
	<p>सीमा शुल्क के प्रधान आयुक्त का कार्यालय</p> <p>सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</p> <p>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS</p> <p>CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT</p> <p><u>Phone No.02838-271165/66/67/68</u></p> <p><u>FAX.No.02838-271169/62,</u></p> <p><u>Email-adj-mundra@gov.in</u></p>	
A. File No.	: F. No. GEN/ADJ/COMM/514/2024-Adjn-O/o Pr. Commr-Cus-Mundra	
B. Order-in-Original No.	: MUN-CUSTM-000-COM-29-25-26	
C. Passed by	: Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.	
D. Date of order and Date of issue:	: 17.10.2025. 17.10.2025	
E. SCN No. & Date	: F. No. GEN/ADJ/COMM/514/2024 dated 28.10.2024	
F. Noticee(s) / Party / Importer	: (i) M/s. Bimala Devi Industries (IEC: AACPK4128K), (ii) M/s Cargo Concepts (Bombay) Pvt Ltd, (iii) Shri Kanhaiya Kasera, (iv) M/s Fast Track CFS Pvt Ltd, (v) Shri Sourabh Jain, (vi) M/s. SMV Impex, (vii) Shri Rakesh Shah, (viii) M/s Shah Trading Co.	
G. DIN	: 20251071MO0000911122	

1. यहअपीलआदेश संबन्धित 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 -/ 1000 रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये 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/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मद सं-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, सीमा शुल्क (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 जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ 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:

Intelligence gathered by the officers of Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter referred to as DRI) indicated that certain importers were importing Digital Offset Printing Plates from China by mis-declaring them as 'Sheet for Doors Fitting' through APSEZ Mundra. The said mis-declaration was done with the intent to evade the applicable Anti-Dumping duty imposed vide Notification No. 21/2020-Customs (ADD) dated 29.07.2020. One of the Importers was M/s Bimala Devi Industries (IEC-AACPK4128K), D-31, 403, Yogi Nagar, Eksar Road, Opp Rudraksh Restaurant, Borivali West, Mumbai – 400092 (hereinafter also referred to as 'M/s Bimala' for the sake of brevity) who was engaged in the business of import of Digital Offset Printing Plates falling under CTI 84425090 of Customs Tariff Act, 1985 from China by mis-declaring them as 'Sheet for Doors Fitting' under CTI 83024190.

2. In terms of Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975, the Anti-dumping duty applicable on Digital Offset Printing Plates originating in, or exported from People's Republic of China and imported into India and Digital Offset Printing Plates manufactured in China and imported into India from other countries. As per the said Anti-dumping duty Notification, the Digital Offset Printing Plates falling under CTI 84425090 of Chinese Origin, when exported from People's Republic of China or any other countries other than People's Republic of China and imported into India, which is produced by any other producer except S. No. 01 to 04 mentioned in the Column no. (6) of the table in the Notification No. 21/2020-Customs (ADD) dated 29.07.2020, the Anti-dumping duty @ 0.77 USD per SQM is leviable with effect from 30.01.2020 for a period of five years (unless revoked, superseded or amended earlier).

EXAMINATION OF THE IMPORTED GOODS AT APSEZ, MUNDRA

3.1 Based on the above intelligence, goods imported by 'M/s. Bimala' vide Warehousing B/E No. 1022739 dated 27.10.2023 were put on hold and examined under panchnama dated 31.10.2023 at the warehouse of M/s. Fast Track CFS Pvt Ltd, APSEZ, Mundra. During the course of examination, it was found that the actual goods in the containers were Digital Offset printing Plates whereas the importer had mis declared the goods as 'Sheet for Doors Fitting'.

3.2 Similarly, goods imported by 'M/s. Bimala Devi Industries' vide Warehousing B/E No. 1023025 dated 31.10.2023 were put on hold and examined under panchnama dated 08.12.2023 at the warehouse of M/s. Fast Track CFS Pvt Ltd, APSEZ, Mundra. During the course of examination, it was found that the actual goods in the containers were Digital Offset CTCP printing Plates whereas the importer had mis-declared the goods as 'Sheet for Doors Fitting'.

3.3 The mis-declaration of the goods was clearly evident from the physical appearance of the imported goods. The goods were found to be metal plates with silver colored coating on one side and blue color emulsified coating on the other side. Further, 'CTCP/CTP' in text, which stands for 'Computer to Conventional Plate/Computer to Plate', was clearly mentioned on the goods and packing material of the goods. Also, the imported goods were of different sizes and the sizes were also mentioned on the packing material of the goods.

3.4 In the instant case, the goods description 'Sheet for Doors Fitting' is a random name which has been declared by the importer and which has no popular usage or availability in the market. A bare search of the item 'Sheet for Doors Fitting' from open source gives the results which have no similarity with the imported goods in the subject case. Further, the description as mentioned on the imported goods and the physical appearance of the goods clearly indicated that the goods are in actual Digital Offset Printing Plates.

3.5 It is pertinent to mention that under the Panchnamas dated 31.10.2023 and 08.12.2023, identical goods, i.e. Digital Offset Printing Plates imported by the other importers namely M/s. Shivkrupa Impex and M/s. Pawan Trading Company by mis-declaring the same as 'Sheet for Doors Fitting' were also examined but the same were covered under separate Importer wise Show Cause Notices. The present Show Cause Notice, therefore, specifically covers only the goods imported by M/s. Bimala Devi Industries.

LITERATURE REGARDING DIGITAL OFFSET PRINTING PLATES

4.1 The Digital Offset Printing Plates are used in the printing industry to transfer data as an image onto paper or non-absorbent substrates like tin sheets, poly films etc. In the printing process using Digital Offset Printing Plates, the digital workflow enables direct transfer of the image from a 'computer to the plate' (CtP) using lasers. Digital Plates are made from high-purity litho-grade aluminium coils coated with chemical coating. These Digital Plates are of three varieties, 'Thermal Plates', 'Violet Plates' and 'CtCP/UV CtP Plates'.

4.2 The goods in the subject case are CtCP or CtP plate which stand for 'Computer to Conventional Plate' or 'Computer to Plate' and the said goods are a popular type of Digital Offset Printing Plates as mentioned above. Further, as can be gathered from online or offline sources, these plates are sold in different sizes, i.e. different dimensions as per the usage of the customers.

SEARCH AT THE PREMISES OF M/s. BIMALA DEVI INDUSTRIES, MUMBAI

5. A search was carried out at the office premises of M/s Bimala Devi Industries (IEC-AACPK4128K), D-31, 403, Yogi Nagar, Eksar Road, Opp Rudraksh Restaurant, Borivali West, Mumbai – 400092 in the presence of independent panchas and incriminating documents were resumed under Panchnama dated 14.11.2023 for further investigation.

SEARCH DATED 03.11.2023 AT THE PREMISES OF M/s. SHAH TRADING CO., AHMEDABAD

6.1 It was gathered that the goods imported by mis-declaring as 'Sheet for Doors Fitting' at APSEZ, Mundra in the past were actually supplied to M/s. Shah Trading Co., Ahmedabad. Therefore, another search was carried out at the office premise of M/s. Shah Trading Co. located at A-215, Sumel-6, Dudheshwar, Ahmedabad and at the two godowns of M/s. Shah Trading Co. located at Shed No 35, Shayona Estate, Near Vadilal Ice Cream, Lalchand Traders, Dudheshwar Road, Ahmedabad and G-8, Abhishek Industrial Estate, Asarva Road, Ahmedabad under a running Panchnama dated 03.11.2023.

6.2 During the search, it was found that the premise of M/s. Shah Trading Co., located at Shed No 35, Shayona Estate, Near Vadilal Ice Cream, Lalchand Traders, Dudheshwar Road, Ahmedabad was earlier rented by M/s. Aakruti Impex, which also dealt in the trading of Digital Offset Printing Plates. However, M/s. Aakruti Impex had shut down business few months back after

which, the said premise was rented by M/s. Shah Trading Co. Also, halfway through the search, Shri Rakesh Shah, proprietor of M/s. Aakruti Impex also appeared and was present during the search proceedings along with Shri Hemang Shah, proprietor of M/s. Shah Trading Co. and Shri Akash Panchal, accountant for M/s. Shah Trading Co.

6.3 The said godowns of M/s. Shah Trading Co. were systematically searched by the DRI officers and were found to contain Digital Offset Printing Plates of different sizes kept in corrugated cartons. During the search, Shri Hemang Shah submitted the closing stock of the goods i.e. Digital Offset Printing Plates as per the books of accounts which was annexed to the same Panchnama dated 03.11.2023. The goods totaled to a **quantity of 2,18,076 sq.m. with value as per books of accounts as Rs.6,16,74,879/-**. The DRI officers detained the said goods, i.e. Digital Offset Printing Plates kept in the godowns of M/s. Shah Trading Co. for further inquiry in the matter under a Detention Memo dated 03.11.2023 and handed the goods to Shri Hemang Shah for safe custody under 'Supratnama' dated 03.11.2023.

6.4 The DRI officers also resumed certain incriminating documents from the office premises of M/s. Shah Trading Co., Ahmedabad.

7. During the course of investigation, in order to collect the evidence/corroborative evidence statement of persons who were directly/indirectly involved in import of goods were recorded by the DRI under the provisions of Section 108 of Customs Act, 1962. The facts of statements of such persons have been mentioned in the Show Cause Notice and the records of statements thereof have been attached to Show Cause Notice as RUDs. For sake of brevity contents of statements of such persons are not produced hereunder. The details of the persons whose statements were recorded are as under: -

- Statement of Shri Balesh Yadav, authorized representative of M/s. Fast Track CFS Ltd. was recorded on 31.01.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Harishkumar Kedia, Proprietor of M/s. Bimala Devi Industries (Importer) was recorded on 11.12.2023 under Section 108 of the Customs Act, 1962.
- Statement of Shri Hemang Shah, Proprietor of M/s. Shah Trading Co., Ahmedabad was recorded on 12.12.2023 under Section 108 of the Customs Act, 1962.
- Statement of Shri Ram Lal, Proprietor of M/s. Godara Transport Corporation was recorded on 28.12.2023 under Section 108 of the Customs Act, 1962.
- Statement of Sourabh Jain, Authorized Signatory of M/s. SMV Impex, Delhi was recorded on 08.02.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Rakesh Shah was recorded on 12.02.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Kanhaiya Kasera, Director of M/s. Cargo Concepts (Bombay) Pvt. Ltd. (Customs Broker) was recorded on 15.02.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Hemang Shah, Proprietor of M/s. Shah Trading Co., Ahmedabad was recorded on 20.03.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Rakesh Shah was recorded on 02.04.2024 & 05.08.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Sourabh Jain, authorized signatory of M/s. SMV Impex, Delhi was recorded on 10.04.2024 & 17.09.2024 under Section

- 108 of the Customs Act, 1962.
- Statement of Shri Harishkumar Kedia, Proprietor of M/s. Bimala Devi Industries (Importer) was recorded on 26.04.2024 & 27.06.2024 under Section 108 of the Customs Act, 1962.

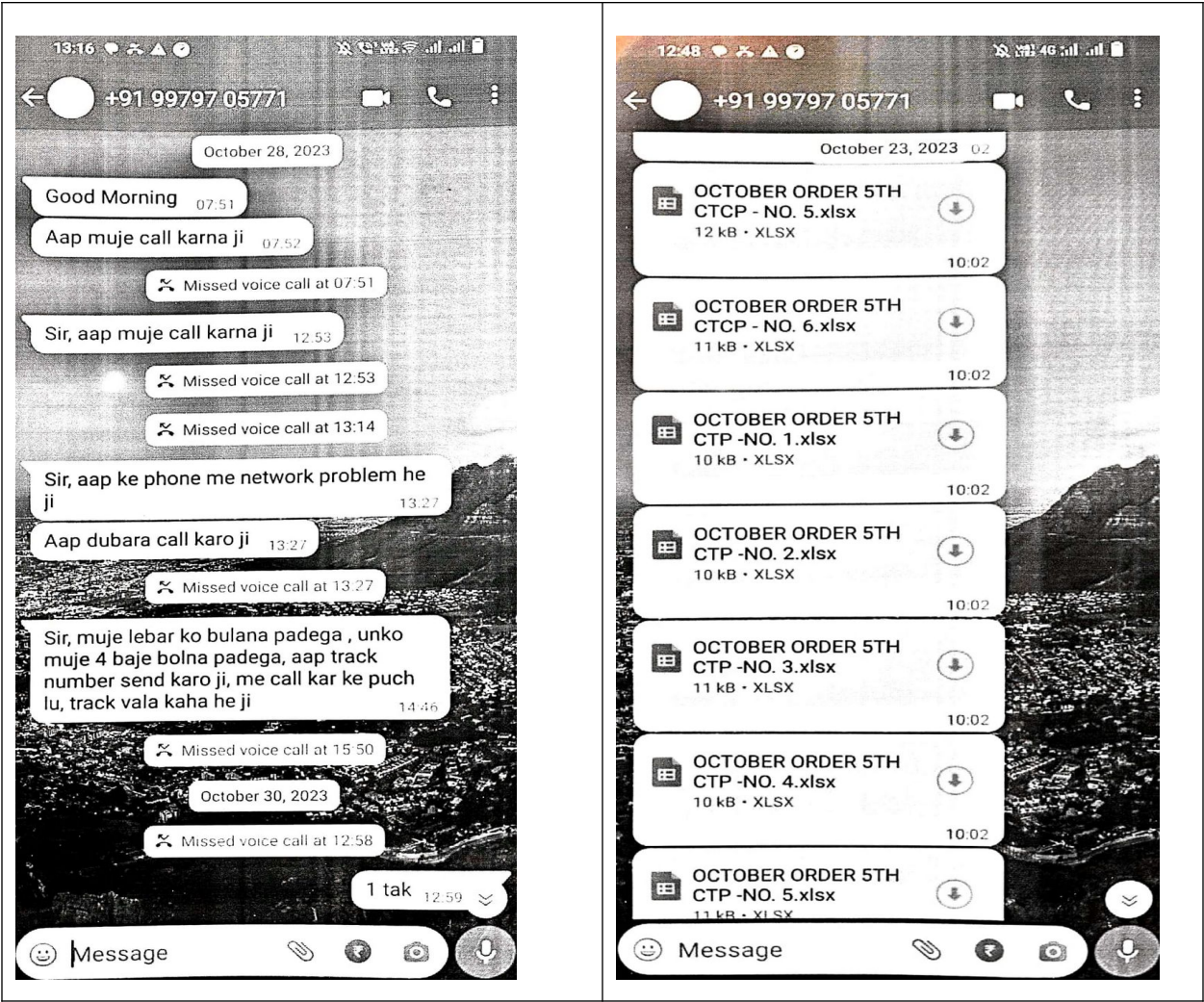
SCRUTINY OF THE SALES INVOICES OF M/s. BIMALA DEVI INDUSTRIES, M/s. SHIVKRUPA IMPEX AND M/s. PAWAN TRADING COMPANY

8. On scrutiny of the DTA sales invoices issued for the goods imported at APSEZ, Mundra by the description, ‘Sheet for Doors Fitting’, it was found that all the invoices for the said item had been issued in the name of M/s. SMV Impex, Delhi which was being managed by Shri Sourabh Jain as per the statements of the importer. As per the statement dated 11.12.2023 of Shri Harishkumar Kedia, proprietor of M/s. Bimala Devi Industries, the said goods were imported by his firm on the instructions of Shri Kanhaiya Kasera, CHA and Shri Sourabh Jain of M/s. SMV Impex. Further, during the statements of the concerned persons of the other two importers (For which separate IR’s are being issued) i.e. M/s. Shivkrupa Impex and M/s. Pawan Trading Company recorded on 11.12.2023 and 15.12.2023 respectively, they also stated that the import of the said goods, i.e. Digital Offset Printing Plates by mis-declaring them as ‘Sheet for Doors Fitting’ was being done by their firms as per the directions of Shri Kanhaiya Kasera and Shri Sourabh Jain.

SCREENSHOT IMAGES OF SOURABH JAIN’S WHATSAPP REGARDING CHATS WITH SHRI RAKESH SHAH

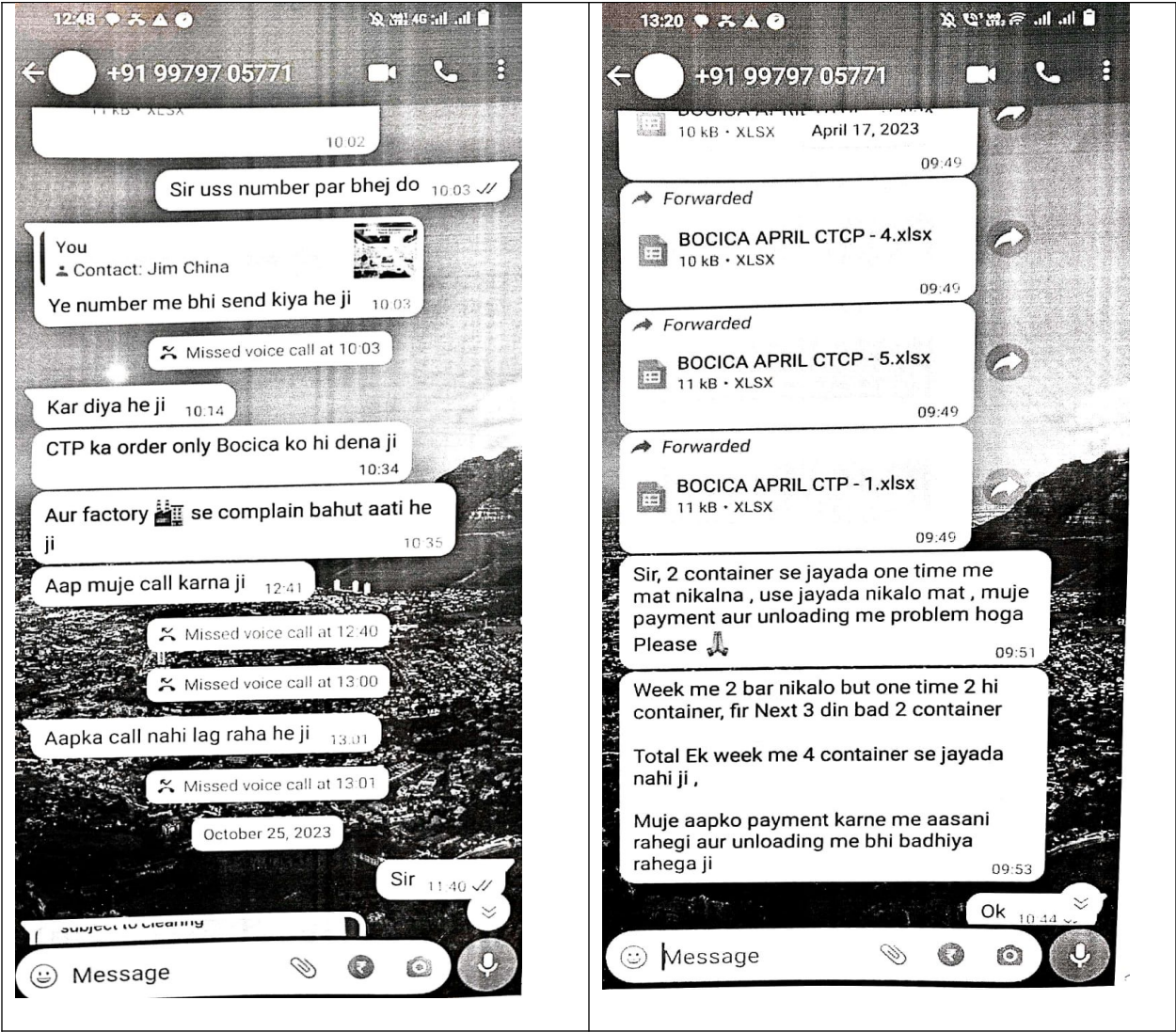
9.1 As stated in the para 14.11 above, Shri Sourabh Jain during his statement submitted certain WhatsApp chat screenshot images. The said chat took place between him (phone no. 9999675565) and Shri Rakesh Shah (phone no. 9979705771). The relevant screenshots are also reproduced as follows:

<u>SCREENSHOT 1:</u> Wherein, Shri Rakesh Shah is asking for the phone no. of the truck driver to track the delivery of goods.	<u>SCREENSHOT 2:</u> Wherein, Shri Rakesh Shah is sending Purchase Orders for CTCP/CTP Printing Plates to Shri Sourabh Jain
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SCREENSHOT 3: Wherein Shri Rakesh Shah is asking Shri Sourabh Jain to send the order of CTP plates to only M/s. Bocica (which stands for M/s. Shanghai Bocica Printing Equipments Co)

SCREENSHOT 4: Wherein Shri Rakesh Shah is asking Shri Sourabh Jain to take out only two containers at a time to ease the payment and unloading of goods



9.2 Thus, the points stated by Shri Sourabh Jain during his statement dated 08.02.2024 are corroborated by the above WhatsApp messages. It can be seen from the WhatsApp images that Shri Rakesh Shah instructed Shri Sourabh Jain to place certain orders of CTP plates to only a certain manufacturer, i.e. M/s. Shanghai Bocica Printing Equipments Co. The purchase orders for Digital Offset Printing Plates (CTP/CTCP) were also forwarded by Shri Rakesh Shah to Shri Sourabh Jain. Shri Rakesh Shah also instructed Shri Sourabh Jain to take out only two containers at a time and it appears that he is actually asking to get the Out of Charge only for limited containers at a time to ease the payment and the unloading of goods.

SCRUTINY OF THE INVOICES AND THE E-WAY BILLS

10.1 The documents submitted by M/s. Bimala Devi Industries, including the import documents and the onwards DTA sale documents were scrutinized for the purpose of investigation. The RFID vehicle reports or route paths were also examined from the E-waybill MIS system corresponding to the e-way bills issued by these firms for delivery of the goods from Mundra port to M/s. SMV Impex, Rohini, Delhi. On examination of the RFID vehicle reports, it was observed that though these importers had issued e-way bills for delivery of goods to M/s. SMV Impex, Delhi, the goods were actually delivered in Ahmedabad. The screenshots of the RFID vehicle reports or route paths issued in the case of invoices or e-way bills issued by M/s. Bimala Devi Industries

were annexed to the SCN. The screenshot of an e-way bill and corresponding RFID path is reproduced below for reference:

E-way bill issued by M/s. Bimala Devi Industries for dispatch of goods ‘Sheet for Doors Fitting’ to M/s. SMV Impex, Rohini, Delhi

e-Way Bill

E-Way Bill No:	2115 9911 3925						
E-Way Bill Date:	02/06/2023 05:49 PM						
Generated By:	27AAC PK412 8K1ZP - BIMALA DEVI INDUSTRIES						
Valid From:	02/06/2023 05:49 PM [1164Kms]						
Valid Until:	08/06/2023						
Part - A							
GSTIN of Supplier	27AACPK4128K1ZP,BIMALA DEVI INDUSTRIES						
Place of Dispatch	,GUJARAT-370421						
GSTIN of Recipient	07AARHA2856B1ZF,SMV IMPEX						
Place of Delivery	ROHINI,,DELHI-110085						
Document No.	BDT/23-24/06						
Document Date	02/06/2023						
Transaction Type:	Bill From - Dispatch From						
Value of Goods	3186000						
HSN Code	83024190 -						
Reason for Transportation	Outward - Supply						
Transporter	07AXFPL9800K1Z7 & GODARA TRANSPORT CORPORATION						
Part - B							
Mode	Vehicle / Trans Doc No & Dt.	From	Entered Date	Entered By	CEWB No. (If any)	Multi Veh.Info (If any)	Updated Reason
Road	MH04JK7010 & 0222 & 02/06/2023	MUNDRA GUJARAT	02-06-2023 05:52 PM	07AXPL9800K1Z7	-	-	Due To Transhipment
Road	GJ12CT0277 & 0221 & 02/06/2023	MUNDRA GUJARAT	02-06-2023 05:49 PM	07AXFPL9800K1Z7	-	-	First Time

RFID Vehicle report/Route path for the correspondin g e-way bill issued by M/s. Bimala devi Industries wherein the actual dispatch is observed in Ahmedabad

E-Way Bill No.

211599113925

Go

Exit (../mainmenu.aspx)

(Latest time reported from the Fastag system : 21-08-2024 17:00:11)

Details of Eway-bill

E- Way Bill Details			Dispatch From Place & Pincode	Dispatch To Place & Pincode	HSN Code & Description	Assessable Value and Tax Value (Rs)
EWB No.	EWB Date	Valid Till				
211599113925	02-06-2023 17:49:00	08-06-2023 00:00:00	370421	ROHINI, 110085	83024190 - BASE METAL MOUNTINGS, FIT	2700000.00 & 486000.00

Vehicles entered for the E-way bill[Part B details of only Road are considered]

Vehicle No.	Vehicle details entry date in EWB	Next vehicle details entry date in EWB(if any)
GJ12CT0277	02/06/2023 17:49:00	02/06/2023 17:52:00
MH04JK7010	02/06/2023 17:52:00	NA

Toll Details passed by Vehicle

Sl no	Toll Plaza	Direction	Date/Time	State
Vehicle No : MH04JK7010				
T1	Vaishnodevi Toll Plaza	North	05/06/2023 16:17:44	KARNATAKA
T2	Sanathal Toll Plaza	South	05/06/2023 16:44:10	GUJARAT
T3	AMTL-TP-01 Vasna-Iyava	South	06/06/2023 13:41:09	GUJARAT
T4	AMTL-TP02-Malvan	South	06/06/2023 16:12:52	GUJARAT
T5	AMTL-TP03-Soldi	South	06/06/2023 17:45:18	GUJARAT
T6	AMTL-TP04-Aniyari	South	06/06/2023 18:52:16	GUJARAT
T7	Surajbari Toll Plaza	South	06/06/2023 20:23:45	
T8	Samakhiali	South	06/06/2023 21:39:02	GUJARAT

Details of Tolls Passed by Vehicle in Bharath Map

10.2 Further, the purchase documents of M/s. Shah Trading Co. for the purchase of Digital Offset CTCP/CTP printing plates were scrutinized for the purpose of investigation. The RFID vehicle reports or route paths were also examined for the e-way bills issued by the suppliers of M/s. Shah Trading Co. for the said goods, viz. M/s. Bansal Industrial Solutions, M/s. Bhaskar Trading Co., M/s. Prateek Traders, M/s. Balaji Traders, M/s. Weblight Solutions, M/s. Satya Traders, M/s. Amar Enterprise, M/s. Global Traders, M/s. Kumar Traders, M/s. J.N.Arora Trading Company, M/s. Mahadev Enterprises, M/s. Kumar Traders, M/s. Akash Enterprises etc. On examination of the RFID vehicle reports, it was observed that though these suppliers had issued e-way bills for delivery of goods to M/s. Shah Trading Co., Ahmedabad, there was no actual movement of goods. Some sample e-way bills and invoices issued by the suppliers of the M/s. Shah Trading Co. were annexed to the SCN. Further, the corresponding RFID vehicle reports or route paths were annexed to the SCN. The screenshot of an e-way bill and corresponding RFID path is reproduced below for reference:

E-way bill issued
by a supplier of
M/s. Shah
Trading Co. for
delivery of goods
'Digital Offset
Printing Plates'
to M/s. Shah
Trading Co.,
Ahmedabad

e-Way Bill

E-Way Bill No:	7013 5602 1652						
E-Way Bill Date:	29/07/2023 10:10 PM						
Generated By:	07AAL PB432 7Q2ZD - BANSAL INDUSTRIAL SOLUTIONS						
Valid From:	29/07/2023 10:10 PM [944Kms]						
Valid Until:	03/08/2023						
IRN No:	ec72d67e5321d022726e83e89ee68af93a88ff8ccf694567451d03de6ad02bd3						
Part - A							
GSTIN of Supplier	07AALPB4327Q2ZD,BANSAL INDUSTRIAL SOLUTIONS						
Place of Dispatch	DELHI,DELHI-110025						
GSTIN of Recipient	24ANBPS0535N1ZW,SHAH TRADING CO						
Place of Delivery	GUJARAT,GUJARAT-380004						
Document No.	AE-588						
Document Date	29/07/2023						
Transaction Type:	Regular						
Value of Goods	2105006						
HSN Code	84425020 - PRINTING PLATES						
Reason for Transportation	Outward - Supply						
Transporter							
Part - B							
Mode	Vehicle / Trans Doc No & Dt.	From	Entered Date	Entered By	CEWB No. (If any)	Multi Veh.Info (If any)	Updated Reason
Road	GJ01JT1932 & AE-588 & 29/07/2023	DELHI	29-07-2023 10:10 PM	07AALPB4327Q2ZD	-	-	

RFID Vehicle report/Route path for the corresponding e-way bill issued by the supplier, wherein it is observed that there is no movement of goods corresponding to the e-way bill

E-Way Bill No.
701356021652
Go
(Latest time reported from the Fastag system : 21-08-2024 17:20:03)

Details of Eway-bill

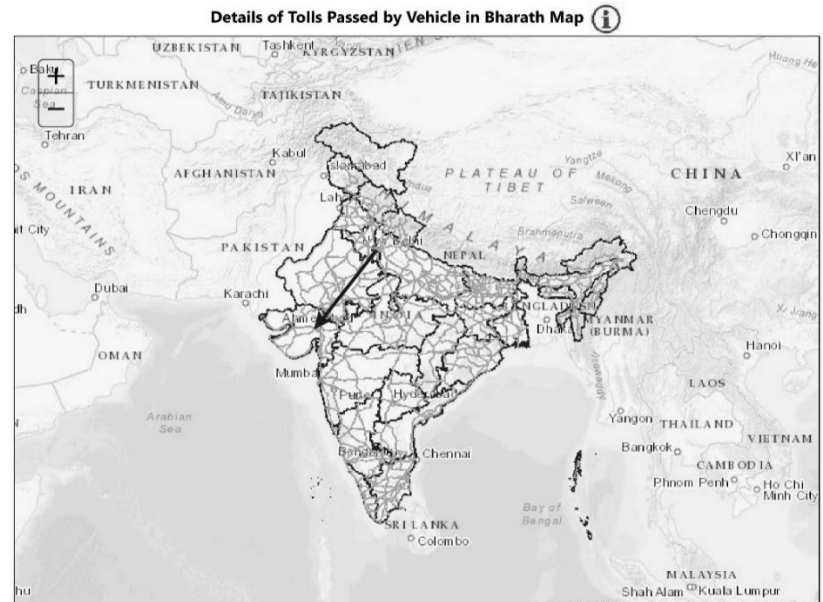
E- Way Bill Details			Dispatch From Place & Pincode	Dispatch To Place & Pincode	HSN Code & Description	Assessable Value and Tax Value (Rs)
EWB No.	EWB Date	Valid Till				
701356021652	29-07-2023 22:10:00	03-08-2023 00:00:00	DELHI 110025	GUJARAT 380004	84425020 - MACHINERY, APPARATUS AND	1784412.00 & 321194.16

Vehicles entered for the E-way bill[Part B details of only Road are considered]

Vehicle No.	Vehicle details entry date in EWB	Next vehicle details entry date in EWB(if any)
GJ01JT1932	29/07/2023 22:10:00	NA

Toll Details passed by Vehicle

No Record Available



10.3 Thus, from the foregoing paras, it appears that although M/s. Bimala Devi Industries had issued invoices in the name of M/s. SMV Impex, Delhi and e-way bills for the dispatch of goods to M/s. SMV Impex, Delhi, the goods were actually being delivered directly from Mundra port to the warehouses of M/s. Shah Trading Co., Ahmedabad. Further, the purchase invoices were created to indicate a legitimate purchase of the Digital Offset Printing Plates by M/s. Shah Trading Co. even while the said goods were actually delivered after import from APSEZ, Mundra directly to M/s. Shah Trading Co., Ahmedabad.

