



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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DIN - 20260371MN00003883FB

क	फ़ाइल संख्या FILE NO.	S/49-417/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-933-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	31.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/209/2024-25 dated 02.12.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	31.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Parwej Alam, Anand Nagar, Shri Kiran Ubale Ki Chawl, Anjul Fata, Bhiwandi-Thane Maharashtra



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



	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रूपए.
(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

Appeal has been filed by Shri Parwej Alam, Anand Nagar, Shri Kiran Ubale Ki Chawl, Anjul Fata, Bhiwandi-Thane, Maharashtra, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AKM/209/2024-25 dated 02.12.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating impugned order').

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

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

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



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

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

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



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

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

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

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

- Section 111(d), (f), and (m): For importing goods contrary to prohibitions and for filing entries that did not correspond to the actual value or description of the goods.
- Section 112(a) and (b): For acts of omission and commission—including the failure to examine goods and the facilitation of fraudulent clearances—that rendered the goods liable for confiscation.
- Section 114AA: For the deliberate use of false and fraudulent documents, including forged invoices and manipulated packing lists, in the transaction of business with Customs.

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

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

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

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

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

(I) He imposed penalty of Rs. 5,000/- upon the appellant under Section 112(a)(ii) of the Customs Act, 1962.



SUBMISSIONS OF THE APPELLANT:

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

3.1 The Appellant contends that the Respondent failed to properly evaluate the factual and legal aspects of the case, rendering the impugned order bad in law. It is argued that the Appellant's role was strictly limited to supervising the loading and unloading of containers at the Bhiwandi warehouses based on instructions from the actual buyers, Mr. Asif Sathi and Mr. Sarfarazbhai. As an employee acting in an official capacity, the Appellant maintains that he never verified consignee names or the specific contents of the cartons, and therefore should not be held independently liable for the actions of his employers without evidence of personal involvement in the alleged offense.

3.2 Furthermore, the Appellant asserts that the department provided no evidence demonstrating his knowledge or involvement in the alleged mis-declaration, undervaluation, or concealment of goods. During interrogation, questioning was focused solely on the import of e-cigarettes, with no inquiries made regarding the valuation of other items like hair dryers or water bottles. The Appellant emphasizes that he had no role in placing orders, negotiating with suppliers, or filing Bills of Entry. Since his compensation was a fixed rate of ₹3 per carton for loading and unloading, he gained no additional financial benefit that would suggest knowledge of a fraudulent scheme.

3.3 The appeal also highlights a significant legal precedent involving the same investigation, where the Hon'ble CESTAT, Ahmedabad, recently set aside penalties imposed on this Appellant in related cases. The Appellant argues that since his alleged role in the common investigation has already been struck down by the Tribunal, the penalty in the present case should similarly be quashed. It is maintained that the role of the Appellant only began after the goods were cleared from the port, and he was under no obligation to inspect the materials loaded into the cartons by third parties.



3.4 Finally, the Appellant argues that the legal requirements for imposing penalties under Section 112 of the Customs Act, 1962, have not been met. He contends that there is no evidence of "abetment" as defined under the Indian Penal Code, as he did not instigate, conspire, or intentionally aid in any illegal act. Because mens rea is a prerequisite for such penalties, and the Appellant acted in a bona fide manner without knowledge of any smuggling or mis-declaration, he asserts that the penalty is baseless and should be set aside.

PERSONAL HEARING:

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

DISCUSSION AND FINDINGS:

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

5.1 The Appellant's defense centers on the claim that he was a mere employee. However, I find that his statement recorded under Section 108 is a significant piece of evidence. The Hon'ble Supreme Court in Naresh Kumar Sukhwani vs. Union of India [1996 (83) ELT 285 (SC)] held that a statement made before the Customs officials under Section 108 is a material piece of evidence... it can be used as substantive evidence in connecting the applicant with the act of contravention.

5.2 In the present case, the Appellant admitted to being the point of contact for the "crossing" of containers and managing the logistics of goods that were clearly prohibited. This admission, not retracted at the earliest opportunity, carries heavy evidentiary weight.

5.3 The investigation has established that the Appellant was not a casual or unwitting laborer, but a vital functional component of a sophisticated, organized smuggling syndicate. The Appellant served as the "Bhiwandi In-charge" for the mastermind, Shri Asif Sathi. This was not a standard warehousing job; it was the designated terminal for contraband arriving from



Mundra. The syndicate's operations involved a process called "crossing" designed specifically to evade detection by enforcement agencies and to break the audit trail of E-way bills. The Appellant's coordination of these "crossings" is a clear indicator of his involvement in the illicit mechanism of the syndicate.

5.4 The WhatsApp chats recovered from the mobile phones of co-conspirators, specifically Shri Baldevsinh Vala and Shri Tahir Menn, demonstrate that the Appellant was in constant, high-level communication regarding the status of containers. He was receiving container numbers, truck numbers, and driver contact details in real-time. This level of synchronization is characteristic of a high-trust operative within an organized crime structure, rather than a low-level employee who is simply "moving boxes."

