 111 of the Customs Act, 1962. Their acts of omission and commission, including handling and forwarding forged documents and enabling false declarations before Customs, constitute abetment and intentional facilitation of duty evasion. Accordingly, I hold that they are liable to penalty under Section 112(b) of the Customs Act, 1962 for knowingly dealing with goods liable to confiscation, and under Section 114AA of the Customs Act, 1962 for causing to use documents, which were false or incorrect, before the customs. However, the imposition of penalty under Section 112(a) in addition to the penalty

already imposed under Section 112(b) would amount to duplication of penal action for the same set of acts and omissions. Since the noticee has already been held liable to penalty under Section 112(b) of the Customs Act, 1962, imposition of a separate penalty under Section 112(a) for the same conduct would not be warranted.

FIVE HIGH SEA SELLERS, 1) M/s TIRUPATI INTERNATIONAL 2) M/s GANESH POLYMERS 3) M/s. UMANG POLYMER 4) M/s OM SAI TRADING COMPANY AND 5) M/s SHREE BALAJI TRADING COMPANY.

58. I find that the five High Seas Sellers, namely M/s. Tirupati International, M/s. Ganesh Polymers, M/s. Umang Polymer, M/s. Om Sai Trading Company and M/s. Shree Balaji Trading Co., who purportedly executed High Seas Sale Agreements with M/s. Emerald Polymer & Chemicals, were not independent commercial entities but were integral components of the organised arrangement devised to facilitate duty evasion. The investigation has revealed that not only was the importer non-existent at the declared address, but the aforesaid High Seas Sellers were also found to be non-existent and fictitious entities.

58.1 I further find that there were no genuine commercial or financial transactions between the importer and the said High Seas Sellers. The evidence on record indicates that these entities were controlled and operated by the same set of persons who orchestrated the creation of the importer firm. The sharing of documents through common communication channels, coordinated financial transactions towards Customs Brokers, forwarders and transporters, and their conduct in attempting to claim seized goods while simultaneously evading summons, clearly demonstrate collusion and conscious participation in the fraudulent scheme.

58.2 I therefore find that these High Seas Sellers knowingly entered into fabricated High Seas Sale Agreements and facilitated the use of false documents and declarations for clearance of duty-free goods under the Advance Authorisation Scheme, thereby rendering the goods liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. Their acts amount to active abetment and intentional use of false and fabricated documents in connection with Customs proceedings. Accordingly, I hold that they are separately liable to penalty under Section 112(b) of the Customs Act, 1962 for knowingly dealing with goods liable to confiscation, and under Section 114AA of the Customs Act, 1962 for knowingly making, signing, or using false and incorrect documents in the course of import transactions. However, the imposition of penalty under Section 112(a) in addition to the penalty already imposed under Section 112(b) would amount to duplication of penal action for the same set of acts and omissions. Since the noticee has already been held liable to penalty under Section 112(b) of the Customs Act, 1962, imposition of a separate penalty under Section 112(a) for the same conduct would not be warranted.

M/S ELEGANT COMMODITIES FZC

59. I find that M/s. Elegant Commodities FZC, Hamriyah Free Zone, Sharjah, UAE acted as the overseas supplier of the goods covered under the impugned consignments which were subsequently routed through certain High Seas Sale transactions and ultimately cleared in India in the name of M/s. Emerald

Polymer & Chemicals. The investigation reveals that the said supplier was not merely a passive exporter but was aware of the chain of transactions through which the goods were supplied and the manner in which the import was being effected in India.

59.1 I note that the goods supplied by the said overseas entity were not directly sold to the importer but were routed through certain High Seas Sellers, who during the course of investigation have been found to be non-existent and fictitious entities. The creation and use of such intermediary entities indicates that the transactions were structured in a manner to conceal the actual parties involved and to facilitate the clearance of goods under the Advance Authorisation Scheme in the name of an entity which was subsequently found to be non-existent. Further, investigation has revealed that the so-called High Seas Sellers as well as M/s. Emerald Polymer & Chemicals were in fact being operated and controlled by the same persons, thereby establishing that the High Seas Sale transactions were merely a façade created to give a semblance of legitimacy to the import transactions and to obscure the true nature of the arrangement. This clearly demonstrates that the chain of transactions was artificially structured for the purpose of enabling the improper importation and diversion of duty-free goods.

