सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20260171MN000000B41D

क	फ़ाइल संख्या FILE NO.	S/49-248/CUS/AHD/24-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-522-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	O-I-O No.: 50/ACC/OIO/VSY/2024-25 dt. 03-09-2024 passed by the Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	CHA M/s Rakesh Oza, A-502, Infinity Tower, Corporate Road, Prahlad Nagar, Ahmedabad- 380 015.

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद.

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

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

Order-In-Appeal

M/s Rakesh Oza, A-502, Infinity Tower, Corporate Road, Prahlad Nagar, Ahmedabad- 380 015 (hereinafter referred to as "the Appellant") have filed the present appeal challenging the OIO No.: 50/ACC/OIO/VSY/2024-25 dt. 03-09-2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner of Customs, Air Cargo Complex, Old Airport, Ahmedabad-380 003 (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that M/s VSY Ophthalmic India Pvt Ltd, Third Floor, 6-Vasanat Vihar Building, Sama, Vadodara-390 019 (herein after referred to as "the Importer") had imported consignment of Barcode Canner vide Bill of Entry No.: 4999391 dated 10.08.2021 classifying the same under CTH 8471 6050 of the Customs Tariff Act, 1975 on payment of appropriate Customs duty. As per the Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012, issued under the provisions of the Bureau of Indian Standards Act, 2016, import of scanners is permitted only if such goods conform to Indian Standard IS 13252:2010 (Information Technology Equipment – Safety – General Requirements) and the manufacturer has obtained valid registration from the Bureau of Indian Standards.

2.1 It is observed from Bill of Entry No. 4999391 dated 10.08.2021 that the importer has nowhere declared the BIS registration details, nor has it been declared or established that the imported goods, namely scanners, conform to Indian Standard IS 13252:2010, as required under the Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012, as amended.

2.2 A letter dated 14.12.2023 was written to the Importer to produce BIS registration / NOC for import of scanner. However, no response received from the side of appellant.

2.3 In the matter, the appellant i.e. Custom Broker M/s Rakesh A Oza who is handling the work of clearance related to this imported consignment, was expected to do due diligence to not allow filing of Bill of Entry for clearance of goods which are prohibited for import. The appellant , despite having knowledge of goods not having BIS registration, they abetted importer in importing the goods in contravention of prohibition under law. Such acts and omissions rendered the goods liable to confiscation under Section 111(d) of the Customs Act, 1962, and consequently made the appellant liable for penalty under Section 112(a) of the Customs Act, 1962.

2.4 Therefore, a SCN F.No.: VIII/48-121/ACC/AR-16/2023-24 dated 01.01.2024 was issued by the Assistant Commissioner, Air Cargo Complex, Ahmedabad to the appellant as to why :

(i) the imported goods Barcode Scanner should not be held liable for confiscation under section 111(d) of the Customs Act, 1962 as the same imported in contravention of prohibition imposed under the Bureau of Indian Standards Act, 1986,

(ii) the penalty shouldn't be imposed on the importer and appellant under Section 112(a) of the Customs act, 1962 for rendering the goods liable for confiscation under section 111(d) of the Customs act, 1962.

2.5 After follow of principle of natural justice, the adjudicating authority vide impugned order decided the matter and passed the following orders:

(i) He held that the subject goods imported by the importer in contravention of prohibition imposed under the Bureau of Indian Standards Act, 1986 and thereby liable for confiscation of the goods under section 111(d) of the Customs Act, 1962. Option to redeem the goods in payment of fine of Rs. 3000/-

(ii) He imposed penalty of Rs. 6000/- on the importer under Section 112(a) of the Customs act, 1962.

(iii) He imposed penalty of Rs. 6000/- on the appellant under Section 112(a) of the Customs act, 1962.

