

	<p>OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS, HAZIRA PORT, HAZIRA BYPASS ROAD, SURAT- 394270 CUSTOM HOUSE, ADANI HAZIRA PORT, HAZIRA BY-PASS ROAD, सीमा शुल्क भवन, अदानी हजीरा पोर्ट, हजीराबाई-पासरोड CHORIYASHI AT & POST HAZIRA – 394270. चौर्यासी पोस्ट-हजीरा-३९४२७०</p> <p>PHONE : 0261-2207685 hazira.export@gov.in Fax : 0261-2207694</p>
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Preamble

Parameter	Description
A. File No.	F.No. Gen/LGL/Misc/803/2025-AH-Port-HZR-Cus-Commrte-Ahmedabad
B. Show Cause Notice No. and date	F.No. Gen/LGL/Misc/803/2025-AH-Port-HZR-Cus-Commrte-Ahmedabad dated 27.09.2025
C. Main Adjudicating Authority/ Order-In-Original No.	01/ADC/SRV/Hazira(Export)/2026-27
C.2 Date of Order/Issue of order	02.04.2026
C.3 Order Passed By	Shree Ram Vishnoi, Additional Commissioner, Customs, Hazira Port
E. Name of Taxpayer	M/s D.K. Trading (Exporter), A-38, Shop No. B-1, Lower Ground Floor, Madhu Vihar, Delhi – 110092 and 4 others
F. DIN No.-	20260471MN000000D9AB

1. जिस व्यक्ति के लिए आदेश जारी किया गया है, उसके व्यक्तिगत उपयोग के लिए प्रति निशुल्क प्रदान की है।
1. This copy is granted free of charge for the private use of the person to whom it is issued.

२. इस आदेश से अपने को व्यथित महसूस करनेवाला कोई भी व्यक्ति आयुक्त (अपील), सीमा शुल्क, 4th मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद- ३८०००९ के यहाँ अपील कर सकता है। इस तरह की अपील, पार्टी को इस आदेश के सौंपे जाने अथवा डाक के प्राप्त होने के साठ दिन के अन्दर सीमा शुल्क (अपील) नियम, १९६२ के अंतर्गत फार्मस सी. ए. १ और २ दी जानी चाहिए। इस अपील पर नियमानुसार कोट की स्टाम्प लगा होना चाहिए।

2. Any person deeming himself aggrieved by this order, may prefer an appeal against the order to the Commissioner of Customs (Appeal), 4th Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009, in Form C. A. 1 & 2 as prescribed under Customs (Appeal), Rules, 1962. The appeal must be filed within sixty days from the date of receipt of this order either by the post or by the person. It should bear a court fee stamp of appropriate value.

३. अपील के साथ निम्नलिखित चीजे संलग्न जाएं।

3. The following documents must be enclosed alongwith the appeal.

(क) अपील की प्रति, तथा (a) A copy of the appeal and

(ख) आदेश यह प्रति या अन्य आदेश की प्रति, जिस नियमानुसार कोट की स्टाम्प लगा हो।

(b) Copy of this order or another copy of the order, which must bear court fee stamp of appropriate value.

४. अपीलीय ज्ञापन के साथ शुल्क भुगतान / जुर्माना / अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।

4. Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 129 of the Customs Act, 1962

५. अपील प्रस्तुत करते समय यह सुनिश्चित करे की सीमा शुल्क (अपील) नि यम, 1982 और सिस्टेट प्रक्रिया (प्रोसीजर) नियम, 1982 के सभी नियमो का पूरा पालन हुआ है।

5. While submitting the Appeal, the Customs (Appeals) Rules, 1982 should be adhered to in all respects.

६. इस आदेश के खिलाफ आयुक्त (अपील) के समक्ष अपील करते समय, शुल्क या शुल्क और जुर्माना विवाद या दंड में हैं, जहां अकेले दंड विवाद में है, जहां विवाद या दंड, में मांग की हैं उस विवाद की रकम के 7.5% के भुगतान करना होगा।

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

This order is being passed in pursuance of the Show Cause Notice issued under F.No. Gen/LGL/Misc/803/2025-AH-Port-HZR-Cus-Commrte-Ahmedabad (DIN 20250971MN-000032373C) dated 27.09.2025 in respect of M/s D.K. Trading (Exporter - IEC: HHNPD7475M), having GSTIN: 07HHNPD7475M1ZI, A-38, Shop No. B-1, Lower Ground Floor, Madhu Vihar, Delhi – 110092 and four other co-noticees, namely, (i) Shri Pankaj Sharma (the beneficiary owner of the goods) (ii) Shri Deepak, proprietor of M/s. D.K. Trading, Delhi and (iii) Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi and (iv) M/s Startek Enterprises, CHA for M/s. D.K. Trading(IEC- HHNPD7475M).

Brief Facts of the case:

M/s D.K. Trading (IEC: HHNPD7475M), having GSTIN: 07HHNPD7475M1ZI, A-38, Shop No. B-1, Lower Ground Floor, Madhu Vihar, Delhi – 110092 (hereinafter referred to as “the Exporter” or “the Noticee” for the sake of brevity) is engaged in the business of export / domestic trading of Ceramic Flags, Paving, Hearth, or Wall Tiles with a water absorption coefficient by weight exceeding 0.5% but not exceeding 10% falling under HSN 69072200.

2. An intelligence was developed on the basis of specific information that M/s. **D.K. Trading** (IEC- HHNPD7475M) were exporting Fancy Ceramic Wall Tiles under CTI 69072200 from Hazira Port and intended to avail IGST refund on the said export, while mis-declaring the value of goods entered for exportation. The intelligence suggested that the goods are of inferior quality and are being mis-declared in terms of value (being over valued) to claim ineligible IGST refund @18% of the assessable value.

3. M/s. **D.K. Trading** had filed 6 Shipping Bills at Hazira Adani Port for export of ‘FANCY CERAMIC WALL TILES’ under CTI ‘69072200’. Details are tabulated below in Table-1:

Table-1: Details of all Shipping Bills

Sr. No	Shipping Bill No. & date	Description of Export goods	Quantity (box)	Declared Assessable Value (Rs)	IGST Refund Claimed (Rs)
1	9439883/28.03.2025	FANCY CERAMIC WALL	750	60,66,900	10,92,042

		TILES			
2	9440114/28.03.2025	FANCY CERAMIC WALL TILES	770	62,28,684	11,21,163
3	9440149/28.03.2025	FANCY CERAMIC WALL TILES	780	63,09,576	11,35,723
4	9440124/28.03.2025	FANCY CERAMIC WALL TILES	750	60,66,900	10,92,042
5	9440116/28.03.2025	FANCY CERAMIC WALL TILES	770	62,28,684	11,21,163
6	9440106/28.03.2025	FANCY CERAMIC WALL TILES	780	63,09,576	11,35,723
Total			4600	0	66,97,857

EXAMINATION:

4.1 Based on the above intelligence, the officers of the Directorate of Revenue Intelligence, Regional Unit, Surat (hereinafter referred to as DRI) vide letter dated 28.03.2025 requested Deputy Commissioner of Customs, Hazira Exports (INHZA1), **(RUD-1)** to put the consignments meant to be exported vide above mentioned Shipping Bills on hold for examination in the presence of DRI.

4.2 The officers of DRI carried out examination of the goods attempted to be exported by M/s.**D.K. Trading** vide Shipping Bills No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025 which were stuffed in Container No. GLDU2974427 and Container No. MSCU3257766, under Panchnama dated 29.03.2025 drawn at CFS DP World Rail Logistics Pvt Ltd, Surat **(RUD-2)**. During Panchnama, Shri Jayesh Painter, H Card Holder of M/s Startek Enterprises, (CHA for M/s. **D.K. Trading**) informed the officers that CHA firm Startek Enterprise is authorized by the exporter M/s.**D.K. Trading** (IEC No.- HHNPD7475M) for clearance of the subject export consignment. On being asked by the officers, Shri Jayesh Painter produced export documents running from page 1 to 44 namely copy of Checklist of Shipping Bill, Invoices/Packing list and purchase invoice etc. for the goods stuffed in Container No. GLDU2974427 and MSCU3257766.

4.3 During examination under Panchnama dated 29.03.2025, the officers and other concerned persons noticed that the container is stuffed with corrugated boxes having description 'Finomax Floor Tiles Ceramic| 12"x12" | Floor Tiles'. From the documents produced by Shri Jayesh Painter during Panchnama, the officers summarized the details of goods as declared in the Shipping Bills and Invoices. The same is detailed below in Table-2:

Table 2: Details of Goods as per Declaration in Shipping Bills/Export Invoice

Shipping Bill & date	Invoice No. & date	Description of goods	Declared Qty (SQM.)	CTN No.	Invoice Value (USD)	FOB Value (Rs.)
9439883 dt 28.03.2025	DK/24-25/01 dt	Fancy Ceramic Wall	7,500	01 to 750	70,875	60,66,900

	20.03.2025	Tiles				
9440114 dt. 28.03.2025	DK/24-25/02 dt 20.03.2025	Fancy Ceramic Wall Tiles	7,700	751 to 1520	72,765	62,28,684
9440149 dt. 28.03.2025	DK/24-25/03 dt 20.03.2025	Fancy Ceramic Wall Tiles	7,800	1521 to 2300	73,710	63,09,576
9440124 dt. 28.03.2025	DK/24-25/04 dt 20.03.2025	Fancy Ceramic Wall Tiles	7,500	01 to 750	70,875	60,66,900
9440116 dt. 28.03.2025	DK/24-25/05 dt 20.03.2025	Fancy Ceramic Wall Tiles	7,700	751 to 1520	72,765	62,28,684
9440106 dt. 28.03.2025	DK/24-25/06 dt 20.03.2025	Fancy Ceramic Wall Tiles	7,800	1521 to 2300	73,710	63,09,576
TOTAL			46,000		4,34,700	3,72,10,320

4.4 After de-stuffing the cargo, the officers noticed that **4592 boxes** containing 10 pieces each of 1 square feet tiles, were stuffed in the two containers. The officers also, noticed that each corrugated box had a printed description "Finomax Floor Tiles Ceramic| 12"x12" | Floor Tiles" and also had an affixed sticker of 'Grade/Colour' of tile on each box. The officers, during Panchnama noticed that total **45920 Sq Feet (4266.09 Sq. Mtr.)** tiles were found stuffed in the two containers against the declared quantity of **46000 Sq Mtr.** tiles in the Six Shipping Bills. The officers summarized the details of goods in both containers as tabulated below in Table-3:

Table 3: Details of goods found stuffed in two containers meant for export

Container No.	Description of Goods	No. of boxes each containing 10 square feet floor tiles	Quantity of tiles Found (in Sq. Ft.)	Quantity of tiles Found (in Sq. Mtr.)
MSCU3257766	Ceramic Floor Tiles- AS White Premium	420	4200	390.19
	Ceramic Floor Tiles- 2003 Premium	522	5220	484.95
	Ceramic Floor Tiles- 6015 Premium	438	4380	406.92
	Ceramic Floor Tiles- PL White Premium	401	4010	372.54
	Ceramic Floor Tiles- 9239 Premium	100	1000	92.90
	Ceramic Floor Tiles- 1004 Premium	161	1610	149.57
	Ceramic Floor Tiles- 1010 Premium	150	1500	139.35
	Ceramic Floor Tiles- AST Blue Premium	111	1110	103.12
GLDU2974427	Ceramic Floor Tiles- PL White Premium	940	9400	873.29

Ceramic Floor Tiles- 1001 Premium	99	990	91.97
Ceramic Floor Tiles- PL Grey Premium	304	3040	282.43
Ceramic Floor Tiles- PLCC Premium	396	3960	367.90
Ceramic Floor Tiles- FS 10 Premium	100	1000	92.90
Ceramic Floor Tiles- 1077 Premium	70	700	65.03
Ceramic Floor Tiles- AS Grey Premium	198	1980	183.95
Ceramic Floor Tiles- 10059 Premium	110	1100	102.19
Ceramic Floor Tiles- 1085 Premium	72	720	66.89
TOTAL	0	4592	45920

4.5 As evident, although the declared quantity by the exporter was of 46000 Sq Meter but upon examination quantity present was of only 4266.09 Sq meters (i.e. 45920Sq Feet).

4.6 On being asked the reason for shortage by the officers, Shri Jayesh Painter informed that he has filed the Shipping Bills on the basis of invoices and documents submitted by the exporter M/s. **D.K. Trading.**

4.7 Based on the packing list and invoice submitted along with the Shipping Bills, the significant shortage in quantity, and physical examination of the goods, the officers had reason to believe that the goods are over-valued and hence, called Shri B.G. Bhatt, Chartered Engineer approved by Customs Ahmedabad for the valuation purposes. After sometime, a person named Shri Akash Naik appeared on behalf on Shri B.G. Bhatt for the purpose of valuation. Shri Akash Naik and Shri Jayesh Painter inspected the destuffed cargo and informed the officers that there are a total of 4592 boxes containing only 4266.09 Sq mtr Ceramic Floor Tiles against the declared quantity of 46000 Sq mtr. which is just 9.3% of the declared quantity. Further, Shri Akash Naik also informed that the tiles are mainly of two types Ceramic Floor Tiles i.e. tiles having Glossy appearance and tiles having Matte appearance. Shri Akash Naik also informed that these two types of tiles also vary in color. Shri Akash Naik during the process of inspection opened random boxes to count the number of tiles contained in each box, measured the size and thickness of same and also took photographs.

4.8 On being asked regarding the value of the goods meant for export, Shri Akash Naik informed the officers that he has to take Samples of the said tiles and they will submit the valuation report. Accordingly, 4 set of samples of tiles were drawn from 2003 Premium box which had Glossy appearance and marked A1, A2, A3 & A4 and 4 set of samples of tiles were drawn from AS White Premium box which had Matte appearance and marked as B1, B2, B3 & B4, these were taken from Container MSCU3257766. The officers placed the sample tiles in green envelopes and pasted a paper slip with the individual description A1, A2, A3, A4, B1, B2, B3 and B4 and sealed the said samples with DRI lac seal no 5 which was duly signed by the panchas. Further, the DRI officers in presence of panchas handed over the samples A1 and B1 to Shri Akash Naik, samples A2 and B2 to the officers of Customs, Surat, A3 and B3 to Shri Jayesh Painter and kept the sample A4 and B4 with them.

4.9 On being asked regarding the manufacturer of goods entered for exportation under these six Shipping Bills, Shri Jayesh Painter informed that goods were manufactured by Finomax Ceramic,

Morbi (GSTIN- 24AACAA3349P1Z6) and transported to this CFS under cover of Invoice No. 1042 dated 19.03.2025 issued by Finomax Ceramic. He stated that E-way Bill No. 631878522920 dated 19.03.2025 is mentioned in the two containers and the same has already been submitted along with invoice. The officers and Shri Jayesh Painter noticed that Invoice No. 1042 dated 19.03.2025 issued by Finomax Ceramic mentioned consignee as M/s. **D.K. Trading**, Delhi (GSTIN: 07HHNPD7475M1ZI), and the description of goods was mentioned as 'Ceramic Floor Tiles', Size 12 x 12 (10), Quantity 4600 Box, having Taxable Value Rs. 7,36,000/-, and IGST of Rs. 1,32,480/-.