SEIZURE OF THE GOODS IMPORTED AT APSEZ, MUNDRA AND DETAINED UNDER PANCHNAMA DATED 31.10.2023 AND 08.12.2023

11.1 The goods imported vide Warehousing B/E No. 1022739 dated 27.10.2023 were put on hold and examined under panchnama dated 31.10.2023 at the warehouse of M/s. Fast Track CFS Pvt Ltd, APSEZ, Mundra. During the course of examination, it was found that the actual goods in the containers were Digital Offset CTCP printing Plates whereas the importer had mis declared the goods as “Sheet for Doors Fitting”. Similarly, goods imported vide Warehousing B/E No. 1023025 dated 31.10.2023 were put on hold and

examined under panchnama dated 08.12.2023 at the warehouse of M/s. Fast Track CFS Pvt Ltd, APSEZ, Mundra. During the course of examination, it was found that the actual goods in the containers were Digital Offset CTCP printing Plates whereas the importer had mis declared the goods as “Sheet for Doors Fitting”.

11.2 During the investigation, statement of Shri Harishkumar Kedia, Proprietor of M/s. Bimala Devi Industries, Mumbai was recorded on 11.12.2023 under Section 108 of the Customs Act, 1962 wherein he had admitted that the imported material is Digital Offset CTCP printing Plates instead of declared goods, i.e. Sheet for Doors Fitting and they are liable to pay Anti-Dumping duty @ 0.77 USD per square metre imposed vide Notification No. 21/2020-Customs (ADD) dated 29.07.2020. The details of the goods are as under: -

Sr. No.	Warehouse No. & Date	B/E	Quantity In SQM	Declared Assessable value of the goods (Rs.)	Anti-Dumping duty @ 0.77 USD per square metre
1.	1022739 27.10.2023	dtd	34,430.897	12,55,422/-	26,34,105/-
2.	1023025 31.10.2023	dtd	34,330.90	12,60,474/-	26,26,455/-

11.3 Thus, the goods imported by M/s. Bimala Devi Industries, Mumbai through M/s. Fast Track CFS Pvt Ltd, APSEZ, Mundra as mentioned above were mis-declared as “Sheet for Doors Fitting” instead of “Digital Offset CTCP printing Plates” of Chinese Origin, which attract anti-dumping duties. Accordingly, the said goods were placed under seizure under the provisions of Section 110 of the Customs Act, 1962 on the reasonable belief that they are liable for confiscation under Section 111 of the Customs Act, 1962 inasmuch as the imported goods appeared to be of Chinese Origin and thus attracted Anti-dumping duty @ 0.77 USD per sq.m. Further, it appears that the anti-dumping duty amounting to Rs. 52,60,560/-, has been evaded on the above said goods. The said seizure was effected by the Seizure Memo bearing DIN-202401DDZ10000555BC2 dated 05.01.2024 issued by the Senior Intelligence Officer, DRI, Ahmedabad.

11.4 The importer-M/s. Bimala Devi Industries vide letter dated 19.03.2024 had requested Customs House, Mundra for the provisional release of their goods at the SEZ unit-M/s. Fast Track CFS Pvt Ltd that were seized vide the Seizure Memo bearing DIN-202401DDZ10000555BC2 dated 05.01.2024. Their request for the provisional release was accepted by the competent authority and the same was informed to them vide letter bearing DIN-20240671MO000000FAA9 dated 14.06.2024 of the Assistant Commissioner, Import Assessment, Group-IV, Custom House, Mundra subject to the furnishing of the Bond and Bank Guarantee. However, the condition of the furnishing of the Bond and Bank Guarantee has not been complied with by the importer as on date of issuance of this IR.

SEIZURE OF THE GOODS DETAINED AT THE GODOWNS OF M/s. SHAH TRADING CO., AHMEDABAD

12.1 During the search conducted at the office premises and the warehouses of M/s. Shah Trading Co., Ahmedabad on 03.11.2023, the goods, i.e. “Digital Offset Printing Plates” having quantity as per books of account as 2,18,076

sq.m. and having declared value as Rs.6,16,74,879/- were detained for further inquiry in the matter.

12.2 During the investigation, statements of the proprietors/authorised representatives of M/s. Bimala Devi Industries and M/s. Shivkrupa Impex were recorded on 11.12.2023 and that of M/s. Pawan Trading Company on 15.12.2023 under Section 108 of the Customs Act,1962 wherein they admitted that the goods imported by them by declaring as ‘Sheet for Doors Fitting’ were actually Digital Offset CTCP printing Plates and they are liable to pay Anti-Dumping duty @ 0.77 USD per square meter imposed vide Notification No. 21/2020-Customs (ADD) dated 29.07.2020. They also admitted that they had issued invoices for the said goods in the name of M/s. SMV Impex, New Delhi.

12.3 Further, the statements of Shri Hemang Shah, proprietor of M/s. Shah Trading Co. were recorded on 12.12.2023 and 20.03.2024 wherein he stated that the purchase or procurement of the said goods was being handled by Shri Rakesh Shah. The statements of Shri Rakesh Shah were recorded on 12.02.2024 and 02.04.2024 wherein he admitted that the Digital Offset Printing Plates detained at the warehouses of M/s. Shah Trading Co. were delivered to him through Shri Sourabh Jain of M/s. SMV Impex, Delhi and were transported directly from Mundra port to the warehouses of M/s. Shah Trading Co., Ahmedabad.

12.4 The statements of Shri Sourabh Jain of M/s. SMV Impex, Delhi were recorded on 08.02.2024 and 10.04.2024 wherein he stated that the goods detained at the warehouses of M/s. Shah Trading Co., Ahmedabad had been imported by M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Company in the past and were imported vide Bs/E as follows:

SI. No .	Name of the Importer (M/s.)	W/h B/E	W/h to DTA B/E	Qty of the goods in sq.m.	Anti-Dumping duty @ 0.77 USD per square metre (in Rs.)	Assessabl e Value as per B/E (in Rs.)
1	Bimala Devi Industries	1009288 dated 27.05.2023	2009611 dated 31.05.2023	43209.54	32,70,373.66	20,82,500.0
2.	Bimala Devi Industries	1019907 dated 28.09.2023	2019281 dated 03.10.2023	29946.23	22,86,928.60	12,55,707.0
3.	Bimala Devi Industries	1022044 dated 19.10.2023	2021554 dated 23.10.2023	18800.56	14,37,466.19	9,48,707.10
4.	Bimala Devi Industries	1022045 dated 19.10.2023	2021557 dated 23.10.2023	15987.2	12,22,360.37	8,63,379.0
5.	Pawan Trading Co.	1020637 dated 05.10.2023	2020038 dated 10.10.2023	18487.83	14,11,875.46	9,35,476.5
6.	Pawan Trading Co.	1015636 dated 09.08.2023	2015287 dated 11.08.2023	48200.45	36,61,256.05	20,94,389.0
7.	Shivkrupa	1017715	2017083	19334.38	14,73,889.5	1056804.4

	Impex	dated 01.09.2023	dated 06.09.2023		62	
8.	Shivkrupa Impex	1019905 dated 28.09.2023	2019261 dated 03.10.2023	24471.7	18,68,850.63	1238056.5
Total quantity and Anti-Dumping duty applicable on the imported goods				2,18,437.89	1,66,33,001/-	1,04,75,019/-

12.5 Thus, from the investigation conducted so far, it appeared that the goods detained at the godowns of M/s. Shah Trading Co., Ahmedabad were goods that had been imported by M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Company in the past by mis-declaring as ‘Sheet for Doors Fitting’ and without payment of the applicable Anti-Dumping Duty. The details of the said goods are as follows:

Quantity of the goods (in sq.m.)	Value of the goods as per books of account (in Rs.)	Anti-Dumping duty @ 0.77 USD per square metre (in Rs.)
2,18,076	6,16,74,879/-	1,66,33,001/-

12.6 The total quantity of the goods sold as per the details provided by Shri Sourabh Jain of M/s. SMV Impex, Delhi is 2,18,437.89 sq.m., of which 2,18,076 sq.m. found lying in the godowns of M/s. Shah Trading Co., Ahmedabad were detained.

12.7 Thus, the goods lying at the godowns of M/s. Shah Trading Co., Ahmedabad having total quantity as 2,18,076 sq.m. and declared value as Rs. 6,16,74,879/- detained as per Panchnama dated 03.11.2023 were placed under seizure under the provisions of Section 110 of the Customs Act, 1962 on the reasonable belief that they are liable for confiscation under Section 111 of the Customs Act, 1962 inasmuch as the imported goods were mis-declared and appear to be of Chinese Origin attracting Anti-dumping duty @ 0.77 USD per sq.m. The seized quantity included goods imported by M/s. Bimala Devi Industries in the past, i.e. 1,07,943.53 sq.m. having value Rs. 51,50,293/- as detailed below:

SI. No.	Name of the Importer (M/s.)	W/h B/E	W/h to DTA B/E	Qty of the goods in sq.m.	Anti-Dumping duty @ 0.77 USD per square metre (in Rs.)	Assessable Value as per B/E (in Rs.)
1	Bimala Devi Industries	1009288 dated 27.05.2023	2009611 dated 31.05.2023	43209.54	3270373.66	20,82,500.0
2.	Bimala Devi Industries	1019907 dated 28.09.2023	2019281 dated 03.10.2023	29946.23	2286928.60	12,55,707.0
3.	Bimala Devi Industries	1022044 dated 19.10.2023	2021554 dated 23.10.2023	18800.56	1437466.19	9,48,707.10

4.	Bimala Devi Industries	1022045 dated 19.10.202 3	2021557 dated 23.10.202 3	15987.2	1222360.37	8,63,379.0
Total quantity and Anti-Dumping duty applicable on the imported goods				1,07,943.53	82,17,129/-	51,50,293/-

12.8 Further, it appears that the anti-dumping duty amounting to Rs.1,66,33,001/-, has been evaded on the above said goods. The said seizure was effected by the Seizure Memo bearing DIN-202404DDZ1000000E524 dated 12.04.2024 issued by the Senior Intelligence Officer, DRI, Ahmedabad.

12.9 M/s. Shah Trading Co. vide letter dated 04.06.2024 had requested Customs House, Mundra for the provisional release of the goods seized at their godowns vide the aforementioned Seizure Memo bearing DIN-202404DDZ1000000E524 dated 12.04.2024. Their request for the provisional release was accepted by the competent authority and the same was informed to M/s. Shah Trading Co. and the importers- M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Co. vide letter bearing DIN-20240871MO000000A243 dated 13.08.2024 of the Assistant Commissioner, Import Assessment, Group-IV, Custom House, Mundra subject to the furnishing of the Bond and Bank Guarantee. Subsequently, on the submission of the desired Bond for amount of Rs. 1,05,00,000/- and Bank Guarantee for amount of Rs. 29,00,000/-, the competent authority accepted their request for the provisional release of the goods seized at the business premises of M/s. Shah Trading Co., which was communicated vide letter F.No. CUS/APR/PROV/171/2024-Gr 4-O/o Pr Commr-Cus-Mundra dated 25.09.2024 of the Assistant Commissioner, Import Assessment, Group-IV, Custom House, Mundra and the same was also conveyed to M/s. Shah Trading Co. by DRI, AZU vide office letter dated 30.09.2024 that the goods have been released. The liability of Confiscation and consequent penal action in respect of these goods along with other past imports of Digital Offset printing Plates made using the same modus operandi by these Importers are covered in IEC wise IRs being issued separately to M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Co.

VERIFICATION OF THE SUPPLIERS FOR ‘DIGITAL OFFSET PRINTING PLATES’ AS PER PURCHASE INVOICE OF M/s. SHAH TRADING CO.

13.1 It transpires from the RFID vehicle reports/route paths, the statements of Shri Sourabh Jain and Shri Rakesh Shah that though the sale invoices were issued by the importers in the name of M/s. SMV Impex the imported goods were delivered directly from APSEZ, Mundra to the warehouses of M/s. Shah Trading Co. in Ahmedabad.

13.2 The said importers under investigation, who have imported the Digital Offset Printing Plates by mis-declaring the same as ‘Sheet for Doors Fitting’ have issued subsequent sale invoices in the name of M/s. SMV Impex, New Delhi and M/s. SMV Impex, in turn have issued invoices for the sale of the said goods in the name of other firms based in Delhi, viz. M/s. Bhagwati Parshad Traders, M/s. Hare Krishna Enterprises and M/s. Bharat Enterprises. Some of the sale invoices issued by M/s. SMV Impex were annexed to the SCN for reference. The summonses were issued to the said firms, i.e. M/s. Bhagwati Parshad Traders, M/s. Hare Krishna Enterprises and M/s. Bharat Enterprises, but the same have returned undelivered, thus indicating to the fact that these

firms are fake and the said sale invoices issued by M/s. SMV Impex have been created to showcase the outward supply of the imported goods, i.e. ‘Sheet for Doors Fitting’ against the inward supply on paper.

13.3 Also, M/s. Shah Trading Co. have shown purchase invoices of Digital Offset Printing Plates from the firms, majority of whom are based in Delhi. The summonses were also issued to some of the said firms, viz. M/s. Weblight Solutions, M/s. Bansal Industrial Solutions, M/s. Balaji Traders, M/s. Bhaskar Trading Company, but the said summonses were not honoured, again indicating to the fact that these firms are also fake and the said invoices have been created to colour the purchases of M/s. Shah Trading Co. as legitimate, while the goods in actual have been delivered directly from Mundra port.

13.4 In order to verify the sale and purchase of the supplier firms who have issued sale invoices in the name of M/s. Shah Trading Co., Ahmedabad for the sale of Digital Offset Printing Plates, search/physical verification was conducted at the registered premises of some of the major suppliers (as per invoice) of M/s. Shah Trading Co. During premises verification done by the DRI office on 10.06.2024, it was found that the addresses of the said firms are either fake or these firms are non-functional at their registered addresses. The verification reports were annexed to the SCN and have been summarised as follows:

Sr. No.	Name and GSTN of the firm	Address of the firm	Premise verification summary
1.	M/s. Balaji Traders (GSTIN: 07CBIPN8900M1Z6)	House No 424/97, Pvt No-134, Plot No 371 Khasra No 620/552/243, Keshav Puram Industrial Area, Keshav Puram, New Delhi, North West Delhi, Delhi, 110035	The address was found to be fictitious/made-up.
2.	M/s. Weblight Solutions (GSTIN: 07AFHPC8195G1ZA)	Ground Floor, Property No 155, Sarai Jhullena, New Delhi, South East Delhi, Delhi, 110025	The premises was found to be closed and the firm was also found to be non-functional at the said address.
3.	M/s. Satya Traders (GSTIN: 07ESIPP3572C1ZM)	Godown No.03, Khera Village, Khera Kalan Sub Post Office, New Delhi, North Delhi, Delhi, 110082	The address was found to be fictitious. Also, inquiry suggests that there was no operational firm in the area which dealt in Digital Offset Printing Plates.
4.	M/s. Prateek Traders (GSTIN: 07KVGPS8216F1Z4)	Godown No.8, Near Chaudhary Dharam Kanta Khera Village, Kankar Khera, North Delhi, New Delhi, 110082	The address was found to be fictitious. Also, inquiry suggests that there was no operational firm in the area which dealt in Digital Offset Printing Plates.
5.	M/s. Bhaskar Trading Company (GSTIN: 07BORPG1357L1ZJ)	Shop No- 9, Onkar Nagar-A, Ganeshpura Sub Post Office, Tri Nagar, New Delhi, North West Delhi, Delhi, 110035	The address was found to be fictitious/made-up.
6.	M/s. Bansal Industrial Solutions (GSTIN: 07AALPB4327Q2ZD)	Shop No.18, Sukhdev Vihar, CSC Sarai Jullena, New Delhi, South East Delhi, Delhi, 110025	The premise was found to be closed and the firm was also found to be non-functional at the said address.

CALCULATION OF DUTY LIABILITY

14.1 As discussed in the para 23 in the present IR, the Digital Offset Printing Plates imported by M/s. Bimala Devi Industries by mis-declaration and examined under Panchnama dated 31.10.2023 and Panchnama dated 08.12.2023 were put under seizure vide Seizure Memo dated 05.01.2024. It is pertinent to mention that the quantity of the goods placed under seizure and as mentioned in Seizure Memo is taken as that determined during examination of goods at APSEZ, Mundra under Panchnama dated 31.10.2023 and Panchnama dated 08.12.2023.

14.2 As per Notification No. 21/2020-Customs (ADD) dated 29.07.2020, the Anti-Dumping Duty in the instant case is leviable at the rate of 0.77 USD per square meter.

14.3 The details of the goods put under seizure are as follows:

Sr. No.	W/h B/E No.	W/h B/E date	Net weight of goods as per B/E in kgs	Qty of the goods in sq.m.	Exch . Rate	Anti-Dumping Duty evaded (inclusive of IGST) in Rs.	Assessable value as per B/E (in Rs.)
1	1022739	27-10-2023	24850	34,430.90	84.20	26,34,105/-	12,55,422/-
2	1023025	31-10-2023	24950	34,330.90	84.20	26,26,455/-	12,60,474/-
Total area, ADD and ass. value of the goods			49800	68,761.80		52,60,560/-	25,15,896/-

14.4 The said importer, M/s. Bimala Devi Industries has imported. Digital Offset Printing Plates by mis-declaring as ‘Sheet for Doors Fitting’ in the past also. However, as per the packing list issued by M/s. Zhuji Kaituo Import & Export Co. Ltd., submitted for the purpose of filing of B/E, the net weight of the declared goods, ‘Sheet for Doors Fitting’ is mentioned in ‘kilograms’ terms while as per the normal trading practice, the Digital Offset Printing Plates are traded in terms of square meter or area, thus inferring that the packing lists accompanying the Bs/E are not genuine and are made-up for the purpose of filing of B/E in the said manner. Further, the importer, despite the undertaking made in his statement dated 27.06.2024, did not submit the original packing list for the goods imported in the past. Also, the other stakeholders as mentioned in the preceding paras have failed to submit any original packing list for the said goods.

14.5 The Anti-Dumping as per the said Notification No. 21/2020-Customs (ADD) dated 29.07.2020 is leviable in terms of size of the plates in square meter, i.e. 0.77 USD per square meter while in the absence of any authentic packing list, the size of the Offset Printing Plates that have been imported by the importer in the past is required to be inferred.

14.6 In the instant case, the particulars of the imported goods available is only the net weight mentioned in the import documents on the basis of which the Bs/E were filed. Further, during the examination of the imported goods under Panchnama dated 31.10.2023 and Panchnama dated 08.12.2023, the quantity of the goods was determined by physical examination of size in square meter, the values which are also mentioned in the para 30.3 above. Thus,

square meter per Kilogram of the goods imported in the past is determined by dividing the area (size) in Sq.meter by the net weight as mentioned in para 30.3 above, i.e. (68761.80/49800), which is 1.380759. Applying this conversion factor to the net weight available in the import documents the quantity of goods in area or square meter terms can be determined.

14.7 Accordingly, the details of the goods imported in the past and the duty liability on account of mis-declaration are calculated as follows:

Sr. No .	W/h B/E No. & Date	W/h to DTA B/E No. & date	Net weight of goods as per B/E in kgs	Qty of the goods in sq.m.	Exch . Rate	Anti-Dumping Duty evaded (inclusive of IGST) in Rs.	Assessable value as per B/E (in Rs.)
1	1009737 dated 03.06.2023	2010201 dated 08.06.2023	24400	33,690.52	83.40	25,52,974.59	10,17,480.00
2	1009946 dated 06.06.2023	2010384 dated 12.06.2023	25530	35,250.78	83.40	26,71,206.61	10,64,601.00
3	1019907 dated 28.09.2023	2019281 dated 03.10.2023	24900	34,380.90	84.05	26,25,594.66	12,55,707.00
4	1022044 dated 19.10.2023	2021554 dated 23.10.2023	18790	25,944.46	84.20	19,84,858.20	9,48,707.10
5	1022045 dated 19.10.2023	2021555 dated 23.10.2023	17100	23,610.98	84.20	18,06,337.16	8,63,379.00
6	1009288 dated 27.05.2023	2009611 dated 31.05.2023	50000	69,037.95	83.30	52,25,232.52	20,82,500.00
7	1015134 dated 03.08.2023	2014929 dated 07.08.2023	50850	70,211.60	83.60	53,33,199.75	21,09,003.75
8	1013450 dated 16.07.2023	2013390 dated 19.07.2023	3150	4,349.39	83.25	3,28,992.06	1,31,118.75
Total area, ADD and ass. value of the goods			2,14,720	2,96,476.58		2,25,28,396/-	94,72,497/-

14.8 Thus, the total duty liability on account of mis-declaration by M/s. Bimala Devi Industries for the goods seized at APSEZ Mundra and for the goods imported in the past is as follows:

Particulars	Qty of the goods in sq.m.	Anti-Dumping Duty evaded (inclusive of IGST) in Rs.	Assessable value as per B/E (in Rs.)
Qty and ADD for the goods placed under seizure at APSEZ, Mundra	68,761.80	52,60,560/-	25,15,896/-
Qty and ADD for the goods imported in the past	2,96,476.58	2,25,28,396/-	94,72,497/-
Total qty and ADD	3,65,238.38	2,77,88,956/-	1,19,88,393/-

14.9 It is also pertinent to mention that Shri Sourabh Jain in his statement dated 10.04.2024 informed that the Digital Offset Printing Plates detained at the godowns of M/s. Shah Trading Co. were imported vide certain Bs/E and also stated the quantity of goods in square meter which were imported vide the said Bs/E. However, in absence of any valid document or packing list, the said quantity as stated by Shri Sourabh Jain cannot be accepted as such. Further, the inward and outward or the sale and purchase of the goods, being a continuous process, it is neither feasible nor desirable to determine the exact Bs/E from which the said goods at the godowns of M/s. Shah Trading Co. were imported in the past. Thus, the quantity as determined at para 30.6 & 30.7 above is used for determining the duty liability.

MODUS OPERANDI ADOPTED FOR EVASION OF ANTI-DUMPING DUTY:

15.1 In view of the evidence and facts discussed in the foregoing paras, it appears that M/s. Bimala Devi Industries had imported Digital Offset Printing Plates of Chinese Origin falling under CTI 84425090 by mis-declaring the import goods as ‘Sheet for Doors Fitting’ under CTI: 83024190 to evade the applicable Anti-Dumping duty leviable on import of Digital Offset Printing Plates produced by China based manufacturer as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020. The goods namely, Digital Offset Printing Plates imported by M/s. Bimala Devi Industries were produced by China based manufacturer which attract Anti-dumping duty @ 0.77 USD per SQM as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020. However, the importer was mis-declaring the goods description in the import documents by quoting a random description of the goods as ‘Sheet for Doors Fitting’.

15.2 It is evident from the WhatsApp screenshots submitted by Shri Sourabh Jain that the purchase orders used to be sent by Shri Rakesh Shah to Shri Sourabh Jain for CTP/CTCP Digital Offset Printing Plates, who in turn, used to forward the same to the Chinese manufacturer/supplier. The goods were then imported in the name of M/s. Bimala Devi Industries and the other firms/IECs by mis-declaring the import goods as ‘Sheet for Doors Fitting’. Subsequently, M/s. Bimala Devi Industries and the other firms/IECs used to issue invoices and e-way bills by the same goods description, ‘Sheet for Doors

Fitting' in the name of Shri Sourabh Jain's firm, M/s. SMV Impex, Delhi while the goods were delivered directly in Ahmedabad at the warehouses of Shri Hemang Shah's (proprietor) and Shri Rakesh Shah's (informal benefactor's) firm, M/s. Shah Trading Co. Further, to create legal documents for the purchase of the said goods, M/s. Shah Trading Co. obtained the purchase invoices from some fake firms with the goods description CTCP/CTP/Printing Plates whereas the goods were actually supplied directly by the said importers from APSEZ, Mundra.

15.3 From the facts and evidences on record, it appears that the Purchase Order for the Digital Offset Printing Plates used to be given by Shri Sourabh Jain to the Chinese manufacturer as per the requirement and the Purchase Orders conveyed by Shri Rakesh Shah. As per the statements of Shri Sourabh Jain, Shri Hemang Shah and Shri Rakesh Shah, it is revealed that the actual operations of the firm, M/s. Shah Trading Co., particularly relating to the sourcing of the Digital Offset Printing Plates, were being totally managed by Shri Rakesh Shah for the firm M/s. Shah Trading Co. It was also stated by Shri Hemang Shah and Shri Rakesh Shah in their respective statements that Shri Rakesh Shah had provided the required funds to M/s. Shah Trading Co. and they both had informally agreed on profit sharing, thus insinuating to the fact that Shri Rakesh Shah was the major benefactor of this whole business.