3. Being aggrieved and dissatisfied with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal on 16.12.2024. The Appellant have, inter-alia, raised various contentions , same are mentioned herein below:

- The impugned Order, has been passed by the Assistant Commissioner in violation of principles of the natural justice as he has failed to consider the submissions made by the appellant. It was obligatory on the part of the adjudicating authority to have considered the submissions and if he did not agree with the submissions, the same should have been negated by valid reasons. The impugned order thus unreasoned and non speaking is in violation of principles of natural justice and the same deserves to be quashed and set aside

- The adjudicating authority in para 20 of the impugned OIO has observed that the appellant had failed to verify the documents submitted by the importer and fulfilment of all the conditions for import along with restrictions for the time in being force as per the law. It is submitted that the impugned order does not spellout as to which statutory provision of said Act had been contravened by the appellant so as to invoke the penal provisions. In the present case, it was the importer who had clarified the matter and the proper officer having been satisfied had allowed the clearance of the consignment. claimed the exemption from payment of basic Custom Duty. Thus, there was no contravention of any provision of the said act and therefore the imposition of penalty on the appellant is ex-facie without authority of law. The impugned order deserves to be quashed and set aside.

- The appellant submits that the various Courts and Tribunals have consistently held that the penalty should not be imposed in an ordinary course, unless it can be shown that the appellant had acted deliberately in defiance of Law. The Hon'ble Supreme Court in case of **Hindustan Steel Ltd. Vs. State of Orissa reported in AIR 1970 SC (253) 1979 ELT (J402)** has held that for imposition of penalty, it has to be brought on record that the party had acted deliberately in defiance of the Law. In the present case there is nothing on the record which reveal that the appellant had acted in any way in defiance of Law. As such, the impugned order having been passed without any material on record, is legally not tenable and the same deserves to be quashed and set aside.

- The appellant submits that it is a settled law that penalty 00should not be imposed merely because it is lawful to do so. In the present case, the amount of penalty of Rs. 6000/- imposed on the appellant is not the criteria and bases for filing this appeal. The appellant had been in the business of clearance for import and exports as Custom House Agent and Customs Broker for last more than 30 years. The appellant has an unblemished track record. The present penalty imposed is thus stigmatic and therefore the impugned order is required to be quashed and set aside.

- The appellant craves to refer to Advisory No. 01/2022, dated 29.12.2022 issued from the office of the Principal of Chief Commissioner of Customs, Mumbai, In the said advisory, it has been advised that the officers involved in audit should be advised not to invoke the violation of provisions of CBLR 2018 and make the Customs Broker co-noticee in cases involving interpretative disputes regarding classification, availment of benefit of exemption notification and valuation. Thereafter, the Chief Commissioner of Customs, JNPT, has vide letter dated 20.02.2023 has circulated wherein it has been requested to impress upon the adjudicating authority that the penal action should not be invoked against the Customs Broker in routine manner,

- The appellant further submits that the Board vide Instruction No. 02/2024-Customs, date 03.09.2024, has clarified the implication of Customs Broker a co-noticee in a routine manner. In the present case there is no evidence brought on record which suggest that the appellant was aware of the classification adopted by the importer being wrong and still he did not advise the importer. That being so, no penalty could be imposed on the appellant

- The appellant submits that the penalty has been imposed vide the impugned order on the appellant under section 112 (a) of the Customs Act, 1962. The appellant submits that on going through the impugned order, no evidence has been brought on record which suggested that the appellant had any role in the alleged non mentioning of the declaration by the importer. There being no material evidence on record against the appellant, imposition of penalty is not justified and the impugned order deserves to be quashed and set aside on this ground alone. In support of above contention, the appellant relies on the decision in the case of **Adarsh Kumar Vs Commissioner of Customs reported at 2000 (122) ELT 830 (T).**

- The appellant submits that for imposition of penalty under section 112, some degree of involvement or knowledge of contravention on the part of the abettor must be shown. In the impugned order, no evidence direct or even indirect has been adduced to show that the appellant had some knowledge of contravention of law, as such, imposition of penalty is not justified. In support of above the appellant places reliance on the decision of the Hon'ble tribunal in the case of **Liladhar Pasoo Forwarders P. Ltd. Vs Commissioner of Customs, Mumbai reported at 2000 (122) ELT 737 (T).**

- Even otherwise, the impugned order of imposition penalty is highly arbitrary, perverse and illegal and the same deserves to be quashed and set aside.