4.10 On being asked regarding the declared total value of Rs.3,72,10,320/- in 6 Shipping bills against the purchase value of Rs.7,36,000/-, Shri Jayesh Painter stated that he has filed the Shipping Bills as per the 6 Export Invoices submitted by the exporter M/s. **D.K. Trading**. He further informed that these six shipping bills were filed without claiming any benefit of Drawback and RODTEP but on payment of IGST @18% i.e. of Rs.66,97,857/-.

4.11 The officers, informed Shri Jayesh Patel that goods meant for export under these six Shipping Bills were found mis-declared in terms of Quantity and Value and hence, detained the goods meant for export under six shipping bills mentioned in Table-3 above under the reasonable belief that same are liable to confiscation under Section 113 of Customs Act, 1962.

5. The above detained goods were handed over to Shri Mahendra Patel, Manager, CFS DP World Rail Logistics Pvt Ltd, Surat for safe custody under panchnama dated 29.03.2025 with instructions not to dispose off, remove or part with or otherwise deal with them in any manner without prior written permission of competent officer of Customs/ DRI.

STATEMENTS AND ENQUIRIES:

Statement of CHA

6.1 Summon to M/s Startek Enterprises (CHA) was given on 16.04.2025 (**RUD-3**) and Statement of Shri Abdul Majid Ansari, G-Card Holder of the firm Startek Enterprises, registered at 15, Rang Avdhut, V-2, Nr. Ramnagar, Rander Road, Surat, was recorded on 30.04.2025 (**RUD-4**) under Section 108 of the Customs Act, 1962 wherein he *inter-alia* stated that:

6.2 He holds G-card bearing no. G/58/2019 valid up to 20.06.2029. His personal e-mail id is majidansari90330@gmail.com and company email-id is startekenterprisecha@gmail.com.

6.3 He started a firm Startek Enterprise, proprietorship firm in the name of his wife Smt. Farheen Kouser Ansari, which uses F-card of Shri Hasib Shaikh. He looks after the work pertaining to clearing, sales, marketing and accounting related activities for said firm at the Customs Station Hazira/ Dahej/ Surat.

6.4 In reference of M/s. **D.K. Trading**, he used to communicate with a person named Shri Praveen on mobile no. 8447203063 for export related work at Hazira port and that Shri Praveen wanted to export tiles from Hazira Port to Jebal Ali, Dubai;

6.5 Before starting the clearance work for M/s. **D.K. Trading**, his company did the KYC mentioned of the M/s.**D.K. Trading** based on GST Registration Certificate, IEC, KYC Form, Office Registration documents, Pan Card and Aadhar Card of Proprietor, Bank AD Code letter and all the documents were shared on their company's email id startekenterprisecha@gmail.com.

6.6 He asked M/s.**D.K. Trading** to send an authorization letter in the name of his company for submission to customs, if the charges were acceptable to them.

6.7 Subsequently, their company received the export invoices and on the basis of the said export invoices Shri Jayesh Painter, an Executive in their company, prepared the checklist and shared the same to M/s.**D.K. Trading** on email. After checking the same, M/s.**D.K. Trading** informed that in the checklist for Invoice 01 to 03 the date of invoice has been mentioned wrongly as 20.02.2025 instead of 20.03.2025 and asked to revise the same. Shri Jayesh revised the same and sent it again via email to M/s.**D.K. Trading** for acceptance. After M/s.**D.K. Trading** affirmed the correctness of the Checklist, Shri Jayesh Painter again sent an email inquiring if he should file Shipping Bill for the same. After M/s.**D.K. Trading** said yes via email, the shipping bills were filed. After filing of Shipping Bill, Shri Jayesh Painter e-mailed again to M/s.**D.K. Trading** seeking tax invoice of purchase of goods and e-way bill and the number of containers as these were sought since the said exporter is a merchant exporter. Further, during assessment of the said goods the purchase invoice of goods is required by the Customs officer for assessment.

6.8 Perused the panchnama dated 29.03.2025 and the documents submitted by Shri Jayesh Painter during the Panchnama. He stated that there was an error in mentioning of unit of measurement and Sq meter was mentioned in place of Sq ft.

6.9 The purchase of the exporter as per invoice was of Rs.1,70,63,792/- whereas, as per customs norms the maximum amount that could be exported for such purchase was of Rs. 2,55,95,688/- (i.e. 150% of the purchase price) and the same was calculated by Shri Jayesh Painter but as per export invoices the total was coming to be about Rs.3,72,10,320/-. He further stated that after noticing this discrepancy, Shri Jayesh Painter asked the reasons of the same to Shri Praveen who replied that the same will be answered in due course. He further stated that in invoices, the total quantity of goods being exported tallied with the invoice of Finomax Floor Tiles at page no 25 while the invoices at page no. 19 to 24 wherein the seller was mentioned as S.K. Enterprises were just made up to adjust the gap between the purchase value and the export value. Further, reason of the same has also not been communicated to them by Shri Praveen.

Statement of Accountant of D.K. TRADING:

7.1 In response to Summon issued to Shri Praveen (**RUD-5**), Mahesh Soni, S/o Shri Karan Singh, Age-43 Years (D.O.B 20.07.1982), Accountant of M/s.**D.K. Trading** appeared on 12.06.2025 and his statement was recorded (**RUD-6**) under Section 108 of the Customs Act, 1962 wherein he *inter-alia* stated that:

7.2 His personal e-mail id is maheshsoni1982@gmail.com and company email-id is tradersdk146@gmail.com. His company has bank account with Bank of Baroda, MSME branch, Loni Road, Delhi having account number 89840200003568.

7.3 Shri Pankaj Sharma offered him a job as an accountant in the firm M/s.**D.K. Trading** in Nov-2024.

7.4 Shri Pankaj Sharma used to contact on WhatsApp only from the number +00971501584771. He does not know where Shri Pankaj Sharma resided but usually Shri Pankaj Sharma used to inform that he is in Dubai for work and he met Shri Pankaj Sharma only twice.

7.5 On perusal of statement of Shri Abdul Majid Ansari dated 30.04.2025, he stated that he had introduced himself as Shri Praveen to Shri Abdul Majid Ansari on the instructions of Shri Pankaj Sharma. He looked after accounting work for M/s.**D.K. Trading** and on the instructions of Shri Pankaj Sharma used to communicate with Shri Abdul Majid Ansari on his mobile regarding documentation and export from the firm. He approached Shri Abdul Majid Ansari on the instruction of Shri Pankaj Sharma for export of tiles from Hazira Port to Jebel Ali, Dubai.

7.6 Further, Shri Mahesh Soni stated that he had not prepared the export invoices, the export invoices were shared to him and on the instructions of Shri Pankaj Sharma, he had sent it to the CHA for filing of Shipping Bill for export; that thereafter the CHA would prepare a checklist and get it approved from him on email; that he provided CHA with the purchase invoices which were locally procured from S.K. Enterprises on the instructions of Shri Pankaj Sharma; that all the invoices were shared to him by Shri Pankaj Sharma through WhatsApp which he was instructed to share with the CHA.

7.7 The CHA had asked him as to why the total of all the purchase invoices given to them amounted to Rs.1,70,63,792/- and as per customs norms the maximum amount that can be exported for such purchase was Rs.2,55,95,688/- but their export invoices were raised for about Rs.3,72,10,320/- but he got no reply from Shri Pankaj Sharma.

7.8 Although, the total quantity of goods being exported tally with the invoice of Finomax Floor Tiles which was mentioned at page no 25, however, the purchase invoices at page no. 19 to 24 in the name of seller S.K. Enterprises were nothing but fake entries made to adjust the gap between the purchase value and the export value.

7.9 He had never met Shri Deepak, Proprietor of M/s.**D.K. Trading and** as per his knowledge all the work of M/s.**D.K. Trading** was looked after by Shri Pankaj Sharma and Shri Deepak was a dummy proprietor.

7.10 He had never contacted anyone for export or for purchase order for export or for purchasing tiles from Finomax Floor Tiles or S.K. Enterprises and everything was managed by Shri Pankaj Sharma.

7.11 Shri Pankaj Sharma provided him with the invoices which already had the signature on them so he does not know who used to sign the invoices.

7.12 Shri Pankaj Sharma used to manage all the banking transaction related to the payments to CHA, supplier, logistic and payments related to Customs and GST and Shri Pankaj Sharma was the one managing all these services and all the banking transactions.

7.13 Perused the printout of email dated 13.05.2025 and stated that on 13.05.2025 the shop was closed as he was instructed by Shri Pankaj Sharma to not go to office, so the office was closed and normally, he does not sit in the office all the days and usually sit whenever Shri Pankaj Sharma instructs him to sit.

Statement of Proprietor

8. Summon to Shri Deepak, Proprietor of M/s. **D.K. Trading**, registered at Lower Ground Floor, A-38, Pvt Shop No. B-1, Madhu Vihar, Delhi- 110092 was issued on 16.04.2025, 07.05.2025 and 05.06.2025 (**RUD-7**).

9. Shri Deepak did not comply with the summons and did not join the investigation, thus a criminal complaint bearing number 194445/2025 (**RUD-8**) under Section 208 and 210 of the Bhartiya Nyay Sanhita, 2023 read with Section 108 of the Customs Act, 1962 has been filed against Shri Deepak on 01.09.2025 in the CJM Court, Surat.

SEIZURE OF GOODS:

10.1 In view of the purchase invoice produced and mis-declaration in terms of value and quantity found during Panchnama dated 29.03.2025, the declared value was required to be rejected in terms of Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007. As per Rule 3 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, re-determination of value was done by sequentially moving from Rule 4 to Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Further, Rule 4 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, was not applicable as goods in like kind and quality exported at or about the same time to other buyers in the same destination country of importation were not available. Accordingly, the valuation was done under Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, based on the purchase invoice, physical examination and the valuation report of Shri B.G. Bhatt. Therefore, in exercise of the powers conferred under Section 110(1) of the Customs, Act, 1962, the goods mentioned in Table-3 that is **4592 Boxes** of Ceramic Floor Tiles declared as 'FANCY CERAMIC WALL TILES' under CTI '69072200' with redetermined value of **Rs.11,48,000/-** (Rupees Eleven Lacs Forty Eight Thousand only) were seized via seizure memo dated 04.04.2025, under the reasonable belief that the same are liable for confiscation under Section 113 of Customs Act, 1962.

10.2 Shri B.G. Bhatt vide email dated 04.04.2025 shared the Valuation report dated 03.04.2025 (**RUD-9**) wherein he stated that the said goods are Ceramic tiles of 12"X12" and 05mm thickness, suitable for flooring on horizontal plane which can be glossy finished for indoor rooms and matte finished for slippery area like toilet, parking etc., based upon need. Similar type of tiles are priced in the range of Rs.125/Box to Rs.170/Box. Further, the Declared quantity does not tally with the weight of the container, the weight is coming to 600 MT which is impossible to stuff and transport in 2x20' containers and similar type of tiles are having range from Rs.125/Box to Rs.254/Box as per the surface finish hence the estimated value considered was Rs.250/Box. Accordingly, the estimated value of the inspected containers is 4592 Boxes X Rs.250 = **Rs.11,48,000/- (Rupees Eleven Lacs Forty-Eight Thousand only)** and it was opined that the rate mentioned in the export invoice does not sound reasonable and is actually grossly inflated compared to the average market rate for the purchase of 4592 boxes by a single customer. Accordingly, considering margin of profit as well as incidental expenses from the point of purchase to port of discharge, Shri B.G. Bhatt has considered Rs. 250/Box of 10 tiles as reasonable value and thus 4,592 boxes have been valued at **Rs.11,48,000/-** for the export purpose.

10.3 Thus, the details of goods as examined under Panchnama dated 29.03.2025 and their value as per valuation report dated 03.04.2025 of Shri B.G. Bhatt is tabulated in Table-4:

Table 4: Details of goods and its value meant for export by D.K. TRADING

Container No.	Description of Goods	No. of boxes each containing 10 square feet floor tiles	Quantity of tiles Found (in Sq. Mtr.)	Value as per Chartered Engineer
MSCU325776 6	Ceramic Floor Tiles- AS White Premium	420	390.19	105000
	Ceramic Floor Tiles- 2003 Premium	522	484.95	130500
	Ceramic Floor Tiles- 6015 Premium	438	406.92	109500
	Ceramic Floor Tiles- PL White Premium	401	372.54	100250
	Ceramic Floor Tiles-	100	92.90	25000

	9239 Premium			
	Ceramic Floor Tiles-1004 Premium	161	149.57	40250
	Ceramic Floor Tiles-1010 Premium	150	139.35	37500
	Ceramic Floor Tiles-AST Blue Premium	111	103.12	27750
GLDU297442 7	Ceramic Floor Tiles-PL White Premium	940	873.29	235000
	Ceramic Floor Tiles-1001 Premium	99	91.97	24750
	Ceramic Floor Tiles-PL Grey Premium	304	282.43	76000
	Ceramic Floor Tiles-PLCC Premium	396	367.90	99000
	Ceramic Floor Tiles-FS 10 Premium	100	92.90	25000
	Ceramic Floor Tiles-1077 Premium	70	65.03	17500
	Ceramic Floor Tiles-AS Grey Premium	198	183.95	49500
	Ceramic Floor Tiles-10059 Premium	110	102.19	27500
	Ceramic Floor Tiles-1085 Premium	72	66.89	18000
TOTAL		0	4592	11,48,000

10.4 In exercise of the powers conferred under Section 110(1) of the Customs, Act, 1962, the goods mentioned in Table-4 that is **4592 Boxes** of Ceramic Floor Tiles declared as 'FANCY CERAMIC WALL TILES' under CTI '69072200' totally valued at **Rs.11,48,000/-** (Rupees Eleven Lacs Forty Eight Thousand only) were seized via seizure memo dated 04.04.2025 (**RUD-10**), under the reasonable belief that the subject goods having declared value of Rs. 3,72,10,320/- and redetermined value of Rs. 11,48,000/- are liable for confiscation under Section 113 of Customs Act, 1962.

MISCELLANEOUS CORRESPONDANCES IN THE MATTER:

11.1 A letter vide F. No. DRI/AZU/B/INV-01(INT-01)/2025 dated 15.04.2025 was issued by the Deputy Director, DRI, Regional Unit, Surat to the Additional Commissioner of Customs, in charge of Export, Hazira Port communicating no objection to the provisional release of seized goods meant for export in case of M/s. **D.K. Trading**. The said letter mentioned that the goods detained under Panchnama dated 29.03.2025 were seized vide seizure memo dated 04.04.2025, and it was also communicated that DRI, Surat office has no objection for provisional release for the detained goods, other than the samples withdrawn, subject to the compliance of the conditions mentioned in Para 4(c) of circular 01/2011-Customs dated 04.01.2011. It was also stated/clarified in respect of the email dated 08.04.2025 from Hazira Export, requesting NOC for release of container No. MSCU3257766 and GLDU2974427 that the subject goods were de-stuffed and examined in CFS, DP World Rail Logistics Pvt Ltd, Surat and only the goods were detained and handed over to Shri Mahendra Patel

and Shri Jayesh Painter vide Panchnama dated 29.03.2025 and that this office has not detained any containers, thus no NOC was required for release of the said containers.

11.2 A letter vide F. No. DRI/AZU/B/INT-01/2025 dated 07.05.2025 issued by Assistant Director, DRI, Regional Unit, Surat addressed to Deputy Commissioner of CGST and CE Commissionerate, Delhi East, Delhi requesting to provide the GSTR-1, 2A/2B and 3B of M/S D.K. TRADING from November 2024 and also requesting to arrange delivery of summons to M/S D.K. TRADING as the same was undelivered by post remarks as "no such person/entity available".