15.4 M/s. Bimala Devi Industries and other importers of the said item, 'Sheet for Doors Fitting' have accepted in their respective statements that they were asked by Shri Kanhaiya Kasera to import the said item, 'Sheet for Doors Fitting' as per the requirement of Shri Sourabh Jain. Shri Kanhaiya Kasera of M/s. Cargo Concepts (Bombay) Pvt Ltd has thus facilitated the import of the said goods by using the pseudo importers like M/s. Bimala Devi Industries, who used to import the said item for a small commission while the actual dealing with the overseas supplier was being managed by Shri Sourabh Jain.

15.5 It is revealed from the statements of Shri Sourabh Jain that the Chinese Supplier as mentioned in the import documents, i.e. 'M/s. Zhuji Kaituo Import & Export Co. Ltd.' are just the trader-exporter of the goods while the goods have been procured from the manufacturers like M/s. Shanghai Bocica Printing Equipments Co. Thus, it appears that the Chinese manufacturer including M/s. Shanghai Bocica Printing Equipments Co. had supplied the said goods to M/s. Zhuji Kaituo Import & Export Co. Ltd. as per the directions of Shri Sourabh Jain and M/s. Zhuji Kaituo Import & Export Co. Ltd. in turn, had supplied the said goods to the importers in India. It further appears that the import documents, i.e. invoice, packing list which mention the goods as 'Sheet for Doors Fitting' were made-up and created by the supplier, M/s. Zhuji Kaituo Import & Export Co. Ltd. on the directions of Shri Sourabh Jain for the sake of submission to Customs.

15.6 In the manner discussed herein above, the goods i.e. Digital Offset Printing Plates were imported by M/s. Bimala Devi Industries and other importers by mis-declaring as 'Sheet for Doors Fitting' in connivance with Shri Sourabh Jain, Shri Kanhaiya Kasera and Shri Rakesh Shah, thus evading the applicable Anti-dumping duty due to the Government Exchequer by way of mis-declaration in the import documents.

DISCUSSION OF THE EVIDENCES:

16. Anti-dumping duty was imposed on 'Digital Offset Printing Plates', originating in, or exported from, People's Republic of China, Japan, Korea RP, Taiwan and Vietnam vide Notification No. 21/2020-Customs (ADD) dated 29.07.2020. From the facts narrated in the foregoing paras and the material evidence as gathered during the course of investigation, it transpires that ***M/s. Bimala Devi Industries and other importers had imported Digital Offset Printing Plates from the manufacturers based in China by mis-declaring as 'Sheet for Doors Fitting', which is evident from the following evidences on record:-***

16.1 The examination of the goods done under Panchnama dated 31.10.2023 and Panchnama dated 08.12.2023 during which it was found that the goods declared as 'Sheet For Doors Fitting' in the import documents were actually Digital Offset Printing Plates. The same was evident from the physical appearance of the goods and the text "CTP/CTCP" clearly mentioned on the goods as well as the packing material of the goods.

16.2 It was accepted by the importers- M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Company that the goods imported by them by declaring as 'Sheet for Doors Fitting' in the import documents were actually Digital Offset Printing Plates.

16.3 The said Panchnama was perused by the authorised representative of the SEZ unit- Shri Balesh Yadav of M/s. Fast Track CFS Pvt Ltd during which he stated that after the examination of goods at the SEZ unit, they accept that Digital Offset Printing Plates were imported by mis-declaring the import goods as 'Sheet for Doors Fitting'.

16.4 Further, CHA- Shri Kanhaiya Kasera of M/s. Cargo Concepts (Bombay) Pvt Ltd also perused the said Panchnamas done at the SEZ unit for the examination of the goods and accepted that the goods imported vide the said Bs/E with the declared description 'Sheet for Doors Fitting' were actually Digital Offset Printing Plates. He also stated that the said import was being done on the behalf of Shri Sourabh Jain of M/s. SMV Impex, Delhi.

16.5 Shri Sourabh Jain during his statements accepted the fact that he used to send the purchase orders to the Chinese manufacturers of the said goods. It was also revealed from the WhatsApp screenshots taken from his phone that the purchase orders for the Digital Offset Printing Plates used to be sent to him by Shri Rakesh Shah, which were then forwarded by Shri Sourabh Jain. Shri Sourabh also accepted during his statement dated 17.09.2024 that the goods imported by M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Company at APSEZ, Mundra under the goods description were, in actual, Digital Offset Printing Plates and were mis-declared to avoid the payment of the applicable Anti-Dumping duty applicable as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020.

16.6 It was also accepted by Shri Rakesh Shah during his statements that the goods, i.e. Digital Offset Printing Plates found at the warehouses of M/s. Shah Trading Co. during Panchnama dated 08.12.2023 were actually delivered directly from Mundra port itself and were sourced through Shri Sourabh Jain. Further, Shri Sourabh Jain in his statement dated 10.04.2024 accepted that the Digital Offset Printing Plates detained at the warehouses of M/s. Shah Trading Co. were imported by M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Co. in the past by mis-declaring the import goods as 'Sheet for Doors Fitting' in the similar manner.

16.7 Further, fake invoices of non-functional or non-existent firms were created so as to project that M/s. Shah Trading Co. was purchasing Digital Offset Printing Plates from legitimate sources while actually the goods were directly delivered to them from APSEZ, Mundra.

17. It also transpires that ***the said goods were being imported by M/s. Bimala Devi Industries and other importers at the behest of Shri Sourabh Jain, while Shri Sourabh Jain had been importing the goods as per the requirement and directions of Shri Rakesh Shah. It is also evident that Shri Rakesh Shah, though not having official position in M/s. Shah Trading Co. had complete control over the operations of the firm. The same is evident from the following facts and evidences on record:***

17.1 The importers and the CHA, in their respective statements have accepted that the import of the said goods was being done on the request or behalf of Shri Sourabh Jain of M/s. SMV Impex, Delhi. Further, it was also stated that the funds for the payment to overseas supplier was paid in advance by Shri Sourabh Jain in the bank accounts of the importers.

17.2 Shri Sourabh Jain in his statements accepted that he used to forward the purchase orders of CTCP/CTP plates to the overseas manufacturer/supplier of goods, by which it is inferred that Shri Sourabh Jain used to deal with the overseas manufacturer/supplier for the purchase of Digital Offset Printing Plates and he was very much aware of the actual contents of the imported goods. Further, it is also revealed that he acted as the de-facto importer in the case.

17.3 The WhatsApp screenshots clearly reveal that Shri Rakesh Shah had been giving directions to Shri Sourabh Jain to forward the Purchase Orders as sent by him to a particular manufacturer, M/s. Shanghai Bocica Printing Equipment Co. and had been seeking the truck driver details to track the delivery of his goods. It was also revealed from their statements that Shri Rakesh Shah had hatched the plan for importing the said goods with Sourabh Jain during a family function. The said facts thus insinuate that Shri Sourabh Jain and Shri Rakesh Shah acted in collusion for the import of the Digital Offset Printing Plates by way of mis-declaring the import goods in the aforesaid manner.

17.4 The proprietor of M/s. Godara Transport Corporation in his statement accepted that though the invoice and e-way bills for the goods- 'Sheet for Doors Fitting' were issued by the firms in the name of M/s. SMV Impex, Rohini, Delhi, the goods were actually delivered at the place as per the request of the consignee and accordingly the freight was charged. He stated that Shri Sourabh Jain and Shri Rakesh Shah used to give instructions to the truck driver to offload the goods. From the loading cum payment slips, it is also revealed that the delivery of the goods is mentioned as Ahmedabad. He further stated that the goods were unloaded in the Dudheshwar area of Ahmedabad. The office and the godown of M/s. Shah Trading Co. are located in Dudheshwar area, i.e. office at A-215, Sumel-6, Dudheshwar, Ahmedabad and a godown located at Shed No 35, Shayona Estate, Near Vadilal Ice Cream, Lalchand Traders, Dudheshwar Road, Ahmedabad, thus implying that the said goods were being unloaded at the godowns of M/s. Shah Trading Co.

17.5 The RFID vehicle reports/route paths as fetched from the E-way Bill MIS portal reveal that though the e-way bills were issued by them for delivery to M/s. SMV Impex, Delhi, the goods imported by the importers by declaring as 'Sheet for Doors Fitting' were being delivered in Ahmedabad.

17.6 Shri Sourabh Jain and Shri Rakesh Shah, when confronted with the fact as stated in para 33.4 and 33.5 above during their statements, accepted that the goods imported as 'Sheet for Doors Fitting' at APSEZ, Mundra were delivered directly from Mundra port to the warehouses of M/s. Shah Trading Co. They also accepted that they used to communicate with the truck driver to track the delivery of the goods.

17.7 Shri Hemang Shah, proprietor of M/s. Shah Trading Co., during his statement informed that the actual sourcing of the goods was being managed by Shri Rakesh Shah and also stated that Shri Rakesh Shah used to provide funds to M/s. Shah Trading Co. for the operations, which was also accepted by Shri Rakesh Shah during his statement. It is thus inferred that Shri Rakesh Shah is the real beneficiary or the controller of the whole business of M/s. Shah Trading Co.

18. It also transpires that the importers like M/s. Bimala Devi Industries and others had been importing the goods on a commission basis and they were not concerned with the actual contents of the goods. These importers had been acting on the request or direction of Shri Kanhaiya Kasera, thus implying that Shri Kanhaiya Kasera has facilitated the import of the said goods on behalf of Shri Sourabh Jain.

19. In view of the aforesaid position, the Anti-dumping duty @ 0.77 USD per square meter as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020 is leviable on goods imported by M/s. Bimala Devi Industries. However, importer had wrongly declared the goods description in the import documents as 'Sheet for Doors Fitting' while the goods imported were actually Digital Offset Printing Plates. Thus, the importer did not pay the applicable Anti-dumping duty as specified in the Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975.

PAYMENT OF CUSTOMS/ANTI-DUMPING DUTY:

20. The importer, M/s. Bimala Devi Industries paid Rs. 50,00,000/- vide TR-6 Challan No. 7341/23-24 dated 03.11.2023 and Rs. 81,64,951/- vide TR-6 Challan No. APSEZ/9015/23-24 dated 13.03.2024 towards their duty liabilities arising out of the said inquiry.

21. In the present case, the importer, M/s. Bimala Devi Industries has allowed itself to import the said goods without ensuring the true declaration as to the contents of the imported goods. In light of the provisions of the Section 46 of the Customs Act, 1962, the onus lay on the importer to ensure that the Bill of Entry is filed with the correct particulars, which they failed to do. The importer in the instant case has lent his firm to transact the import of the goods in the said manner for a monetary consideration/commission. It appears that the importer has contravened the provisions of Section 46(4A) of the Customs Act, 1962 in as much as M/s. Bimala Devi Industries while filing Bills of Entry failed to ensure the accuracy and completeness of the information given therein for assessment of Customs duty. Thus, M/s. Bimala Devi

Industries has failed to fulfill this legal obligation in respect of imports of Digital Offset Printing Plates for its correct and accurate information.

22. Further, Shri Sourabh Jain and Shri Rakesh Shah by their acts as described in the aforesaid part of the Show Cause Notice, have also functioned as the de-facto importer or the beneficial owner of the imported goods. Therefore, it appears that M/s. Bimala Devi Industries along with Shri Sourabh Jain and Shri Rakesh Shah have deliberately contravened the above said provisions with an intention to evade payment of Anti-dumping duty leviable and payable on the import of Digital Offset Printing Plates as specified in the first schedule under Section 2 of Customs Tariff Act, 1975 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975.

CULPABILITY AND LIABILITY OF NOTICEES

(i) M/s. Bimala Devi Industries

23.1 From the aforesaid, it appears that the importer- M/s. Bimala Devi Industries indulged in suppression of facts and had mis-declared the description of the goods imported by them, in the declarations made in the import documents including Check lists presented for filing of Bills of Entry presented before the Customs in APSEZ, Mundra at the time of import for assessment and clearance, with an intent to evade the payment of applicable Anti-Dumping Duty. In view of the same, it appears that liability due on M/s. Bimala Devi Industries is as follows:

(a) With respect to the goods imported vide Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 filed through APSEZ, Mundra corresponding to which goods were seized under Seizure Memo bearing DIN-202401DDZ10000555BC2 dated 05.01.2024, M/s. Bimala Devi Industries is liable to the payment of Anti-Dumping duty including IGST amounting to **Rs. 52,60,560/-** as indicated in **para 30.3** of the Show Cause Notice. Accordingly, the declaration made by M/s. Bimala Devi Industries before Customs may be rejected and the Bill of Entry may be re-assessed as per Section 17(4) of the Customs Act, 1962.

(b) With respect to the goods imported in the past vide Bs/E as indicated in **para 30.7** of the Show Cause Notice, the Anti-dumping duty not paid is liable to be recovered from M/s. Bimala Devi Industries by invoking the extended period of five years as per Section 28 (4) of the Customs Act, 1962, in as much as the Anti-dumping duty is short paid on account of wilful mis-declaration as narrated above. Accordingly, the Anti-dumping duty including IGST amounting to **Rs. 2,25,28,396/-** in respect of the goods imported through APSEZ, Mundra in the past as indicated in **para 30.7** of the Show Cause Notice, is liable to be recovered from M/s. Bimala Devi Industries, under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA ibid.

23.2 M/s. Bimala Devi Industries have imported the said goods - Digital Offset Printing Plates by mis-declaring as 'Sheet for Doors Fitting' having declared assessable values as follows:

(a) Goods with declared value of **Rs. 25,15,896/-** as detailed in para 30.3 vide Bill of entry No. 1022739 dated 27.10.2023 and Bill of Entry No.

1023025 dated 31.10.2023 at APSEZ, Mundra which were seized vide Seizure Memo dated 05.01.2024

- (b) Goods with declared value of **Rs. 94,72,497/-** as detailed in para 30.7 vide 08 B/Es during the period from 03.06.2023 to 19.10.2023.

M/s. Bimala Devi Industries has imported the said goods by deliberately resorting to collusion, mis-statement & suppression of the material fact regarding the correct description/ identity of the goods in contravention of the provisions of Section 46 (4) of the Customs Act, 1962. In terms of Section 46(4) of Customs Act, 1962, the importer was required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty, which in the instant case, M/s. Bimala Devi Industries had failed to fulfil in respect of the imports of Digital Offset Printing Plates through APSEZ, Mundra. For these contraventions and violations, the goods fall under the ambit of 'smuggled goods' within the meaning of Section 2(39) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

23.3 The various acts of omission/commission by M/s. Bimala Devi Industries led to evasion of Customs duty (Anti-dumping duty including IGST) as stated in the aforesaid paras. Thus, M/s. Bimala Devi Industries by their acts is liable to penalty as follows:

(a) M/s. Bimala Devi Industries is liable to penalty under Section 114A of the Customs Act, 1962 on account of the evasion of Anti-Dumping duty (including IGST) for **Rs. 2,25,28,396/-** for the goods imported in the past (through suppression of facts/wilful misdeclaration as narrated above,) having declared value as Rs. 94,72,497/- and detailed in para 30.7. As stated, the said duty is liable to be recovered from M/s Bimala Devi Industries, under Section 28 (4) of the Customs Act, 1962.

(b) M/s. Bimala Devi Industries is liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962, as by its acts, M/s. Bimala Devi Industries has rendered the following goods, liable for confiscation.

(a) Goods with declared value of **Rs. 25,15,896/-** as detailed in para 30.3 vide Bill of entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 at APSEZ, Mundra which were seized vide Seizure Memo dated 05.01.2024

(b) Goods with declared value of **Rs. 94,72,497/-** as detailed in para 30.7 vide 08 Bs/E during the period from 03.06.2023 to 19.10.2023.

23.4 It also further follows from the discussions made in the preceding part of the Show Cause Notice that M/s. Bimala Devi Industries (importer) acted in collusion with and under the direction and control of Shri Sourabh Jain and Shri Rakesh Shah. Thus, Shri Sourabh Jain and Shri Rakesh Shah are also jointly and severally liable to the payment of Anti-Dumping Duty (including IGST) alongwith applicable interest under section 28AA evaded by the means of the said mis-declaration.

(ii) M/s. Cargo Concepts (Bombay) Pvt Ltd

24. M/s. Cargo Concepts (Bombay) Pvt Ltd, being the Customs Broker in this case, had involved themselves in the aforesaid acts of suppression of the true description of the goods imported to evade the applicable duty thereon and have thus failed to observe the obligations of the Customs Broker as provided under Regulation 10 of the Customs Broker Licensing Regulations (CBLR), 2018 in as much as they failed to advise their client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof and verify correctness of functioning of their client at the declared address. While further action under the Customs Broker Licensing Regulations (CBLR), 2018 is being proposed separately, they have, by the above acts abetted the importer and the co-conspirators in execution of their motive to evade payment of applicable duties, which led the goods becoming liable to confiscation and consequently they have also rendered themselves liable to penalty under Section 112 (a) of the Customs Act, 1962.

(iii) Shri Kanhaiya Kasera, Director of M/s. Cargo Concepts (Bombay Pvt Ltd. - CHA

25. In view of the facts discussed in the foregoing paras and evidences available on record, it appears that Shri Kanhaiya Kasera, Director of M/s. Cargo Concepts (Bombay) Pvt Ltd. had knowingly involved the said firm, M/s. Bimala Devi Industries to facilitate the import of goods on behalf of Shri Sourabh Jain of M/s. SMV Impex, Delhi. Shri Kanhaiya Kasera filed the said Bs/E at M/s. Fast Tracks CFS Pvt Ltd through the Maker ID allotted to him. Further, Shri Kanhaiya Kasera has failed to observe the obligations of the Customs Broker as provided under Regulation 10 of the Customs Broker Licensing Regulations (CBLR), 2018 in as much as he failed to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof and verify correctness of functioning of his client at the declared address. Further, Shri Kanhaiya Kasera stated during his statement that M/s. Cargo Concepts (Pvt) Ltd also used to arrange the transportation of the goods from Mundra to their destination and in many cases, the goods were unloaded in Ahmedabad while the invoice and e-way bills were issued in the name of M/s SMV Impex, Delhi. Shri Kanhaiya Kasera has therefore, by the acts of omission and commission on his part by rendering the imported goods liable for confiscation under Section 111 of the Customs Act, 1962, has rendered himself liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Also, it appears that Shri Kanhaiya Kasera had knowingly and intentionally used the incorrect declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual description of the imported goods, and has therefore rendered himself liable for penalty under section 114AA of the Customs Act, 1962 also.

(iv) M/s. Fast Track CFS Pvt Ltd-SEZ unit, APSEZ, Mundra

26. The said import of the subject goods by mis-declaration in the aforesaid manner took place through the SEZ unit in APSEZ, Mundra - M/s. Fast Track CFS Pvt Ltd. It is known and also confirmed by Shri Balesh Yadav, authorised representative of M/s. Fast Track CFS Pvt Ltd during his statement that the checklist for the said Bs/E which were filed through the Maker ID of M/s. Cargo Concepts (Bombay) Pvt Ltd, had to be approved through the Approver ID

allotted to their SEZ unit by NSDL. Further, the maker IDs are also made by M/s. Fast Track CFS Pvt Ltd as per the request of their clients, e.g. M/s. Cargo Concepts (Bombay) Pvt Ltd in this case. In view of the same, it appears that M/s. Fast Track CFS Pvt Ltd, had also consciously provided the requisite approvals for filing of the said Bs/E for the mis-declared products, in the process abetting in the acts of omission and commission which rendered the imported goods liable for confiscation under Section 111 of the Customs Act, 1962, and consequently rendered themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

(v) Shri Sourabh Jain, authorized representative of M/s. SMV Impex, Delhi

27.1 From the evidences on record, it is revealed that he used to send the orders of CTP/CTCP Digital Offset Printing Plates to the overseas supplier and the said goods were then directly transported from APSEZ, Mundra to the warehouses of M/s. Shah Trading Co., Ahmedabad, which used to do trading of Digital Offset Printing Plates. The said idea of the import of Digital Offset Printing Plates was introduced to Shri Sourabh Jain by Shri Rakesh Shah at a family function as revealed from their statements. Thus, Shri Sourabh Jain was well aware of the actual contents of the imported goods and he knowingly effected the import of the said goods with the intent to evade the applicable Anti-Dumping Duty as per the Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Thus, he was part of the plan in the diversion of imported goods from APSEZ, Mundra, wherein the invoices and e-way bills were issued in the name of M/s. SMV Impex, Delhi while the goods were delivered directly to the godowns of M/s. Shah Trading Co., Ahmedabad. He engaged the pseudo importer firms like M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Co. to effect the import of the goods fraudulently. Thus, by his acts of omission and commission, he rendered the subject goods liable for confiscation under Section 111 of the Customs Act, 1962 and is therefore liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

27.2 As discussed in the preceding paras, Shri Sourabh Jain has actually effected the import of the said goods in as much as Shri Sourabh Jain or his firm M/s. SMV Impex acted as the de facto importer in the said case. Shri Sourabh Jain knowingly and intentionally made or caused to make the fake import documents which had incorrectly declared the description of goods as 'Sheet for Doors Fitting', which were submitted to the Customs Authorities for filing of B/E. Also, to camouflage the sale and purchase of the said goods as legitimate, Shri Sourabh Jain and Shri Rakesh Shah used invoices of non-functional and non-existent firms as discussed in the preceding paras to cover the goods without the actual supply of the goods against such invoices. Thus, Shri Sourabh Jain prepared/got prepared, signed /got signed documents which he had reasons to believe were false and thereby rendered himself liable for penalty under Section 114AA of Customs Act, 1962.

27.3 It also further follows from the discussions made in the preceding part of the Show Cause Notice that M/s. Bimala Devi Industries (importer) acted in

collusion with and under the direction and control of Shri Sourabh Jain and Shri Rakesh Shah. Shri Sourabh Jain was well aware of the actual contents of the imported goods and he knowingly effected the import of the said goods with the intent to evade the applicable Anti-Dumping Duty as per the Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Shri Sourabh Jain played an important role and acted in collusion with other noticees to evade the Anti-dumping duty (including IGST). Thus, M/s Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah are jointly and severally liable to the payment of Anti-Dumping Duty (including IGST) along with applicable interest under section 28AA, evaded by the means of the said mis-declaration. Accordingly, they are also liable to imposition of penalty under Section 114 (A) of the Customs Act, 1962.

(vi) M/s. SMV Impex, Rohini, Delhi

28.1 M/s. SMV Impex provided funds to the said importers for the payment to the overseas supplier of goods. Further, the invoices for the DTA sale of the goods imported as 'Sheet for Doors Fitting' was issued by the M/s. Bimala Devi Industries and other importers in the name of M/s. SMV Impex, Rohini Delhi, however, on the directions of Shri Sourabh Jain and Shri Rakesh Shah, the goods were diverted to M/s. Shah Trading Co. in Ahmedabad. M/s. SMV Impex, in turn, issued fake sale invoices of the goods- 'Sheet for Doors Fitting' in the name of non-existent and non-functional firms. M/s. SMV Impex allowed itself to conduct the illicit plan in such manner. By the acts of omission and commission on its part, it rendered the imported goods liable for confiscation under Section 111 of the Customs Act, 1962 and is therefore liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

(vii) Shri Rakesh Shah, de-facto beneficiary and operator of M/s. Shah Trading Co.

29.1 The investigation has revealed that Shri Sourabh Jain and Shri Rakesh Shah acted in collusion for the import of the Digital Offset Printing Plates in the aforesaid manner. Further, it transpires that the importers, CHA and Shri Sourabh Jain acted as the facilitators for the import of the said goods, i.e. Digital Offset Printing Plates by the evasion of the applicable Anti-Dumping Duty in the said manner. The said goods, after importation at APSEZ, Mundra, used to be delivered at the godowns of M/s. Shah Trading Co., who was engaged in the business of selling of Digital Offset Printing Plates in the domestic market. It was Shri Rakesh Shah who introduced the idea of import of Digital Offset Printing Plates from China to Shri Sourabh Jain at a family function. He also used to send the draft Purchase Orders to Shri Sourabh Jain, who then used to forward them to the overseas manufacturer/supplier. Shri Rakesh Shah also gave directions to Shri Sourabh Jain to give the orders to a particular firm in China. It is thus inferred that Shri Rakesh Shah was directing the whole affairs of the business along with Shri Sourabh Jain.

Shri Rakesh Shah avoided the import and trading of the fraudulently imported Digital Offset Printing Plates through his own firm, M/s. Aakruti Impex, to insulate him from any consequences of duty/penal liability which may ensue pursuant to the detection of the mis-declaration in imports. He had been providing funds to M/s. Shah Trading Co. for the business and was controlling the sourcing of the goods. To shift the possible liability of the illicit

operations as discussed, he had been doing the business of trading of Digital Offset Printing Plates through M/s. Shah Trading Co. and for the import of the said goods by evasion in the said manner, he along with Shri Sourabh Jain used the pseudo importer firms like M/s. Bimala Devi Industries, M/s. Shivkrupa Impex and M/s. Pawan Trading Co. Thus, by his acts of omission and commission, Shri Rakesh Shah rendered the subject goods liable for confiscation under Section 111 of the Customs Act, 1962 and is therefore liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

29.2 Further, Shri Rakesh Shah created the fictitious back channel for indicating the sourcing of the Digital Offset Printing Plates sold by him, in the said manner. Thus, for the purpose of showcasing the legitimate purchase of the Digital Offset Printing Plates, he prepared/got prepared the fake invoices of non-functional and non-existent firms based in Delhi in the name of M/s. Shah Trading Co. Thus, Shri Rakesh Shah prepared/got prepared, signed /got signed documents which he had reasons to believe were false and thereby rendered himself liable for penalty under Section 114AA of Customs Act, 1962.

29.3 It also further follows from the discussions made in the preceding part of the Show Cause Notice that M/s. Bimala Devi Industries (importer) acted in collusion with and under the direction and control of Shri Sourabh Jain and Shri Rakesh Shah. Sh Rakesh Shah used to send the draft Purchase Orders to Shri Sourabh Jain, who then used to forward them to the overseas manufacturer/supplier. Shri Rakesh Shah also gave directions to Shri Sourabh Jain to give the orders to a particular firm in China. Sh Rakesh Shah played an important role and acted in collusion with other noticees to evade the Anti-dumping duty (including IGST). Thus, M/s Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah are jointly and severally liable to the payment of Anti-Dumping Duty (including IGST) along with applicable interest under section 28AA, evaded by the means of the said mis-declaration. Accordingly, they are also liable to imposition of penalty under Section 114 (A) of the Customs Act, 1962.

(viii) M/s. Shah Trading Co.

30.1 M/s. Shah Trading Co. was engaged in the selling of Digital Offset Printing Plates in the domestic market. The imported goods were directly transported from APSEZ, Mundra and allowed to be unloaded at the godowns of M/s. Shah Trading Co. without any legitimate documents, viz. invoice or e-way bill. The said goods, by being imported with the evasion of the Anti-Dumping Duty in the said manner, were thus sourced by M/s. Shah Trading Co. at cheap prices, which allowed M/s. Shah Trading Co. to increase its turnover and profit by substantial amount as compared to the preceding years. M/s. Shah Trading Co., thus, can be stated as the major beneficiary of the whole fraudulent scheme of things. M/s. Shah Trading Co., therefore, by the acts of omission and commission on their part by rendering the imported goods liable for confiscation under Section 111 of the Customs Act, 1962, have rendered themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

31. Accordingly, **M/s Bimala Devi Industries (IEC-AACPK4128K) was** called upon to show cause as to why:

- i) **68,761.80 SQM** (determined quantity) of goods with declared value as **Rs. 25,15,896/- (Rs. Twenty-Five Lakh Fifteen Thousand Eight**

Hundred Ninety-Six Only) with respect to Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 as mentioned in Table in Para-30.3 of the Show Cause Notice which were seized vide Seizure Memo dated 05.01.2024 should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962

- ii) The Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 should not be re-assessed after including the applicable Anti-dumping duty (including IGST) amounting to **Rs. 52,60,560/- (Rs. Fifty Two Lakh Sixty Thousand Five Hundred and Sixty Only)** under Section 17 of the Customs Act, 1962, which may be paid jointly and severally by M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah along with applicable interest under Section 28AA *ibid*.
- iii) **2,96,476.58 SQM** (determined quantity) of goods with declared value as **Rs. 94,72,497/- (Rs. Ninety Four Lakh Seventy Two Thousand Four Hundred Ninety Seven only)** with respect to the goods imported in 08 past bills of Entry as mentioned in Para-30.7 of the Show Cause Notice should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- iv) Differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs. 2,25,28,396/- (Rs. Two Crore Twenty Five Lakh Twenty Eight Thousand Three Hundred Ninety Six Only)** as determined at Table in Para-30.7 of the Show Cause Notice should not be demanded and recovered jointly and severally from M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA *ibid*;
- v) The Customs Duty (Anti-dumping duty & IGST) amounting to **Rs. 1,31,64,951/- (Rs. One Crore Thirty One Lakh Sixty Four Thousand Nine Hundred and Fifty One Only)** already paid during investigation should not be appropriated towards their Duty Liabilities as mentioned in the above para of the Show Cause Notice.
- vi) Penalty should not be imposed upon M/s. Bimala Devi Industries, (IEC – AACPK4128K), D-31, 403, Yogi Nagar, Eksar Road, Opp Rudraksh Restaurant, Borivali West, Mumbai – 400092 under Section 114A, 112(a) & 112(b) of the Customs Act, 1962 separately for their role as discussed in para *supra*.