PERSONAL HEARING:

4. The appellant was granted a personal hearing on 13.01.2026, which was attended by Shri N. K. Tiwari, Advocate/Consultant, through virtual mode. During the hearing, he reiterated the submissions made in the appeal memorandum and requested that the case be decided on merits.

DISCUSSION & FINDINGS:

5. Before examining the merits of the case, I find from the appeal memorandum in Form C.A.-1 that the impugned Order-in-Original dated 03.09.2024 was received by the appellant on 18.10.2024. The present appeal was filed on 16.12.2024, which is within the statutory period of sixty days prescribed for filing an appeal before the Commissioner (Appeals) under Section 128(1) of the Customs Act, 1962. I further note that the appellant has deposited an amount of Rs. 450/- vide challan no. 3864/28.11.2024, being 7.5% of the penalty amount of Rs. 6000/-, towards mandatory pre-deposit in compliance with the provisions of Section 129E of the Customs Act, 1962.

6. I have carefully gone through the appeal memorandum as well as records of the case and the submission made on behalf of the Appellant during the course of hearing. The issue in the present appeal is whether the adjudicating authority, vide the impugned order, has rightly, legally and validly imposed penalty upon the appellant and whether such imposition of penalty is legal and proper in the facts and circumstances of the case.

6.1 The Adjudicating Authority has concluded that the appellant is liable to penalty under Section 112(a) of the Customs Act, 1962 and has recorded the following observations in the impugned order :

> *20. In regard to the proposal for imposition of penalty on CHA/Customs Broker firm M/s. Rakesh Oza, A-502, Infinity Tower, Corporate Road, Prahlad Nagar, Ahmedabad-380015, I find that M/s. Rakesh Oza had admittedly attended to clearance of the impugned goods imported by M/s. VSY Opthalmic India Pvt Ltd., Third Floor, 6-Vasant Vihar Building, Sama, Vadodara-390019 by filing bills of entry as their CB firm. As Customs Broker, it was his duty to verify the documents submitted by the importer and fulfilment of all necessary conditions for import of any goods along with any restrictions/prohibitions stipulated in import policy or any law at the relevant time. Despite being aware of the fact that impugned Scanners were not freely importable as the Scanners at the time of import were not BIS complaint as BIS Registration certificate was not available with the importer at the time of import, M/s. Rakesh Oza allowed them to import the said goods and M/s. Rakesh Oza filed Bill of Entry for subject goods. M/s. Rakesh Oza facilitated the clearance of the impugned goods. As a Custom Broker, M/s. Rakesh Oza was required to ensure due compliance of Laws, Rules and Procedure and yet instead of*

compliance, he actively colluded with the importer in circumventing the Rules. Hence, I find that despite having knowledge of goods not having BIS registration, they abetted Importer in the act of importing the goods in contravention of prohibition rendering the goods liable to confiscation under Section 111 (d) of Customs Act 1962 and therefore, I find that the said contraventions on the part of M/s. Rakesh Oza, constitute an offence of the nature as described under Section 112(a) of the Customs Act, 1962 and consequently, M/s. Rakesh Oza is liable for penalty under Section 112(a) of the Customs Act, 1962.

6.2 I find that the Adjudicating Authority has held the appellant, Shri Rakesh Oza, Customs Broker, liable to penalty on the premise that he had knowledge that the impugned scanners were not BIS compliant at the time of import and that he actively abetted the importer in importing goods in contravention of prohibition under Section 111(d) of the Customs Act, 1962. However, on a close scrutiny of the facts and the applicable legal provisions, I find that the said findings are not sustainable either on facts or in law for the reasons discussed hereinbelow.