11.3 Received an e-mail dated 13.05.2025 from Division-Laxmi Nagar, CGST Delhi East enclosing a letter addressed to GSTO (Ward-80), Department of Trade and Taxes, Room No. 819, 8th Floor, Vyapar Bhawan, I.P. Estate, New Delhi issued by Deputy Commissioner, Division- Laxmi Nagar, CGST Delhi-East vide which it was informed that as M/s. **D.K. Trading** falls under state Jurisdiction, the issue was entrusted to them. Further DC, CGST Delhi- East also communicated the fact that their office had also tried to deliver summons but found the firm at the registered address non-existent and the officer had prepared a Visit Report (Reg-30) alongwith photos of premises attached and the DC, CGST Delhi-East also requested the jurisdictional State GST to take further necessary action at their end as per CGST Act, 2017.

11.4 Thereafter it was observed on the GSTN portal that the registration of M/s D.K. Trading was cancelled by the officer of State GST effective from the date of registration that is 30.11.2024.

FINANCIAL INVESTIGATION:

12.1 A letter vide F. No. DRI/AZU/B/INV-01(INT-01)/2025 dated 22.05.2025 issued by Senior Intelligence Officer, DRI, Regional Unit, Surat addressed to Bank Manager, Bank of Baroda, Surat bearing DIN: 202505DDZ1000000E032 requesting to provide Bank Account Statement relating to Shri Deepak and all accounts linked to PAN No. HHNPD7475M (**RUD-11**) was written.

12.2 Bank of Baroda vide email dated 23.05.2025 (**RUD-12**) shared the details of current account and a savings bank account related to the Pan Card.

12.3 Scrutiny and analysis of Bank account statement of account No. 89840200003568 revealed that the account was opened on 05.03.2025 and on 16.03.2025, a deposit of Rs. 10,00,000/- and on 18.03.2025 remittance of Rs.8,68,480/- was done which was for the purchase of tiles done from Finomax Ceramic India. Also, on 25.04.2025 a remittance of Rs.36,000/- was done to DP World. The scrutiny of the bank account reveals that the company was not involved in any genuine trading business and had only done payments to Finomax Ceramic, the bank account does not reveal any transactions to S.K. Enterprises whose invoices were kept in the documents submitted by the CHA.

12.4 Scrutiny and analysis of Bank account statement of account No. 06430100084743 revealed that no major transaction has been done through the said account and it appeared that this account was not yet being used for any business transactions.

12.5 The financial investigation of the bank account of the said company revealed that the amount infused into the company's bank account was for the payment for the goods, transportation and the charges for handling of cargo. The account was also opened just before the export was to be done on 01.03.2025.

SCRUTINY OF GST RETURNS:

13.1 Scrutiny from the GST portal, revealed that GSTR-1 returns were filed by M/s.**D.K. Trading** for the month of Nov-2024, December-2024 and Jan-2025 and all the said returns were filed nil which indicates that no sales were done by M/s.**D.K. Trading** during these months as reflected by the company on the GST portal.

13.2 Further it was revealed that GSTR-3B returns were also filed by M/s.**D.K. Trading** for the month of Nov-2024 and December-2024 and both the said returns were also Nil which indicates that no purchase was done by M/s.**D.K. Trading** and no sale was done by M/s.**D.K. Trading** in the said months.

13.3 Also when the Input Tax Credit Ledger of M/s.**D.K. Trading** was checked it was revealed that there was no Input Tax Credit available in the GST Ledger account of M/s. **D.K. Trading**.

ANALYSIS OF DOCUMENTS AND EVIDENCES:

14.1 Documents resumed during examination were analyzed and it was seen that the premises was taken on rent since 10.09.2024 for 11 months, GST registration was taken on 30.11.2024, IEC was taken on 04.12.2024 and the current account was opened on 01.03.2025.

14.2 It was further noticed that the purchase Invoice No. 1042 dated 19.03.2025 issued by Finomax Ceramic is having consignee M/s. **D.K. Trading**, Delhi (GSTIN: 07HHNPD7475M1ZI), the description of goods as 'Ceramic Floor Tiles', Size 12 x 12 (10), Quantity 4600 Box, Taxable Value Rs. 7,36,000/-, IGST 1,32,480/-.

14.3 Apart from the purchase Invoice No. 1042 dated 19.03.2025 issued by Finomax Ceramic to them, M/s D.K. Trading had submitted six other invoices purportedly issued by M/S S K Enterprises (GSTN 07BQMPN4394P1ZU) to them for supply of tiles. These were retrieved under panchnama from the CHA during examination of goods.

14.4 Since the goods found during examination tallied broadly with the description and value indicated against invoice of Finomax Ceramic, it is evident that the remaining purchase invoices in the name of S K Enterprises were not genuine and were sent by M/s.**D.K. Trading** to the CHA to be produced before the Customs Authority only to fill the gap between purchase value and export value and to fill the gap between purchase quantity and export quantity. Thus, the declared total value of the tiles at Rs.3,72,10,320/- in total 6 Shipping bills against purchase value of Rs. 7,36,000/- from Finomax Ceramics was sought to be justified by showing fake purchase invoices and misdeclaration of quantity by cleverly using Sq Meters in place of square feet.

14.5 However, none of the purchase invoices produced by CHA of M/s.**D.K. Trading** were being reflected in GSTR 2A/2B of M/s. D.K. Trading

LEGAL PROVISIONS IN RESPECT OF EXPORT:

15. Customs Act, 1962

15.1.1 Section 2 (18):

"export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

15.1.2 Section 2 (19):

"export goods" means any goods which are to be taken out of India to a place outside India;

15.1.3 Section 2 (20):

"exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner, beneficial owner or any person holding himself out to be the exporter;

15.1.4 Section 2 (22):

"goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

15.1.5 Section 2 (39):

"smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under Section 111 or Section 113;

15.2 Section 11H (a):

"Illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;

15.3 Section 14: Valuation of goods. -

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,-

(i) the circumstances in which the buyer and the seller shall be deemed to be related;

(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;

(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

[(iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation. –

For the purposes of this section -

(a) "rate of exchange" means the rate of exchange -

(i) determined by the Board, or

(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

15.4 Section 17: Assessment of duty. -

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

(3) For 5 [the purposes of verification] under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter 6 [***] and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

7 [***]

Explanation. - For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of section 17 as it stood immediately before the date on which such assent is received.]

15.5 Section 50: Entry of goods for exportation

(1) The exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export (in such form and manner as may be prescribed):

Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.]

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: -

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

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

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

15.6 SECTION 113:

(h): any goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

[(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;]

(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;] **(d):** any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation.

15.7 Section 114:

(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater;

15.8 Section 114AA:**Penalty for use of false and incorrect material-**

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

15.9 Section 114AC:**Penalty for fraudulent utilization of input tax credit for claiming refund-**

Where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilize input tax credit on the basis of such invoice for discharging any

duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed.

16 Foreign Trade (Development and Regulation) Act, 1992

16.1 Section 11 (1):

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

17. Customs Valuation (Determination of Value of Export Goods) Rules, 2007

17.1.1 Rule 2:

Definitions-

(1) In these rules, unless the context otherwise requires, -

(a) "goods of like kind and quality" means export goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued, produced by the same person or a different person; and

(b) "transaction value" means the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962).

(2)	For the purposes of these rules, persons shall be deemed to be "related" only if -
(i)	they are officers or directors of one another's businesses;
(ii)	they are legally recognized partners in business;
(iii)	they are employer and employee;
(iv)	any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
(v)	one of them directly or indirectly controls the other;
(vi)	both of them are directly or indirectly controlled by a third person;
(vii)	together they directly or indirectly control a third person; or
(viii)	they are members of the same family.
	Explanation I. - The term "person" also includes legal persons.
	Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.

17.1.2. Rule 3. Determination of the method of valuation. -

(1) Subject to rule 8, the value of export goods shall be the transaction value.

(2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.

(3) If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.

17.1.3 Rule 4. Determination of export value by comparison. -

(1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

(2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-

(i) difference in the dates of exportation,

(ii) difference in commercial levels and quantity levels,

(iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,

(iv) difference in domestic freight and insurance charges depending on the place of exportation.

17.1.4 Rule 5. Computed value method. -

If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following: -

(a) cost of production, manufacture or processing of export goods;

(b) charges, if any, for the design or brand;

(c) an amount towards profit.

17.1.5 Rule 6. Residual method. -

(1) Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods

17.1.6 Rule 8. Rejection of declared value. -

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation. - *(1) For the removal of doubts, it is hereby declared that-*

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and value; where the declared procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said inquiry in consultation with the exporter .

(iii) The proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include-

(a) the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.

(b) the significantly higher value compared to the market value of goods of like kind and quality at the time of export.

(c) the declaration of goods in parameters such as description, quality, quantity, year of manufacture or production.

DISCUSSION ON THE EVIDENCES:

18.1 During examination under Panchnama dated 29.03.2025 it was found that total **4592 boxes** each containing 10 pieces of 1 square feet tiles were stuffed in the two containers against the declared quantity of **4600 boxes**. Only **4266.09 Sq. Mtr. (45920 Sq. Ft.)** tiles were found stuffed in the two containers as against the declared quantity of **46000 Sq Mtr.** It was also noticed that the corrugated boxes had description 'Finomax Floor Tiles Ceramic| 12"x12" | Floor Tiles' while as per the Shipping Bill's, it was the description was 'Fancy Ceramic Wall Tiles'.

18.2 Further, the declared value of goods in the subject 6 Shipping Bills and corresponding 6 Export Invoices was **US \$4,34,700/-** and the declared **FOB Value** was **Rs. 3,72,10,320/-**. On being asked regarding the manufacturer of goods entered for exportation under six Shipping Bills, the CHA of the firm informed that goods were manufactured by Finomax Ceramic, Morbi (GSTIN-24AACAA3349P1Z6) and transported to the CFS in the two containers under cover of Invoice No. 1042 dated 19.03.2025 issued by Finomax Ceramic along with E-way Bill No. 631878522920 dated 19.03.2025. He submitted a copy each of the said invoice and e-way bill. It was noticed that Invoice No. 1042 dated 19.03.2025 issued by Finomax Ceramic had D.K. TRADING., Delhi (GSTIN: 07HHNPD7475M1ZI), as the consignee with declared Taxable Value of Rs. 7,36,000/- and IGST of Rs. 1,32,480/-.

18.3 Based on the packing list and invoice submitted along with the Shipping Bill, the shortage in quantity, physical examination of the goods and the huge difference in purchase value and export value of goods, the goods appeared to be over-valued and the officers called Shri B.G. Bhatt, Chartered Engineer approved by Customs Ahmedabad for detailed valuation.

18.4 Shri B.G. Bhatt vide its Valuation report dated 03.04.2025 reported that the subject goods are Ceramic tiles of 12"X12" and 05mm thickness, suitable for flooring on horizontal plane, having glossy finish for indoor rooms and matte finish for toilet, parking etc. He reported that similar type of tiles are having range from Rs.125/Box to Rs.170/Box. He also reported that declared quantity

does not tally with the weight of the container, as for 46000 Sq mtr of tiles, approximately weight comes to 600 MT and same is not possible to be stuffed and transported in 2 two 20 Ft containers. He considered the maximum value of tiles per box as Rs. 250/- per box. Accordingly, the estimated value of the inspected containers comes to 4592 Boxes X Rs.250 = **Rs.11,48,000/- (Rupees Eleven Lacks Forty-Eight Thousand only)**. It was also opined the rate mentioned in the export invoice is not reasonable and is exorbitantly inflated and overpriced than the average market rate. He considered the rate of Rs. 250/- per box after considering whole scenario including profit and incidental expenses and thus arrived at value of Rs. **11,48,000/-** for the export purpose.

18.5 On the basis of examination under Panchnama, the purchase invoice of M/s.**D.K. Trading** and valuation report of Shri B.G Bhatt, Custom approved Valuer, the declared value of the subject goods was rejected as per Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and as per Rule 3 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, re-determination of value was done by sequentially moving from Rule 4 to Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Rule 4 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, was not applicable as goods in like kind and quality exported at or about the same time to other buyers in the same destination country of importation were not available. Accordingly, the valuation was done under Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, based on the purchase invoice, physical examination and the valuation report of Shri B.G. Bhatt. Therefore, in exercise of the powers conferred under Section 110(1) of the Customs, Act, 1962, the goods mentioned in Table-4 that is **4592 Boxes** of Ceramic Floor Tiles declared as 'FANCY CERAMIC WALL TILES' under CTI '69072200' valued at Rs.11,48,000/- (Rupees Eleven Lacs Forty Eight Thousand only) were seized via seizure memo dated 04.04.2025, under the reasonable belief that the same are liable for confiscation under Section 113 of Customs Act, 1962.

18.6 Shri Abdul Majid Ansari, G-Card Holder of the firm Startek Enterprises, authorized representative of M/s. **D.K. Trading**, during his statement dated 30.04.2025, stated that he used to communicate with one Shri Praveen on mobile no. 8447203063 for export related work of the firm D.K. TRADING. Based on received export invoices, Shri Jayesh Painter, Executive in Startek Enterprises prepared the checklist and shared the same to M/s.**D.K. Trading** on email. Further, on approval given by M/s.**D.K. Trading** Shipping Bills were filed. It was also informed to the exporter to provide purchase invoice for assessment. He further stated that there was an error in mentioning of unit of measurement and Sq meter was mentioned in place of Sq ft. He further stated that the purchase value as per invoice was of Rs.1,70,63,792/- whereas, as per customs norms the maximum amount that could be exported for such purchase was of Rs. 2,55,95,688/- (i.e. 150% of the purchase price) and the same was calculated by Shri Jayesh Painter but as per export invoices the total was coming to about Rs.3,72,10,320/-. He further stated that after noticing this discrepancy, Shri Jayesh Painter questioned the reason of the same from Shri Praveen who in turn replied that the same will be answered in due course. He further stated that in invoices at page no. 19 to 25, the total quantity of goods being exported tallied with the invoice of Finomax Floor Tiles at page no 25 while the invoices at page no. 19 to 24 wherein the seller is S.K. Enterprises, these entries of S.K. Enterprise were just made up to adjust the gap between the purchase value and the export value. Further, reason of the same has also not been answered by Shri Praveen.

18.7 Shri Mahesh Soni during his statement dated 12.06.2025, stated that in Dec-2024 he joined M/s.**D.K. Trading** as accountant. He also stated that he used to maintain the accounts of M/s. **D.K. Trading**, look after filing of GST returns and coordinate with CHA over email for the invoices as per the instructions of Shri Pankaj Sharma who used to contact him on WhatsApp from the number +00971501584771 and that he does not know where Shri Pankaj Sharma resided but usually Shri Pankaj Sharma used to inform that he is in Dubai for work and he had met him only twice. He also

stated that on instruction of Shri Pankaj, he had introduced himself with a fake name i.e. as Shri Praveen to Shri Abdul Majid Ansari. He also stated that he had not prepared the export invoices, the export invoices were shared to him and on the instructions of Shri Pankaj Sharma, he had sent it to the CHA for filing of Shipping Bill for export. Shri Mahesh Soni also stated that he has provided purchase invoices which were locally procured from S.K. Enterprises on the instructions of Shri Pankaj Sharma to the CHA. He further stated that he had never met Shri Deepak, Proprietor of M/s.D.K. Trading and all the work of M/s.D.K. Trading was looked after by Shri Pankaj Sharma and Shri Deepak was a dummy proprietor as per his knowledge. He also stated that Shri Pankaj Sharma provided him with the invoices of S.K. Enterprises. Shri Mahesh Soni also stated that the CHA had asked him as to why the total of all the purchase invoices given to them amounted to Rs.1,70,63,792/- and as per customs norms the maximum amount that can be exported for such purchase was Rs.2,55,95,688/-, but as per export invoices the total was coming to be about Rs.3,72,10,320/- but he had not replied to the same, as Shri Pankaj Sharma had not informed him the reason. Further, Shri Mahesh Soni also stated that although the total quantity of goods being exported tally with the invoice of Finomax Floor Tiles which is mentioned at page no 25, the purchase invoices at page no. 19 to 24 in the name of seller S.K. Enterprises are nothing but the entries just made up to adjust the gap between the purchase value and the export value.