32. M/s Cargo Concepts (Bombay) Pvt Ltd, was also called upon to show cause as to why penalty should not be imposed upon them under Section 112(a) of the Customs Act, 1962 separately for their role as discussed in paras *supra*.

33. Shri Kanhaiya Kasera, Director of M/s Cargo Concepts (Bombay) Pvt Ltd was also called upon to show cause as to why Penalty should not be imposed upon him under Section 112(a), 112(b) and 114AA of the Customs Act, 1962 separately for his role as discussed in paras *supra*.

34. M/s Fast Track CFS Pvt Ltd, was also called upon to show cause as to why Penalty should not be imposed upon them under Section 112(a) and/or 112(b) of the Customs Act, 1962 for their role as discussed in paras supra.

35. M/s. SMV Impex, was hereby called upon to show cause as to why penalty should not be imposed under Section 112(a) and/or 112(b) of the Customs Act, 1962 for their role as discussed in paras supra.

36. Shri Sourabh Jain, authorised signatory of M/s. SMV Impex, Delhi was hereby called upon to show cause as to why

- i) Differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs. 2,25,28,396/- (Rs. Two Crore Twenty Five Lakhs Twenty Eight Thousand Three Hundred Ninety Six Only)** as determined at Table in Para-30.7 of the Show Cause Notice should not be demanded and recovered jointly and severally from M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA *ibid*.
- i) Penalty should not be imposed upon him under Section 112(a), 112(b), 114A and 114AA of the Customs Act, 1962 separately for his role as discussed in paras supra.
- ii) The Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 should not be re-assessed after including the applicable Anti-dumping duty (including IGST) amounting to **Rs. 52,60,560/- (Rs. Fifty Two Lakhs Sixty Thousand Five Hundred and Sixty Only)** under Section 17 of the Customs Act, 1962, and should not be paid jointly and severally by M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah along with applicable interest under Section 28AA *ibid*.

37. Shri Rakesh Shah, was hereby called upon to show cause as to why

- i) Differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs. 2,25,28,396/- (Rs. Two Crore Twenty Five Lakhs Twenty Eight Thousand Three Hundred Ninety Six Only)** as determined at Table in Para-30.7 of the Show Cause Notice should not be demanded and recovered jointly and severally from M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA *ibid*
- ii) Penalty should not be imposed upon Shri Rakesh Shah, resident of D-501, Indraprasth-VIII, Near Tulip Bungalows, Surdhara Circle, Thaltej, Ahmedabad-380059 under Section 112(a), 112(b), 114A and 114AA of the Customs Act, 1962 separately for his role as discussed in paras supra.
- iii) The Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 should not be re-assessed after including the applicable Anti-dumping duty (including IGST) amounting to **Rs.**

52,60,560/- (Rs. Fifty Two Lakhs Sixty Thousand Five Hundred and Sixty Only) under Section 17 of the Customs Act, 1962, and should not be paid jointly and severally by M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah along with applicable interest under Section 28AA *ibid*.

38. M/s Shah Trading Co. was called upon to show cause as to why penalty should not be imposed under Section 112(a) and/or 112(b) of the Customs Act, 1962 for their role as discussed in paras *supra*.

WRITTEN SUBMISSION/DEFENCE REPLY

39.1 M/s Bimala Devi Industries (Noticee No 1) submitted their written submission dated 21.08.2025 wherein they *inter alia* submitted that the allegations in the Show Cause Notice No. GEN/ADJ/COMM/514/2023-Adjn-O/o Pr. Commr-Cus-Mundra dated 28.10.2024 are based on uncorroborated statements and presumptions. The noticee denied all allegations of mis-declaration, suppression, and evasion of Anti-Dumping Duty.

- i) They have stated that it is a proprietary concern of Shri Harish Kumar Kedia, engaged in import and trading of different merchandise. The firm obtained IEC in 2020 and started business in 2019, initially dealing in garments. In 2023, Shri Kedia came into contact with Shri Kanhaiya Kasera, a Customs Broker at Mumbai and Mundra, who introduced him to Shri Sourabh Jain of M/s SMV Impex, Delhi.
- ii) As per the understanding among them, the noticee agreed to import goods described as “Sheets for Door Fittings” on behalf of M/s SMV Impex, which was to fund the imports and purchase the goods after clearance. The documentation for filing Bills of Entry was handled by Shri Kanhaiya Kasera, the Customs Broker. The noticee asserted that it acted *bona fide* under this arrangement without any intent to evade duty.
- iii) They have submitted that two consignments imported under Bills of Entry Nos. 1022739 dated 27.10.2023 and 1023025 dated 31.10.2023 were declared as “Sheets for Door Fittings” and were warehoused at M/s Fast Track CFS Pvt. Ltd., APSEZ, Mundra. Only after examination by DRI officers did the noticee come to know that the goods were “Digital Offset CTCP Printing Plates” attracting Anti-Dumping Duty under Notification No. 21/2020-Customs (ADD) dated 29.07.2020.
- iv) They have submitted that the noticee never intended to mis-declare the goods. The overseas supplier may have wrongly shipped the goods. The quantity and value declared in the Bills of Entry were found to be correct, and no overvaluation or undervaluation was alleged.
- v) They have stated that all statements were recorded under duress and threat of arrest, and that no independent or corroborative evidence supports the allegations. It was argued that statements recorded under coercion are inadmissible in evidence, relying solely on them vitiates the proceedings.
- vi) They have contended that the DRI acted without jurisdiction since the consignments were lying in a SEZ warehouse at APSEZ, Mundra. Under Sections 20 to 22 of the SEZ Act, 2005, only officers authorized by the Development Commissioner have jurisdiction within SEZ areas. No

approval or intimation from the Development Commissioner, APSEZ, was obtained before the search and seizure. Hence, the entire proceeding, including the SCN, is void ab initio.

- vii) They have further submitted that the proposal for reassessment under Section 17(4) of the Customs Act, 1962 is not sustainable as no self-assessment for clearance for home consumption was ever made by the noticee. The Bills of Entry filed were only for warehousing, and therefore the provisions of Section 17(4) are inapplicable.
- viii) They have contended that since the goods were warehoused and not cleared for home consumption, no mis-declaration under Section 46(4) could be alleged. The goods remained under the control of Customs and open for verification by the proper officer, and hence, no offence of false declaration arises.
- ix) They, with regard to past eight consignments referred to in para 30.7 of the SCN, the noticee submitted that the allegation of mis-declaration is based on assumption and presumption. No samples were drawn, and no evidence exists to show that the goods were Digital Offset Printing Plates. The past consignments were duly examined, assessed, and cleared by the proper officer in SEZ, and thus the allegation of mis-declaration is untenable.
- x) It was further stated that all previous imports were made from China on the basis of purchase orders placed by M/s SMV Impex and were sold to them on a normal profit margin. All such imports were cleared on payment of appropriate customs duties assessed by the proper officer; hence, no intent to evade duty can be attributed.
- xi) They have denied the applicability of Section 28(4) of the Customs Act for the recovery of alleged short-paid duty on the past consignments, submitting that there was no suppression or willful mis-declaration and that the goods were cleared after due examination and assessment.
- xii) It was submitted that the seized goods are not liable to confiscation under Section 111(m) as the Bills of Entry for home consumption had not been filed. Mis-declaration can only arise where a final Bill of Entry is filed, and since only warehousing Bills were filed, the provisions of Section 111(m) are inapplicable.
- xiii) They, regarding past consignments, it was argued that since the goods are no longer available for confiscation and the allegation of mis-declaration is unsubstantiated, the proposal for confiscation is unsustainable. The noticee relied upon judgments in *Scorpien International v. CCE, Indore* 2017 (357) ELT 1093 (Tri.-Del.) and *Bosch Chassis Systems India Ltd. v. CC (ICD, TKD)* 2015 (325) ELT 372 (Tri.-Del.), which held that inadvertent supplier mistakes do not warrant confiscation or penalty.
- xiv) They have pointed out that Anti-Dumping Duty under Notification No. 21/2020-Customs (ADD) is chargeable on the basis of area (sq. m), whereas the goods were received and declared in kilograms. The DRI converted the quantity arbitrarily without specifying the conversion method; hence, the proposed duty computation is incorrect.
- xv) They have further contended that the case is revenue-neutral with respect to IGST, as the IGST paid is available as input tax credit under GST law. If the goods had been correctly described, the noticee would have availed ITC, and therefore, the allegation of intent to evade IGST is unsustainable.

- xvi) They have also argued that the reliance on WhatsApp screenshots extracted from the mobile phone of Shri Sourabh Jain (Noticee No. 5) is misplaced. The provisions of Sections 138C and 139 of the Customs Act regarding electronic evidence were not followed. In absence of proper certification, the electronic evidence has no evidentiary value.
- xvii) With regard to proposed penalties under Sections 112(a), 112(b), and 114A, the noticee submitted that there was no willful mis-statement, suppression, or mens rea, and therefore, penalty provisions are not attracted. Reliance was placed on *Escorts Ltd. v. CC, New Delhi 2000 (122) ELT 576 (Tri.)*, *Amrit Corp. Ltd. v. CC (Import), JNCH 2016 (333) ELT 340 (Tri.-Mum.)*, and *Hindustan Steel Ltd. v. State of Orissa 1978 (2) ELT 159 (SC)*.
- xviii) It was further submitted that as per the fifth proviso to Section 114A, simultaneous penalty under Sections 112 and 114A cannot be imposed. In the present case, neither section is applicable since the demand itself is premature and not sustainable.
- xix) It was emphasized that the noticee had deposited ₹1,31,64,951/- vide TR-6 Challans dated 03.11.2023 and 13.03.2024 during investigation. Therefore, in terms of Sections 28(5) and 28(6) of the Customs Act, the proceedings to that extent should be deemed concluded.
- xx) The noticee submitted that all submissions are made without prejudice to one another and that the Show Cause Notice deserves to be withdrawn as being legally unsustainable, jurisdictionally invalid, and devoid of merit.

39.2. M/s Cargo Concepts (Bombay) Pvt Ltd (Noticee No 2) & Shri Kanhaiya Kasera (Notice No. 3), Director of M/s Cargo Concepts (Bombay) Pvt Ltd, in their written submission dated 21.11.2024 & additional submission dated 15-09-2025, inter alia, have submitted the following:

- i. The statement of Shri Kanhaiya Kasera, recorded under Section 108 of the Customs Act, 1962 (as reproduced in Para 19 of the SCN), demonstrates that he had no knowledge regarding any misdeclaration of the imported goods. It records that Bills of Entry were prepared based on import documents such as invoices, packing lists, certificates of origin, and Bills of Lading provided by the overseas suppliers to the importers. The goods were declared as Sheets for Door Fittings and were cleared on that basis, as no one was aware that they were actually Offset Printing Plates attracting Anti-Dumping Duty (ADD). Upon being informed that the goods were found to be printing plates, he stated that he would ask the importers to pay ADD, and indeed, the importers paid more than ₹1.31 crore during the investigation.
- ii. On this basis, it is contended that the Noticees neither had any knowledge of misdeclaration nor participated in any act of suppression or abetment. The allegations in Paras 39 and 40 of the SCN are stated to be false and unsupported by evidence.
- iii. There was no violation of obligations under Regulation 10 of the Customs Broker Licensing Regulations (CBLR), 2018. The Noticees never gave any wrong advice to any client, and due diligence was exercised based on documents and data available. The CBLR does not require physical verification of a client's premises as held by settled law.
- iv. The allegation of abetment under Section 112(a) cannot be sustained since abetment presupposes knowledge, which is absent in their case.

- The entire conduct of Shri Kanhaiya Kasera was bona fide and in good faith.
- v. They have further submitted that as regards the allegation of arranging transport and unloading of goods at Ahmedabad, it is clarified that Shri Kanhaiya Kasera had not given any instruction for loading or dispatch schedules and had no control over such movement.
 - vi. They have denied having knowingly or intentionally used incorrect documents or declarations. Bills of Entry were prepared strictly based on documents supplied by the importers, and no fabrication or falsification was committed by the Customs Broker.
 - vii. They have further submitted that the Bills of Entry were not filed by M/s Cargo Concepts (Bombay) Pvt. Ltd. in their capacity as a Customs Broker. In SEZ operations, the SEZ unit itself files the Bills of Entry, and hence, the Customs Broker is not involved. Therefore, the proceedings against M/s Cargo Concepts (Bombay) Pvt. Ltd. are liable to be dropped on this ground alone.
 - viii. They have further submitted that even assuming any procedural lapse, penalty under Sections 112(a) and 112(b) cannot be imposed for alleged contravention of the CBLR, 2018. Reliance is placed on the following judicial precedents: Hera Shipping Solutions Pvt. Ltd. – 2022 (382) ELT 552 (Tri.); Adani Wilmar Ltd. – 2015 (330) ELT 549 (T); Quick Systems – 2019 (365) ELT 558 (Tri.-Chennai); P.N. Shipping Agency – 2019 (369) ELT 1560 (Tri.-Mum); Neptune's Cargo Movers Pvt. Ltd. – 2007 (219) ELT 673 (T); and Sethu Samudhra Shipping Services – 2010 (262) ELT 570 (T).
 - ix. They have further argued that since the Noticees have not committed any act rendering the goods liable to confiscation under Section 111(m) of the Customs Act, they are not liable for penalty under Sections 112(a) or 112(b).
 - x. Regarding invocation of Section 114AA, they have submitted that the provision applies only to fraudulent export declarations and not to import cases. Reliance is placed on A.V. Global Corporation Pvt. Ltd. – 2024 (10) TMI 159 (CESTAT-Delhi); Suresh Kumar Aggarwal – 2024 (6) TMI 779 (CESTAT-Mumbai); Interglobe Aviation Ltd. – 2022 (379) ELT 235 (Tri.); Access Worldwide Cargo – 2022 (379) ELT 120 (Tri.); Bosch Chassis Esystems India Ltd. – 2015 (325) ELT 372 (Tri.); and Sri Krishna Sounds and Lightings – 2019 (370) ELT 594 (Tri.).
 - xi. Without prejudice, it is also submitted that Section 114AA cannot be invoked when Section 112 has already been invoked for the same offence. Reliance is placed on Dharmendra Kumar – 2019 (370) ELT 1199 (Tri.-All.); Arya International – 2016 (332) ELT 726 (Tri.-Ahmd.); Buhler India Pvt. Ltd. – 2014 (310) ELT 593 (Tri.); Government of India Order dated 31.08.2020 in R.A. File No.151/2020-CUS (WZ)/ASRA/Mumbai; and Gujarat High Court Order dated 11.12.2020 in SCA No.15689/2020 (Abdul Hussain Saifuddin Hamid).
 - xii. They have further submitted that, Para 40 of the SCN alleges that in many cases, goods were unloaded at Ahmedabad while invoices and E-way Bills were issued in the name of M/s SMV Impex, Delhi, and on this basis penalties under Sections 112 and 114AA are proposed against Shri Kanhaiya Kasera.
 - xiii. They have submitted that in Para 19.11 of the SCN, it is recorded that the instructions to the transporter regarding the place of delivery were not given by Shri Kanhaiya Kasera.

- xiv. They have submitted that, the transporter's statement in Para 12.08 of the SCN confirms that the driver offloaded the goods at Ahmedabad as per directions from the consignee.
- xv. They have submitted that, in Para 12.09 of the SCN, the transporter has stated that Shri Sourabh Jain from Delhi and Shri Rakesh Shah from Ahmedabad used to give directions to the drivers regarding unloading.
- xvi. They have submitted that, these statements clearly prove that Shri Kanhaiya Kasera had no role in the offloading of goods at Ahmedabad. Hence, the allegation in Para 40 of the SCN is contrary to evidence.
- xvii. They have submitted that a Customs Broker has no legal obligation to monitor or control the movement of goods after Customs clearance. This position is well settled in law.
- xviii. They have submitted that even in cases where goods imported under Advance Authorization were diverted in violation of actual user conditions, Customs Brokers were not held liable. Therefore, no liability can be fastened on the Noticees in the present case.
- xix. They have further submitted that the present case pertains to alleged misdeclaration and evasion of Anti-Dumping Duty. The alleged knowledge of the final destination of goods after clearance is immaterial and irrelevant to determine liability of the Noticees.
- xx. Accordingly, they have once again prayed that the proceedings initiated against them be dropped in toto.

39.3 M/s. Fast Track CFS Pvt. Ltd., Mundra (Noticee No. 4) has submitted its written reply dated 23.02.2025 in response to the Show Cause Notice dated 28.10.2024 proposing penalty under Sections 112(a) and 112(b) of the Customs Act, 1962.

- (a) They have stated that it is a Private Limited Company registered under the Companies Act and duly recognized as a warehouse unit within the Mundra SEZ since 2017. The company provides warehousing and related services including customs clearing, loading, unloading, and repacking on a customized basis. Its Letter of Approval (F. No. APSEZ/89/Fast Track/2013-14 dated 06.05.2014) has been duly renewed up to 22.08.2027.
- (b) They have explained that it operates on the NSDL online system with an Admin ID issued based on the Letter of Approval granted by the Development Commissioner, APSEZ, Mundra. Using this Admin ID, the noticee can create 'Maker IDs' for clients and CHAs and has an 'Approver ID' in the name of its Director, Shri Krishan Mohan Sharan. The workflow involves CHAs preparing Bills of Entry (B/E) through their Maker IDs, sending the checklist to importers for verification, and upon confirmation, forwarding it to the noticee for approval through its Approver ID. After approval, the B/E number is generated.
- (c) They have stated that the CHA receives import documents from the client, verifies them, and after confirmation from the importer, sends the final checklist to the noticee company for approval. The role of the noticee, therefore, is limited to approving the checklist in the NSDL system and facilitating warehousing of containers pending customs clearance. The physical examination of goods, including seal cutting and verification, is conducted under the supervision of Customs Officers, and the noticee has no means of ascertaining whether the actual goods match the declared description.

- (d) They have stated that the allegations in the SCN arise from imports made by M/s. Bimala Devi Industries (IEC: AACPK4128K), which allegedly mis-declared “Digital Offset Printing Plates” as “Sheet for Doors Fittings” in B/E No. 1022739 dated 27.10.2023 and others, to evade anti-dumping duty under Notification No. 21/2020-Customs (ADD) dated 29.07.2020.
- (e) They have referred to the investigation findings, including statements of various persons, wherein it was established that the mis-declaration and evasion of duty were orchestrated by M/s. Bimala Devi Industries, M/s. Cargo Concepts (Bombay) Pvt. Ltd., and individuals Shri Kanhaiya Kasera, Shri Sourabh Jain, and Shri Rakesh Shah, without involvement of the noticee.
- (f) They have submitted that its authorised representative, Shri Balesh Yadav, in his statement dated 31.01.2024, described the standard operating procedure of the company and clarified that its role was confined to approving checklists and providing warehousing services. The noticee disputes that Shri Balesh admitted liability for mis-declaration, asserting that the relevant part of his statement was misconstrued.
- (g) They have argued that the entire chain of mis-declaration was planned and executed by the importer and the Customs Broker, and that the SCN wrongly assumes complicity of the noticee without any supporting evidence.
- (h) They have contended that there is no material evidence to show that the noticee was aware of or participated in the mis-declaration. The noticee’s function was purely administrative and ministerial in nature, i.e., to approve checklists based on electronic data provided by the CHA.
- (i) They have emphasized that no statement from any importer, CHA, or individual involved indicates connivance or knowledge of mis-declaration on its part. The entire allegation that the noticee “consciously provided approvals” is based on assumption and presumption.
- (j) They have submitted that the provisions of Section 112(a) and 112(b) of the Customs Act require proof of either an act or omission rendering goods liable to confiscation or knowing involvement in such acts. No evidence or statement indicates that the noticee had any such knowledge or intent. Therefore, the invocation of these provisions is legally untenable.
- (k) They have relied on the Delhi High Court judgment in *Rajeev Khatri v. Commissioner of Customs (Export)*, (2023) 9 Centax 412 (Del.), which held that penalty under Section 112(a) cannot be imposed in absence of knowledge or connivance. It also cited the Bombay High Court judgment in *N.K. Brahmachari v. Commissioner of Customs (Import)*, Customs Appeal No. 100 of 2012, wherein it was held that “mere facilitation without knowledge does not amount to abetment.”
- (l) They have also invoked the legal maxim “Actus non facit reum nisi mens sit rea” (the act is not guilty unless the mind is guilty), contending that there was no intention or knowledge on its part to aid in mis-declaration or duty evasion.
- (m) They have further referred to Order-in-Original No. MUN-CUSTOM-000-COM-22-24-25 dated 27.08.2024, passed by the Principal Commissioner of Customs, Mundra, in the case of M/s. Empezar Logistics Pvt. Ltd., wherein it was held that the role of the SEZ warehouse unit was limited to approval of documents on NSDL and that responsibility for correct

declaration rested with the Customs Broker. The penalty proposed under Section 112(a) and 112(b) was accordingly dropped in that case.

- (n) Drawing parity with the above decision, they contended that its role was identical to that of M/s. Empezar Logistics Pvt. Ltd., and hence, no penalty is sustainable against it. There is no allegation of connivance, no evidence of communication with the beneficiaries, and no procedural lapse attributable to the noticee.
- (o) They have concluded that its limited administrative role in approving the checklist for Bills of Entry and providing warehousing services does not attract penal provisions under Sections 112(a) or 112(b) of the Customs Act, 1962. The entire case is based on assumptions and lacks mens rea.
- (p) Accordingly, the noticee prayed that the proposals for imposition of penalty under Sections 112(a) and 112(b) of the Customs Act, 1962, be dropped, and that it be exonerated of all charges, relying on parity of reasoning and established precedents within the same Commissionerate.

39.4. Shri Sourabh Jain (Noticee No. 5) and M/s SMV Impex (Noticee No. 6), have submitted a common reply dated 23.07.2025 wherein they made the following submissions.

- i. They have clarified that M/s SMV Impex is a HUF concern of Shri Ajit Kumar Jain (Karta), and that his son, Shri Sourabh Jain, manages its daily operations. The noticees deny all allegations as unsubstantiated and contend that the statements relied upon were extracted under duress by DRI officers and therefore lack evidentiary value.
- ii. They have submitted that the goods in question were imported by M/s Bimala Devi Industries under Warehousing Bills of Entry Nos. 1022739 dated 27.10.2023 and 1023025 dated 31.10.2023 for storage at M/s Fast Track CFS Pvt. Ltd., Mundra SEZ. The DRI examined these consignments and alleged that the declared goods “Sheets for Door Fittings” were actually “Digital Offset Printing Plates” liable to Anti-Dumping Duty under Notification No. 21/2020-Customs (ADD) dated 29.07.2020.
- iii. They refute the findings in paras 42.1, 42.2, 42.3 and 43.1 of the SCN alleging that they were de facto importers or had orchestrated mis-declaration. They contend that the statements were coerced and hence inadmissible under Section 138B of the Customs Act, 1962.
- iv. They have argued that the DRI investigation within SEZ premises was without prior authorization from the Development Commissioner, as mandated under Sections 20–22 of the SEZ Act, 2005. Consequently, the SCN is void ab initio for want of jurisdiction.
- v. They have submitted that they merely placed an order for “Sheets for Door Fittings” through Customs Broker Shri Kanhaiya Kasera, who arranged import through M/s Bimala Devi Industries on commercial terms. Advance payments were business transactions, not acts of abetment or concealment.
- vi. They have submitted that the DRI has misinterpreted standard trade practices such as the ‘Bill to Ship to’ model and financial advances as fraudulent conduct. The noticees have neither filed any Bill of Entry nor caused any mis-declaration of goods.
- vii. They have further submitted that the proposal to recover duty jointly and severally under Section 28(4) is contrary to law, as the noticees are neither importers nor agents or employees of the importer within the meaning of Section 2(26) of the Customs Act, 1962.

- viii. They have submitted that the demand under Section 28(4) is premature, since the seized goods remain unassessed and uncleared for home consumption. Reliance is placed on CESTAT Final Order No. 51320/2019 dated 16.08.2021 holding that duty cannot be demanded before clearance of goods.
- ix. They have submitted that the proposed confiscation under Section 111(m) is unsustainable as the Bills of Entry were warehousing Bs/E, not filed for home consumption. The noticees rely on *Scorpien International v. CCE, 2017 (357) ELT 1093 (Tri.-Del.)* and *Bosch Chassis Systems India Ltd. v. CCE, 2015 (325) ELT 372 (Tri.-Del.)* to support this contention.
- x. They have submitted that the redemption fine under Section 125 cannot be imposed since the past consignments listed in para 30.7 of the SCN are no longer available for confiscation. Reliance is placed on *Shiv Kripa Ispat Pvt. Ltd. v. CCE, 2009 (235) ELT 623 (Tri.-LB)*, affirmed in *Commissioner v. Rishi Ship Breakers, 2015 (318) ELT 259 (Bom.)*.
- xi. They have submitted that the calculation of Anti-Dumping Duty (inclusive of IGST) is alleged to be erroneous as the method for conversion of quantity from kilograms to square meters has not been disclosed, affecting the duty computation materially.
- xii. They have requested cross-examination of Shri Harish Kumar Kedia, Shri Rakesh Shah, and Shri Kanhaiya Kasera, whose statements are relied upon in the SCN, invoking Section 138B of the Act and citing *Andaman Timber Industries v. CCE, 2015 (324) ELT 641 (SC)* and *Basudev Garg v. CCE, 2013 (294) ELT 353 (Del.)*.
- xiii. They have contend that electronic evidence such as WhatsApp screenshots relied upon by the DRI (para 31.2 of SCN) are inadmissible for non-compliance with Sections 138C and 139 of the Customs Act, 1962.
- xiv. They have argued that penalties under Sections 112(a), 112(b), 114A, and 114AA cannot be imposed as the noticees are neither importers nor their agents and there is no evidence of mens rea. Reliance is placed on *Hindustan Steel Ltd. v. State of Orissa, 1978 (2) ELT 159 (SC)* and *Escorts Ltd. v. CC, 2000 (122) ELT 576 (Tri.)*.
- xv. They have also pointed out that simultaneous penalties under Sections 112 and 114A are not legally permissible in light of the fifth proviso to Section 114A of the Customs Act, 1962.
- xvi. They have submitted that the importer M/s Bimala Devi Industries has already deposited Rs. 1,31,64,951/- during investigation, and therefore the proceedings under Section 28 must be limited to determination of balance duty, if any, in accordance with Sections 28(5) and 28(6).
- xvii. They have prayed for complete dropping of the proceedings as the SCN is issued without jurisdiction, based solely on uncorroborated statements, and contrary to the settled principles of law and natural justice.

39.5. Shri Rakesh Shah (Noticee No. 7) and M/s Shah Trading Company (Noticee No. 8) though their advocate Shri Rohan Thakkar made their submission dated 25-09-2025 wherein they inter alia submitted that:

- (a) They submitted that they are engaged in the local trading of CTCP/CTP/Digital Offset Printing Plates and have never imported any goods. The firm lacks knowledge of import or customs procedures and has no role in filing any Bill of Entry or arranging imports.