59.2 I further observe that M/s. Elegant Commodities FZC, in their email dated 12.09.2020, sought release/recall/resale of the seized goods and, in doing so, demonstrated clear knowledge of the filing of the Bill of Entry in the name of M/s. Emerald Polymer & Chemicals as well as the seizure of the goods by the Customs authorities. Notably, the said communication also enclosed copies of the summons issued to M/s. Emerald Polymer & Chemicals, an entity with whom the overseas supplier was not expected to have any direct connection since, as per their own claim, the goods had been supplied to High Seas Sellers and not directly to the importer. However, in their subsequent communication dated 15.03.2021, they adopted a contradictory stand by stating that their client was M/s. Tirupati International and that they were not aware of any transaction with M/s. Emerald Polymer & Chemicals. These circumstances clearly indicate that despite claiming to have supplied the goods only to the High Seas Sellers, the overseas supplier had prior knowledge of the importer and the proceedings initiated against it, which would not ordinarily be possible unless they were aware of the chain of transactions. Such contradictory stands therefore indicate that the overseas supplier attempted to distance itself from the import transaction only after the detection of the fraudulent activity.

59.3 In view of the above facts and circumstances, I hold that M/s. Elegant Commodities FZC had knowingly facilitated and abetted the improper importation of the goods which were subsequently found to have been cleared in the name of a non-existent importer under the Advance Authorisation Scheme, thereby rendering the goods liable to confiscation under Sections 111(d), 111(m), and 111(o) of the Customs Act, 1962. Accordingly, I hold that the said overseas supplier is liable to penalty under Section 112(b) of the Customs Act, 1962 for dealing with goods which they had reason to believe were liable to confiscation and also liable to penalty under Section 114AA of the Customs Act, 1962 for knowingly using or causing to be used false or incorrect material particulars in documents relating to the import transactions forming part of the present case. The penalties proposed in the Show Cause Notice are therefore sustainable and liable to be imposed upon M/s. Elegant Commodities FZC.

However, the imposition of penalty under Section 112(a) in addition to the penalty already imposed under Section 112(b) would amount to duplication of penal action for the same set of acts and omissions. Since the noticee has already been held liable to penalty under Section 112(b) of the Customs Act,

1962, imposition of a separate penalty under Section 112(a) for the same conduct would not be warranted.

M/s BRL LOGISTICS PVT.LTD.

60. I find that M/s. BRL Logistics Pvt. Ltd., Ahmedabad, acted as the transporter for the subject consignments from Mundra Port to Delhi and had issued transport bills and invoices in the name of M/s. Emerald Polymer & Chemicals, describing the consignee as the said importer. I observe that the Lorry Receipts/Consignment Notes issued by M/s. BRL Logistics Pvt. Ltd. mentioned the delivery mode as "Door Delivery," despite the fact that the importer was subsequently found to be non-existent at the declared address.

60.1 I further find that the registered address of M/s. BRL Logistics Pvt. Ltd. is identical to that of M/s. Choudhary Transport Co., thereby indicating a close nexus and coordinated functioning between the entities involved in the transportation chain. The use of the vague expression "Door Delivery" in the Consignment Notes has been deliberately adopted to conceal the actual place of delivery and to facilitate diversion of the goods to undisclosed locations. It is evident that no delivery was effected at the declared premises of the importer, and the transporter knowingly issued manipulated transport documents to give a semblance of legitimate movement of goods.