18.8 Scrutiny from the GST portal, revealed that GSTR-1 returns were filed by M/S D.K. TRADING for the month of Nov-2024, December-2024 and Jan-2025 and all the said returns were nil which indicates that no sales were done by M/s.**D.K. Trading** during these months. Further it was revealed that GSTR-3B returns were filed by M/s.**D.K. Trading** for the month of Nov-2024 and December-2024 and both the said returns were also Nil which indicates that no purchase was done by M/s. D.K. Trading.

18.9 Summons were issued to the proprietor of M/s.**D.K. Trading** but he did not comply with the summons and did not join the investigation, thus a criminal complaint bearing number 194445/2025 under Section 208 and 210 of the Bhartiya Nyay Sanhita, 2023 read with Section 108 of the Customs Act, 1962 has been filed against Shri Deepak on 01.09.2025.

18.10 The financial investigation of the bank account of the firm M/s.D.K. Trading revealed that the amount infused into the company's bank account was for the payment for the goods, transportation and the charges for handling of cargo. The account was also opened just before the export was to be done on 01.03.2025.

18.11 Further, there was no credit of IGST in the Ledger of M/s D.K. Trading as on date of filing of Shipping Bill i.e. 28.03.2025. But as per provisions of GST the registered tax persons can file their GSTR-1 of the corresponding month, which shows the sales done by them during the month, before 11th date of subsequent month. After the person files GSTR-1 of the month, the credit flows from his GSTN to the GSTN of the purchaser, which the purchaser can then utilize. Thus, the credit for the purchases done during the month usually flows to the purchaser after the tax person files the GSTR-1 of that month, for which the last date is 11th date of the subsequent month. It is suspected that, in the instant case D.K Trading being the purchaser under GST regime did not have any credit till 29.03.2025 available with him as the tax person from whom D.K Trading would have purchased, had to file the GSTR-1 for the month of March-2025 till 11.04.2025 only after which the credit would have reflected in the ledger of GSTN of D.K. Trading. Thus, if DRI Surat had not intervened and initiated actions which led to cancellation of their GSTN as discussed in para 10.3 and 10.4 above, M/s D.K. Trading would have succeeded in taking the IGST credit and refund thereafter.

18.12 The statements recorded of CHA, of the accountant of the firm, non-appearance of proprietor of the exporting firm, scrutiny of the documents submitted, examination of the goods,

financial investigation and scrutiny of the returns filed on GST portal, re-affirmed the fact that the goods were being grossly overvalued to obtain the IGST refund while the original value of goods was Rs. 7,36,000/- (as per purchase invoice), which is just 9.3% of the declared value of Rs. 3,72,10,320/- and that there was no regular business activity being done by M/s. **D.K. Trading**.

18.13 Further, it was revealed during the investigation that Shri Pankaj Sharma, is the beneficiary owner of the goods and he appeared to be the mastermind for creating a firm, mis-declaring the value and quantity of goods and attempted to export to same to enrich himself by way of refund of IGST. Further, Shri Pankaj Sharma appointed the CHA and accountant for the firm. Shri Pankaj Sharma also was the person who shared invoices and had asked the accountant to introduce himself as Shri Praveen. Shri Pankaj Sharma alone was managing the finances. Further, the money infused into the bank account is yet to be investigated as neither the proprietor nor Shri Pankaj Sharma had joined the investigation. Accordingly, the additional evidences if any, found after further financial investigation and after confronting Shri Deepak (Proprietor of the firm) and Shri Pankaj Sharma the beneficial owner (who is being traced), shall be used for issuance of a supplementary Show-cause notice as applicable.

CONTRAVENTION AND CHARGES: -

19.1 From the foregoing paras, it is evident that goods being exported vide Shipping Bill No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025, stuffed in Container No. GLDU2974427 and Container No. MSCU3257766 in the name of the exporter M/s. **D.K. Trading** were mis-declared in terms of quantity and value. It is the responsibility of the exporter to ensure the accuracy and completeness of the information given therein, the authenticity and validity of any document supporting produced relating to goods being exported under this Act or under any other law for the time being in force, thus by mis-declaring the quantity and value of goods to be exported, the exporter **Shri Pankaj Sharma (the beneficiary owner of the goods) acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak** has violated the provisions of **Section 50(2) and 50(3) of the Customs Act, 1962** and provisions of **section 11 of Foreign Trade (Development and Regulation) Act, 1992**.

19.2 The attempt to export the impugned goods by way of mis-declaring value and quantity is a violation of Section 14 and Section 50 and, appeared to fall under the ambit of 'smuggling' as defined under section 2(39) of the Customs Act, 1962. Further in terms of **Section 11 H(a) of Customs Act, 1962**, the act again amounts to '**illegal export**' by them in as much as they attempted to export the goods in contravention to provisions of Section 14 and section 50 of Customs Act, 1962 read with section 11 of Foreign Trade (Development and Regulation) Act, 1992. As discussed herein above, the subject goods covered under Shipping Bill No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025, stuffed in Container No. GLDU2974427 and Container No. MSCU3257766 are to be treated as **smuggled goods** as defined under **section 2(39) of Customs Act, 1962**.

19.3 Any goods which are not included or are in excess of those included in the entry made in Shipping Bills, violates the provision of 113 (h) of Customs Act, 1962. Further any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made in Shipping Bills, violates the provision of 113 (h) of Customs Act, 1962. Also, any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force violates the provision of 113 (ja) of Customs Act, 1962. In view of above, goods covered under Shipping Bill No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025,

9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025 are liable for confiscation under **Section 113 (h), (i) and (ja)** of the Customs Act, 1962.

19.4 It appeared that **Shri Pankaj Sharma (the beneficiary owner of the goods) acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak** has attempted to export the goods covered under Shipping bills No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025 in violation to Section 14 and Section 50 of Customs Act, 1962 and said act on the part of **Shri Pankaj Sharma (the beneficiary owner of the goods) acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak** has rendered the subject goods liable for confiscation under Section 113(h), (i) and (ja), therefore he is liable to penalty under **Section 114 (iii) of the Customs Act, 1962.**

19.5 Further, as the **Shri Pankaj Sharma (the beneficiary owner of the goods) acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak** also gave the export invoices and fake purchase invoices which were not being reflected in GST portal to the Customs authorities for valuation purposes, which also makes him liable to penalty under **Section 114AA of the Customs Act, 1962.**

19.6 Further, **Shri Pankaj Sharma (the beneficiary owner of the goods) acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak** attempted to utilize overvalued invoices during export to utilize input tax credit on the basis of such invoices, which also makes him liable for penalty under **Section 114AC of the Customs Act, 1962.**

19.7 It appeared that the value of goods declared by the exporter as **Rs. 3,72,10,320/-** in the 6 shipping bills is not correct as the transaction value and is liable to be rejected as per Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The rejected value of export goods is to be re-determined as per Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 on the basis of the purchase invoice, physical examination and the valuation report of Shri B.G. Bhatt, and the re-determined value is **Rs.11,48,000/-** (Rupees Eleven Lacs Forty-Eight Thousand only).

19.8 **Shri Mahesh Soni, Accountant of M/s.D.K. Trading acting at the behest of Shri Pankaj Sharma (the beneficiary owner of the goods)** helped him in this attempt to export the goods covered under Shipping Bill No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025 in violation to Section 14 and Section 50 of Customs Act, 1962 by mis-declaring the value and quantity of goods entered for exportation. These acts have rendered the subject goods liable for confiscation under Section 113(h), (i) and (ja), therefore the exporter is liable to penalty under **Section 114 (iii) of the Customs Act, 1962.** Further, as **Shri Mahesh Soni, Accountant of M/s. D.K. Trading,** also gave the export invoices and fake purchase invoices which were not being reflected in GST portal to the Customs authorities for valuation purposes and also for claiming input tax credit fraudulently during export, which also makes him liable for penalty under **Section 114AA and Section 114AC of the Customs Act, 1962.**

19.9 **M/s. Startek Enterprises, acting as CHA for M/s. D.K. Trading,** is alleged to have actively participated in and facilitated the mis-declaration of export goods by preparing and filing the shipping bills, checklists and supporting documentation on the basis of invoices and papers supplied by the exporter without exercising requisite due diligence. The record shows that the CHA's representative prepared the checklist, filed the shipping bills after exporter approval, produced multiple purchase invoices (including those now shown to be fabricated) and omitted to satisfy themselves as to the authenticity and genuineness of the purchase documents relied upon for valuation

and export entry. By so doing, M/s.Startek Enterprises materially contributed to the presentation of entries that do not correspond in value or in material particulars with the actual goods entered for exportation and to an attempted wrongful claim of IGST refund. These acts attract penal exposure under **Section 114 of the Customs Act, 1962** (penalty in respect of goods liable to confiscation or where the entry is false) and under **Section 114AA of the Customs Act, 1962** (for knowingly using false or incorrect declarations, statements or documents in any material particular), in respect of which M/s.Startek Enterprises may be proceeded against for imposition of penalties and other consequences as provided under law. Further, the CHA's conduct — in particular accepting and submitting purchase invoices that do not figure in GST records, filing shipping bills despite clear discrepancies in unit of measure/quantities and failing to query or escalate the inexplicable gulf between purchase value and declared export value — amounts to rendering active assistance to the scheme to obtain wrongful tax refunds and to conceal the true transaction. Such conduct falls within the scope of the remaining penal provisions specified in this notice and renders the CHA liable for action under **Section 114AB of the Customs Act, 1962** (for offences/contraventions associated with preparation, issuance or use of forged/fabricated documents and related misfeasance) and **Section 117 of the Customs Act, 1962** (for other ancillary penalties/administrative consequences and enforcement measures available under the Act).

20. Therefore, **M/s.D.K. Trading** (IEC- HHNPD7475M) having its office located at Lower Ground Floor, A-38, Pvt Shop No. B-1, Madhu Vihar, Delhi- 110092 was called upon to show cause, as to why:-

(i) The goods mentioned in Table-4 that is 4592 Boxes of Ceramic Floor Tiles, totally 4,266.09 sq. meters, mis-declared as 'FANCY CERAMIC WALL TILES' under CTI '69072200' and also mis-declared in quantity and value being exported by **Shri Pankaj Sharma (the beneficiary owner of the goods) acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak** under Shipping Bill No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025 should not be held liable for confiscation and confiscated accordingly under Section 113 (h), (i) and (ja) of Customs Act, 1962.

(ii) The value of goods declared under Shipping Bill No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025 as **Rs. 3,72,10,320/-** should not be rejected as per Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and value be re-determined as per Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 to **Rs.11,48,000/-** (Rupees Eleven Lacs Forty-Eight Thousand only)

21. **Shri Pankaj Sharma (the beneficiary owner of the goods) c/o M/s.D.K. Trading** (IEC- HHNPD7475M) having its office located at Lower Ground Floor, A-38, Pvt Shop No. B-1, Madhu Vihar, Delhi- 110092, was called upon to show cause, as to why:-

(i) Penalty should not be imposed upon **Shri Pankaj Sharma (the beneficiary owner of the goods)** under Section 114(iii) of the Customs Act 1962.

(ii) Penalty should not be imposed upon **Shri Pankaj Sharma (the beneficiary owner of the goods)** under Section 114AA and Section 114AC of the Customs Act 1962 separately.

22. **Shri Deepak, proprietor of M/s. D.K. Trading** (IEC- HHNPD7475M) having its office located at Lower Ground Floor, A-38, Pvt Shop No. B-1, Madhu Vihar, Delhi- 110092 was called upon to show cause, as to why:-

(i) Penalty should not be imposed upon **Shri Deepak, proprietor of M/s.D.K. Trading** under Section 114(iii) of the Customs Act 1962.

(ii) Penalty should not be imposed upon **Shri Deepak, proprietor of M/s.D.K. Trading** under Section 114AA and Section 114AC of the Customs Act 1962 separately.

23. Shri Mahesh Soni C/o M/s. D.K. Trading(IEC- HHNPD7475M) having its office located at Lower Ground Floor, A-38, Pvt Shop No. B-1, Madhu Vihar, Delhi- 110092 was called upon to show cause, as to why:-

(i) Penalty should not be imposed upon **Shri Mahesh Soni** under Section 114(iii), of the Customs Act 1962.

(ii) Penalty should not be imposed upon **Shri Mahesh Soni** under Section 114AA and Section 114AC of the Customs Act 1962 separately.

24. M/s. Startek Enterprises, CHA for M/s. D.K. Trading (IEC- HHNPD7475M) having its office located at Lower Ground Floor, A-38, Pvt Shop No. B-1, Madhu Vihar, Delhi- 110092 was called upon to show cause, as to why:-

(i) Penalty should not be imposed upon **M/s Startek Enterprises, CHA for M/s. D.K. Trading** (IEC- HHNPD7475M) under Section 114, of the Customs Act 1962.

(ii) Penalty should not be imposed upon **M/s Startek Enterprises, CHA for M/s. D.K. Trading** (IEC- HHNPD7475M) under Section 114AA and Section 114AB and Section 117 of the Customs Act 1962 separately.

25. Defence Submission -

M/s Startek Enterprises, vide their letters dated 11-10-2025 & 12-03-2026 has submitted their written submissions. The same are being produced herewith verbatim as under:

i) Written Submission dated 11-10-2025:-

2.1. Based on specific intelligence, DRI-Regional Unit, Surat requested a hold on six export consignments of M/s D.K. Trading (IEC HHNPD7475M; GSTIN 07HHNPD7475M1ZI) at Hazira Port vide letter 28.03.2025. A joint examination under Panchnama dated 29.03.2025 at CFS DP World, Surat (containers MSCU3257766 and GLDU2974427) found the goods to be 12"×12" "Finomax" ceramic floor tiles, 4,592 boxes totalling 45,920 sq. ft. (4,266.09 sq. m.), as against the export declarations describing "Fancy Ceramic Wall Tiles" (CTI 69072200) with quantity declared as 46,000 sq. m. and aggregate FOB Rs. 3,72,10,320, with IGST paid Rs. 66,97,857 (refund of IGST intended).

2.2. A Chartered Engineer's report dated 03.04.2025 valued the examined cargo at Rs. 250/box, aggregating Rs. 11,48,000 for 4,592 boxes. Relying on the physical examination, a purchase invoice of Finomax Ceramic dated 19.03.2025 (4,600 boxes; taxable value Rs. 7,36,000), and the CE report, the department rejected the declared value under Rule 8 and re-determined value under Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The goods were seized on 04.04.2025 under Section 110 of the Customs Act, 1962.