- (b) They submitted that Shri Rakesh Shah, having prior experience in trading of printing plates, had discontinued such activity but guided his distant relative Shri Hemang Shah in establishing M/s Shah Trading Co. His involvement was limited to providing commercial guidance and occasional financial support; he had no participation in import operations.
- (c) They have submitted that during a social interaction, Shri Rakesh Shah met Shri Sourabh Jain (prop. M/s SMV Impex, Delhi) who was already engaged in import/export of goods including printing plates. Shri Rakesh Shah only suggested that, considering the product demand, goods could be sourced from M/s Shanghai Bocica Printing Equipments Co. Ltd., China, which was known for good quality plates.
- (d) They have denied the allegation in para 44.1 of the SCN that Shri Rakesh Shah advised or instructed Shri Sourabh Jain to mis-declare goods as “Sheets for Door Fitting.” They asserted that the communication between the two only concerned specifications of “CTP/Digital Offset Printing Plates,” never about mis-declaration.
- (e) They have submitted the allegation that Shri Rakesh Shah acted as the beneficial owner of imported goods under Section 2(3A) of the Customs Act was denied. It was contended that neither M/s Shah Trading Co. nor Shri Rakesh Shah imported or controlled any consignments. Financial assistance extended by Shri Rakesh Shah to his relative’s firm for local trade cannot render him a beneficial owner of imported goods.
- (f) They have submitted that reference was made to para 33.7 and 37.5 of the SCN wherein inference was drawn that Shri Rakesh Shah financed and controlled Shah Trading Co. It is submitted that financing for local business does not amount to exercising control over any imports, and there is no evidence showing any direction to importers or CHA on behalf of the firm.
- (g) They have pointed out that the WhatsApp screenshots relied upon in para 15.1 and 15.2 of the SCN do not prove issuance of purchase orders. The Excel files exchanged merely contained product specifications of “CTP Dark Blue Plates,” including size, coating type, and HSN code 84425020, all of which correspond to printing plates and not to “Sheets for Door Fitting.” They further submitted that a purchase order under commercial practice must contain buyer-seller details, order number, value, delivery and payment terms, etc. The Excel sheets lacked all such features and therefore cannot be treated as purchase orders.
- (h) They have also contended that the DRI failed to include complete electronic evidence, as only selective screenshots were annexed. The Excel files themselves—crucial to establishing context—were not made part of the relied-upon documents (RUDs), thereby rendering the evidence incomplete. It was pointed out that Shri Rakesh Shah had written to the DRI on 10.09.2025 requesting copies of the Excel attachments extracted from Shri Sourabh Jain’s phone, but the same were never supplied, causing serious prejudice to the defence.
- (i) They have submitted that the statements relied upon in the SCN, particularly of Shri Sourabh Jain, Shri Harish Kumar Kedia (Prop. M/s Bimala Devi Industries), Shri Kanhaiya Kasera (Dir. M/s Cargo Concepts Bombay Pvt Ltd), Shri Vishal Patil (Prop. M/s Shivkrupa Impex – RUD-15) and Shri Anil Daiya (Prop. M/s Pawan Trading Co. – RUD-16), collectively establish that the entire import activity was conceived and executed by Shri Sourabh Jain through intermediary IEC holders on

commission basis, and not under the direction or control of the noticee. The noticee has further submitted that, It was highlighted that Shri Harish Kumar Kedia, importer of M/s Bimala Devi Industries, admitted that he imported goods only on instructions and with funds from Shri Sourabh Jain, receiving ₹10,000–15,000 per container as commission. He never had contact with Shri Rakesh Shah, nor did he allege any instruction from him.

- (j) They have emphasized that goods imported by M/s Bimala Devi Industries were sold only to M/s SMV Impex (proprietor Shri Sourabh Jain), as evidenced by invoices and e-way bills (RUD-9). M/s Shah Trading Co. purchased goods from various local Delhi-based traders—such as M/s Hare Krishna Enterprises—on a bona fide commercial basis, and not directly from importers.
- (k) They have submitted that the statement of Shri Kanhaiya Kasera (RUD-19) confirmed that imports declared as “Sheets for Door Fitting” were handled entirely as per instructions of Shri Sourabh Jain, that documents were in the names of IEC holders, and that delivery destinations were decided by him. This, according to the noticee, exonerates Shah Trading Co. from any control or involvement in import operations.
- (l) They have further submitted that the statements of other importers—M/s Shivkrupa Impex and M/s Pawan Trading Co.—also corroborate that the import documentation and payments were arranged by Shri Sourabh Jain, and that these importers were unaware of the goods’ actual contents. None of them named Shri Rakesh Shah or M/s Shah Trading Co. as participants.
- (m) They have contended that the noticee never communicated with any overseas supplier. Shri Sourabh Jain himself stated (para 29.5 of SCN) that he dealt with Chinese agents through the WeChat application. The noticee emphasized that WeChat has been banned in India since 29 June 2020 (Press Information Bureau release cited) and that they never used it or had any such communication channel.
- (n) They have referred to Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 regarding admissibility of electronic evidence. They argued that no certificate under sub-section (4) was produced along with the WhatsApp screenshots; therefore, such electronic evidence cannot be admitted against them.
- (o) They have denied having issued or instructed any mis-declaration or having knowledge that the goods were liable to anti-dumping duty under Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Their transactions were confined to domestic trading of printing plates lawfully purchased within India. It was contended that all evidence—statements, RUDs, and circumstantial material—show that Shri Sourabh Jain alone was the mastermind and beneficiary of the imports, using various IEC holders (including M/s Bimala Devi Industries, M/s Pawan Trading Co. and M/s Shivkrupa Impex) for monetary gain. The noticee had no role in import, transportation, or customs clearance.
- (p) They have submitted that the allegation that deliveries were made at the godown of Shah Trading Co. was stated to be misleading; goods purchased from domestic traders naturally arrived at their warehouse in Ahmedabad under valid invoices, and such delivery does not establish complicity in import mis-declaration.

- (q) They have submitted that there is no documentary or oral evidence showing any collusion or conspiracy between them and other parties for evasion of anti-dumping duty. The conclusions drawn in paras 44.1 to 44.3 of the SCN are based on conjecture and inference without corroborative proof.
- (r) They, therefore, prayed that all allegations of acting as beneficial owner, de-facto importer, or facilitator for mis-declaration be dropped; that no penalty under Sections 112(a)/112(b) or 114A of the Customs Act, 1962 be imposed; and that they be fully exonerated.
- (s) **Shri Rakesh Shah**, co-noticee, in response to the allegation of directing imports and providing purchase orders, has submitted that the Show Cause Notice alleged that Shri Rakesh Shah “introduced the idea of importing Digital Offset Printing Plates from China to Shri Sourabh Jain,” and that he “sent draft purchase orders” and “gave directions to place orders with specific suppliers.” The noticee admits that he suggested M/s Shanghai Bocica Printing Equipments Co. Ltd., China, as a reputed manufacturer of quality CTP plates because he was familiar with its products from earlier domestic dealings. However, the Excel sheets forwarded by him through WhatsApp merely contained technical product specifications—such as coating colour, thickness, dimensions, and packing instructions—and not commercial purchase orders. The noticee has emphasized that these documents lacked every element of a purchase order: there were no buyer-seller details, price, quantity, delivery terms, payment details, or signature. They were non-transactional communications intended only to describe the product type. Consequently, the inference that he orchestrated or controlled import transactions is unfounded.
- (t) He (Shri Rakesh Shah), on the allegation of directing imports and providing purchase orders, has submitted that the Show Cause Notice alleged that Shri Rakesh Shah “introduced the idea of importing Digital Offset Printing Plates from China to Shri Sourabh Jain,” and that he “sent draft purchase orders” and “gave directions to place orders with specific suppliers.” The noticee admits that he suggested M/s Shanghai Bocica Printing Equipments Co. Ltd., China, as a reputed manufacturer of quality CTP plates because he was familiar with its products from earlier domestic dealings. However, the Excel sheets forwarded by him through WhatsApp merely contained technical product specifications—such as coating colour, thickness, dimensions, and packing instructions—and not commercial purchase orders. The noticee has emphasized that these documents lacked every element of a purchase order: no buyer-seller details, price, quantity, delivery, payment, or signature. They were non-transactional communications, intended only to describe the product type. Consequently, the inference that he orchestrated or controlled import transactions is unfounded.
- (u) He (Shri Rakesh Shah), on the allegations of WhatsApp evidence and electronic records, has submitted that the Department relied on certain WhatsApp chat screenshots between Shri Sourabh Jain and Shri Rakesh Shah to allege coordination of imports. The noticee has strongly objected to both the interpretation and admissibility of this evidence. The noticee has submitted that only selective screenshots were annexed in the SCN, while the complete chat—including Excel attachments—was not produced, despite his written request dated 10.09.2025 to the DRI to supply the same. Without the Excel content, the communication has

been taken out of context. The noticee has further contended that the requirements of Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 (replacing Section 65B of the Evidence Act), have not been complied with: no certificate identifying the device, its operator, or confirming the integrity of data has been produced. Hence, the alleged electronic evidence is inadmissible. Even on merits, the chats only show him advising that orders for CTP plates be placed with Bocica because other factories had quality issues—there is no indication of any mis-declaration or instruction to describe the goods as “Sheets for Door Fitting.”

- (v) He (Shri Rakesh Shah), on the allegation of beneficial ownership, has submitted that the SCN proposed that Shri Rakesh Shah was the beneficial owner of the imported goods within the meaning of Section 2(3A) of the Customs Act, 1962. The co-noticee disputes this characterization. He argues that beneficial ownership implies either import “on behalf of” the person or “effective control” over the goods. The noticee has submitted that evidence on record, including statements of importers and intermediaries, shows the following:
 - (i) The imports were executed at the behest of Shri Sourabh Jain, proprietor of M/s SMV Impex, who arranged funds, gave shipping instructions, and paid commissions.
 - (ii) Shri Harishkumar Kedia (M/s Bimala Devi Industries), Shri Vishal Patil (M/s Shivkrupa Impex), and Shri Anil Dayma (M/s Pawan Trading Co.) all stated that they imported goods only on instructions and with funds from Shri Sourabh Jain.
 - (iii) None of them had ever met or interacted with Shri Rakesh Shah.

The noticee has submitted that the claim that they exercised effective control over imports or financed them is unsupported by evidence. His financing of M/s Shah Trading & Co.—a domestic buyer—is explained as a family loan for trading operations, not connected with imports. Financing a relative’s local business does not amount to controlling overseas procurement.

- (w) He (Shri Rakesh Shah), with respect to statements and evidence supporting the co-noticee, has submitted that Shri Harishkumar Kedia (M/s Bimala Devi Industries), in his statement, admitted that imports were arranged through Shri Kanhaiya Kasera (Customs Broker) and funded entirely by Shri Sourabh Jain; he earned ₹10,000–15,000 per container as commission. He never had contact with any overseas supplier and was unaware of the goods’ contents. The said co-noticee has further submitted that the statement of Shri Kanhaiya Kasera (Director, M/s Cargo Concepts) confirmed that Shri Sourabh Jain controlled import and clearance activities, while his firm merely acted as Customs Broker. He, i.e., Shri Kanhaiya Kasera, arranged transportation as instructed by Shri Jain, with consignments often unloaded in Ahmedabad, though e-way bills showed Delhi consignee details. The co-noticee has further submitted that the statements of Shri Vishal Patil (M/s Shivkrupa Impex) and Shri Anil Dayma (M/s Pawan Trading Co.) confirmed that imports in their names were made at Shri Sourabh Jain’s instance and funded by him, with each earning a fixed commission per container. They never dealt with or knew Shri Rakesh Shah.

He has further submitted that these statements collectively establish that Shri Sourabh Jain, not Shri Rakesh Shah, was the actual controller and financier of the imports.

- (x) He (Shri Rakesh Shah), with regard to domestic transactions of M/s Shah Trading & Co., has submitted that M/s Shah Trading & Co. purchased CTP/CTCP plates from domestic traders such as M/s Bansal Industrial Solutions, M/s Global Traders, and M/s Weblight Solutions. The firm never purchased "Sheets for Door Fitting" from any importer.
- (y) He (Shri Rakesh Shah) has further submitted that invoices examined by the DRI themselves record the product description as "Printing Plates" or "CTP Plates." Payments were made through regular banking channels. Therefore, even assuming mis-declared goods existed at the import stage, M/s Shah Trading & Co. purchased them bona fide in the open market without knowledge of mis-declaration. The co-noticee added that minor price differences in resale cannot suggest collusion; they reflect ordinary market variation due to metal cost fluctuations and transportation.
- (z) He (Shri Rakesh Shah), on the allegation of collusion and control, has submitted that the SCN alleged that Shri Rakesh Shah, along with Shri Sourabh Jain, "directed the whole affairs" of import and subsequent sale. Shri Rakesh Shah refuted the allegations on the following grounds:
 - (i) He had no correspondence or meetings with overseas suppliers; the only communication with any foreign entity was through Shri Sourabh Jain via WeChat, a platform banned in India since June 2020, indicating his exclusive foreign dealings.
 - (ii) The importer's and broker's statements contain no reference to any instruction from Shri Shah.
 - (iii) There is no flow of funds from him to importers or overseas sellers; all payments originated from Shri Sourabh Jain's accounts.
 - (iv) The DRI has not produced any bank trail or documentary evidence linking him to import payments.

The co-noticee has submitted that the allegation of control or conspiracy is speculative and unsupported by corroborative evidence.

39.5.2 Shri Rakesh Shah, co-noticee, on legal and procedural defences has raised several legal objections as below:

(a) Admissibility of Electronic Evidence: The WhatsApp records relied upon fail to satisfy Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, since no proper certification of source, integrity, or operator has been produced. Hence, they cannot form the basis of adverse inference.

(b) Lack of Mens Rea and Inapplicability of Section 28(4): No evidence of deliberate suppression or fraud by Shri Shah exists. Accordingly, the extended period under Section 28(4) and penal provisions dependent on "intent to evade" cannot be invoked.

(c) Inapplicability of Section 114AA: This provision primarily targets false or forged documentation in exports. Since the present case concerns imports, and Shri Shah neither prepared nor signed any false document, penalty under Section 114AA is not attracted.

(d) No Authority to Demand Duty Twice: As anti-dumping duty and other levies have already been discharged by the importer firms through challans, any further demand on a person unconnected with import would contravene

Article 265 of the Constitution, which bars collection of tax without authority of law.

39.5.3 Shri Rakesh Shah has asserted that the allegations in the Show Cause Notice are unsubstantiated, based on incomplete electronic evidence and incorrect assumptions about his professional interactions. He neither imported nor financed the goods, had no control over their shipment or clearance, and derived no benefit from any duty evasion. He further submitted that all evidence, including importer and broker statements, confirms that the imports were conceived and executed solely by Shri Sourabh Jain in coordination with Shri Kanhaiya Kasera. The co-noticee's limited association with M/s Shah Trading & Co. was purely domestic and legitimate.

39.5.4 They have prayed that the proceedings under Sections 112(a), 112(b), 114A, and 114AA of the Customs Act, 1962, be dropped in toto, as there is neither mens rea nor factual foundation to sustain any penalty or joint liability.

40. RECORDS OF PERSONAL HEARING

- Following the principles of natural justice, opportunities of personal hearing were granted on 04.09.2025, 11.09.2025 & 25.09.2025.
- Miss Ina Jagad (Advocate) appeared for hearing on 04.09.2025 on behalf of M/s. Bimala Devi Industries and reiterated the defence reply dated 21.08.2025. She requested to consider the same while deciding the matter.
- Shri Abhas Mishra (Advocate) appeared for hearing on 04.09.2025 on behalf of M/s. SMV Impex and Shri Sourabh Jain, Authorised Signatory of M/s. SMV Impex. He reiterated the defence reply dated 23.07.2025 and relied on case laws stated therein which is already taken on record.
- Shri Anil Balani (Advocate) were appeared for haring on 11.09.2025 on behalf of M/s. Cargo Concepts and Shri Kanhaiya Kasera, Director of M/s. Cargo Concepts. He reiterated their written submissions dated 21.11.2024 which have already taken on record. Further he stated that they will make further submissions. He further made additional submissions on 15.09.2025.
- Shri Abhisek Darak (Advocate) appeared for hearing on 11.09.2025 on behalf of M/s. Fast Track CFS Pvt. Ltd. wherein he reiterated the defence reply dated 23.02.2025 and requested to consider the said submissions while deciding the matter.
- Shri Rohan Thakkar (Chartered Accountant) appeared for hearing on 25.09.2025 on behalf of Shri Rakesh Shah and M/s. Shah Trading Co. and reiterated their submissions dated 25.09.2025.

DISCUSSION AND FINDINGS

41. I have carefully gone through the facts of the case, Show Cause Notice and the noticee's submissions filed both, in written and in person advanced during the course of personal hearing. The principles of natural justice, particularly *audi alteram partem*, have been duly complied with by granting

adequate opportunity to the noticees to present their defence. Accordingly, I proceed to examine the issues involved in the present case in the light of the available records, statutory provisions, and judicial precedents. On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided: -

- Whether the goods having declared value as **Rs. 25,15,896/-** with respect to Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 as mentioned in Table in Para-30.3 of the Show Cause Notice are liable for confiscation under Section 111(m) of the Customs Act, 1962 or otherwise.
- Whether the goods imported under Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 are liable for re-assessment with applicable Anti-dumping duty (including IGST) amounting to **Rs. 52,60,560/-** or otherwise.
- Whether a total quantity **2,96,476.58 SQM** having value as Rs. 94,72,497/- with respect to the goods imported under past 08 bills of Entry as mentioned in Para-30.7 of the Show Cause Notice are liable for confiscation under Section 111(m) of the Customs Act, 1962 or otherwise.
- Whether Differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs. 2,25,28,396/-** as determined at Table in Para-30.7 of the Show Cause Notice are liable to demanded and recovered jointly and severally from M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA ibid or otherwise.
- Whether the Customs Duty (Anti-dumping duty & IGST) amounting to **Rs. 1,31,64,951/-** already paid during investigation are liable to be appropriated towards their Duty Liabilities or otherwise.
- Whether the penalties as proposed under the SCN are liable to imposed against the Noticees or otherwise.

42.1 I find that the present case emanates from specific intelligence indicating that certain importers were importing "*Digital Offset Printing Plates*" of Chinese origin by mis-declaring the same as "*Sheet for Doors Fitting*" under CTI 83024190 through Adani Port and SEZ, Mundra. The imports were made with the intent to evade Anti-Dumping Duty (ADD) leviable under Notification No. 21/2020-Customs (ADD) dated 29.07.2020, issued under Section 9A of the Customs Tariff Act, 1975. I find that two consignments imported under the IEC of M/s. Bimala Devi vide Warehousing Bill of Entry No. 1022739 dated 27.10.2023 and Warehousing Bill of Entry No. 1023025 dated 31.10.2023 were hold for examination by the DRI with the suspect mis-declaration of description and classification with the intent to evade Customs Duty in the form of Anti-Dumping Duty imposed vide the above said notification dated 29.07.2020. The said 02 Bills of Entry were filed through the SEZ unit of M/s. Fast Track CFS Pvt. Ltd. and description of the goods was declared as "*Sheet for Doors Fitting*" under CTI 83024190. I find that both consignments were examined by DRI officers under duly drawn panchnamas dated 31.10.2023 and 08.12.2023 in the presence of representatives of the SEZ unit, the Customs Broker M/s. Cargo Concepts (Bombay) Pvt. Ltd., and independent witnesses. The examination and panchnama records show that the goods declared as "*Sheets for Door Fittings*" were actually Digital Offset Printing Plates (CTCP/CTP type). The goods were metallic plates having a silver coating on one side and blue colour emulsified coating on the other side. The packages bore printed

markings such as “CTCP” and “CTP” along with the size specifications. The goods were found to be of different sizes used in printing presses. These features clearly establish that the goods were Digital Offset Printing Plates, and cannot be described as “Sheet for Doors Fitting”. I further find that even a basic search in open sources revealed that no such commercial product known as “Sheet for Doors Fitting” exists in trade or commerce, and the term was apparently invented to camouflage the true nature of the imported goods.

42.2 I noticed that the DRI officers have also examined the import pattern of other importers, namely M/s. Shivkrupa Impex and M/s. Pawan Trading Company, who have also imported identical goods through the same SEZ unit under the same false description by adopting similar modus of duty evasion. However, those consignments were covered under separate proceedings, thus, the present proceedings are confined only to the imports made by M/s. Bimala Devi Industries.

42.3 I find from technical literature from trade sources and online references which confirm that Digital Offset Printing Plates are used in the printing industry to transfer digital images from a computer to an offset plate by laser imaging. These plates are made from high-purity litho-grade aluminium coils coated with a chemical layer and are categorized into Thermal Plates, Violet Plates, and CTCP/UV Plates. The impugned goods found during examination matched exactly with the description of CTCP plates used in offset printing.

42.4 I find that a search was carried out at the registered premises of M/s. Bimala Devi Industries at Borivali (West), Mumbai on 14.11.2023, during which certain incriminating import-related documents were resumed under panchnama. I further find that a search was also carried out at the premises of M/s. Shah Trading Co., Ahmedabad on 03.11.2023, which revealed substantial quantities of Digital Offset Printing Plates stocked in their godowns. The goods measured 2,18,076 sq. metres and were valued at Rs. 6,16,74,879/- as per their records. These goods were also detained for further investigation.

42.4.1 I find that the goods detained and subsequently seized from the godowns of *M/s Shah Trading Co., Ahmedabad* under Seizure Memo dated 12.04.2024 were provisionally released by the competent authority vide letter dated 25.09.2024 upon furnishing of a Bond amounting to Rs. 1.05 crore and a Bank Guarantee of Rs. 29 lakhs by the noticee. The provisional release order was communicated by DRI, Ahmedabad Zonal Unit on 30.09.2024 to M/s. Shah Trading Company.

42.5 I find that Shri Harishkumar Kedia, Proprietor of M/s. Bimala Devi Industries, in his statement dated 11.12.2023 admitted that his firm had been non-functional until 2023 and that his relative Shri Kanhaiya Kasera, Director of M/s. Cargo Concepts (Bombay) Pvt. Ltd., introduced him to Shri Sourabh Jain of M/s. SMV Impex, Delhi. He admitted that it was at their order (Shri Sourabh Jain and Shri Kanhaiya Kasera) that the imports were made in the name of his firm, and that he had no role in the procurement or customs formalities. He stated that all documents were arranged and transmitted by Shri Kanhaiya Kasera and Shri Sourabh Jain, and that the imported goods were transported directly to Delhi for onward delivery to M/s. SMV Impex. He admitted that the imported goods were Digital Offset Printing Plates, and that the description “Sheet for Doors Fitting” was declared to evade Anti-Dumping Duty. He (Shri Harishkumar Kedia) was unaware of the actual contents of the

import consignment; that he had never been in contact with the overseas supplier of the said goods and that the necessary documents for filing of Bill of Entry viz. Invoice, Packing List etc. were directly forwarded by Shri Sourabh Jain to Shri Kanhaiya Kasera, Customs Broker for all the Customs and port related formalities; that he usually got Rs. 10,000/- to Rs. 15,000/- per container as commission from Shri Sourabh Jain and the said amount was charged in his invoice issued to M/s. SMV Impex and the commission was added in the total value of the goods.

42.5.1 Shri Sourabh Jain had paid Rs. 50 lakhs into his (SHRI HARISHKUMAR KEDIA) account on 03.11.2023 and had asked to pay the same into the account of M/s. Cargo Concepts Bombay Pvt. Ltd. for some customs related formalities. Shri Harishkumar Kedia stated that the said amount was used to pay the differential Customs and Anti-Dumping Duty on the goods imported by M/s. Bimala Devi Industries. Thus, there is no doubt in the fact that the both Shri Sourabh Jain and M/s. Cargo Concepts Bombay Pvt. Ltd through Shri Kanhaiya Kasera were aware that the goods under import are liable for payment of Anti-dumping Duty. I find that he (Shri Harishkumar Kedia) also acknowledged payment of Rs. 50,00,000/- towards differential customs and ADD.

42.6 I note that **Shri Hemang Shah**, Proprietor of M/s. Shah Trading Co., Ahmedabad, confirmed in his statement dated 12.12.2023 that his firm was actively trading in Digital Offset Printing Plates and that most of the suppliers and customers were introduced by Shri Rakesh Shah (who is his distant cousin), proprietor of M/s. Aakruti Impex, Ahmedabad. I find that Shri Hemang Shah also admitted that Shri Rakesh Shah financed and guided the trading operations of his firm, and that his major suppliers included M/s. SMV Impex, Delhi, from whom he had procured large quantities of Digital Offset Printing Plates. From the investigation and evidence found during the investigation, I find that business activities of M/s. Shah Trading Co. is mainly done under the guidance of Shri Rakesh Shah.

42.7 I find that **Shri Sourabh Jain**, Authorized Signatory of M/s. SMV Impex, Delhi admitted in his statement dated 08.02.2024 that the business proposal of importing the subject goods was made by Shri Rakesh Shah of Ahmedabad and was coordinated through Shri Kanhaiya Kasera, the Customs Broker. He stated that purchase orders for CTCP/CTP Printing Plates were placed to M/s. Shanghai Bocica Printing Equipments Co., on instructions from Shri Rakesh Shah, and that the goods were imported under the false description "Sheet for Doors Fitting" to avoid Anti-Dumping Duty. He also admitted that the goods declared to be consigned to Delhi were actually transported to Ahmedabad as per instructions from Shri Rakesh Shah.

42.7.1 I note that digital evidence in the form of WhatsApp communications retrieved from the phone of Shri Sourabh Jain corroborates the above admissions. The screenshots, taken under due certification in terms of Section 138C of the Customs Act, 1962 and Section 65B of the Indian Evidence Act, show that Shri Rakesh Shah instructed Shri Sourabh Jain to place orders for "CTP Plates" exclusively with M/s. Shanghai Bocica Printing Equipments Co., and also advised that only two containers be cleared at a time to manage payments and logistics. These communications, in my view, clearly demonstrate active planning, coordination, and intent to mis-declare goods and evade duty.

42.8 I further find that the statement dated 12.02.2024 of Shri Rakesh Shah corroborates the above findings. He admitted that he had been engaged in trading of Digital Offset Printing Plates through his firm M/s. Aakruti Impex, and that he had personally visited the factory of M/s. Shanghai Bocica Printing Equipments Co. in China. He also admitted that he had sent purchase orders to Shri Sourabh Jain for onward transmission to the Chinese supplier and had financially supported the business of M/s. Shah Trading Co. He accepted that most of the goods detained at the godown of M/s. Shah Trading Co. were supplied through imports arranged by Shri Sourabh Jain.

42.9 I find that the statement dated 28.12.23023 of Shri Ram Lal, Proprietor of M/s. Godara Transport Corporation, confirmed that his firm transported the impugned consignments on behalf of M/s. Cargo Concepts (Bombay) Pvt. Ltd. He admitted that although the e-way bills mentioned the consignee as M/s. SMV Impex, Delhi, the goods were actually offloaded at Ahmedabad as per telephonic instructions from Shri Rakesh Shah and Shri Sourabh Jain. The verification of E-way Bills and RFID vehicle movement reports conducted by the investigating agency corroborates the transporter's statement. The RFID route data revealed that the vehicles declared to be destined for Delhi actually terminated their journey in Ahmedabad. Thus, I have no doubt that that the goods were delivered to M/s. Shah Trading Co. in Ahmedabad instead of M/s. SMV Impex, Delhi, as declared in the invoices and e-way bills.

42.10 On the basis of the above sequence of facts and corroborative evidence, I find that the import, movement of goods/consignments, and delivery of Digital Offset Printing Plates were orchestrated through a well-planned and deliberate planning involving multiple parties under the direction and coordination of Shri Rakesh Shah, Shri Sourabh Jain and Shri Kanhaiya Kasera. I find that the investigation has conclusively established that M/s. Bimala Devi Industries imported "*Digital Offset Printing Plates*" of Chinese origin, but deliberately mis-declared the goods as "*Sheet for Doors Fitting*" under an incorrect tariff heading to evade Anti-Dumping Duty.

42.11 Evidences gathered during the investigation: I find that the investigation is supported by a wide range of oral, documentary, and digital evidence which clearly proves the deliberate mis-declaration and evasion of Anti-Dumping Duty on import of "*Digital Offset Printing Plates*" of Chinese origin. Each of these evidence categories is independent yet mutually supportive, forming a chain that connects the mis-declared consignments to the noticees.