60.2 In view of the above, I find that M/s. BRL Logistics Pvt. Ltd. acted in connivance with the importer and other co-noticees and consciously facilitated the diversion of duty-free imported goods, which are liable to confiscation under Sections 111(d), 111(m), and 111(o) of the Customs Act, 1962. By transporting, handling, and dealing with goods which they knew or had reason to believe were liable to confiscation, and by issuing incorrect and misleading transport documents, they have rendered themselves liable to penalty under Section 112(b) of the Customs Act, 1962, and also under Section 114AA of the Customs Act, 1962 for knowingly using and issuing false or incorrect documents in connection with the import and clearance of the said goods. However, the imposition of penalty under Section 112(a) in addition to the penalty already imposed under Section 112(b) would amount to duplication of penal action for the same set of acts and omissions. Since the noticee has already been held liable to penalty under Section 112(b) of the Customs Act, 1962, imposition of a separate penalty under Section 112(a) for the same conduct would not be warranted

61. In view of the above discussion and findings, I hereby pass the following order:-

:-ORDER :-

61.1 M/s. Emerald Polymer & Chemicals, (IEC No- AAGFE5216L)

- I. I determine and confirm the Customs Duty foregone amounting to ₹4,21,69,047/- (Rupees Four Crores Twenty One Lakhs Sixty-Nine Thousand Forty-Seven Only) involved in past imports, totally weighing, 20,28,750 Kgs of PVC Resin totally valued at ₹13,45,97,836/- under subject 12 Bills of Entry as detailed in Table-I and order to recover the same from M/s. Emerald Polymer & Chemicals, (IEC No- AAGFE5216L),

in terms of the Notification No. 18/2015-Cus dated 01.04.2015 read with Section 28(4) of the Customs Act, 1962;

- II. I hold that the subject goods i.e. 20,28,750 Kgs. of PVC Resin totally valued at ₹ 13,45,97,836/- cleared under the benefit of the Advance Authorisation are liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 14 of Foreign Trade (Regulations) Rules, 1993. Since the goods are not available for confiscation, I Impose a Redemption Fine of Rs. 2,10,00,000/- (Rupees Two Crore Ten lakhs only) under Section 125 of the Customs Act, 1962 as discussed above.
- III. I order to recover interest, on the duty confirmed at Sr.(I), in terms of the Notification No. 18/2015-Cus dated 01.04.2015 read with Section 28AA of the Customs Act, 1962, (IEC No- AAGFE5216L), F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020.
- IV. I impose a penalty of Rs. 4,21,69,047/- (Rupees Four Crores Twenty One Lakhs Sixty-Nine Thousand Forty-Seven Only) under Section 114A of the Customs Act, 1962.
- V. I impose a penalty of Rs. 50,00,000/- (Rupees Fifty lakhs Only) under Section 114AA of the Customs Act, 1962

61.2 ORDER IN RESPECT OF OTHER NOTICEES-

I Impose Penalties upon other noticees/persons/firms/company mentioned in Column (2) of the table below under Sections 112(a), 112(b) and 114AA as given below:-

Sr. No.	Name of the noticee	Penalty under Section 112(a)-(in Rs.)	Penalty under Section 112(b)-(in Rs.)	Penalty under Section 114AA-(in Rs.)
1.	Mr. Anil Pandit, (Aadhar No. 772407506269)	Don't impose	10,00,000/- (Ten Lakhs only)	10,00,000/- (Ten Lakhs only)
2.	Shri Ranjeet Singh Choudhary, Proprietor of M/s. Choudhary Transport Co	Don't impose	30,00,000/- (Thirty Lakhs only)	20,00,000/- (Twenty Lakhs only)
3.	M/s. Choudhary Transport Co.	Don't impose	Don't impose	Don't impose

4.	M/s. Yashvi Shipping	Don't impose	5,00,000/- (Five lakhs only)	2,00,000/- (Two lakhs only)
5.	M/s. Milap Logistics Pvt. Ltd.	Don't impose	30,00,000/- (Thirty Lakhs only)	20,00,000/- (Twenty Lakhs only)
6.	M/s. Baba Ramdevpir Shipping	Don't impose	5,00,000/- (Five Lakhs only)	2,00,000/- (Two Lakhs only)
7.	M/s. Tirupati International,	Don't impose	20,00,000/- (Twenty Lakhs only)	10,00,000/- (Ten Lakhs only)
8.	M/s. Ganesh polymers	Don't impose	20,00,000/- (Twenty Lakhs only)	10,00,000/- (Ten Lakhs only)
9.	M/s. Umang Polymers	Don't impose	20,00,000/- (Twenty Lakhs only)	10,00,000/- (Ten Lakhs only)
10.	M/s Om Sai Trading Company	Don't impose	20,00,000/- (Twenty Lakhs only)	10,00,000/- (Ten Lakhs only)
11.	M/s Shree Balaji Trading Co.	Don't impose	20,00,000/- (Twenty Lakhs only)	10,00,000/- (Ten Lakhs only)
12.	M/s. Elegant Commodities FZC	Don't impose	10,00,000/- (Ten lakhs only)	5,00,000/- (Five lakhs only)
13.	M/s. BRL Logistics Pvt. Ltd.	Don't impose	30,00,000/- (Thirty Lakhs only)	20,00,000/- (Twenty Lakhs only)