2.3. Thereafter, the Additional Commissioner of Customs, Hazira Port, vide SCN No. Gen/LGL/Misc/803/2025-AH-Port-HZR-Cus-Commrte-Ahmedabad (DIN-202509-71MN000032373C) dated 27.09.2025, proposed: (i) confiscation of the impugned goods under Sections 113(h), 113(i) and 113(ja) of the Customs Act, 1962, together with rejection of the declared value under Rule 8 and re-determination under Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007; and (ii)

imposition of penalties on the noticees-viz., Shri Pankaj Sharma (alleged beneficial owner), Shri Deepak (proprietor of M/s D.K. Trading), and Shri Mahesh Soni-under Sections 114(iii), 114AA and 114AC, and on the present noticee, M/s Startek Enterprises (CHA/Customs Broker) under Sections 114, 114AA, 114AB and 117. The proposals are founded, inter alia, on assertions of mis-declaration of description/quantity/value, alleged fabrication of six purchase invoices purportedly of "S.K. Enterprises", nil/low GST return activity, minimal banking operations, and subsequent cancellation of the exporter's GST registration; the SCN further alleges that M/s D.K. Trading (IEC HHNPD7475M; GSTIN 07HHNPD7475M1ZI) attempted export of "Fancy Ceramic Wall Tiles" (CTI 69072200) under six Shipping Bills dated 28.03.2025 (Nos. 9439883, 9440114, 9440149, 9440124, 9440116, 9440106), declaring 46,000 sq. m. and FOB Rs. 3,72,10,320, on which IGST Rs. 66,97,857 was paid with intent to claim refund.

3. Reply on behalf of the Present Noticee M/s Startek Enterprises, Customs Broker:

3.1. The present Noticee, M/s Startek Enterprises, is a licensed Customs Broker under the Customs Brokers Licensing Regulations, 2018 (CBLR-2018). The impugned SCN alleges that the Noticee, acting as Customs Broker, abetted the exporter M/s D.K. Trading in mis-declaration of quantity and value in six Shipping Bills dated 28.03.2025, and proposes penalties under Sections 114, 114AA, 114AB and 117 of the Customs Act, 1962. The Noticee categorically denies the allegations. In brief: (a) the Noticee complied with Regulations 10(b), 10(h) and 10(n) by verifying IEC, GSTIN, identity and functioning at the declared address through reliable, independent and authentic documents/data; the law does not mandate physical premises verification; (b) the Noticee had no knowledge or intent to make, use or cause the use of any false document-an essential ingredient for Section 114AA; (c) the Noticee did not obtain or utilise any "instrument" (scrip/authorisation/licence/certificate under the FTDR/FTP framework), rendering Section 114AB inapplicable; and (d) Section 117, being residuary, cannot be invoked where the ingredients of specific penal provisions are not attracted or not proved. Appellate fora have consistently held that where a broker performs CBLR-mandated KYC and acts in good faith, penalties are unsustainable absent proof of knowledge/collusion (e.g., CESTAT Kolkata in Daga Shipping Agents Pvt. Ltd.; and decisions clarifying that Reg. 10(n) does not require physical verification). Accordingly, the proceedings deserve to be dropped qua the Customs Broker.

3.2. Engagement & KYC (Reg. 10(n) CBLR 2018 complied):

3.2.1. Engagement & authorization: M/s Startek Enterprises (Customs Broker) was approached for export clearance by M/s D.K. Trading through its accountant Shri Mahesh Soni (also using the alias "Praveen"). Before accepting the assignment, the Customs Broker obtained a written client authorization under Reg. 10(a) and opened a client file capturing the identity, address and contact particulars of the exporter and its authorised signatory.

3.2.2. Documents collected and retained (Regs. 10(n), 10(b), 10(h), 10(g)). Prior to the first filing, the Customs Broker collected, verified and retained the following statutory documents/data, also reflected in the SCN record (inter alia Para 6.5-6.7):

- IEC Registration: IEC No. HHNPD7475M, issued 04.12.2024, showing address Lower Ground Floor, A-38, Pvt Shop No. B-1, Madhu Vihar, New Delhi-110092.

- GST Registration: GSTIN 07HHNPD7475M1ZL, effective 30.11.2024, confirming proprietorship of Shri Deepak and reflecting the same principal place of business.
- Proprietor's Identity: PAN HHNPD7475M and Aadhaar 2901 9355 9438 (Shri Deepak).
- Address/Occupancy Proof: Registered Rent Agreement dated 26.10.2024 for the declared premises.
- Banking Details / AD-Code: Bank of Baroda letter dated 17.03.2025 confirming Current A/c No. 89840200003568 linked to IEC/PAN/AD-code; the account opening date 05.03.2025 (as noted in SCN) was verified from the same certificate.
- Client KYC & Declaration: Duly signed KYC form and Declaration/Undertaking by the proprietor (Shri Deepak) confirming authenticity of documents and indemnifying the Customs Broker against false/misleading representations.

All the above were placed on record and preserved, satisfying the record-keeping requirement under Reg. 10(g).

3.2.3. Independent verification & timestamps: The Customs Broker verified IEC/GSTIN/identity/address/bank particulars from reliable, independent and authentic sources (DGFT IEC portal, GST Common Portal, bank-issued letter/AD-code papers). Date-stamped screenshots/prints evidencing the status on the verification date (immediately preceding first SB filing) are retained.

3.2.4. Legal standard under Reg. 10(n) (time-of-engagement test): Regulation 10(n) requires the Customs Broker to verify the correctness of IEC, GSTIN, identity and the client's functioning at the declared address by using reliable, independent and authentic documents, data or information at the time of engagement. That standard stands fully met here through (i) statutory registrations; (ii) "active" status checks on official portals; (iii) address/occupancy proof; (iv) bank/AD-code coherence with the same identity/address; and (v) contemporaneous record-keeping.

3.2.5. No mandate of physical policing under CBLR: The CBLR, 2018 does not mandate perpetual physical site policing or post-export surveillance by a Customs Broker. Where documentary/portal-based due diligence has been undertaken and recorded (as here), Reg. 10(n) is satisfied. Functions of physical inspection/examination, if any, lie with the Proper Officer under the Customs Act.

3.2.6. Irrelevance of post-facto site findings: Any post-export field findings (e.g., a May-2025 visit noting non-existence/occupation by others) or any retrospective action on registration after filing cannot retroactively render the CB's prior KYC non-compliant—unless it is shown that, on the verification date, official portals already reflected "non-active/cancelled" status (they did not: see KYC-2 series). The time-of-engagement stamp governs the Reg. 10(n) compliance assessment.

3.2.7. On these facts and records, Reg. 10(n) compliance is established. The Customs Broker performed all documentary and portal-based checks required by CBLR at the relevant time and preserved a complete audit trail (Regs. 10(a), 10(b), 10(n), 10(g)).

3.3. Document flow & filings (CB's role confined to declarations): On receipt of the exporter's export invoices and packing lists, Startek's staff (Shri Jayesh Painter) prepared checklist drafts of the Shipping Bills and emailed them to the exporter for confirmation. Only after the exporter's written confirmation/authorisation were the six Shipping Bills electronically filed on the customs automated system (SCN paras 6.7–6.8). For assessment support, Startek requested the exporter to furnish the purchase invoices and e-way bills (SCN para 6.7). The exporter then provided the purchase documents—including those later alleged to be fabricated—on which the CB, acting ministerially, was required to rely. In law, the verification, examination/testing, and any

re-assessment/valuation are the proper officer's functions under Section 17 of the Customs Act; if the declared value is doubted and rejected, re-determination is undertaken sequentially under the Export Valuation Rules, 2007 (Rule 8 → Rules 4-6, e.g., Rule 5 computed value method). A Customs Broker does not conduct valuation or forensic verification of purchase documents; the Broker's role is limited to presenting declarations and producing documents requisitioned by Customs.

3.4. Prompt flagging of anomaly; exporter's mis-declaration outside CB's remit: On comparing the declared FOB Rs. 3,72,10,320 with the aggregate purchase value Rs. 1,70,63,792 shown in the exporter's papers, the Customs Broker immediately raised a query with the exporter's representative Shri Mahesh Soni (alias "Praveen"), who said an explanation would follow (recorded in SCN Para 6.9). The CB's role is documents-based under CBLR (Reg. 10(b), 10(d), 10(h), 10(n)); verification/examination, re-assessment and valuation are functions of the Proper Officer under Section 17, not of the CB. On physical examination, officers/CE found only 4,592 boxes (4,266.09 m²) against the declared 46,000 m², and the Chartered Engineer opined that the declared quantity would weigh around 600 MT—"impossible to stuff and transport in two 20' containers." These findings show that the mis-declaration was exporter-side and detectable only through officer-led examination/technical analysis, not through any routine CB check. The contemporaneous value query evidences the CB's diligence and good faith; there is no material to show the CB knowingly made/used any false document (Section 114AA) or intentionally facilitated an act attracting Section 114. Hence, no penal liability can be fastened merely because the CB filed entries on facially valid client documents and promptly sought clarification when a variance surfaced; the SCN's allegation of intended IGST refund Rs. 66,97,857 does not alter this position qua the CB.

3.5. Examination & seizure (agency actions; no CB role in stuffing/physical control): Pursuant to DRI's letter dated 28.03.2025, Customs/DRI placed the six consignments on hold and de-stuffed/examined them on 29.03.2025 at CFS DP World Rail Logistics Pvt. Ltd., Surat, recording a panchnama for Container Nos. MSCU3257766 and GLDU2974427. During the panchnama, the Customs Broker's representative produced the shipping-bill checklists, export invoices/packing lists and purchase documents as requisitioned. On physical verification, officers found 4,592 boxes of 12"×12" tiles (10 pieces/box) totalling 45,920 sq. ft. = 4,266.09 sq. m., against a declaration of 46,000 sq. m. across the six Shipping Bills. Samples were drawn and sealed, and a Chartered Engineer (office of Shri B.G. Bhatt) was engaged, who issued a valuation report dated 03.04.2025. The goods were thereafter seized under Section 110(1) via seizure memo dated 04.04.2025. By letter dated 15.04.2025, DRI conveyed no objection to provisional release of the goods (other than samples) and clarified that the containers themselves were not detained; custody remained with the CFS. These steps underscore that custody, examination, sampling and valuation are officer-led functions. The Customs Broker did not supervise or control manufacture, packing, stuffing, sealing, transport, de-stuffing or examination; its role was ministerial-e-filing upon the exporter's written confirmation and producing documents when called for. In law, Section 17 vests verification/examination/re-assessment in the proper officer, while Section 50(2)–(3) places on the exporter the duty to ensure the accuracy/completeness of declarations and the authenticity/validity of supporting documents. Any UQC mismatch (sq. m. vs. sq. ft.), quantity variance, or value rejection/re-determination arises from the officer's examination/assessment and cannot be attributed to the Customs Broker, who neither controls the goods nor performs valuation.

3.6. Statements recorded corroborate KYC and deception by exporter:

3.6.1. Statement of CB representative (SCN Para-6.5–6.9): The CB's representative confirmed that Startek conducted KYC by collecting the exporter's GST registration, IEC, KYC form, proprietor's PAN/Aadhaar and bank AD-code letter, and retained these on the firm's email records (Para 6.5); sought an authorisation before any filing (Para 6.6); prepared checklists and filed the six shipping bills only after the exporter's confirmation (Para 6.7); relied on the exporter's documents in which a unit-of-quantity (UQC) error (square metre shown instead of square foot) appeared (Para 6.8); and, upon noticing an anomalous FOB vis-à-vis aggregated purchase value, promptly queried the exporter's representative about the variance (Para 6.9).

3.6.2. Exporter's accountant — admissions proving exporter-led fraud; CB lacked mens rea: In his statement under Section 108 (RUD-06), as summarised in SCN Para 7.5-7.13, the exporter's accountant Shri Mahesh Soni admitted that, on the instructions of Shri Pankaj Sharma (the beneficial owner), he impersonated himself as "Praveen" while dealing with the Customs Broker, forwarded to the CB via WhatsApp the purchase invoices supplied by Pankaj Sharma, and that the six invoices in the name of M/s S.K. Enterprises were "nothing but fake entries" created solely to bridge the gap between the actual purchase value (Rs.7,36,200, Finomax Ceramic Inv. No. 1042 dated 19.03.2025) and the inflated declared FOB (Rs.3,72,10,320). He further stated that Pankaj Sharma controlled all operations and finances, the named proprietor was a dummy/front, and that he could not answer the CB's contemporaneous value-variance query noted in SCN Para 6.9. These clear admissions—forming part of the relied-upon record—conclusively show that the fabrication and mis-declaration originated with the exporter, that the CB acted on facially valid client documents, and that the CB neither knew nor intended any falsity; therefore, the essential ingredients of Section 114AA (knowledge/intent) and Section 114 (abetment) are not satisfied qua the Customs Broker.

3.6.3. Read conjointly, the statements summarized in SCN paras 6.5–6.9 (CB personnel) and 7.1–7.13 (exporter's accountant Mahesh Soni a.k.a. "Praveen") establish that: (i) the Noticee followed a documents-based KYC and filing process consistent with CBLR, 2018 Reg. 10(b), 10(h) and 10(n); (ii) the impersonation (use of alias "Praveen") and the supply of the disputed S.K. Enterprises purchase invoices originated on the exporter's side; and (iii) there is no evidence that the Noticee knew of any falsity or intended that false material be used. In these circumstances, the essential ingredients for penalties under Sections 114 and 114AA—namely a culpable act/omission facilitating the attempt, or knowing/intentional use of false documents—are not met. Mere ministerial filing on the strength of facially authentic client documents, coupled with the Noticee's contemporaneous valuation query, does not amount to abetment.

3.6.4. The factual matrix recorded in SCN paras 6.5–6.9 and 7.1–7.13 accords with settled principles that Reg. 10(n) is a documents-based KYC obligation—it does not mandate physical premises verification—and that a Customs Broker acting on reliable, independent and authentic documentation cannot be saddled with penalties without proof of knowledge, intent, or collusive participation. Section 114 requires a positive, culpable act facilitating the offence; Section 114AA by its text ("knowingly or intentionally") demands mens rea. Where, as here, the record does not show that the Noticee knew of any fabrication or intended the use of false material—and where verification/examination/re-assessment are functions of the proper officer under Section 17, while Section 50(3) places accuracy/authenticity duties on the exporter—penalties under Sections 114 and 114AA do not lie against the Customs Broker. Appellate fora

have repeatedly applied this approach, holding that compliance with Reg. 10 and good-faith, records-based filings do not constitute abetment in the absence of mens rea.