➤ I find that the statements of Shri Sourabh Jain, Shri Harish Kumar Kedia, Shri Kanhaiya Kasera, and Shri Rakesh Shah were recorded under Section 108 of the Customs Act, 1962, on different dates. These statements were made voluntarily, signed, and have not been retracted. The contents of the statements align with and complement each other, with each person identifying the others and describing the same method of operation. Shri Sourabh Jain admitted coordinating with Shri Rakesh Shah for purchasing and shipping goods from M/s. Shanghai Bocica Printing Equipments Co. Ltd., China, and instructing Shri Kanhaiya Kasera to file the Bills of Entry using the false description "*Sheets for Door Fittings*." Shri Harish Kumar Kedia admitted that the IEC of M/s. Bimala Devi Industries was used to import the goods in return for a fixed commission. Shri Kanhaiya Kasera confirmed filing import documents under repeated instructions from Shri Sourabh Jain. Shri Rakesh

Shah admitted arranging the specifications, supplier contacts, and funds for the imports, and confirmed that the goods were delivered to his godown. These statements interlink and corroborate one another, leaving no scope for independent fabrication.

➤ I find that the physical and documentary evidence gathered under panchnamas dated 31.10.2023, 03.11.2023, and 08.12.2023 further confirm the mis-declaration. The goods seized from the warehouses of M/s. Shah Trading Co. were identified as Digital Offset Printing Plates (CTP/CTCP type), matching the consignments imported through M/s. Bimala Devi Industries, M/s. Pawan Trading Co., and M/s. Shivkrupa Impex. The markings “CTP/CTCP” on the plates and packaging, along with their physical characteristics, conclusively prove that the goods were not “Sheets for Door Fittings.” The examination reports annexed to the panchnamas provide primary and reliable proof of mis-declaration.

➤ I also find that the WhatsApp messages and electronic records recovered from the mobile phones of Shri Sourabh Jain reveal exchanges regarding purchase orders, product specifications, supplier details, and instructions on shipment, clearance, and distribution. The communications between Shri Rakesh Shah and Shri Sourabh Jain show that Shri Rakesh Shah exercised direct control over import operations. This electronic evidence supports the oral statements and provides contemporaneous proof of coordination and intent.

➤ The banking and accounting trail established that the financing for the imports came from M/s. Shah Trading Co. Funds were transferred from its bank accounts to M/s. SMV Impex and M/s. Bimala Devi Industries made to M/s. Shanghai Bocica Printing Equipments Co. Ltd., China. These remittances corresponded with the import dates, and no independent commercial purpose existed for the transactions apart from payment for the imported goods. This financial flow demonstrates that M/s. Shah Trading Co. was the actual financier and beneficiary.

➤ Furthermore, the e-way bills and transport records for post-clearance movement show that the consignments, after release from APSEZ, Mundra, were not sent to the declared importers' premises but directly to the godowns of M/s. Shah Trading Co., Ahmedabad. Statements of the drivers and transport documents confirm this diversion, linking the seized goods to the imported consignments.

➤ Accordingly, I find that the evidences cited in the Show Cause Notice are credible, admissible, and sufficient to support the charges of mis-declaration, evasion of Anti-Dumping Duty, and violation of the Customs Act, 1962.

43. Classification of Goods:

43.1 I find that the core allegation in the Show Cause Notice is that the Importer M/s. Bimala Devi Industries, imported goods declaring description under the import documents as “*Sheet for Doors Fitting*” under Chapter Heading 8302, however, the goods were actually “*Digital Offset Printing Plates*” under Chapter Heading 8442. The said mis-classification was adopted with the clear intention to evade Anti-Dumping Duty leviable under Notification No. 21/2020-Customs (ADD) dated 29.07.2020.

43.2 I have carefully examined the records of the case, including the panchnamas dated 31.10.2023 and 08.12.2023 which were drawn at the time of examination of the subject consignments. From these records, I find that the goods declared as “*Sheet for Doors Fitting*” were in fact found to be metal plates with silver colored coating on one side and blue color emulsified coating on the other side. Further, ‘CTCP/CTP’ in text, which stands for ‘Computer to Conventional Plate/Computer to Plate’, was clearly found mentioned on the goods and packing material of the goods. I noticed that the imported goods were of different sizes and the sizes thereof were also mentioned on the packing material of the goods. Thus, the physical characteristics of the goods leave no ambiguity as to their true nature and make it clear that subject goods could not, by any reasonable interpretation, be described as “*Sheet for Doors Fitting*.”

43.3 I also note that the DRI officers conducted open-source verification and found that no commercially recognized product exists under the terminology “*Sheet for Doors Fitting*.” I therefore find that the description adopted by the importer was fictitious and declared in the import documents only to mask the true nature of the goods. It is also pertinent to mention that the goods were found in large uniform sheets of specified sizes, not in any form usable as fittings or components for doors or furniture.

43.4 I noticed that Shri Harishkumar Kedia has clearly admitted that the goods imported by his firm were Digital Offset Printing Plates and not “*Sheets for Door Fitting*,” and that such description was declared at the directions of Shri Kanhaiya Kasera and Shri Sourabh Jain, to avoid payment of Anti-Dumping Duty. I further note that Shri Sourabh Jain has admitted that he arranged imports of Digital Offset Printing Plates from M/s. Shanghai Bocica Printing Equipments Co., China, on the directions of Shri Rakesh Shah of Ahmedabad. Shri Sourabh Jain further confirmed that such goods were declared as “*Sheet for Doors Fitting*” to avoid Anti-Dumping Duty. I also observe that Shri Sourabh Jain produced WhatsApp communications showing that Shri Rakesh Shah instructed him to place purchase orders only with the said Chinese manufacturer and to manage the release of containers in batches. Shri Rakesh Shah in his statement dated 12.02.2024 has admitted that he had been dealing in Digital Offset Printing Plates through his earlier firm M/s. Aakruti Impex, and that he had personally visited the Chinese manufacturing unit, M/s. Shanghai Bocica Printing Equipments Co. He has accepted that he sent purchase orders for printing plates to Shri Sourabh Jain and that he financed the trade handled by M/s. Shah Trading Co., the actual domestic recipient of the goods. These admissions, read together, confirm that the imported goods were indeed Digital Offset Printing Plates manufactured in China.

43.5 In view of the above, I find that the goods imported by the noticee correspond fully to the description under Tariff Heading 8442, which covers “*Machinery, apparatus and equipment for preparing or making printing components; plates, cylinders and lithographic stones, prepared for printing purposes.*” I find that sub-heading 84425090 specifically covers *Digital Offset Printing Plates – Other*, which fits the impugned goods.

43.6 I also note that the declared heading 83024190 pertains to “*Base metal mountings, fittings and similar articles suitable for buildings – Other.*” The impugned goods are not mountings, fittings, or accessories for doors, windows, or furniture, and do not serve any structural or mechanical function of such

articles. Their use is entirely industrial and specialized in nature, meant for printing operations, not for architectural or hardware purposes. I find that the importer’s declaration under CTI 83024190 was therefore false and misleading. The evidence demonstrates that such description was deliberately chosen to avoid the levy of Anti-Dumping Duty applicable on printing plates of Chinese origin under Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Therefore, the declared classification under Heading 8302 is incorrect. I observe that under Rule 1 of the General Rules for Interpretation of the First Schedule to the Customs Tariff Act, classification is to be determined according to the terms of the headings and any relevant Section or Chapter Notes. Applying these interpretative rules, I find that the impugned goods, by their physical characteristics, essential nature, and end-use, are correctly classifiable under CTI 84425090 as "*Digital Offset Printing Plates*".

Applicability of Anti-Dumping Duty Notification No. 21/2020-Customs (ADD) dated 29.07.2020

44.1 I find that as per the Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975, read with Rules 13 to 20 of the Customs Tariff, the Anti-Dumping Duty applicable on Digital Offset Printing Plates originating in or exported from China PR, Japan, Korea RP, and Taiwan.

S. No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/ SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Lucky Huaguang Graphics Co. Ltd.	0.55
2	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Kodak China Graphic Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Shanghai Strong State Printing Equipment Limited	0.60
4	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Any other product except S. No. 1 to 4 mentioned above	0.77
6	84425090	Digital Offset Printing Plates	People’s Republic of China	Any country other than People’s Republic of China	Any	0.77

From the above Anti-dumping duty structure, it can be seen that the Digital Offset Printing Plates falling under CTI 84425090 of Chinese Origin, when exported from People’s Republic of China or any other countries other than People’s Republic of China and imported into India, which is produced by any other producer except S. No. 01 to 04 mentioned in the Column no. (6) of the table in the Notification No. 21/2020-Customs (ADD) dated 29.07.2020, the Anti-dumping duty @ 0.77 USD per SQM is leviable with effect from 30.01.2020 for a period of five years (unless revoked, superseded or amended earlier).

44.2 In the present case, I find that the goods, CTCP/CtP Plates, were imported by M/.s Bimala Devi Industries from China. The said notification was in force during the period of importation of the subject consignments, i.e., October 2023 and was duly notified in the Official Gazette. I find that

Notification No. 21/2020-Customs (ADD) applies to “*Digital Offset Printing Plates*” classifiable under 84425090 of Chinese origin. The levy is a product-specific and origin-specific duty imposed to neutralize injury caused to the domestic industry. Once it is established that the goods in question are actually Digital Offset Printing Plates of Chinese origin, their liability to ADD under the said notification automatically follows. The notification is not conditional upon any declaration in the Bill of Entry but operates by virtue of the factual existence of the product description and its origin. This fact that goods are of Chinese origin is clear from the import invoices, packing lists, and Bills of Lading of the subject shipments. The name of the manufacturer and supplier appearing on these commercial documents are undisputed facts. I also find that during the course of examination under panchnamas dated 31.10.2023 and 08.12.2023, the goods were identified as Digital Offset Printing Plates (CTCP/CTP type) of Chinese origin. The deliberate use of a false description under a tariff heading unrelated to the product shows that the importer intentionally have not choose correct classification under 8442 with the intention to evade the applicable Anti-Dumping Duty.

44.3 I note that Shri Harishkumar Kedia, proprietor of the M/s. Bimala Devi Industries, in his statement has admitted that he was aware that Anti-Dumping Duty was leviable on Digital Offset Printing Plates imported from China, and that the description “Sheet for Doors Fitting” was declared only to avoid such duty. I also find that he voluntarily deposited a sum of Rs. 50,00,000/- towards the differential duty liability during the course of investigation clearly corroborates the admission that duty was short-paid due to mis-declaration. I observe that the deliberate declaration of false description and classification under CTI 83024190 cannot be treated as a clerical or inadvertent mistake. I find that even at the time of personal hearing, the importer did not disputed the fact that the goods were of Chinese origin or that they were Digital Offset Printing Plates. Accordingly, I hold that the goods are covered under the scope of Notification No. 21/2020-Customs (ADD) and are liable to payment of Anti-Dumping Duty.

45. With regards Cross Examination sought by the Noticees: I find that Shri Sourabh Jain (Noticee No. 5) and M/s SMV Impex (Noticee No. 6) have requested for cross-examination of Shri Harish Kumar Kedia, Shri Rakesh Shah, and Shri Kanhaiya Kasera, whose statements are relied upon in the SCN, invoking Section 138B of the Act and citing *Andaman Timber Industries v. CCE*, 2015 (324) ELT 641 (SC) and *Basudev Garg v. CCE*, 2013 (294) ELT 353 (Del.). I find that the request for cross-examination has been made on the ground that the allegations against the noticees are primarily based on the statements of certain individuals whose statements have been relied upon by the DRI.

45.1 In the present case, the statements of the aforementioned individuals are not the sole basis for the allegations, as contended by the noticees. They are substantially corroborated by physical examinations under Panchnamas dated 31.10.2023 and 08.12.2023 which independently confirm the goods as Digital Offset Printing Plates (CTCP/CTP) with markings and coatings inconsistent with the declared “Sheets for Door Fittings.” Further corroboration arises from electronic evidence, including WhatsApp chats retrieved under certified procedures, bank transaction records showing advance payments from M/s SMV Impex to the importer, transport documents showing diversion the

imported goods to M/s Shah Trading Co., and the voluntary deposit of Rs. 1,31,64,951/- by M/s Bimala Devi Industries during investigation, acknowledging duty liability.

45.2 The statements were voluntarily recorded under Section 108 of the Customs Act, 1962, without any retraction or evidence of coercion and therefore carry full evidentiary value as evidence. Moreover, the noticees were afforded full opportunity to defend during hearings, including access to RUDs and the right to submit evidence, satisfying principles of audi alteram partem. I find that the request for cross-examination is not justified, as Shri Sourabh Jain, in his voluntary and detailed statements recorded under Section 108 of the Customs Act, 1962, has himself made clear admissions, which he has not retracted at any stage.

45.3 In his statements, Shri Sourabh Jain admitted that, as the authorised signatory and manager of M/s SMV Impex, he was involved in importing Digital Offset Printing Plates (CTP/CTCP) from Chinese suppliers such as M/s Shanghai Bocica Printing Equipment Co. Ltd., and that these goods were deliberately mis-declared as “Sheets for Door Fittings” under CTH 83024190 to evade Anti-Dumping Duty. Shri Sourabh Jain elaborated the modus operandi in meticulous detail. He admitted that he directly placed orders with Chinese exporters, specifying the sizes and quantities of CTP/CTCP plates based on the requirements received from Shri Rakesh Shah of M/s Shah Trading Co., Ahmedabad. He further stated that he coordinated with Customs Broker Shri Kanhaiya Kasera of M/s Cargo Concepts (Bombay) Pvt. Ltd. for filing Warehousing Bills of Entry with false descriptions at M/s Fast Track CFS Pvt. Ltd., APSEZ, Mundra. He also admitted that funds were advanced from the bank accounts of M/s SMV Impex to the dummy importer, M/s Bimala Devi Industries, whose proprietor, Shri Harish Kumar Kedia, was paid a commission of Rs. 10,000 15,000 per container for allowing use of his IEC to facilitate outward remittances. Shri Jain further confessed that, after warehousing, the goods were diverted directly to the godowns of M/s Shah Trading Co. in Ahmedabad without any valid documents such as invoices or e-way bills, while fake invoices were issued in the names of non-existent Delhi-based firms to create a façade of a “Bill-to-Ship-to” transaction model.

45.4 From the investigation and the statements given by Shri Sourabh Jain recorded on 08.02.2024, 10.04.2024, and 17.09.2024, it is evident that he has clearly admitted his role in the method used to evade the Anti-Dumping Duty on Digital Offset Printing Plates. In his statement dated 08.02.2024, Shri Jain confirmed that he was in regular contact with Shri Rakesh Shah of M/s Shah Trading Co. and, following Shri Shah’s instructions, forwarded purchase orders and technical specifications to the Chinese supplier, M/s Shanghai Bocica Printing Equipments Co. Ltd. He also acknowledged that the goods imported using various IECs namely M/s Bimala Devi Industries, M/s Pawan Trading Co., and M/s Shivkrupa Impex were actually Digital Offset CTP/CTCP Printing Plates, though they were declared in the Bills of Entry as “Sheets for Door Fittings.”

45.5 In his statement dated 10.04.2024, Shri Sourabh Jain admitted that he coordinated with Shri Kanhaiya Kasera, Director of M/s. Cargo Concepts (Bombay) Pvt. Ltd., for the filing of Bills of Entry. He personally instructed the broker to retain the same incorrect description for all consignments. Shri Sourabh Jain also acknowledged that this mis-declaration was deliberate and

carried out to evade payment of Anti-Dumping Duty. The entire transaction value, including the duty component, was recovered from M/s. Shah Trading Co. through regular banking channels. However, he did not provide any explanation as to how this coordination took place, given that he was not the declared importer.

45.6 On perusal of the content of the statement of Shri Sourabh Jain (recorded on 10.04.2024), it can be seen that he himself admitted that the items declared in the import documents as “Sheets for Doors Fitting” were actually Digital Offset Printing Plates (CTCP/CTP type), identical to those detained at the premises of *M/s Shah Trading Co.* I also find from the statement dated 17.09.2024 tendered by himself that he and Shri Rakesh Shah used to finalise the purchase negotiation with the overseas manufacturer and supplier of goods and Shri Kanhaiya Kasera used to inform the name of the willing importer firm. Subsequently, he used to inform the overseas supplier to prepare the sale invoice, packing list and other documents in the name of the willing importer firm. Thus, he was also involved in the act of preparation of false or incorrect document for the Customs Clearance purpose. In the said statement dated 14.09.2024 he described that overseas supplier firms mentioned in the import invoices like M/s. Zhuji Kaituo Import & Export Co.,Ltd, M/s. Zhuji Tuoyuan Knitting Co.,Ltd and M/s. White Feathers FZCO, were not the original manufacturer of the goods. He used to forward the purchase orders to the original manufacturers like M/s. Shanghai Bocica Printing Equipments Co. Ltd. He explained that the Indian importer firms like M/s. Bimala Devi Industries and others made payment to the accounts of these overseas supplier firms and then these firms used to route payment to the original manufacturer of the goods. In his final statement on 17.09.2024, Shri Jain reaffirmed that the goods seized from the godowns of M/s Shah Trading Co. were the same as those previously imported through the said IECs and that the same mis-declaration method had been consistently followed.

45.7 The self-incriminating admissions, which tally with the statements of Shri Harish Kumar Kedia, Shri Rakesh Shah, and Shri Kanhaiya Kasera make the request for their cross-examination unnecessary. Shri Sourabh Jain’s own uncontroverted confessional statements constitute direct and primary evidence of the conspiracy, mens rea, and duty evasion, which stand independently corroborated by the Panchnamas, WhatsApp chat records, bank transaction details, transport documents, and the importer’s voluntary deposit of Rs. 1,31,64,951/-. While Section 138B mandates relevance and admissibility of statements, it does not confer an absolute right to cross-examination in quasi-judicial proceedings, which are not akin to court trials under the Evidence Act, 1872. Cross-examination is an element of procedural justice, not a sine qua non of natural justice, and may be denied where statements are corroborated by independent evidence. The detailed information provided by Shri Sourabh Jain leaves no doubt that he was one of the key individuals involved in the cartel responsible for importing goods into India with the intent to evade legitimate government taxes in the form of Customs Duty. It is evident that he not only managed the import operations within the country but also oversaw the importation of goods from overseas suppliers by preparing forged documents. After being apprehended, Shri Sourabh Jain attempted to distance himself from the shipments that were imported under his direction and coordination through multiple firms, namely M/s. Bimala Devi, M/s. Shiv Krupa Impex, and M/s. Pawan Trading Company. Any prudent person would

clearly understand that Shri Sourabh Jain was actively involved in the scheme planned to evade anti-dumping duty by mis-declaring the goods and concealing their true description and nature.

45.8 I also find that during his statement on 10.04.2024, Shri Sourabh Jain was confronted with the statements of Shri Rakesh Shah (recorded on 12.02.2024 and 02.04.2024), Shri Hemang Shah (recorded on 12.12.2023 and 20.03.2024), and Shri Kanhaiya Kasera (recorded on 12.02.2024). These statements were shown to Shri Sourabh Jain during his examination by the DRI officers. He not only acknowledged their contents but also confirmed them by admitting his own involvement in the mis-declaration of Digital Offset Printing Plates as "Sheets for Door Fittings." Shri Sourabh Jain accepted these statements without objection during his deposition, there is no valid reason to allow cross-examination at this stage. Furthermore, the evidence on record including the Panchnamas confirming that the goods were CTP/CTCP plates, certified WhatsApp chats, transport records, and the importer's deposit of Rs. 1,31,64,951/- makes the need for cross-examination unnecessary.

45.9. Further, it is a settled position that proceedings before the quasi-judicial authority is not at the same footing as proceedings before a court of law and it is the discretion of the authority as to which request of cross examination to be allowed in the interest of natural justice. I also rely on following case-laws in reaching the above opinion:-

- a. **Poddar Tyres (Pvt) Ltd. v. Commissioner - 2000 (126) E.L.T. 737:-** wherein it has been observed that cross-examination not a part of natural justice but only that of procedural justice and not 4 'sine qua non'.
- b. **Kamar Jagdish Ch. Sinha Vs. Collector - 2000 (124) E.L.T. 118 (Cal H.C.):**- wherein it has been observed that the right to confront witnesses is not an essential requirement of natural justice where the statute is silent and the assessee has been offered an opportunity to explain allegations made against him.
- c. **Shivom Ply-N-Wood Pvt. Ltd. Vs Commissioner of Customs & Central Excise Aurangabad- 2004(177) E.L.T 1150(Tri.-Mumbai):**- wherein it has been observed that cross-examination not to be claimed as a matter of right.
- d. Hon'ble Andhra Pradesh High Court in its decision in **Sridhar Paints v/s Commissioner of Central Excise Hyderabad** reported as 2006(198) ELT 514 (Tri-Bang) held that: denial of cross-examination of witnesses/officers is not a violation of the principles of natural justice, We find that the Adjudicating Authority has reached his conclusions not only on the basis of the statements of the concerned persons but also the various incriminating records seized. We hold that the statements have been corroborated by the records seized (Para 9)
- e. Similarly in **A.L Jalauddin v/s Enforcement Director reported as 2010(261)ELT 84 (mad) HC** the Hon High court held that; ".....Therefore, we do not agree that the principles of natural justice have been violated by not allowing the appellant to cross-examine these two persons: We may refer to the following paragraph in AIR 1972 SC 2136 = 1983 (13) E.L.T. 1486 (S.C.) (Kanungo & Co. v. Collector, Customs, Calcutta)".

46. With regard to Statements Recorded during the Investigation:

46.1 I noticed that noticees *Shri Sourabh Jain & M/s SMV Impex* through their written submission dated 23.07.2025 and during the personal hearing dated 04.09.2025, have contended that their statements recorded under Section 108 of the Customs Act, 1962 were obtained under duress and threat of arrest, and are therefore inadmissible in evidence. I find that these contentions are devoid of any merits. The statements were recorded by duly empowered officers of the Directorate of Revenue Intelligence under Section 108 of the Act, which confers statutory authority to summon and examine persons during inquiry. Each statement on record bears the dated signature of the deponent on every page, with the endorsement that it was read over, understood, and voluntarily given. None of the noticees retracted their statements immediately after recording or within a reasonable time thereafter. I find that the allegation of coercion was raised for the first time only in their replies to the Show Cause Notice, long after the investigation had been completed. Hence, I find it just an afterthought and a self-serving claim that holds no evidentiary value.

47. Demand of duty under Section 28(4) of the Customs Act, 1962:

(i) The investigation in the case of M/s. Bimala Devi Industries has recorded detailed statements from various key persons who have explicitly admitted that the past shipments declared as "Sheet for Doors Fitting," were in fact Digital Offset Printing Plates. Shri Harishkumar Kedia (Proprietor of M/s. Bimala Devi Industries) in his statement dated 27.06.2024, on perusing the statement RFID route paths, he acknowledged that Digital Offset Printing Plates were transported directly from Mundra Port to the godowns of Shah Trading Co.

(ii) Further, Shri Sourabh Jain (Authorised Signatory of M/s. SMV Impex) In his statement dated 10.04.2024 admitted that the goods detained at Shah Trading Co. godown had originated from imports made by M/s. Bimala Devi Industries (and others) in the past, declared as "Sheet for Doors Fitting," however the goods were actually Digital Offset Printing Plates. In his further statement dated 17.09.2024, he explicitly agreed that the goods imported at APSEZ, Mundra, by M/s. Bimala Devi Industries, using the description "Sheet for Doors Fitting," were actually Digital Offset Printing Plates and the goods were mis-declared to evade anti-dumping duty.

(iii) I noticed that Shri Rakesh Shah (Beneficiary/Controller of M/s. Shah Trading Co.), in his statement dated 02.04.2024 admitted that goods "used to come to Ms. Shah Trading Co. directly from Mundra port" and were Digital Offset Printing Plates, regardless of what was declared in documentation. Thus, I have no doubt that the goods imported under these 08 consignment were also, as accepted by the noticees, "Digital Offset Printing Plates".

(iv) Shri Rakesh Shah again in his later statement dated 05.08.2024 confirmed that all such goods from past shipments used to come directly to M/s. Shah Trading from Mundra Port; that the goods were received via coordination with Shri Sourabh Jain. The supplied goods were based on fake invoices or through non-functional Delhi firms. He admitted coordinating with Shri Sourabh Jain to receive these goods along with accompanying fabricated invoices from non-existent or non-functional firms. Shri Rakesh Sahah during

his statement dated 12.02.2024 clearly admitted the fact that anti-dumping duty was not paid on the goods detained at the Godown of M/s Shah Trading Co due to mis-declaration in their case and he would talk to Sourabh Jain and try to deposit the anti-dumping duty of the goods which have been detained at the Godown of M/s. Shah Trading Co.

(v) Shri Kanahaiya Kasera in his statement categorically accepted that they initially processed 01 Bill of entry 1008953 dated 23.05.2023 for the importer M/s. Shree Ram Impex, Jaipur wherein the goods were declared as 'Sheet for Door Fitting' after they have processed various bill of entry for the goods declared as "Sheet for Doors Fitting" imported by various firms including M/s. Bimala Devi Industries. He further stated that the goods were imported on behalf of Shri Sourabh Jain. He accepted that although the e-way bills in each case were issued in the name of M/s. SMV Impex, Delhi; many of the consignments of the said goods were used to be unloaded at Ahmedabad. I find that goods found during the search of godowns of M/s. Shah Impex was other than "Door Fitting", thus, there is no ambiguity on the point that the goods imported under previous shipments are nothing but "Digital Offset Printing Plates" and are liable for payment of ADD.

(vi) I find from the statement of Shri Sourabh Jain of M/s SMV Impex, recorded on 10.04.2024, that upon learning of the detention of goods at the godowns of M/s Shah Trading Co. vide panchnama dated 03.11.2023, he was contacted by Shri Rakesh Shah, who discussed the stock details of the detained goods. Shri Jain stated that he then obtained copies of the relevant Bills of Entry from Shri Kanhaiya Kasera, Director of M/s Cargo Concepts (Bombay) Pvt. Ltd., and upon comparing those Bills of Entry with the stock details of the detained goods, he identified that the goods were identical to those earlier imported at APSEZ, Mundra under the names of M/s Bimala Devi Industries, M/s Pawan Trading Co., and M/s Shivkrupa Impex. Shri Jain specifically confirmed that the detained goods corresponded to the consignments imported by the importers. Shri Jain further stated that, on examining the said Bills of Entry, he could affirm that the items declared in the import documents as "Sheets for Doors Fitting" were actually Digital Offset Printing Plates (CTCP/CTP type), identical to those detained at the premises of *M/s Shah Trading Co.*

He also endorsed the statement of Shri Kanhaiya Kasera dated 15.02.2024 acknowledging that the mis-declaration of description had been adopted across all the above shipments. These admissions link the detained stock at *M/s Shah Trading Co.* with the past consignments imported in the name of *M/s Bimala Devi Industries* and the other two IEC-holders. Therefore, I find that the past clearances under 8 Bills of Entry filed in the name of M/s. Bimala Devi Industries are also liable for payment of Anti-Dumping Duty on the actual description of the goods under the provisions of Section 28 (4) of the Customs Act, 1962.

(vii) I also find that the Bills of Entry were filed declaring the goods as "Sheets for Door Fittings," thereby suppressing the actual description "Digital Offset Printing Plates". No disclosure regarding the true identity of goods or their end-use was made either at the time of import or subsequently. I find the same method used repeatedly across several shipments. The shipments were routed through different IEC holders to hide that the operations were continuous and

to avoid detection by the Department. The evasion was unearthed only after the detention of goods at the premises of M/s Shah Trading Co. and the subsequent examination of relevant records, which established that the mis-declaration and suppression were wilful and continuous in nature. In the present case, the deliberate mis-declaration of goods, false description in the import documents, and systematic use of dummy IECs to conceal the actual importer leave no doubt that the duty evasion was intentional and not a result of any bona-fide error.

(viii) Independent verification at the registered addresses of supplier firms listed on invoices and e-way bills i.e. M/s. Balaji Traders, M/s. Weblight Solutions, M/s. Satya Traders, M/s. Prateek Traders, M/s. Bhaskar Trading Company and M/s. Bansal Industrial Solutions, has revealed these firm either not operating there or did not exist. The evidence shows that the parties acted together to hide the truth. The invoices and records were set up to make it look like the goods were sold within Delhi, but tracking data, e-way bills, and transporter statements prove they were actually sent to Shah Trading Co.'s warehouses in Ahmedabad directly from the port of importation. The creation of fake firms (i.e. M/s. Balaji Traders, M/s. Weblight Solutions, M/s. Satya Traders, M/s. Prateek Traders, M/s. Bhaskar Trading Company and M/s. Bansal Industrial Solutions) and forged documents clearly show the intentional and planned nature of the fraud.