6.2.1 Absence of Evidence of Knowledge or Mens Rea

The entire finding against the appellant rests on a presumption that the Customs Broker was "aware" of the non-availability of BIS Registration Certificate at the time of import. However, the impugned order fails to bring on record any cogent evidence to establish that the appellant had actual knowledge that the goods were not BIS compliant. There is no documentary evidence, statement, correspondence, or admission on record to demonstrate that the appellant was informed or was otherwise aware that the subject scanners were prohibited for import in the absence of BIS registration. It is well settled that penal liability under the Customs Act, particularly for abetment, cannot be fastened on assumptions or presumptions. In the absence of proof of mens rea or conscious knowledge, the finding of abetment is legally untenable.

6.2.2 Scope of Responsibility of a Customs Broker

As per the Customs Brokers Licensing Regulations (CBLR), the duty of a Customs Broker is to process customs clearance on the basis of documents furnished by the importer and to exercise reasonable diligence. The law does not cast an obligation upon the Customs Broker to conduct an independent technical verification or to ascertain the existence of statutory registrations such as BIS certification unless the same is apparent from the documents submitted or specifically flagged by the Customs authorities at the time of assessment.

In the present case, the Bills of Entry were assessed and processed by the Customs Department itself. The clearance of goods by Customs authorities indicates that the import documents were found acceptable at the relevant time. Once the goods were assessed and cleared by the proper officer, the Customs Broker cannot be retrospectively faulted for alleged non-compliance, particularly in the absence of any deliberate mis-declaration or suppression attributable to him.

6.2.3 No Evidence of Active Collusion or Facilitation

The Adjudicating Authority has alleged that the appellant "actively colluded" with the importer to circumvent the law. However, such a serious allegation is unsupported by any evidence. Mere filing of Bills of Entry and facilitation of clearance in the normal course of professional duty cannot, by itself, amount to collusion or abetment. There is nothing on record to show that the appellant derived any undue benefit, advised the importer to bypass BIS requirements, or manipulated the import process in any manner. In the absence of such evidence, the conclusion of active collusion is purely conjectural and cannot be sustained.

6.2.4 Improper Invocation of Section 111(d) and Consequential Penalty

While the goods may have been held liable to confiscation under Section 111(d) of the Customs Act, 1962, liability of goods to confiscation does not automatically result in penal liability of the Customs Broker. For imposition of penalty on a third party, the statute requires a clear finding of intentional involvement or abetment, which is conspicuously absent in the present case.

It is a settled legal position that penalty provisions are penal in nature and must be strictly construed. In the absence of clear and convincing evidence establishing conscious knowledge and intentional facilitation, the imposition of penalty on the Customs Broker is unsustainable.

6.2.5 I have examined the case laws quoted by the appellant in his appeal memorandum and find that they are squarely applicable to the present case. The said case laws lay down that, for imposition of penalty under Section 112(a) of the Customs Act, 1962, there must be evidence of prior knowledge, intentional involvement, abetment, or active collusion on the part of the appellant.

7. In view of the foregoing discussion, I hold that the findings of the Adjudicating Authority attributing knowledge, collusion, and abetment to the appellant, Shri Rakesh Oza, are based on assumptions and surmises and are not supported by evidence on record. The appellant has merely discharged his professional obligations as

a Customs Broker on the basis of documents provided by the importer, and no violation of statutory duty or mala fide intent has been established against him.

Accordingly, the penalty imposed on Shri Rakesh Oza, Customs House Agent, is set aside and his appeal is allowed with consequential relief, if any, as per law. This Order-in-Appeal is confined strictly to the appeal of the CHA and does not extend to or affect the case of the main appellant.

(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-248/CUS/AHD/2024-25 Date: 21.01.2026

By email (as per Section 153(1)(c) of the Customs Act, 1962)

By Speed post.

To

M/s Rakesh Oza,
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Ahmedabad- 380 015

Email- rakeshoza62@gmail.com

आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

Copy to:

1.The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)
2.The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3 The Assistant Commissioner of Customs, Air Cargo Complex, Old Airport, Ahmedabad (aircargo-amd@gov.in accusacc@gmail.com)
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5. Guard File.