3.7. Relevant paras of Regulation 10 (CBLR, 2018):

3.7.1. Reg. 10(d) - Duty to advise / escalate: “advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be:”

3.7.2. Reg. 10(n) -KYC: documents-based verification of IEC/GSTIN/identity/address: “verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;”

3.7.3. Reg. 10(p) - Record-keeping & production: “maintain all records and accounts that are required to be maintained under these regulations and preserve for at least five years and all such records and accounts shall be made available at any time for the inspection of officers authorised for this purpose; and”

3.7.4. Reg. 10(q) - Cooperation with Customs: “co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.”

3.8. Compliance with Regulation 10 (CBLR, 2018): In the present case, Startek Enterprises has demonstrably complied with Regulation 10 in its entirety. Consistent with Reg. 10(n), Startek verified the exporter’s IEC, GSTIN, identity and functioning at the declared address on the strength of reliable, independent and authentic documents/data, and obtained the client’s written authorisation before any filing. In line with Reg. 10(d), Startek advised the client to comply with customs laws and, when a value anomaly surfaced, promptly sought clarification from the client; no concrete or contemporaneous non-compliance came to Startek’s notice that would have warranted statutory escalation to the AC/DC prior to Customs intervention. As required by Reg. 10(p), Startek maintained the complete KYC/file records, checklists and contemporaneous correspondence, and produced them to the authorities when called upon. Further, in terms of Reg. 10(q), Startek fully cooperated with Customs/DRI, responded to summons and furnished documents without demur. On these undisputed facts, no breach of Regulation 10(d), 10(n), 10(p) or 10(q) is made out against the Customs Broker; any allegation to the contrary conflates the exporter’s statutory responsibilities under Section 50(3) with the CB’s limited, documents-based obligations under the CBLR.

3.9. Legal position under Sections 114, 114AA, 114AB and 117 (Customs Act, 1962) qua Customs Broker.

3.9.1. Section 114 visits penalty on any person who, in relation to export goods, does or omits an act rendering the goods liable to confiscation under Section 113, or abets such act. For a Customs Broker, liability arises only if the Department identifies a positive act/omission amounting to abetment or intentional facilitation; mere preparation and electronic filing of shipping bills on the strength of the exporter’s signed documents, post-KYC and with written authorisation, is not abetment. Negligence or a hindsight disagreement on value/quantity does not satisfy the abetment threshold.

3.9.2. Section 114AA applies only where a person knowingly or intentionally makes/signs/uses a document that is false in any material particular; mens rea is indispensable. Here, the record itself shows that the exporter's accountant impersonated "Praveen", supplied the purchase invoices (including those later alleged as fabricated), and controlled the documentation flow; there is no evidence that the Broker knew of any falsity or intended its use.

3.9.3. Section 114AB targets the fraudulent obtaining/using of an "instrument" (duty-credit scrip/authorisation/licence/certificate issued under the FTDR/FTP framework) to discharge duty; as no FTP instrument is alleged in this case, Section 114AB is inapplicable-more so against a Broker who neither applies for nor uses such instruments.

3.9.4. Finally, Section 117 is a residual provision for contraventions not otherwise specifically provided and cannot be invoked as a fallback where the ingredients of the specific penalty provisions (Sections 114/114AA/114AB) are not met. On the SCN's own showing, Startek conducted KYC, obtained authorisation, filed the shipping bills only after exporter confirmation, promptly queried the value variance when noticed, and neither stuffed, examined, nor valued the goods, nor sought/structured any refund claim (the exporter alone being the claimant, if any).

3.9.5. Accordingly, none of Sections 114, 114AA, 114AB or 117 is attracted to the Customs Broker, and the penalty proposals merit being dropped qua Startek Enterprises.

3.10. Rule 8 and Rule 5 - Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (officer's function; CB has no role in valuation). Where the proper officer has reason to doubt the truth or accuracy of the declared value, Rule 8 permits rejection of the transaction value after calling for further information and affording the exporter a reasonable opportunity of being heard; once rejected, valuation must proceed sequentially under Rules 4 to 6 (comparison → computed value → residual). Rule 5 (computed value method) contemplates a build-up from the cost of production/manufacture/processing, charges for design/brand, and a profit element. These mechanisms are addressed to and implemented by the proper officer as part of verification/re-assessment under Section 17 of the Customs Act, 1962; they are not obligations cast upon a Customs Broker. In fact, the SCN itself records that Customs/DRI rejected the declared value under Rule 8 and re-determined it under Rule 5 with assistance of a Chartered Engineer (SCN paras 10.1, 10.2, 18.5), confirming that valuation was an agency function. Startek's statutory role was confined to documentary filing and cooperation (Reg. 10), not price discovery or technical valuation. Accordingly, any re-valuation undertaken by Customs cannot, by itself, give rise to penal consequences for the Customs Broker.

3.11. Relevant case law (supporting no penal liability on a diligent Customs Broker): Appellate forums have consistently held that where a Customs Broker (CB) completes KYC as per Regulation 10(n) and acts on authentic records, penal action cannot be fastened in the absence of knowledge, collusion or any culpable act of facilitation.

3.11.1. M/s Auro Logistix v. Pr. Commissioner of Customs (Airport & ACC), Kolkata (CESTAT Kolkata, Final Order Nos. 77514-77515/2025, pronounced 26-09-2025): The Tribunal examined the CB's KYC file-IEC, GSTIN, PAN/Aadhaar, and

written authorisation-and held that documentary verification satisfied Regulation 10(n). It further found no breach of Regulation 10(q) since the broker had joined investigation and produced documents when called. Crucially, the Tribunal reiterated that valuation and detection of over-valuation lie with Customs officers under Section 17 and the Export Valuation Rules; a CB cannot be made responsible for an exporter's over-valuation in the absence of proof of complicity. Penalties were therefore set aside, the Tribunal emphasising that Regulation 10(n) is documents-based and does not mandate physical site verification.

3.11.2. *Kushagra Shipping Agency v. Pr. Commissioner of Customs, Kolkata* (CESTAT Kolkata, Final Order No. 76885/2025, 10-07-2025): The Tribunal expressly recorded that Regulation 10(n) does not impose an obligation on a CB to physically visit or verify the client's premises, and that due diligence by verifying reliable, independent and authentic documents is sufficient. It also noted that once the CB's mandate stands concluded/discharged, subsequent lapses of the exporter cannot be visited on the CB. On these findings, allegations under Regulations 10(d), 10(m), 10(n) and 10(q) and the consequential penalties were set aside.

3.11.3. *Daga Shipping Agents Pvt. Ltd. v. Commissioner of Customs* (CESTAT, Aug-2025): Quashing a Rs. 3 lakh penalty on the CB for alleged failure to verify the exporter's address, the Tribunal held that when the CB has collected and verified the standard set of documents (IEC, Aadhaar, PAN, ITR, bank letter, GST registration and authorisation), Sections 114 and 114AA are not attracted absent evidence that the CB knew of, or intended the use of, any false document. The Tribunal underscored that a CB is not responsible for the client's actual functioning at the declared address; acting on authentic documents in bona fide belief constitutes due diligence.

3.11.4. *IWW Logistics* line of decisions (CESTAT Kolkata, 2025): In similar fact-situations, the Tribunal has found no violations of Regulations 10(b)/(d)/(m)/(n)/(q) where the broker had performed KYC on authentic documents, maintained records, and cooperated with the investigation; in the absence of mens rea or abetment, penalties under Sections 114/114AA were held unsustainable.

3.11.5. *Calcutta High Court in B.K. Clearing Agency* (CUSTA/20/2023): The High Court, approvingly cited by CESTAT in *Auro Logistix*, clarified that Regulation 10(d) is advisory in nature-requiring the CB to advise the client to comply and to escalate only when concrete non-compliance comes to the CB's notice. It does not saddle CBs with vicarious liability for a client's infractions; nor does it transform the CB into a guarantor of the veracity of government-issued certificates or of the client's commercial decisions.

Application to the present case: Startek's record shows full compliance with Regulation 10-KYC on IEC/GSTIN/ID/address with authentic documents; written authorisation before filing; maintenance/production of records; and prompt cooperation with Customs/DRI. Startek also raised a query when it noticed a value variance-conduct inconsistent with knowledge or collusion. Under the above authorities, mere preparation/e-filing of shipping bills on the exporter's signed documents does not amount to "abetment" under Section 114; and Section 114AA requires "knowingly or intentionally" making/using a false document-an element absent here. Section 114AB (FTP "instrument" misuse) is inapplicable on its terms, and Section 117 cannot be invoked residually when specific ingredients of Sections 114/114AA/114AB are not met. Accordingly, consistent with the jurisprudence, the penalty proposals against the CB are unsustainable and deserve to be dropped

4. In light of the foregoing submissions, supported by statutory provisions and judicial precedents and undisputed facts on record—namely, that Startek Enterprises completed KYC as required under Regulation 10(n), obtained written authorisation before filing, acted on facially authentic documents supplied by the exporter, promptly raised a query when a value variance was noticed, had no role in manufacture/stuffing/sealing, and fully cooperated with Customs/DRI—together with the settled legal position that valuation is the proper officer's function and that penalties under Sections 114/114AA require proof of knowledge/abetment (which is absent here), the proposed action against the Customs Broker is unsustainable.

ii) Written Submission dated 12-03-2026:-

- 1) The present additional submissions are being filed pursuant to the personal hearing attended on 10-03-2026 in respect of the Show Cause Notice No. GEN/LGL/Misc/803/2025 -AH- PORT-HZR -CUS- COMMRTE-AHMEDABAD dated 27.09.2025. The impugned SCN alleges that the Noticee, acting as Customs Broker, abetted the exporter M/s D.K. Trading in the mis-declaration of quantity and value in six Shipping Bills dated 28.03.2025, and proposes the imposition of penalties under Sections 114, 114AA, 114AB, and 117 of the Customs Act, 1962.
- 2) The Noticee categorically denies all the allegations raised in the impugned SCN. Brief Stand of the Noticee:
 - (i) The Noticee was engaged by a newly on-boarded exporter client, M/s D.K. Trading, for export of "Fancy Ceramic Wall Tiles", after completing KYC/due diligence (IEC, GSTIN, PAN, Aadhaar, Bank/AD Code etc.).
 - (ii) The Noticee had obtained and verified the KYC documents of the exporter before undertaking the work.
 - (iii) The Noticee did not file the shipping bills blindly or on oral instructions. Draft checklist was shared, corrections were incorporated, and filing was done only after express confirmation from the exporter.
 - (iv) The Noticee's representative, Shri Jayesh Painter, specifically called for the tax invoices and e-way bills before proceeding further (details in sequence of events chart below).
 - (v) On receipt of the purchase invoices, Shri Jayesh Painter noticed that the aggregate purchase value was substantially lower than the declared export FOB value and raised query with the exporter's side. The SCN itself records (para 6.7, 6.9 & 7.7 of SCN) that the query regarding this discrepancy was raised by the Customs Broker side, and no satisfactory reply was received from the exporter's representative.
 - (vi) A person who calls for the underlying purchase invoices, notices the discrepancy, and questions the exporter cannot be treated as a person acting in collusion or with guilty mind. The Noticee also fully cooperated with the officers during examination/Panchnama and produced the entire set of documents.
- 3) **Full KYC compliance was done before filing:** Before handling the export documents, the Noticee had diligently obtained the KYC set of the exporter through email. **The documents included IEC, GST registration, PAN, Aadhaar of the proprietor, rent agreement, and AD Code related document.** These were not private or informal papers, but official and supporting documents relevant for identity and functioning of the exporter. Noticee verified the address and other details on

Government Portal. Thus, the Noticee had taken reasonable and proper steps expected from a Customs Broker and had complied with the requirement of document-based verification.

- 4) **Filing was done only after due process and express approval:** The email correspondence clearly shows that the Noticee did not proceed mechanically. Draft checklist was prepared and sent. A correction regarding invoice dates was sought by the exporter. The same was incorporated. Thereafter, specific confirmation was sought as to whether the shipping bills should be filed, and only upon affirmative reply the filing process was undertaken. This clearly establishes that the Noticee acted only as a processing and filing intermediary on the basis of exporter's documents and instructions. There was no independent role of the Noticee in determining the value, commercial terms, or underlying purchase transaction.
- 5) **The most important fact: the Noticee itself demanded purchase invoices and e-way bills:** The strongest circumstance in favour of the Noticee is that Shri Jayesh Painter did not stop at the export invoice set. He specifically demanded the tax invoices and e-way bills from the exporter side. This conduct is wholly inconsistent with any allegation of collusion, abetment, or intentional suppression. A person who is knowingly party to overvaluation would not demand the very documents which could expose the discrepancy.
- 6) **On seeing the invoices, the Noticee raised query regarding valuation mismatch:** After receiving the local purchase invoices, Shri Jayesh Painter noticed that the total purchase value was around Rs. 1,70,63,792/-, whereas the declared export FOB value was shown at about Rs. 3,72,10,320/-. This was a serious discrepancy. The same was not ignored. The exporter's representative was questioned about this difference. This fact is not merely the defence version. It stands reflected in the SCN itself (para 6.9 & 7.7 of SCN). The relied upon allegations therefore support the Noticee's bona fides rather than the Department's case against the Noticee.
- 7) **SCN itself supports the defence on absence of mens rea:** As recorded in para 6.9 of the SCN, Shri Jayesh Painter questioned the discrepancy to Shri Praveen. Further, para 7.7 records that the exporter's accountant admitted that the Customs Broker had asked why the total of the purchase invoices was much lower than the declared export value, but no reply was received from Shri Pankaj Sharma. These facts are very important. Once the Customs Broker's representative had already raised the discrepancy and sought clarification, the allegation that the Noticee knowingly participated in overvaluation becomes unsustainable.
- 8) **Complete cooperation was given during the Panchnama:** The record also shows that on 29.03.2025, during examination/Panchnama proceedings, Shri Jayesh Painter was present and handed over the complete set of documents, including checklist, invoices, packing list and purchase invoices. This immediate and transparent cooperation is again inconsistent with the allegation of guilty involvement.
- 9) **No material to show conscious knowledge, collusion, or deliberate abetment:** The foundation for penalty under the relevant provisions requires conscious involvement, deliberate act, or at least knowledge attributable on facts. In the present matter, the available material shows the opposite: KYC was collected; documents were processed only after approval; purchase invoices were called for; discrepancy was noticed; question was raised; documents were handed over to officers, immediately after filing

Shipping Bills. Therefore, the ingredients required for penal action against the Noticee are not established.

10) Sequence of Events:

Date / Time	Event / Activity	Evidentiary Support
30.11.2024 / 04.12.2024	GST registration / IEC documents of exporter already in existence on government record	RUD-02 / KYC documents
21.03.2025 – 05:14 PM	Exporter emailed KYC set to the Noticee	Email from exporter enclosing KYC set
27.03.2025 – 01:27 PM	Exporter sent export documents / invoices	Email record
27.03.2025 – 02:48 PM to 04:39 PM	Draft checklist prepared and sent; correction sought by exporter regarding invoice date; revised checklist sent; exporter approved	Email thread between Noticee and exporter
27.03.2025 – 04:41 PM / 05:31 PM	Noticee asked whether shipping bill should be filed; exporter replied “yes”	Email thread
27.03.2025 – 02:31 PM & 03:27 PM	explicitly demanded the Bank Details and AD Code from the exporter	Email thread
27.03.2025 – 03:34 PM	the exporter (D.K. Trading) complied and supplied the AD Code document	Email thread
27.03.2025 – 05:55 PM	Shri Jayesh Painter specifically requested: “Please provide the tax invoice & e way bill and how many containers are there ?”	Email from Noticee to exporter
27.03.2025 – 08:32 PM	Exporter supplied local purchase invoices	Email from exporter
27.03.2025 / 28.03.2025	On reviewing purchase invoices, major mismatch between purchase value and export FOB value was noticed; query was raised with exporter’s representative	SCN para 6.9 and para 7.7
28.03.2025	Shipping Bills were filed in Customs system	SCN para 3 / para 4.1 / system filing record
28.03.2025	DRI issued hold instruction on consignments	SCN / relied upon documents
29.03.2025 – 12:10 PM onwards	Panchnama / examination at CFS DP World; Shri Jayesh Painter present; complete set of documents produced to officers	Panchnama / RUD-02

11) Relevant Factual Effect of SCN Paras 6.9 and 7.7: Without prejudice to all other submissions, it is respectfully submitted that para 6.9 and para 7.7 of the SCN go to the root of the matter and support the defence of the Noticee. These paragraphs show that: Shri Jayesh Painter examined the purchase invoices; he noticed the mismatch between purchase value and declared export value; he questioned the exporter’s side regarding the same; and no satisfactory explanation was given to him. Once this is accepted on record, the allegation of deliberate connivance or abetment against the Noticee cannot stand.