(ix) Further, I rely on the order passed by the Hon'ble CESTAT, Mumbai in the case of M/s. S.M. Steel Ropes reported as 2014 (304) E.L.T.591 (Tri. Mumbai), wherein the Hon'ble Tribunal, by referring to various judgements of Hon'ble Supreme court and High Courts, held that confirmation of duty demand on the basis of voluntary statements is sustainable in law. Relevant Para 5.1 is reproduced as under:-

"5.1 As regardsThe adjudicating authority has confirmed the demand only on the basis of figures given in the statements of Shri Balkrishna Agarwal. In the absence of delivery challans which were recovered and seized at the time of Panchanama proceedings, he has not taken the computation of demand based on such delivery challans as reflected in the annexure to the show-cause notice. Therefore, the adjudicating authority has strictly proceeded based on the evidences available which in the present case are the statements of Shri Balkrishna Agarwal. As to the question whether the demands can be confirmed on the strength of confessional statements, this position stands settled by the decision of the Hon'ble Apex Court in the case of K.I Pavunny v. Asstt. Collector (HQ) Central Excise Collectorate, Cochin - [1997 \(90\) E.L.T. 241 \(S.C.\)](#) wherein it was held that confessional statement of accused, if found to be voluntary, can form the sole basis for conviction. Only if it is retracted, the Court is required to examine whether it was obtained by threat, duress or promise and whether the confession is truthful. In the present case, we find that there is no retraction of the confessional statement by Shri Balkrishna Agarwal. As regards the lack of corroborative evidence, it is a settled position of law that "admitted facts need not be proved" as held by the Hon'ble High Court of Madras in the case of Govindasamy Ragupathy - [1998 \(98\) E.L.T. 50 \(Mad\)](#). In a recent decision in the case of Telestar Travels Pvt. Ltd. - [2013 \(289\) E.L.T. 3 \(S.C.\)](#), the Hon'ble Apex Court held that reliance can be placed

on statement if they are based on consideration of relevant facts and circumstances and found to be voluntary. Similarly in the case of CCE, Mumbai v. Kalvert Foods India Pvt. Ltd. - [2011 \(270\) E.L.T. 643 \(S.C.\)](#) the Hon'ble Apex Court held that if the statements of the concerned persons are out of their volition and there is no allegation of threat, force, coercion, duress or pressure, such statements can be accepted as a valid piece of evidence. In the light of the above decisions, we are of the considered view that the confirmation of duty demand based on the voluntary statements of the Managing Partner of the appellant firm is sustainable in law. Consequently, the interest and penal liabilities imposed on the appellants would also sustain."

(x) From the above, it is evident that there was a willful misstatement and suppression of important details required for proper duty assessment. The above discussion clearly show a planned scheme of deliberate mis-declaration and suppression designed to evade the levy of Anti-Dumping Duty imposed under Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Therefore, I hold that the recovery of the differential duty is valid under Section 28(4) of the Customs Act, 1962.

47.1 CALCULATION OF DUTY:

(i) I find that the goods imported Warehousing BE No. 1022739 dated 27.10.2023 and 1023025 dated 31.10.2023 were seized under seizure memo dated 02.01.2024. The subject goods were examined under Panchnama dated 31.10.2023 and 08.12.2023. As per Notification No. 21/2020-Customs (ADD) dated 29.07.2020, the Anti-Dumping Duty in the instant case is leviable at the rate of 0.77 USD per square meter. For the purpose of calculation of anti-dumping duty, goods were examined under the said panchnamas and quantity is mentioned therein which were also provided to the Noticees as RUDs alongwith the Show Cause Notice. The goods seized at the Fast Track CFS are liable for payment of anti-dumping duty as per the below table:

Sr. No .	W/h B/E No.	W/h B/E date	Net weight of goods as per B/E in kgs	Qty of the goods in sq.m.	Exch . Rate	Anti-Dumping Duty evaded (inclusive of IGST) in Rs.	Assessable value as per B/E (in Rs.)
1	1022739	27-10-2023	24850	34,430.90	84.20	26,34,105/-	12,55,422/-
2	1023025	31-10-2023	24950	34,330.90	84.20	26,26,455/-	12,60,474/-
Total area, ADD and ass. value of the goods			49800	68,761.80		52,60,560/-	25,15,896/-

(ii) As discussed, the past shipments cleared under the IEC of M/s. Bimala Devi Industries were actually 'Digital Offset Printing Plates', thus, the same are also liable for payment of anti-dumping duty. Since Digital Offset Printing Plates are commercially traded in square meters, the original packing lists submitted were found non-genuine and fabricated for customs clearance. As the noticees failed to provide authentic packing lists, the department utilized

conversion ratios based on the physical verification of currently seized goods to arrive at the corresponding quantity for earlier shipments. Thus, square meter per Kilogram of the goods imported in the past is determined by dividing the area (size) in Sq.meter by the net weight as mentioned in above table, i.e. (68761.80/49800), which is 1.380759. Applying this conversion factor to the net weight available in the import documents, the quantity of goods in area or square meter terms has been determined. Accordingly, the details of the goods imported in the past and the duty liability on account of mis-declaration are calculated as follows:

Sr. No .	W/h B/E No. & Date	W/h to DTA B/E No. & date	Net weight of goods as per B/E in kgs	Qty of the goods in sq.m.	Exch . Rate	Anti-Dumping Duty evaded (inclusive of IGST) in Rs.	Assessable value as per B/E (in Rs.)
1	1009737 dated 03.06.2023	2010201 dated 08.06.2023	24400	33,690.52	83.40	25,52,974.59	10,17,480.00
2	1009946 dated 06.06.2023	2010384 dated 12.06.2023	25530	35,250.78	83.40	26,71,206.61	10,64,601.00
3	1019907 dated 28.09.2023	2019281 dated 03.10.2023	24900	34,380.90	84.05	26,25,594.66	12,55,707.00
4	1022044 dated 19.10.2023	2021554 dated 23.10.2023	18790	25,944.46	84.20	19,84,858.20	9,48,707.10
5	1022045 dated 19.10.2023	2021555 dated 23.10.2023	17100	23,610.98	84.20	18,06,337.16	8,63,379.00
6	1009288 dated 27.05.2023	2009611 dated 31.05.2023	50000	69,037.95	83.30	52,25,232.52	20,82,500.00
7	1015134 dated 03.08.2023	2014929 dated 07.08.2023	50850	70,211.60	83.60	53,33,199.75	21,09,003.75
8	1013450 dated 16.07.2023	2013390 dated 19.07.2023	3150	4,349.39	83.25	3,28,992.06	1,31,118.75
Total area, ADD and ass. value of the goods			2,14,720	2,96,476.58		2,25,28,396/-	94,72,497/-

(iii) Thus, the total duty liability for the mis-declared goods imported by M/s. Bimala Devi Industries is Rs. 2,77,88,956, comprising Rs. 52,60,560 for the seized consignment and Rs. 2,25,28,396 for eight past shipments as per below table:

Particulars	Qty of the goods in sq.m.	Anti-Dumping Duty evaded (inclusive of IGST) in Rs.	Assessable value as per B/E (in Rs.)
Qty and ADD for the goods placed under seizure at APSEZ, Mundra	68,761.80	52,60,560/-	25,15,896/-
Qty and ADD for the goods imported in the past	2,96,476.58	2,25,28,396/-	94,72,497/-
Total qty and ADD	3,65,238.38	2,77,88,956/-	1,19,88,393/-

(iv) I hold that the duty is recoverable jointly and severally from M/s. Bimala Devi Industries, Shri Sourabh Jain, and Shri Rakesh Shah for their respective roles in the import and mis-declaration under Section 28(4) of the Customs Act, 1962, along with interest under Section 28AA of the Customs Act, 1962.

(v) I noticed that the Importer, M/s. Bimala Devi Industries paid Rs. **50,00,000/-** vide TR-6 Challan No. 7341/23-24 dated 03.11.2023 and Rs. **81,64,951/-** vide TR-6 Challan No. APSEZ/9015/23-24 dated 13.03.2024 towards their duty liabilities during the investigation period. I find that the voluntary payments made by the noticees during the course of investigation represent partial discharge of the duty liability. Accordingly, the amounts already deposited by M/s. Bimala Devi Industries shall be appropriated towards the confirmed duty demand. Any remaining balance of duty, interest or penalty shall be recoverable in accordance with law.

48.1 Confiscation of goods under Section 111(m) of the Customs Act, 1962: I find that the Show Cause Notice proposes confiscation of the imported goods under the provisions of Section 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below:-

(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;”

The said section provides that *“any goods which do not correspond in respect of value or in any other particular with the entry made under this Act, or in respect of which any material particular has been mis-declared in the Bill of Entry or other document, shall be liable to confiscation.”* Thus, any incorrect or false declaration of material particulars such as description, classification, or value attracts confiscation of the goods imported under such declaration.

(i) I find from the case records that the importer M/s. Bimala Devi Industries, while filing the Bills of Entry Nos. 1022739 dated 27.10.2023 and 1023025 dated 31.10.2023 through their Customs Broker M/s. Cargo

Concepts (Bombay) Pvt. Ltd., declared the description of the imported goods as “*Sheet for Doors Fitting*” classifying the same under CTI 83024190. However, the examination of the goods by the officers of the Directorate of Revenue Intelligence under the duly drawn panchnamas dated 31.10.2023 and 08.12.2023 revealed that the goods were in fact Digital Offset Printing Plates (CTCP/CTP) of Chinese origin, correctly classifiable under CTI 84425090. I find that this false declaration of description and classification is not a bonafide mistake but an intentional mis-declaration of a material particular within the meaning of Section 111(m) of the Customs Act, 1962 which was done to avoid payment of anti-dumping duty by defrauding the government exchequer. For the past cleared cases, as already noted in foregoing paragraphs, the CTCP Plates were cleared under the guise of “*Sheet for Door Fittings*”, rendered them liable for confiscation under section 111(m) of the Customs Act, 1962.

In view of the above, I hold that the imported goods “*Digital Offset Printing Plates*” of Chinese origin imported under Bills of Entry Nos. 1022739 dated 27.10.2023 and 1023025 dated 31.10.2023 alongwith the goods cleared in past which were mis-declared as “*Sheet for Doors Fitting*” under CTI 83024190, are liable for confiscation under Section 111(m) of the Customs Act, 1962.

48.2 Imposition of Redemption Fine: As I have already held these goods liable for confiscation in previous para under Section 111(m) of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCNs. The Section 125 ibid reads as under:-

“Section 125. Option to pay fine in lieu of confiscation.—(1) *Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit.”*

(i) Goods seized at M/s Fast Track CFS Pvt Ltd: In respect of goods Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 which seized vide seizure memo dated 05.01.2024 (at M/s Fast Track CFS Pvt Ltd, Mundra), I find that an option to redeem the goods may be given to the Importer under the provisions of Section 125(1) of the Customs Act, 1962.

(ii) Goods seized at the godown of M/s. Shah Trading Co.: In respect of past imported goods under 04 Bills of Entry No. (i) 1019907 dated 28.09.2023, (ii) 1022044 dated 19.10.2023, (iii) 1022045 dated 19.10.2023 & (iv) 1009288 dated 27.05.2023, which were confiscated at the business premise of M/s. Shah Trading Co., Ahmedabad; I find that in the instant case option to redeem the goods through provisional release has already been availed by the Importer. Now the question remains that whether redemption fine can be imposed on the goods which already provisionally released. In this regard, I place reliance on the judgment of the Hon’ble Apex Court in the case of **M/s. WESTON**

COMPONENTS LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI-2000 (115) E.L.T. 278 (S.C.) wherein the Apex Court held that:

“It is contended by the learned Counsel for the appellant that redemption fine could not be imposed because the goods were no longer in the custody of the respondent-authority. It is an admitted fact that the goods were released to the appellant on an application made by it and on the appellant executing a bond. Under these circumstances if subsequently it is found that the import was not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods, then the mere fact that the goods were released on the bond being executed, would not take away the power of the customs authorities to levy redemption fine.”

I believe the ratio of the aforementioned judgment is directly applicable to the present case, as the goods in the current shipment were also allowed under Bond and Bank Guarantee. Consequently, I find that a redemption fine is warranted in respect of goods imported under the WH Bills of Entry No. (i) 1019907 dated 28.09.2023, (ii) 1022044 dated 19.10.2023, (iii) 1022045 dated 19.10.2023 & (iv) 1009288 dated 27.05.2023.

(ii) Goods which were neither seized nor provisionally released: In respect of past imported goods under 04 WH Bills of Entry No. (i) 1009737 dated 03.06.2023, (ii) 1009946 dated 06.06.2023, (iii) 1015134 dated 03.08.2023 & (iv) 1013450 dated 16.07.2023; I find that the goods in question which are proposed to be confiscated were already cleared and the same are not available physically for confiscation. Thus, I refrain from imposing redemption fine in respect of goods imported under these 04 bill of entry.

49. Beneficial Owner/Importer of the imported goods:

(i) I find that there has been an amendment in Section 2(26) of the Customs Act, 1962 which defines ‘importer’. After the said amendment not only the owner of the imported goods is importer but even a beneficial owner of such goods is also defined as importer. For the sake of further clarity, the the definition of “beneficial owner” and ‘importer’ as per Section 2 (3A) and 2(26) of the Customs Act, 1962 are as below:

[(3A) “beneficial owner” means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;]

.....

(26) “importer”, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;

(ii) Form the above, I note that the Customs Act, 1962 expressly defines “beneficial owner” to mean any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported, and that the inclusive definition of “importer” extends to any owner, beneficial owner, or person holding himself out to be the importer. The incorporation of “beneficial owner” into the statutory architecture was intended to ensure that liability for customs duties and compliance attaches to

the person who in fact controls or for whose benefit the import is structured, and not merely to the individual or entity whose name appears on the Bill of Entry. It is evident that the imported consignment in the of M/s. Bimala Devi Industries, after de-stuffing and clearance at the SEZ warehousing unit, moved directly from Mundra to the premises of M/s. Shah Trading Co., Ahmedabad instead of Delhi. I find that Shri Rakesh Shah provided funds and financial support to M/s. Shah Trading Co. He (Rakesh Shah) had an informal profit-sharing arrangement with its proprietor, making him the real financial beneficiary of the imported goods. Shri Rakesh Shah managed the entire supply chain, financed Ms. Shah Trading Co., and supervised the movement and sale of imported goods. These hidden operations were covered up using fake invoices from non-existent or inactive Delhi-based firms (i.e. M/s. Bansal Industries, M/s. Bhaskar Trading, M/s. Ess Ay Traders, M/s. Web Light Solutions, M/s. Prateek Traders). This shows his active role in evasion of Customs Duty. Thus, there is no doubt that Shri Rakesh Shah's role went far beyond offering product advice. He directly managed ordering, supplier selection, container release, and post-arrival handling. The same supplier, technical details and false product descriptions were repeatedly used under IECs of M/s. Bimala Devi Industries, M/s. Pawan Trading and M/s. Shiv Krupa Impex. His WhatsApp communications with Shri Sourabh Jain further prove his role in planning and executing the entire import scheme. It is therefore that Shri Rakesh Shah was not a passive participant but the main planner and key beneficiary of the fraudulent import chain designed to evade anti-dumping duty. Shri Rakesh Shah acted as the real importer and key decision-maker behind the false import declarations, as defined in Section 2(3A) of the Customs Act, 1962.

(iii) I have already discussed in detail that Shri Sourabh Jain was not merely acting as an intermediary. He organised, and executed the entire import operation. He arranged the procurement of goods from the overseas supplier, directed the customs broker in filing the Bills of Entry, and controlled the post-clearance sale and financial settlement of the consignments. His active involvement in preparing purchase orders, negotiating prices, coordinating shipments, and managing payment transactions clearly shows that the imports were carried out for his commercial benefit, even though they were routed through multiple IEC holders. Shri Sourabh Jain had the full knowledge about the goods imported in the name of various firm including M/s. Bimala Devi Industries. He admitted during the investigation that the goods seized at the godown of Shah Trading Co, was the same which they were imported earlier. He also made advance payment to the IEC holder for payment of duty and other related activities, and these fund were arranged or routed through Shri Rakesh Shah. Accordingly, I hold that Shri Sourabh Jain fall within the meaning of beneficial owner of the mis-declared imported goods and is therefore liable for payment of duty and subject to penal consequences as prescribed under the law.

Thus, I find that Shri Rakesh Shah and Shri Sourabh Jain of M/s. SMV Impex, Delhi, exercised effective control over procurement and were the economic principal on whose direction/benefit the goods were imported. Therefore, I find that the both Noticees are the '*beneficial owner*' of the subject goods as per the definition provided under Section 3 [3A] & 2(26) of the Customs Act, 1962. Further, I also hold that the Shri Sourabh Jain and Shri

Rakesh Shah are also jointly and severely liable for payment of Anti-Dumping Duty with applicable interest.

50. Role and Culpability of M/s. Bimala Devi Industries (Noticee-1):

- (i) I find that M/s. Bimala Devi Industries imported goods declared as “Sheets for Door Fittings”. However, upon detailed examination under panchnamas dated 31.10.2023 and 08.12.2023, the goods found to be “*Digital Offset Printing Plates (CTCP/CTP type)*”. As the goods declared in the import documents found to be non-exist, the mis-declaration of the goods clearly established as discussed under foregoing paras.
- (ii) Shri Harish Kumar Kedia (Proprietor of M/s. Bimala Devi Industries) in his statement dated 11.12.2023 and 27.06.2024 admitted to having imported Digital Offset Printing Plates instead of “Sheets for Door Fittings”. He admitted that the goods were imported on the instructions of Shri Kanhaiya Kasera, and Shri Sourabh Jain. I find that M/s. Bimala Devi Industries admittedly received substantial monetary benefits from the mastermind in lieu of facilitating the illegal import in the IEC of his firms and services provided by him for knowingly facilitating the illegal import, clearance, transportation etc.
- (iii) I find that M/s. Bimala Devi Industries issued invoices showing fictitious sale of the imported goods described as “Sheets for Door Fittings”, whereas the corresponding e-way bills and RFID movement reports prove that the goods were transported directly from Mundra to Ahmedabad. The goods seized from M/s. Shah Trading Co. on 03.11.2023 valued at Rs. 6.16 crore, were identified by Shri Sourabh Jain as identical to those imported earlier by M/s. Bimala Devi Industries and other related IEC holders. Thus, the chain of evidence conclusively connects the past and present imports to M/s. Bimala Devi Industries.
- (iv) I find that the statements of Shri Sourabh Jain and Shri Kanhaiya Kasera confirmed that M/s. Bimala Devi Industries was one of the IEC holders used for import of mis-declared *Digital Offset Printing Plates* from M/s. Shanghai Bocica Printing Equipments Co. Ltd., China, under false description to evade Anti-Dumping Duty.
- (v) I find that the import firm, through its proprietor, was fully aware that the description “Sheets for Door Fittings” was not correct. The deliberate use of a fictitious description clearly indicates that the act was premeditated and intended to evade the Anti-Dumping Duty. The conduct of M/s. Bimala Devi Industries in allowing its IEC to be used by others for monetary consideration, signing import documents without verifying the correctness of the description, and facilitating clearance of mis-declared goods clearly amounts to active participation in the evasion of Anti-Dumping Duty. I therefore find that M/s. Bimala Devi Industries through its proprietor Shri Harish Kumar Kedia, played a direct and conscious role in the mis-declaration of the imported goods. Thus, they have knowingly concerned themselves dealing with mis-declared goods and made the subject goods liable for confiscation under Section 111 (m) of the Customs Act, 1962. In respect of the goods lying for clearance at M/s. Fast Track CFS, I find that the importer has rendered themselves

liable for penalty under Section 112(a)(ii) of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) is to be imposed.

- (vi) In respect of past clearance, as I have already discussed that the goods imported under past 8 shipments are also liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962; consequently penalty under Section 114A is also found to be leviable on the Importer as the elements for penalty as per said Section 114A is *pari materia* with Section 28(4) of the Act.

50.1 The Noticee, M/s. Bimala Devi Industries made the following defence submissions which are required to addressed/discussed here.

A. The noticee M/s. Bimala Devi has contended that the Show Cause Notice is founded merely on statements recorded under Section 108 without corroboration, and therefore, the allegations of mis-declaration and evasion of Anti-Dumping Duty are unsubstantiated.

With respect to this contention, I find that the charges of mis-declaration are substantiated through multiple corroborative evidences (i) physical examination of the goods under panchnamas dated 31.10.2023 and 08.12.2023 which revealed the goods to be *Digital Offset CTCP Printing Plates*; (ii) markings and specifications printed on the goods and cartons themselves; (iii) statements of key persons such as Shri Harish Kumar Kedia (importer), Shri Balesh Yadav (Fast Track CFS), Shri Sourabh Jain (SMV Impex) and Shri Rakesh Shah (Aakruti Impex), all of which are mutually consistent on the nature of the goods and the modus adopted. When statements under Section 108 are given voluntarily and supported by other evidence, they are treated as valid proof as discussed under foregoing paras. Accordingly, the noticee's mere denial of charges without any legal facts is untenable and cannot be accepted.

B. They claimed that the import was made under a bona fide business arrangement with Shri Kanhaiya Kasera and Shri Sourabh Jain, that they had no knowledge of the actual goods, and that they merely facilitated the transaction on their behalf.

I find that the Importer, being the holder of IEC and declarant under Section 46, is statutorily responsible for truthfulness of particulars in the Bill of Entry filed by them. Ignorance or dependence on intermediaries cannot absolve them from their liability. Shri Harish Kumar Kedia, in his voluntary statement dated 11.12.2023, admitted that he allowed his firm's IEC to be used for consideration, received commission per container, and issued invoices in favour of M/s SMV Impex while funds were arranged by others. Such conduct reflects conscious facilitation of mis-declaration. Thus, the plea of bona fide intent is devoid of merit.

C. M/s. Bimala Devi claimed that the overseas supplier might have erroneously shipped *Digital Offset Printing Plates* instead of *Sheets for Door Fittings*, and that the noticee had no role in the wrong description. With regard to this contention, it is observed that the markings 'CTP/CTCP' clearly visible on the goods and their packaging leave no scope for doubt that the importer

was fully aware of the true nature of the goods. The claim of supplier's mistake is clearly an afterthought, made only to avoid liability.

D. The noticee pleaded that the case is revenue-neutral with respect to IGST and that there was no deliberate intent; hence, penalty is not warranted. I find that revenue-neutrality is irrelevant to evasion of Anti-Dumping Duty, which is a protective levy under Section 9A of the Customs Tariff Act, not an input tax under GST law. The deliberate use of fictitious description to avoid ADD establishes *mens rea* beyond doubt. Thus, Noticee's contention is devoid of merits.

E. The noticee argued that since duty was deposited during investigation, proceedings should be deemed concluded under Section 28(5) and 28(6) of the Customs Act, 1962.

I find that Section 28(5)/28(6) applies only when the noticee voluntarily admits short payment of duty in writing and pays the same with interest before issuance of SCN. I also noticed that the duty demanded (Rs. 2,25,28,396/-) in the subject case is more than the amount deposited during the investigation period. I find that Section 28(5) & 28(6) applies only when the importer voluntarily admits the liability in writing and pays full duty with interest before issuance of SCN. No such admission exists. The payment was an ad-hoc deposit during investigation and does not exonerate co-noticees from penal liability. Hence, this contention also have no force.

F. The contention of the noticee that the Commissioner of Customs, Mundra is not empowered to issue the present Show Cause Notice on the ground that the same pertains to activities relating to a Special Economic Zone (SEZ) is devoid of merit and contrary to the statutory scheme under the SEZ Act, 2005 and the SEZ Rules, 2006

The legal authority for issuance of show cause notice, adjudication, review and appeal in matters relating to authorized operations under the SEZ Act, 2005, and in respect of transactions and goods and services related thereto, has been clearly defined under Rule 47(5) of the SEZ Rules, 2006, inserted vide Notification No. 772(E) dated 05.08.2016, which provides as under:

"Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorized operations under Special Economic Zones Act, 2005, transactions and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994 and the rules made thereunder or the notifications issued thereunder."

This rule explicitly empowers the Jurisdictional Customs Authorities to exercise powers of demand, adjudication, review and appeal in respect of matters related to SEZ operations, under the respective indirect tax statutes including the Customs Act, 1962. Thus, the Commissioner of Customs, Mundra, being the jurisdictional Commissioner having administrative control over the Customs functions at Mundra Port and the concerned SEZ, is well within his legal competence to issue and adjudicate the Show Cause Notice under Section 28 of the Customs Act, 1962.

51. Role and Culpability of M/s. Cargo Concepts (Noticee-2):

- (i) I find from the investigation that M/s. Cargo Concepts (Bombay) Pvt. Ltd. acted as the Customs Broker in respect of the consignments imported through the IECs of M/s. Bimala Devi Industries. I find that the firm had handled the filing of Bills of Entry for these imports at the request of Shri Sourabh Jain who provided him the relevant documents. I find that Shri Kasera was admittedly aware that the goods were mis-declared as "Sheets for Door Fittings" instead CTPC/CTP plates.
- (ii) I find that M/s. Cargo Concepts (Bombay) Pvt. Ltd. received service charges for each consignment and that he did not verify the nature of the goods, even though the description of "Sheets for Door Fittings" was inconsistent. The Customs Broker firm was in regular contact with Shri Sourabh Jain and Shri Rakesh Shah and were aware of the actual goods being Digital Offset Printing Plates however, they continued to file Bills of Entry with false description at their instructions. I have no doubt that the Customs Broker had full knowledge of the recurring description and the underlying commercial arrangement. The repetition of false declarations across several consignments establishes deliberate facilitation of the mis-declaration. M/s. Cargo Concepts (Bombay) Pvt. Ltd. failed to discharge this statutory obligation and, on the contrary, actively assisted the main conspirators in preparing, filing, and processing the import documents that falsely described the goods. By so doing, the firm abetted the mis-declaration and directly contributed to the evasion of Anti-Dumping Duty.
- (iii) I therefore find that M/s. Cargo Concepts (Bombay) Pvt. Ltd. acted in deliberate collusion with *Shri Sourabh Jain, Shri Harish Kumar Kedia, and Shri Rakesh Shah* to mis-declare the goods with the intent to evade ADD. The firm's actions facilitated the filing of false import declarations and the clearance of goods liable for confiscation. The acts of the Customs Broker attracts penal consequences under **Sections 112(a)** of the Customs Act, 1962 for doing the acts of rendering goods liable to confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, I hold that M/s. Cargo Concepts (Bombay) Pvt. Ltd. is liable for penal action under Section 112(a) (ii) of the Customs Act, 1962.

52. Role and Culpability of Shri Kanhaiya Kasera (Noticee-3):

- (i) I find that Shri Kanhaiya Kasera, Director of M/s. Cargo Concepts (Bombay) Pvt. Ltd., acted as the Customs Broker in the importation of mis-declared goods. His statement recorded on 15.02.2024 revealed that he was personally responsible for the filing of Bills of Entry on behalf of *M/s. Bimala Devi Industries, M/s. Pawan Trading Co., and M/s. Shivkrupa Impex* at APSEZ, Mundra. He admitted that the import documents were provided to him by Shri Sourabh Jain. And he had been handling these imports on the instructions of Shri Sourabh Jain for several months. He also admitted that he was in contact with Shri Rakesh Shah regarding the arrival of consignments and clearance schedules. He stated that the description "Sheets for Door Fittings" was adopted as per the documents received from the clients and that he did not raise any query or objection, despite being aware that the goods were actually *Digital Offset Printing Plates*. He acknowledged that the same

description was used across multiple consignments and IECs on the instructions of *Shri Sourabh Jain*, and that he knowingly continued to file the import documents without verifying their accuracy.