5.5 Smuggling relies on a chain of custody where each link must be secure. By managing the Bhiwandi godowns, the Appellant provided a "safe haven" for prohibited items like E-cigarettes (valued at over ₹48 Crore in this single consignment) and BIS-non-compliant toys. Without a trusted manager at the delivery end to receive, conceal, and further distribute these items to domestic buyers like "Raju Bhai" or "Sohail Bhai," the entire smuggling venture would fail. His role was therefore as essential as the importer or the clearing agent.

5.6 The Appellant's history of handling previous consignments as revealed in the investigation proves a recurring pattern of behavior. This "systematic participation" differentiates his case from a single isolated incident where an employee might truly be unaware of a container's contents. His long-standing association with the Sathi cartel proves he was well-versed in the clandestine nature of the business. In light of these facts, I find that the Appellant's role was that of an active abettor who facilitated the successful conclusion of the smuggling process. His participation in the logistics of Container No. TGBU5160748 was a deliberate act in furtherance of the syndicate's goals.

5.7 The Appellant has heavily relied on the judgment in O.P. Agarwal vs. Commissioner of Customs, Kandla [2005 (185) E.L.T. 387 (Tri. - Del.)] to argue that as an employee, he cannot be held responsible for the acts of the proprietor. I find this reliance to be fundamentally misplaced. In the O.P. Agarwal case, the employees were performing routine, legal corporate functions for a legitimate company that happened to commit a malpractice. In the instant case, the "employer" was running an organized smuggling cartel dealing in prohibited E-

cigarettes—an item banned nationwide under the Prohibition of Electronic Cigarettes Act, 2019. The Appellant's role was specifically to manage the clandestine receipt and distribution of these prohibited items.

5.8 A "mere employee" can claim ignorance of technical misclassification. However, when the cargo consists of hundreds of cartons of E-cigarettes and BIS-non-compliant toys concealed behind floor mops, the "ignorance" defense fails. E-cigarettes are high-value, highly regulated, and prohibited contraband. Dealing with such items imposes a "duty of care" that transcends the standard employee-employer relationship. The investigation revealed that the Appellant received specific payments specifically for handling these sensitive consignments. In organized smuggling, such payments are considered "proceeds of crime" or remuneration for risk-taking in illicit activities. This removes the Appellant from the category of an "unwitting employee" and places him in the category of a "paid participant" in a criminal conspiracy.

5.9 Under Section 112(a), liability is fastened on anyone who "abets" the act of improper importation. Abetment, as defined under Section 107 of the IPC, includes "intentional aiding." By managing a secret godown, coordinating "crossings" to evade E-way bill tracking, and dispatching contraband to clandestine buyers, the Appellant provided the essential "last mile" infrastructure for the smuggling. Therefore, the Appellant's role was not that of a professional warehouseman but that of a logistical operative for a smuggling syndicate. Consequently, the protection usually afforded to bona fide employees under corporate law does not apply to participants in an organized criminal venture under the Customs Act.

Section 112(a) and (b) penalize any person who "abets" or "acquires possession" of goods they have "reason to believe" are liable to confiscation. The scale of the operation—thousands of E-cigarettes and toys concealed in floor mop consignments—makes it impossible for a warehouse manager/supervisor to remain ignorant. The concealment itself is a "badge of fraud." The Appellant facilitated the delivery of these goods to domestic buyers (Raju Bhai, Sohail Bhai, etc.). This active participation in the distribution of prohibited items satisfies the requirement of Section 112(b).

5.11 The Adjudicating Authority correctly relied on Collector of Customs vs. D. Bhoormull [1983 (13) ELT 1546 (SC)]. The Hon'ble Supreme Court held that the department is not required to prove its case with "mathematical

precision" but on the "preponderance of probability." Given the Appellant's coordination roles, the probability of his knowledge is near-certain.

5.12 The Appellant cited Nazir Ur Rehman vs. C.C. and Kamal Kapoor. These cases involve lack of direct evidence. In contrast, the current case features digital evidence (WhatsApp) and specific logistical roles performed by the Appellant. Therefore, those rulings are not applicable here.

5.13 The Appellant, Shri Parweej Alam, was a crucial cog in the logistical machinery of a smuggling syndicate. His actions allowed for the harbouring and intended distribution of items that are not only prohibited by the Customs Act but also by specific social-health legislations. Providing a "safe haven" in the form of managed godowns is an act of abetment in smuggling. I find no infirmity in the findings of the Adjudicating Authority regarding the Appellant's liability. The penalty imposed is justified to deter such logistical support for smuggling activities.

6. In view of the above discussion and findings, I find no reason to interfere with the Order-in-Original No. MCH/ADC/AKM/209/2024-25 dated 02.12.2024. The role of the Appellant, Shri Parweej Alam, in abetting the smuggling of prohibited goods is clearly established.

7. The appeal filed by Shri Parweej Alam is hereby rejected.



(Handwritten signature)

(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-417/CUS/MUN/2024-25

27640277

Date:31.03.2026

By Speed post A.D/E-Mail

To,
Shri Parweej Alam
Anand Nagar,
Shri Kiran Ubale Ki Chawl, Anjul Fata,
Bhiwandi-Thane
Maharashtra

Copy to:

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