12) The entire chronology, supported by contemporaneous email correspondence and the Department’s own SCN averments, clearly proves that the Noticee acted bona fide and with due care. The Noticee did not act blindly. The Noticee did not suppress facts. The Noticee did not ignore the discrepancy. The Noticee in fact demanded the underlying tax invoices, noticed the abnormal value gap, and raised objection with the exporter side. This conduct is wholly inconsistent with any allegation of collusion, abetment, or

guilty intention. On the contrary, it shows due diligence, good faith, and responsible conduct on the part of the Customs Broker and its representative.

- 13) **Non-Applicability of Section 117 (Penalties for contravention not expressly mentioned):** Section 117 is a residual, fallback provision. It is a well-settled principle of statutory interpretation that where specific, targeted penal provisions (such as Sections 114 and 114AA) are invoked but their essential, substantive ingredients (such as active abetment and mens rea) are not satisfied by the prosecution's evidence, the Department cannot routinely fall back on a residual provision to impose a penalty by proxy. The Noticee has not contravened any provision of the Act or the CBLR that warrants independent penalization under Section 117.
- 14) **A Customs Broker is a trade facilitator, not a statutory valuer.** The Noticee has no legal right to reject an exporter's transaction value based on personal suspicion, nor does the Noticee possess the forensic tools or access to the exporter's manufacturing cost data required to apply Rule 5. Punishing the Noticee for failing to perform the statutory duties assigned exclusively by Parliament to the Proper Officer is legally unsustainable.
- 15) **Judicial Matrix Reaffirming the Noticee's Stand:** The Noticee places immense reliance on the following binding precedents which unequivocally protect Customs Brokers who have acted in good faith:

Binding Case Law	Adjudicating Forum & Citation	Key Legal Ratio Applicable to the Noticee
Kushagra Shipping Agency v. Pr. Commr. of Customs	CESTAT Kolkata (2025) Final Order 76885/2025	Physical verification of client premises is completely non-mandatory under Regulation 10(n). Reliance on authentic digital documents fully suffices.
Daga Shipping Agents Pvt. Ltd. v. Commr. of Customs	CESTAT Kolkata (2025)	A Customs Broker acting in <i>bona fide</i> belief after verifying standard documents is not liable under Sections 114/114AA, even if the exporter's operational address is later proven fake.
Auro Logistics v. Pr. Commr. of Customs	CESTAT Kolkata (2025) Final Order 77514/2025	Valuation and detection of commercial overvaluation lie solely with Customs officers under Section 17. A CB cannot be held liable for an exporter's overvaluation absent direct proof of complicity.
Commr. of Customs v. B.K. Clearing Agency	Calcutta High Court (2023/2024) CUSTA/20/2023	A Customs Broker cannot be saddled with vicarious liability for the client's commercial infractions, nor forced to act as a guarantor of the veracity of government-issued certificates.

- 16) It is also a matter of record that there is no allegation that we have derived any benefits whatsoever from the alleged act of the exporter. In the absence of any such gain, there could logically be no motive on our part to engage in any wrongdoing or to facilitate the exporter in the alleged act.
- 17) In view of the facts stated above, the documentary evidence on record, the chronology set out herein, and the position emerging from the SCN itself, it is most respectfully submitted that the allegations against the Noticee are wholly unsustainable on facts and in law. The Noticee has demonstrated full KYC compliance, proper verification, bona fide conduct, and complete cooperation with the investigating authorities. There is no material to establish conscious knowledge, collusion, or abetment on the part of the

Noticee. It is, therefore, most respectfully prayed that the proceedings proposed against **M/s Startek Enterprises** and its representative may kindly be dropped in full, and the Noticee may be granted such further relief as may be deemed fit in the facts and circumstances of the case.

Further, The other Co-Noticees i.e. (i) M/s.D.K. Trading (IEC- HHNPD7475M), Delhi (ii) Shri Pankaj Sharma (the beneficiary owner of the goods) (iii) Shri Deepak, proprietor of M/s. D.K. Trading, Delhi and (iv) Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi, did not respond or submit their written submissions.

26. PERSONAL HEARING:

Personal hearings in the matter were fixed on 28.01.2026, 13.02.2026, 05.03.2026 & 10.03.2026.

26.2. M/s D. K. Trading, Shri Deepak (Proprietor of M/s D. K. Trading), Shri Pankaj Sharma (the beneficiary owner of the goods) & Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi: The noticee/s were given opportunity for personal hearing on 28.01.2026, 13.02.2026, 05.03.2026 & 10.03.2026 but the noticees failed to appear and represent their case. In the instant case, the noticees have been granted sufficient opportunity of being heard in person for four times but they failed to appear. In view of above, it is obvious that the Noticees are not bothered about the ongoing adjudication proceedings and they do not have anything to say in their defense.

26.3. M/s Startek Enterprise, Custom Broker: Shri Naresh Satwani, Tax Consultant and Authorised representative for M/s Startek Enterprises, attended the Personal Hearing in virtual mode. He reiterated the submission already made vide their letter dated 11.10.2025 and requested to drop the proceedings.

27. DISCUSSIONS AND FINDINGS:

27. I have carefully gone through the case records, the Show Cause Notice, the documents relied upon therein, and the statements of the noticees, along with the written submissions made by the noticees or their authorized representatives, both in writing and during the personal hearings held on various dates. Further, sufficient opportunities of being heard were provided to all the noticees in accordance with the principles of natural justice. I find that only M/s Startek Enterprise has submitted their defence reply in the present case.

28. I find that as per Section 122A of the Customs Act, 1962, the Adjudicating Authority shall give an opportunity of being heard to the Noticee in a proceeding, if the Noticee so desires. Accordingly, in the present case ample opportunities were granted to M/s D. K. Trading, Shri Deepak (Proprietor of M/s D. K. Trading), Shri Pankaj Sharma (the beneficiary owner of the goods) & Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi but they did not participate in the adjudication

proceedings inspite of the fact that service of letters for personal hearings were done in terms of Section 153 of Customs Act, 1962.

Section 153 of the Customs Act reads as under -

(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:—

- a) *by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;*
- b) *by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;*
- c) *by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*
- d) *by making it available on the common portal;*
- e) *by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or;*
- f) *by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]

Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that Personal Hearing letters were duly served to the Noticees, but they did not respond as if they did not have anything to submit in their defense.

28.1. I find that M/s D. K. Trading, Shri Deepak (Proprietor of M/s D. K. Trading), Shri Pankaj Sharma (the beneficiary owner of the goods) & Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi have failed to appear for Personal Hearing, inspite of being given opportunity to appear in person several times as detailed in foregoing para for defending their case. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte in terms of merit of the case.

28.2. With regard to proceeding to decide the case ex-parte, support is drawn from the following case laws:

28.2.1. Hon'ble High Court of Kerala in the case of United Oil Mills Vs. Collector of Customs & C.Ex. Cochin reported in 2000 (124) ELT 53 (Ker.) has held that:

19. No doubt hearing includes written submissions and personal hearing as well but the principle of *Audi Alteram Partem* does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.

21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations. Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See *Union of India and Another v. M/s. Jesus Sales Corporation* [1996 (83) E.L.T. 486 (S.C.) = J.T. 1996 (3) SC 597].

28.2.2. Hon'ble Tribunal of Mumbai in the case of Sumit Wool Processors v. CC, Nhava Sheva reported in 2014 (312) E.L.T. 401 (Tri. - Mumbai) has observed as under:

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus the argument taken is only an *alibi* to escape the consequences of law. Accordingly, we reject the plea made by them in this regard."

28.2.3. Hon'ble High Court of Delhi in the case of Saketh India Ltd Vs. Union of India reported in 2002 (143) ELT 274 (Del), has observed that:

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. - Admittedly, the appellant herein did not respond to the show cause notice. Thereafter, the appellant was called for personal hearing on six subsequent dates. According to the Additional DGFT nobody appeared on behalf of the appellant inspite of various dates fixed for personal appearance of the appellant and in these circumstances, the Additional DGFT proceeded with the matter ex parte and passed the impugned order. The appellant had the knowledge of the proceedings but neither any reply to the show cause notice was given nor it chose to appear before the Additional DGFT to make oral submissions. Thus it is a clear case where proper opportunity was given to the appellant to reply to

show cause notice and to make oral submissions, if any. However, fault lies with the appellant in not availing of these opportunities. The appellant cannot now turn around and blame the respondents by alleging that the Additional DGFT violated principles of natural justice or did not give sufficient opportunity to the appellant to present its case.”

28.2.4. The Hon’ble CESTAT, Mumbai in the case of Gopinath Chem Tech. Ltd Vs. Commissioner of Central Excise, Ahmedabad-II reported in 2004 (171) ELT 412 (Tri. Mumbai) has held that:

“Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated.”

28.2.5. The Hon’ble Supreme Court in the case of Jethmal Vs. Union of India reported in 1999 (110) ELT 379 (S.C.) has held as under:

7. Our attention was also drawn to a recent decision of this Court in *A.K. Kripak v. Union of India* - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of *audi alteram partem* and it was argued that an *ex parte* hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality.

28.2.6. Hon’ble Delhi Tribunal in the case of Commissioner of C.Ex. Vs. Pee Iron & Steel Co. (P) Ltd. reported in as 2012 (286) E.L.T. 79 (Tri. – Del) [upheld by Hon’ble Punjab & Haryana High Court reported in **2015 (316) E.L.T. A118 (P&H.)**] has observed that:

“9. Notice to the respondent has been received back undelivered with the report that address is not correct. No other address of the respondent is available on record, therefore, the respondent cannot be served with the notice without undue delay and expense. Accordingly, we are constrained to proceed *ex parte* order against the respondent.”

In view of the discussion held in Para 28 to 28.2.6. above, in case of Noticees i.e. M/s D. K. Trading, Shri Deepak (Proprietor of M/s D. K. Trading), Shri Pankaj Sharma (the beneficiary owner of the goods) & Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi, I proceed to adjudicate the Show Cause Notice No. Gen/LGL/Misc/803/2025-AH-Port-HZR-Cus-Commrte-Ahmedabad (DIN 20250971MN-000032373C) dated 27.09.2025 *ex parte*.

29. I have carefully studied the case records. I note that an intelligence was developed by the DRI Surat that M/s. D.K. Trading (IEC- HHNPD7475M) were exporting Fancy Ceramic Wall Tiles under CTI 69072200 from Hazira Port and intended to avail IGST refund on the said export, while mis-declaring the value of goods entered for exportation. The intelligence suggested that the goods were of inferior quality and were being mis-declared in terms of value (being over valued) to claim ineligible IGST refund @18% of the assessable value.

29.1. I note that as per Table-1 & 2 above, M/s D.K. Trading had filed 6 Shipping Bills at Hazira Adani Port for export of 'FANCY CERAMIC WALL TILES' under CTI '69072200'. The goods were examined by the DRI Surat in presence of the independent witnesses and the authorised representative of the CHA. During the examination, it was observed that **4592 boxes** containing 10 pieces each of 1 square feet tiles, were stuffed in the two containers. It was further observed that each corrugated box had a printed description "Finomax Floor Tiles Ceramic| 12"x12" | Floor Tiles" and also had an affixed sticker of 'Grade/Colour' of tile on each box. The officers, during Panchnama noticed that total **45920 Sq Feet (4266.09 Sq. Mtr.)** tiles were found stuffed in the two containers against the declared quantity of **46000 Sq Mtr.** tiles in the Six Shipping Bills.

29.2. I further note that Shri B.G. Bhatt, Chartered Engineer approved by Customs Ahmedabad was called for at the spot for the valuation purpose. Shri Akash Naik examined the goods on behalf of Shri B.G. Bhatt with Shri Jayesh Painter, authorised representative of the CHA and after examination informed the officers that there are a total of 4592 boxes containing only 4266.09 Sq mtr Ceramic Floor Tiles against the declared quantity of 46000 Sq mtr. which is just 9.3% of the declared quantity. Further, Shri Akash Naik also informed that the tiles were mainly of two types Ceramic Floor Tiles i.e. tiles having Glossy appearance and tiles having Matte appearance. Shri Akash Naik also informed that these two types of tiles also vary in colour. Shri Akash Naik during the process of inspection opened random boxes to count the number of tiles contained in each box, measured the size and thickness of same and also took photographs. Further, samples of the goods were drawn under panchnama from both the containers for the purpose of valuation.

29.3. I further note that Shri B.G. Bhatt submitted his valuation report dated 03.04.2025 wherein he stated that the said goods are Ceramic tiles of 12"X12" and 05mm thickness, suitable for flooring on horizontal plane which can be glossy finished for indoor rooms and matte finished for slippery area like toilet, parking etc., based upon need. Similar type of tiles are priced in the range of Rs.125/Box to Rs.170/Box. Further, the Declared quantity does not tally with the weight of the container, the weight is coming to 600 MT which is impossible to stuff and transport in 2x20' containers and similar type of tiles are having range from Rs.125/Box to Rs.254/Box as per the surface finish hence the estimated value considered was Rs.250/Box. Accordingly, the estimated value of the inspected containers is 4592 Boxes X Rs.250 = **Rs.11,48,000/- (Rupees Eleven Lacks Forty-Eight Thousand only)** and it was opined that the rate mentioned in the export invoice did not sound reasonable and was actually grossly inflated compared to the average market rate for the purchase of 4592 boxes by a single customer. Accordingly, considering margin of profit as well as incidental expenses from the point of purchase to port of discharge, Shri B.G. Bhatt considered Rs. 250/Box of 10 tiles as reasonable value and thus 4,592 boxes have been valued at **Rs.11,48,000/-** (Table-4 above) for the export purpose.

29.4. From the report of Chartered Engineer, I note that the goods were not as declared in the Shipping Bills. Instead of wall tiles, the goods were ceramic floor tiles of different size and

specification, packed in 4592 boxes, each box containing 10 square feet of tiles. Further, the goods were found to be extremely overvalued as the Chartered Engineer after keeping the profit margin suggested the value at Rs. 250/box, aggregating Rs. 11,48,000 for 4,592 boxes. I further note that on conversion and calculation, the total actual quantity worked out to 45,920 square feet, which is equivalent to 4266.09 square meters. This is in stark contrast to the declared quantity of 46,000 square meters, thereby revealing an inflation of quantity by more than ten times.

29.5. I note that the declared FOB value of Rs. 3.72 crore was grossly inflated and did not reflect the true transaction value. The value was re-determined in terms of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 at Rs.11,48,000/-.