- (ii) I find from the statement of Shri Sourabh Jain dated 10.04.2024 that upon learning of the detention of goods at the godowns of M/s Shah Trading Co., he was contacted by Shri Rakesh Shah who discussed the stock details of the detained goods. Shri Sourabh Jain stated that he then obtained copies of the relevant Bills of Entry from Shri Kanhaiya Kasera and upon comparing those Bills of Entry with the stock details of the detained goods, he identified that the goods were identical to those earlier imported at APSEZ, Mundra under the names of M/s Bimala Devi Industries, M/s Pawan Trading Co., and M/s Shivkrupa Impex. The above admissions by Shri Sourabh also clearly show Shri Kanhaiya Kasera was fully aware about the mis-declaration in the description and import made by these firms for which he had filed bills of entry and helped in the clearance of the same.
- (iii) By actively participating in the filing of false import documents, failing to verify the correctness of declarations, and maintaining concealment despite knowledge of the true nature of the goods, Shri Kanhaiya Kasera has abetted the acts of mis-declaration and evasion of duty. His role goes beyond mere procedural negligence; it demonstrates deliberate facilitation of the fraud through professional expertise. Accordingly, I hold that Shri Kanhaiya Kasera is responsible for abetting and facilitating the import of mis-declared Digital Offset Printing Plates, thereby rendering the goods liable to confiscation under Section 111(m) of the Customs Act, 1962. His actions attract penal liability under Sections 112(a) and 112(b) for abetment and dealing with goods liable to confiscation. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act wherever, penalty under Section 112(a) is to be imposed. Thus, I find that Shri Kanhaiya Kasera is liable for penalty under Section **112(a)(ii)** of the Customs Act, 1962. The Bills of Entry were filed by Shri Kanhaiya Kasera with the false material under the direction of third party. By knowingly filing and causing the filing of import documents that falsely declared the goods as "Sheets for Door Fittings" instead of Digital Offset Printing Plates (CTP/CTCP type), he has used and caused to be used false material particulars. This, I have no doubt that he is also liable for penalty under **Section 114AA** of the Customs Act, 1962.
- (iv) The noticees contend that they relied entirely on invoices, packing lists and other import documents supplied by the importer, and that they had no reason to suspect mis-declaration or to physically verify the goods. With respect to this point, I find that the Noticee's active role and culpability has been discussed in detail, hence, the noticee's claim of with respect of this point does not hold water.
- (v) It is contended by him that Bills of Entry in SEZ are filed by the SEZ unit itself, not by the broker, and that Cargo Concepts as a company was not involved in the import process. With respect to these claim, I find that the facts have already been discussed that the role of Customs Broker

firm and Shri Kanhaiya Kasera was not limited to the filing of Bill of Entry. They were actively involved in the mis-declaration of the goods.

53. Role and Culpability of M/s. Fast Track CFS Pvt. Ltd. (Noticee-4):

- (i) I find that M/s. Fast Track CFS Pvt. Ltd., Mundra, served as the designated Container Freight Station (CFS) where consignments imported under the IECs of M/s. Bimala Devi Industries, M/s. Pawan Trading Co., and M/s. Shivkrupa Impex were received, stored, and handled before being cleared for home consumption. The bills of entry for these consignments were filed using the maker ID of M/s. Cargo Concepts Bombay Pvt. Ltd., while the checklist approvals were made through the approver ID of M/s. Fast Track CFS Pvt. Ltd. This shows the involvement of M/s. Fast Track CFS Pvt. Ltd. in processing the customs clearance of these mis-declared shipments.
- (ii) I find that the approval process and clearance execution using their approver ID and processing the mis-declared consignments, clearly show that M/s. Fast Track CFS Pvt. Ltd. assisted in clearing goods under false declarations. Shri Balesh Yadav, authorised representative of M/s. Fast Track CFS Pvt. Ltd. admitted that the consignments of *Digital Offset Printing Plates* mis-declared as "Sheets for Door Fittings" were deliberately routed through *M/s Fast Track CFS Pvt. Ltd.*, Mundra, to avoid interdiction and scrutiny by the Risk Management System (RMS) or container scanning procedures applicable in the normal course of Customs assessment at Mundra Port. He further explained that the DTA Bills of Entry were routinely filed 2–5 days after the warehousing Bills of Entry and that certain clients preferred to clear goods through SEZ units like *Fast Track CFS Pvt. Ltd.* because the assessment process there was faster and involved limited physical examination compared to faceless assessment under the Customs RMS. His categorical admission that the consignments were routed through *Fast Track CFS Pvt. Ltd.* "to avoid interdiction by RMS or container scanning" establishes that the SEZ unit was consciously selected and utilised as a convenient channel for clearance of mis-declared goods with minimal scrutiny.

The above statement clearly brings out the facilitative role of *M/s Fast Track CFS Pvt. Ltd.* in the overall modus operandi of duty evasion. The very fact that the unit was repeatedly used by the same set of importers for identical consignments under the same false description demonstrates that such clearances were neither isolated nor inadvertent. By allowing its SEZ facility to be so used, and by failing to report the repeated pattern of false description to the Customs authorities, *M/s Fast Track CFS Pvt. Ltd.* effectively facilitated and abetted the evasion of Anti-Dumping Duty.

- (iii) Accordingly, I find that M/s. Fast Track CFS Pvt. Ltd. through its actions and omissions, has made itself liable for penalty under Section **112 (b) (ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) is to be imposed.

- (iv) The noticee has contended that its role was purely ministerial and limited to approving Bills of Entry in the NSDL system as per the workflow of the SEZ online platform, and that it neither examined the goods nor had knowledge of the mis-declaration. I find the noticee, being a SEZ warehousing unit, duly authorised under the Letter of Approval, was legally responsible for ensuring proper receipt, handling, and release of import cargo within its premises.
- (v) The argument that the responsibility for correct declaration rests solely with the Customs Broker and importer also fails. The noticee's approval of the Bills of Entry on the NSDL system constitutes a conscious act enabling the creation of import records that carried false description. Such approval, repeated over several consignments, cannot be treated as a mere clerical formality.

54. Role and Culpability of Shri Sourabh Jain (Noticee-5):

- (i) I state that the role of the said noticee is already well discussed under the foregoing paras. Apart from the previous discussion, I find that Shri Sourabh Jain was the central operational executor of the import scheme. He clearly admitted that he arranged, coordinated, made payments and managed the import of goods. In his first statement, he also admitted that he received purchase orders, technical details, and supplier contacts from Shri Rakesh Shah, which he then forwarded to the overseas supplier. He also admits that he negotiated price and delivery terms with the supplier on the basis of those specifications.
- (ii) I find that Shri Sourabh Jain personally managed the entire procurement process. He received purchase orders, arranged the logistics and shipment of the goods, and instructed the Customs Broker to file the Bills of Entry using false descriptions. I find that Shri Sourabh Jain acted as the key link between the main parties in India and the supplier in China. He coordinated with Shri Kanhaiya Kasera to file the Bills of Entry which were found mis-declared. Shri Sourabh Jain admitted that he procured the goods not for his own trade but for onward delivery and sale to the commercial chain led by Shri Rakesh Shah / M/s. Shah Trading Co. The financial trail confirms that Shri Sourabh Jain managed both the overseas procurement and the domestic clearance of the goods.
- (iii) I find that Shri Sourabh Jain confirmed that past consignments had been imported and declared as "Sheets for Door Fittings" though they were *Digital Offset Printing plates*. I find that Shri Jain's statements were voluntary, were not retracted, and that during his examination statements of other persons were shown to him and he did not contradict them but instead confirmed their correctness and signed in agreement. I find that the evidence establishes mens rea on the part of Shri Sourabh Jain. These omission and commission on the part of Shri Sourabh Jain satisfies the requirement for wilful suppression or false declaration under Section 28(4) of the Customs Act, 1962, and made him liable for penal action. He was the operational manager of the scheme and the channel through which supplier, broker and ultimate domestic recipient were linked. His act constitutes conscious and active participation in the

evasion of Anti-Dumping Duty. I find that the admitted actions of Shri Jain render him liable for penal action under the provisions of **Sections 112(b)(ii)** for being knowingly concerned in dealing with goods liable to confiscation. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) is to be imposed. In respect of past clearance, as I have already discussed that the goods imported under past 8 shipments are also liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962; consequently penalty under Section 114A is also found to be leviable upon him (being associated beneficial owner of the imported goods) as the elements for penalty as per said Section 114A is *pari materia* with Section 28(4) of the Act. The unpaid duty and interest is also required to be recovered under Section 28(4) read with Section 28AA of the Customs Act, 1962, jointly with other co-conspirators.

- (iv) I find that Shri Sourabh Jain by knowingly preparing, directing, and causing the filing of import documents, has used and caused to be used false and incorrect material particulars within the meaning of Section 114AA of the Customs Act, 1962. Accordingly, I hold that Shri Sourabh Jain is liable to penalty under **Section 114AA** of the Customs Act, 1962.

54.1 The Noticees, M/s SMV Impex and Shri Sourabh Jain, made the following defence submissions which are required to addressed/discussed here:

A. The noticees contended that the entire case rests on statements recorded under Section 108 of the Customs Act, which were allegedly extracted under duress, and that no independent or corroborative evidence exists. Hence, the allegations of abetment and mis-declaration are unsubstantiated. I find that the issue has already been discussed earlier in the defence submissions made by other noticees and the same is not required to be repeated here.

B. The noticees asserted that they neither filed any Bill of Entry nor handled clearance of goods and therefore cannot be treated as “importers” or “agents” under Section 2(26) of the Customs Act, 1962.

This contention is contrary to evidence. Investigation established that M/s SMV Impex, managed by Shri Sourabh Jain, financed the imports of M/s Bimala Devi Industries. Investigation further revealed that the M/s SMV Impex placed purchase orders on the Chinese supplier through WhatsApp and received the goods after clearance. DTA sale invoices were invariably raised in their name, and payment cycles were routed through them. Under Section 2(26) of the Customs Act, “importer” includes not only the person in whose name the goods are imported but also any person who is beneficially interested in such importation. Further, I state here that the role of Shri Sourabh Jain has been discussed in details which clearly establish the charges against him.

C. The noticees submitted that the financial advances made to *M/s Bimala Devi Industries* were part of legitimate business transactions under a “Bill-to-Ship-to” model and not acts of abetment or concealment. I find that funds from *M/s SMV Impex* were credited to *M/s Bimala Devi Industries* and subsequently adjusted against onward sales. Further, I also find that Shri Rakesh Shah

financed Shri Sourabh Jain. This circular flow of funds indicates that *M/s SMV Impex* financed the imports to conceal their identity and to evade ADD. The so-called “Bill-to-Ship-to” explanation is inconsistent with the fact that the goods never reached Delhi but were off-loaded in Ahmedabad as directed by Shri Sourabh Jain and Shri Rakesh Shah.

55. Role and Culpability of M/S. SMV IMPEX (Noticee-6): I find that acts done by Shri Sourabh Jain was linked to *M/s. SMV Impex*, thus, the role and culpability of the said firm is clearly linked with the action done by the Shri Sourabh Jain. Hence, there is no required to repeat the same here for the sake of brevity as the same were already discussed above. *M/s SMV Impex* was the primary operational entity that executed the entire scheme of importation and clearance of mis-declared goods. The firm acted as the coordinating link between the overseas supplier, the dummy IEC holders, the Customs Broker, and the domestic consignee. I find that the fund movements from *M/s Shah Trading Co.* to *M/s SMV Impex* immediately prior to import remittances to the Chinese supplier clearly show their involvement through their authorised person. These fund transfers correspond directly with the import shipments and prove that *M/s SMV Impex* was responsible for arranging and remitting payment for the mis-declared goods. The e-way bills generated post-clearance further revealed that the consignments were transported directly to the godowns of *M/s Shah Trading Co., Ahmedabad*. This channel established commercial linkage between the importer, the financier, and the final consignee.

The evidence on records and acts done by Shri Sourabh Jain on behalf of *M/s SMV Impex*, leaves no doubt that *M/s SMV Impex* deliberately abetted the mis-declaration for the purpose of duty evasion. I therefore hold that *M/s SMV Impex* played role in the fraudulent import transactions. Thus, the their acts has rendered themselves liable to penalty under Section **112(b)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) is to be imposed.

56. Role and Culpability of Shri Rakesh Shah (de-facto beneficiary and operator of M/s. Shah Trading Co.) (Noticee-7)

- (i) The role and culpability of Shri Rakesh Shah in the present case are established through a plethora of evidence which have already been explained in the earlier paragraphs. However, his role is mentioned again here to clearly establish his involvement and culpability in this case. In his statement dated 12.02.2024 Shri Shah admitted that he was engaged in trading of Digital Offset Printing Plates and accepted he used to send the Purchase Orders to Shri Sourabh Jain for ordering goods from China: that he used to order only Digital Offset printing plates from Shri Sourabh Jain. In his subsequent statements dated 02.04.2024 and 05.08.2024, he admitted that Shri Sourabh Jain used to supply most of the goods for *M/s. Shah Trading Co.* and against the delivery of goods, he used to send purchase invoices of various firms based in Delhi, viz. *M/s. Bansal Industrial Solutions*, *M/s. Bhaskar Trading Co.*, *M/s. Prateek Traders*, *M/s. Balaji Traders*, *M/s. Weblight Solutions*, *M/s. Satya Traders* etc. I find from the Shri Rakesh Shah statement that the he used to talk only to Shri Sourabh Jain for supply of goods and was

never in the contact with the firms whose names were mentioned in the purchase invoices. This facts indicate that these firms were just namesake firms which were during the investigation found to be non-exist and bogus. I find that the admissions made by Shri Sourabh Jain during in statement clearly show that Shri Rakesh Shah played Key role in the scheme of duty evasion.

- (ii) Shri Rakesh Shah was the main planner behind the import and distribution of Digital Offset Printing Plates from China. The said goods were imported through several fake importer firms including M/s. Bimala Devi Industries. He came up with the idea of importing these goods under false descriptions to avoid paying anti-dumping duty. This plan was first discussed with Shri Sourabh Jain at a family function, where both agreed to carry it out. I find that Shri Rakesh Shah provided purchase-order instructions and supplier direction to Shri Sourabh Jain. The WhatsApp chat screenshots recovered from Shri Sourabh Jain's mobile phone confirm that Shri Rakesh Shah planned and controlled the order placement process. He was in contact with truck drivers to track the consignments. Shri Rakesh Shah also controlled the route of the diverted consignments, which ended at the godowns of Ms. Shah Trading Co., Ahmedabad. I find that Shri Rakesh Shah provided funds and financial support to M/s. Shah Trading Co. I find that Shri Rakesh Shah managed the entire supply chain, financed Ms. Shah Trading Co., and supervised the movement and sale of imported goods. This shows his active role in evasion of Customs Duty. He managed ordering, supplier selection, container release, and post-arrival handling. It is therefore clear that Shri Rakesh Shah was not a passive participant but the main planner and key beneficiary of the fraudulent import. Shri Rakesh Shah acted as the real importer and key decision-maker behind the false import declarations, as defined in Section 2(3A) of the Customs Act, 1962.
- (iii) In view the above, I find that Shri Rakesh Shah's actions made the goods liable for confiscation under Section 111(m) of the Customs Act, 1962. His act show clear mens rea and conscious knowledge of the mis-declaration and evasion of Anti-Dumping Duty. His active part in making false declarations and helping with the clearance and receipt of those goods attracts penalties under Section **112(b)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) is to be imposed. In respect of past clearance, as I have already discussed that the goods imported under past 8 shipments are also liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962; consequently penalty under Section 114A is also found to be leviable upon him. The unpaid duty and interest is also required to be recovered under Section 28(4) read with Section 28AA of the Customs Act, 1962, jointly with other co-conspirators.
- (iv) I find that Shri Rakesh Shah, by knowingly organising and directing the filing of import documents that falsely declared the goods as "Sheets for Door Fittings", has used and caused to be used false and incorrect material particulars within the meaning of Section 114AA of the Customs

Act, 1962. Accordingly, I hold Shri Rakesh Shah liable to penalty under Section 114AA of the Customs Act, 1962.

56.1 Role and Culpability of M/S. Shah Trading Co. (Noticee-8)

- (i) I find M/s. Shah Trading Co., Ahmedabad was the principal beneficiary and financier (through Shri Rakesh Shah) behind the imports of Digital Offset Printing Plates. After clearance of the consignments from Mundra, the goods were transported directly to warehouses of M/s. Shah Trading Co. at Ahmedabad. The panchnama dated 03.11.2023 drawn at the premises of *M/s. Shah Trading Co.* records seizure of 2,18,076 sq. metres of Digital Offset Printing Plates valued at Rs. 6,16,74,879/-. From the statement of Shri Sourabh Jain, it is confirmed that the goods seized at the godown of M/s. Shah Trading Company was the same which were cleared from Mundra port by way of mis-declaration. Shri Sourabh Jain confirmed that the detained stock belonged to *M/s. Shah Trading Co.* and that payment for the imports was arranged by Shri Shah through his trading firm. The banking and accounting records show that funds originating from *M/s. Shah Trading Co.* were routed to the accounts of *M/s. SMV Impex* and *M/s. Bimala Devi Industries*.
- (ii) I find that that M/s. Shah Trading Co. knowingly received, possessed and traded goods which were imported through false declarations which are liable to confiscation under Section 111(m) of the Customs Act, 1962. I therefore find that M/s. Shah Trading Co., rendered themselves liable for penalty under Section **112(b)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act where ever, penalty under Section 112(b) is to be imposed.
- (iii) The noticee claim that his interaction with *Shri Sourabh Jain* was limited to general business advice and suggesting supplier details based on prior acquaintance; is not tenable in the view of the detailed discussion made under foregoing paras wherein the role and culpability of Shri Rakesh Shah has been discussed in detail. His claim that he neither placed orders nor determined the import description or valuation; is also not tenable as Shri Rakesh Shah is the key person who directed all the operation of import though multiple persons i.e. Shri Sourabh Jain, Customs Broker, Shri Hemang shah etc.
- (iv) The noticee has relied on the statements of Shri Harish Kedia, Shri Vishal Patil, Shri Anil Dayma, and Shri Kanhaiya Kasera, all of whom attributed control of the imports to Shri Sourabh Jain and denied any knowledge of Shri Rakesh Shah. However, the financial and goods flow linked to M/s. Shah Trading Co. clearly establishes that Shri Rakesh Shah was the concealed principal behind the operations.
- (v) I find that the plea that M/s Shah Trading Co. purchased the goods locally under genuine invoices from dealers such as M/s Bansal Industrial Solutions and M/s Global Traders does not have any base. The seized stock of Digital Offset Printing Plates recovered from M/s Shah Trading Co. on 03.11.2023 imported through the IECs of M/s

Bimala Devi Industries, M/s Pawan Trading Co. and M/s Shivkrupa Impex, has been confirmed by the statements of Shri Sourabh Jain and Shri Kanhaiya Kasera. No independent transport record, purchase order or payment trail establishes any genuine commercial transaction with the so-called local dealers. Records show funds flowing directly between M/s Shah Trading Co. and M/s SMV Impex. Hence, the purported local purchases are merely entries created to camouflage receipt of mis-declared imported goods. I find that fabrication of invoices cannot legitimise an offence committed at the stage of import.

- (vi) The noticee asserts that he never communicated with overseas suppliers or directed the CHA or importers, and that no bank trail links him to the foreign seller. I find that direct correspondence with the overseas supplier is not a prerequisite to prove conspiracy. The investigation demonstrates coordinated actions: Shri Rakesh Shah sourced the supplier, *Shri Sourabh Jain* handled payments and filings, and *Shri Kanhaiya Kasera* arranged clearances. Such division of roles constitutes a common design to evade ADD. I observe that participation in any segment of a smuggling or evasion operation attracts equal liability. The plea of absence of direct contact or payment linkage is therefore not correct.

57. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

57.1 Confiscation of goods and imposition of Redemption Fine:

- i. I order to confiscate the quantity of **68,761.80 SQM** having declared value as Rs. 25,15,896/- (Rs. Twenty-Five Lakh Fifteen Thousand Eight Hundred Ninety-Six Only) imported under Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023, as mentioned in Table in Para-30.3 of the Show Cause Notice, under Section 111(m) of the Customs Act, 1962. However, I give an option to the Importer/beneficial owner to redeem the same upon payment of redemption of **Rs. 3,00,000/- (Rupees Three Lakhs only)** under the provisions of Section 125(1) of the Customs Act, 1962.
- ii. I order to re-assess the Bill of Entry No. 1022739 dated 27.10.2023 and Bill of Entry No. 1023025 dated 31.10.2023 after including the applicable Anti-dumping duty (including IGST) amounting to Rs. 52,60,560/- (Rs. Fifty Two Lakh Sixty Thousand Five Hundred and Sixty Only) under Section 17(4) of the Customs Act, 1962.
- iii. I order to confiscate the quantity of 2,96,476.58 SQM having declared value as Rs. 94,72,497/- (Rs. Ninety Four Lakh Seventy Two Thousand Four Hundred Ninety Seven only) imported in 08 past bills of Entry, as mentioned in Para-30.7 of the Show Cause Notice, under Section 111(m) of the Customs Act, 1962. As the goods imported under 04 bill of entry [as mentioned at para 48.2 (ii) above] have already been provisionally released, I impose a redemption fine of **Rs. 6,00,000/- (Rupees Six Lakhs only)** under Section 125(1) of Customs Act, 1962 in lieu of confiscation of the goods for the reasons state in foregoing paras. In respect of remaining 04 Bill of Entry [as mentioned at para 48.2 (iii)]

above], I do not impose any redemption fine since the goods are not physically available for confiscation.

- iv. I confirm the demand of differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs. 2,25,28,396/- (Rs. Two Crore Twenty Five Lakhs Twenty Eight Thousand Three Hundred Ninety Six Only)** as determined at Table in Para-30.7 of the Show Cause Notice and order to recover the same jointly and severally from M/s. Bimala Devi Industries, Shri Sourabh Jain and Shri Rakesh Shah under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA *ibid*;
- v. I order to appropriate the amount of Rs. 1,31,64,951/- (Rs. One Crore Thirty One Lakh Sixty Four Thousand Nine Hundred and Fifty One Only) already paid during investigation towards their Duty Liabilities.

57.2 IMPOSITION OF PENALTY UNDER SECTION 112(a) OF THE CUSTOMS ACT, 1962:

- i) I impose a penalty of **Rs. 5,00,000 (Rupees Five Lakhs only)** upon M/s. Bimala Devi Industries (IEC: AACPK4128K) under Section 112(a)(ii) of the Customs Act, 1962.
- ii) I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakhs only)** upon M/s Cargo Concepts (Bombay) Pvt. Ltd under Section 112(a)(ii) of the Customs Act, 1962.
- iii) I impose a penalty of **Rs. 20,00,000/- (Rupees Twenty Lakhs only)** upon Shri Kanhaiya Kasera, Director of M/s Cargo Concepts (Bombay) Pvt Ltd under Section 112(a)(ii) of the Customs Act, 1962.
- iv) I do not impose penalty upon M/s Fast Track CFS Pvt Ltd under Section 112(a) of the Customs Act, 1962 for the reasons stated above.
- v) I do not impose penalty upon M/s. SMV Impex under Section 112(a) of the Customs Act, 1962 for the reasons stated above.
- vi) I do not impose penalty upon Shri Sourabh Jain under Section 112(a) of the Customs Act, 1962 for the reasons stated above.
- vii) I do not impose penalty upon Shri Rakesh Shah, under Section 112(a) of the Customs Act, 1962 for the reasons stated above.
- viii) I do not impose penalty upon M/s Shah Trading Co., under Section 112(a) of the Customs Act, 1962 for the reasons stated above.

57.3 IMPOSITION OF PENALTY UNDER SECTION 112(b) OF THE CUSTOMS ACT, 1962:

- i) I impose a penalty of **Rs. 10,00,000 (Rupees Ten Lakhs only)** upon M/s Fast Track CFS Pvt Ltd, under Section 112(b)(ii) of the Customs Act, 1962.
- ii) I impose a penalty of **Rs. 20,00,000/- (Rupees Twenty Lakhs only)** upon M/s. SMV Impex, under Section 112(b)(ii) of the Customs Act, 1962.
- iii) I impose a penalty of **Rs. 5,00,000 (Rupees Five Lakhs only)** upon Shri Sourabh Jain, authorised signatory of M/s. SMV Impex, under Section

112(b)(ii) of the Customs Act, 1962, in respect of confiscated goods under para 57.1 (i) above.

- iv) I impose a penalty of **Rs. 5,00,000 (Rupees Five Lakhs only)** upon Shri Rakesh Shah, under Section 112(b)(ii) of the Customs Act, 1962, in respect of confiscated goods under para 57.1 (i) above.
- v) I impose a penalty of **Rs. 15,00,000/- (Rupees Fifteen Lakhs only)** upon M/s Shah Trading Co., under Section 112(b)(ii) of the Customs Act, 1962.
- vi) I do not impose penalty upon M/s. Bimala Devi Industries (IEC: AACPK4128K) under Section 112(b) of the Customs Act, 1962 for the reasons stated above.
- vii) I do not impose penalty upon Shri Kanhaiya Kasera under Section 112(b) of the Customs Act, 1962 for the reasons stated above.

57.4 IMPOSITION OF PENALTY UNDER SECTION 114A OF THE CUSTOMS ACT, 1962:

- i) I impose a penalty of **Rs. 2,25,28,396/- (Rs. Two Crore Twenty Five Lakh Twenty Eight Thousand Three Hundred Ninety Six Only)** being equal to the amount duty evaded under Section 114A of the Customs Act, 1962 and since the aforesaid amount of penalty is to be paid by the persons who is liable to pay the duty in terms of Section 28, I hereby order that M/s. Bimala Devi Industries, Shri Sourabh Jain & Shri Rakesh Shah who have been found liable for payment of duty, shall pay their penalty amount in equal proportion individually.

57.5 IMPOSITION OF PENALTY UNDER SECTION 114AA OF THE CUSTOMS ACT, 1962:

- i) I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakhs only)** upon Shri Kanhaiya Kasera, Director of M/s Cargo Concepts (Bombay) Pvt Ltd under Section 114AA of the Customs Act, 1962.
- ii) I impose a penalty of **Rs. 15,00,000/- (Rupees Fifteen Lakhs only)** upon Shri Sourabh Jain, authorised signatory of M/s. SMV Impex, under Section 114AA of the Customs Act, 1962.
- iii) I impose a penalty of **Rs. 15,00,000/- (Rupees Fifteen Lakhs only)** upon Shri Rakesh Shah, under Section 114AA of the Customs Act, 1962.

58. This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

(NITIN SAINI)
Commissioner of Customs, Mundra

By Mail/Speed Post & through proper/official channel

To (Noticees),

- (i) M/s. Bimala Devi Industries, (IEC: AACPK4128K), D-31, 403, Yogi Nagar, Eksar Road, Opp Rudraksh Restaurant, Borivali West, Mumbai – 400092
- (ii) M/s Cargo Concepts (Bombay) Pvt Ltd, Office No. 1, Monarch Plaza, Ground Floor, Sector-11, Plot No. 56, C.B.D. Belapur, Navi Mumbai - 400614
- (iii) Shri Kanhaiya Kasera, Director of M/s Cargo Concepts (Bombay) Pvt Ltd and resident of 27th Floor, B Wing, Delta Central, Plot No. 4, Sector 23, Near Central Park, Near Iskon Temple, Kharghar, Raigad, Maharashtra – 410210
- (iv) M/s Fast Track CFS Pvt Ltd, Plot No. 3, Block-C, Sector-11, Adani Ports & SEZ Limited, Taluka - Mundra, District - Kutch, Pin – 370421
- (v) Shri Sourabh Jain, authorised signatory of M/s. SMV Impex, Delhi and resident of C-9/147-148, Sector-7, Rohini, Delhi-110085
- (vi) M/s. SMV Impex, Shop No.17, 1st Floor, CSC No. 6, Sector-7, Rohini, and Delhi-110085
- (vii) Shri Rakesh Shah, resident of D-501, Indraprasth-VIII, Near Tulip Bungalows, Surdhara Circle, Thaltej, Ahmedabad-380059

- (viii) M/s Shah Trading Co., A-215, Sumel-6, Dudheshwar Road, Ahmedabad

Copy to:

- (i) The Chief Commissioner of Customs, CCO, Ahmedabad.
- (ii) The Additional Director, Directorate of Revenue Intelligence (DRI), Ahmedabad Zonal Unit Zonal Unit 15, Magnet Corporate Park, Off S.G. Highway, Near Sola Over Bridge, Thaltej, Ahmedabad-380054.
- (iii) The Deputy/Assistant Commissioner (Legal/Prosecution), Customs House, Mundra.
- (iv) The Deputy/Assistant Commissioner (Recovery/TRC), Customs House, Mundra.
- (v) The Deputy/Assistant Commissioner (EDI), Customs House, Mundra.
- (vi) Notice Board.
- (vii) Guard file/Office Copy