62. This order is issued without prejudice to any action that can be taken against the importer or any other person under this Act or any other law for the time being in force.

(Nitin Saini)
Commissioner
Custom House, Mundra

DIN- 20260371MO000091489C

F.No. GEN/ADJ/COMM/362/2021-Adjn-O/o Pr Commr-Cus-Mundra

By RPAD/Email/ By Hand Delivery

To,

- 1) M/s. Emerald Polymer & Chemicals, (IEC No- AAGFE5216L), F-84, Okhla Indl. Area, Phase-I, Okhla, New Delhi-110020. Email: emeraldpoly1@gmail.com
- 2) Mr. Anil Pandit, (Aadhar No. 772407506269), Ashmat A-12, Sector-3, Shrushti Complex Mira Road, Mumbai. Email: anil.2003@gmail.com
- 3) Shri Ranjeet Singh Choudhary, Son of Shri Bhagwanram Chaudhary, Proprietor of M/s. Choudhary Transport Co, E-203, Pushkar Heights, Opp Sitabag Society, Ishanpur-Vatva Road, Ishanpur Ahmedabad-382443. Email: ranjeetchaudhary@brllogistic.com
- 4) M/s. Yashvi Shipping, Rising House-1, First Floor, Plot No. 82, Sector 1/A, Gandhidham Email: yashvikandla@gmail.com
- 5) M/s. Milap Logistics Pvt. Ltd, G-18, Vishwakarma Colony, (Opp ICD-TKD), New Delhi – 110044. Email: jagmohan@milaplogistics.in
- 6) M/s. Baba Ramdevpir Shipping, Office No. 41-42, GMA Building, Plot No. 297, Ward-12/B, Gandhidham, Kachchh-370201. Email: baba_ramdev68@yahoo.com
- 7) M/s. Tirupati International, Plot No. 89, Block-O, Pocket H, Sector 1, DSIIDC, Industrial Area, Bawana, New Delhi-110039. Email: Tirupatiinternational20@gmail.com
- 8) M/s. Ganesh polymers, B-204, Sector-3, Bawana Industrial Area, New Delhi-110039 Email: ganeshpolymers20@gmail.com
- 9) M/s. Umang Ploymer, Plot No.238, Basement Pocket F, Sector 1, DSIIDC, Bawana Industrial Area, Delhi-110039.
- 10) M/s Om Sai Trading Company, Office No. 124, Plot No. 26, 1st Floor, Vikash Royal Arcade, Road No.44, Community Centre, Pitampura, Delhi-110034.
- 11) M/s Shree Balaji Trading Co., Building No. A-2, Shop No. 40 Type D, Ostwal Wonder City, Boisar, Palghar, Maharashtra-401501.
- 12) M/s Elegant Commodities FZC, E-LOB Office No. E-59F-31, P.O. Box-51230, Hamriyah Free Zone, Sharjah, UAE. Email: info@elegantsteelgroup.com, sajiv@elegantcommodities.com

13) M/s. BRL Logistics Pvt. Ltd., E-204, Pushkar Heights, opp. Sitabaug Society, Isanpur-Vatva Road, Isanpur Ahmedabad-382443.

Copy to :-

1. The Chief Commissioner, Gujarat Customs zone, Ahmedabad
2. The Deputy Commissioner (SIIB), Custom House, Mundra.
3. The Superintendent (EDI/TRC/Legal), Custom House, Mundra.