29.6. I find that on being asked about the manufacturer of the impugned goods entered for exportation under the said six Shipping Bills, Shri Jayesh Painter informed that the goods were manufactured by Finomax Ceramic, Morbi (GSTIN- 24AACAA3349P1Z6) and transported to the CFS under cover of Invoice No. 1042 dated 19.03.2025 issued by M/s Finomax Ceramic. He further stated that E-way Bill No. 631878522920 dated 19.03.2025 was mentioned in the two containers. I find that the **Invoice No. 1042 dated 19.03.2025** issued by M/s Finomax Ceramic mentioned consignee as M/s. D.K. Trading, Delhi (GSTIN: 07HHNPD7475M1ZI), and the description of goods was mentioned as 'Ceramic Floor Tiles', Size 12 x 12 (10), Quantity 4600 Box, having Taxable Value of **Rs. 7,36,000/-, and IGST of Rs. 1,32,480/-**.

29.7. I note that statement of Shri Mahesh Soni, accountant of M/s D. K. Trading was recorded on 12.06.2025 wherein he stated that he had never met Shri Deepak, Proprietor of M/s.D.K. Trading and as per his knowledge all the work of M/s.D.K. Trading was looked after by Shri Pankaj Sharma and Shri Deepak is a dummy proprietor. He further confirmed that Shri Pankaj Sharma offered him a job as an accountant in the firm M/s.D.K. Trading in Nov-2024 and on the instructions of Shri Pankaj Sharma, he had introduced himself as Shri Praveen to Shri Abdul Majid Ansari of M/s Startek Enterprise. I further find that he also confirmed that he had not prepared the export invoices, the export invoices were shared to him and on the instructions of Shri Pankaj Sharma, he had sent it to the CHA for filing of Shipping Bill for export. He further accepted that he provided CHA with the purchase invoices which were locally procured from S.K. Enterprises on the instructions of Shri Pankaj Sharma and these purchase were nothing but fake entries made to adjust the gap between the purchase value and the export value. I further note that he agreed to the fact that the total quantity of goods being exported tally with the invoice of Finomax Floor Tiles. Shri Mahesh further stated that all the works of this firms is actually managed by Shri Pankaj Sharma.

29.8. I note that scrutiny from the GST portal, revealed that GSTR-1 returns for the month of Nov-2024, December-2024 and Jan-2025 and GSTR-3B returns for the month of Nov-2024 and December-2024 were filed by M/s D.K. Trading and all the said returns were NIL which indicates

that no sales were done by M/s. D.K. Trading and no purchases were made by them as no credit availability were shown by them, during these months. Further, there was no credit of IGST in the Ledger of M/s D.K. Trading as on date of filing of Shipping Bill i.e. 28.03.2025.

29.9. On thorough examination, including verification of the packing list and invoice accompanying the Shipping Bill, physical inspection of the goods revealing shortages in quantity and analysis of the significant discrepancy between the declared purchase value and export value, it is evident that the goods intended for export are over-valued and quantities are mis-declared.

29.10. I note that these six shipping bills No. 9439883 dated 28.03.2025, 9440114 dated 28.03.2025, 9440149 dated 28.03.2025, 9440124 dated 28.03.2025, 9440116 dated 28.03.2025 and 9440106 dated 28.03.2025 were filed without claiming any benefit of Drawback and RODTEP but on payment of IGST @18% i.e. of Rs.66,97,857/-. It was also declared that IGST amounting to ₹66,97,857/- had been paid, thereby making the exporter eligible to claim refund upon export in contravention to provisions of Section 14 and section 50 of Customs Act, 1962 read with section 11 of Foreign Trade (Development and Regulation) Act, 1992. Hence I find that the goods were being grossly overvalued in comparison to the original value of goods to obtain the IGST refund. The contravention of law and procedure has occurred and is on record. The subject goods export was attempted with a clear intention of mis-declaring the quantity and value of goods to be exported for export incentives.

29.11. I further find that the SCN proposes rejection of the declared value and redetermination of the same. Further, as per Section 14 of the Customs Act, 1962 read with Rule 3 of the Customs Valuation Determination of Value of Export Goods) 2007, the value of the export goods shall be the transaction value. However, Rule 8 of the said Rules provide that if the proper officer has reason to doubt the truth and accuracy of the value declared in relation to any goods attempted to exported. In the present case, there is a clear-cut mis-declaration and wrong presentation of value of the goods in the shipping bills by the said exporters. Hence, the value declared in the Shipping Bills is required to be rejected in terms of the above provisions of the Customs Act, 1962 and the rules made there under and the value is required to be re-determined in terms of the said provisions of the law. Rule 6 of the said Valuation Rules provides for a Residual Method by using a reasonable means consistent with the principles and general provisions of the Rules.

29.12. I find that Customs Empanelled Chartered Engineer, approved by Customs Ahmedabad examined the goods covered under six Shipping Bill No. 9439883, 9440114, 9440149, 9440124, 9440116 and 9440106 all dated 28.03.2025 for ascertaining its value. He vide report dated 03.04.2025 has stated that the said goods are Ceramic tiles of 12"X12" and 05mm thickness, suitable for flooring on horizontal plane which can be glossy finished for indoor rooms and matte finished for slippery area like toilet, parking etc., based upon need. Similar type of tiles are priced in the range of Rs.125/Box to Rs.170/Box. Further, the Declared quantity does not tally with the weight of the container, the weight

is coming to 600 MT which is impossible to stuff and transport in 2x20' containers and similar type of tiles are having range from Rs.125/Box to Rs.254/Box as per the surface finish hence the estimated value considered was Rs.250/Box. Accordingly, the estimated value of the inspected containers is 4592 Boxes X Rs.250 = Rs.11,48,000/- (Rupees Eleven Lacks Forty-Eight Thousand only) and it was opined that the rate mentioned in the export invoice does not sound reasonable and is actually grossly inflated compared to the average market rate for the purchase of 4592 boxes by a single customer. Accordingly, considering margin of profit as well as incidental expenses from the point of purchase to port of discharge, Shri B.G. Bhatt has considered Rs. 250/Box of 10 tiles as reasonable value and thus 4,592 boxes have been valued at Rs.11,48,000/- for the export purpose. Accordingly, the Chartered Engineer being the expert to identify the goods and its value, I accept the value given by the Chartered Engineer as the actual value of the goods.

29.13. In light of the facts discussed hereinabove and the material evidences available on records, I find that the exporter had wrongly declared the value of goods under Shipping Bill No. 9439883, 9440114, 9440149, 9440124, 9440116 and 9440106 all dated 28.03.2025 as Rs. 3,72,10,320/- in place of their actual value which is Rs.11,48,000/- as reported under Valuation report dated 03.04.2025 after detailed valuation by Shri B.G. Bhatt, Chartered Engineer approved by Customs Ahmedabad. Hence, I find that the value declared by the exporter i.e. Rs. 3,72,10,320/- is liable to be rejected as per Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and be re-determined to Rs.11,48,000/- as per Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

30. Whether the goods valued at Rs. 3,72,10,320/- (re-determined value at Rs. 11,48,000/-) attempted to exported by M/s. D. K. Trading are liable for confiscation under Section 113(h), (i) & (ja) of the Customs Act, 1962?

30.1. The present Show Cause Notice also proposes the confiscation of seized goods, valued at Rs. 11,48,000/-, under the provisions of Section 113(h), (i) & (ja) of the Customs Act, 1962.

30.2. The provisions of Section 113 of the Customs Act, 1962 in respect of **Confiscation of goods attempted to be improperly exported, etc.** are as under-

The following export goods shall be liable to confiscation:-

(h) any goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under [section 77](#);

[(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under [section 77](#).]

*[**(ja)** any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;]*

30.3. I find that any goods which are not included or are in excess of those included in the entry made in Shipping Bills; any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made in Shipping Bills; and any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim; violates the provision of 113 (h), 113 (i) and 113 (ja) of Customs Act, 1962, respectively and thereby the conditions of export of subject goods had not been fulfilled.

30.4. The fact that goods have rendered itself liable to confiscation is glaring fact on record and the recorded statements of CHA, of the accountant of the firm, non-appearance of proprietor of the exporting firm, scrutiny of the documents submitted, examination of the goods, financial investigation and scrutiny of the returns filed on GST portal by M/s D.K. Trading, are solid evidence of the fact that said goods were attempted to be exported in contravention of the provision of Section 113(h), 113(i) & 113(ja) of Custom Act by M/s D.K. Trading. Even by reading the plain words of the said statute, I find no bar in the said section that subject goods which have been attempted to be improperly exported and brought into custom area and the fact that goods have been brought in the customs area for export with intention to mis-use export incentives e.g. IGST refund on over-valued goods. The contravention in this regard stands and M/s D.K. Trading, is not absolved of its duties to comply with the law and procedure once the mis-declared and over-valued goods were attempted to be exported illegally.

30.5. I note that Section 113 does not take the support of 'mens rea' to invoke it but mere contravention to any prohibition imposed by or under Custom Act or any other law for the time being in force is sufficient to invoke section 113(h), 113(i) & 113(ja) of customs Act, 1962 and thereby render the subject goods liable to confiscation. I hold that the contraventions and violations of the Customs Act, 1962, as well as the prescribed procedures, stand established. The act of bringing the subject overvalued and mis-declared quantities of goods into the Customs area for export and attempt of their export, amounts to a clear breach of statutory provisions and due process of law, as detailed in the Show Cause Notice dated 27.09.2025. Consequently, the goods are rendered liable for confiscation.

30.6. As discussed in para supra, M/s D.K. Trading had filed six shipping bills at Hazira Adani Port for export of 'FANCY CERAMIC WALL TILES' under CTI '69072200'. The goods were examined by the DRI Surat in presence of the independent witnesses and the authorised representative of the CHA. During the examination, it was observed that 4592 boxes containing 10 pieces each of 1 square feet tiles, were stuffed in the two containers. It was further observed that each corrugated box had a printed description "Finomax Floor Tiles Ceramic| 12"x12" | Floor Tiles" and also had an affixed

sticker of 'Grade/Colour' of tile on each box. The officers, during Panchnama noticed that total 45920 Sq Feet (4266.09 Sq. Mtr.) tiles were found stuffed in the two containers against the declared quantity of 46000 Sq Mtr. tiles in the Six Shipping Bills. I have already discussed in detail and held in para 29 that the so-called tiles in all these six shipping bills was of inferior quality and value in these shipping bills were highly mis-declared. Further, the proprietor of the firm did not appear during the investigation as well as adjudication process. The accountant of the firm has confirmed that the purchase invoice of the said goods were fake and used to adjust the difference between the proposed exported value of the goods and the actual value of the goods. He also disclosed that the firm was managed by some other person namely Shri Pankaj Sharma, residing at Dubai and he got all directions from this person. I also find that the actual value of the purchase invoice is amounting to Rs. 7,36,000/-, however they have declared the value of the exported goods as Rs. 3,72,10,320/- to claim the IGST refund. In this case, it has been clearly established that M/s. D.K. Trading with the help of others willfully mis-declared the description of the goods as " FANCY CERAMIC WALL TILES ", whereas, the goods were actually floor tiles. M/s D.K. Trading also mis-stated and suppressed the true value of the export goods in order to fraudulently availed the benefit of IGST and there by not declaring the correct information have violated Section 50 of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and the Rules 11 and 14 of the Foreign Trade (Regulation) Rules, 1993. This is a clear case of fraudulent attempt to pocket huge amount of export incentives by exporting the low value goods in the guise of high valued goods. Section 113 of the Customs Act, 1962 deals with the provisions relating to confiscation of the goods attempted to be improperly exported. Thus, provisions of Section 113 (h), (i) & (ja) of the Customs Act, 1962 would come into picture. I thus find that deliberate mis-declaration about the actual description and value of the impugned goods and suppression of material facts in their Shipping Bills in order to fraudulently claimed the IGST refund, M/s. D. K. Trading and others have rendered the impugned goods liable for confiscation under Sections 113 (h), (i) & (ja) of the Customs Act, 1962. I, therefore, hold the seized goods filed under Shipping Bill No. 9439883, 9440114, 9440149, 9440124, 9440116 and 9440106 all dated 28.03.2025 by the exporter firm, having the declared FOB value of Rs. 3,72,10,320/- as against actual re- determined value of Rs.11,48,000/- liable to confiscation under the provisions of Section 113 (h), (i) & (ja) *ibid*.

30.7. I also rely on the decision of the Full Bench of the Calcutta High Court in case of Euresian Equipments and chemicals Ltd. And other v. Collector of Customs and others- 1980 (6) E.L.T. 38(Cal.) has also concluded that "*the goods are liable for confiscation as soon as an attempt is made*".

30.8. Now, turning to the issue of imposition of **redemption fine on** the confiscated goods, I observe that it is a settled legal position that confiscation of exported goods, which are prohibited or restricted for exportation under the Customs Act, 1962 or any other law for the time being in force, can be ordered and redemption fine in lieu of confiscation can be imposed even if the goods are not

physically available, provided an enforceable guarantee or bond is on record. As in the present case, Goods have been physical examined and re-valued and have been seized by the Customs authorities, the same can also be released on payment of imposed redemption fine.

30.9. From the provisions of Section 125(1) of the Customs Act, 1962, it is very clear that the owner of the exported goods is liable to pay redemption fine in lieu of confiscation of goods, which is as under:

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 6[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:

[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 8[no such fine shall be imposed]:

Provided further that], without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

30.10. In view of the above, I find that the provisions of law are specific, unambiguous and plain and subject illegal attempt to export of over-valued, mis-declared goods have contravened the provisions of law and procedure of Custom Act and other law, which comes under the ambit of section 113(h), 113(i) & 113(ja) of Custom act and contravention of provisions of FTP and Handbook of procedures. Accordingly, I hold that the subject goods are liable to confiscation and the owner of the exported goods is liable to pay redemption fine in lieu of confiscation of goods.

31. Whether M/s. D. K. Trading and other co-noticees i.e. (i) Shri Pankaj Sharma (the beneficiary owner of the goods) (ii) Shri Deepak, proprietor of M/s. D.K. Trading, Delhi and (iii) Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi are liable for penalty under Section 114 of the Customs Act, 1962 ?

The Show Cause Notice proposes penalty under the provisions of Section 114(iii) of the Customs Act, 1962 on M/s D. K. Trading and other co-noticees (i) Shri Pankaj Sharma (the beneficiary owner of the goods) (ii) Shri Deepak, proprietor of M/s. D.K. Trading, Delhi and (iii) Shri Mahesh Soni, Accountant of M/s. D.K. Trading, Delhi Forever. Section 114 deals with cases related to penalty for attempt to export goods improperly. The Penalty under Section 114(iii) can be imposed on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act.

31.2. From the above said discussion and findings, on the issue of imposition of penalties under section 114 and 117 of the Customs Act, 1962, on the following responsible persons in the matter illegal attempt of export on the basis of false documents for over-valuation and intentional mis-declaration of quantity of the goods for wrongful claim of export incentive e.g. inadmissible IGST Refund, I observe that there were four main persons, involved in this illegal attempt to export overvalued goods and the names and roles of these four person/firm also made co-noticees in the matter are as under –

- (i) Shri Pankaj Sharma- the beneficial owner of the goods
- (ii) Shri Deepak – Proprietor, M/s D.K. Trading, Exporter
- (iii) Shri Mahesh Soni – Accountant, M/s D.K. Trading
- (iv) M/s Startek Enterprises, Customs Broker.

31.3. Shri Mahesh Soni who is Accountant of M/s D.K. Trading, in his statements dated 12.06.2025 under Section 108 of the Customs Act, 1962 had stated that he was offered job as an accountant by **Shri Pankaj Sharma** and was in regular touch for instructions related to the firm and instructed to communicate regarding documentation and export from the firm with Shri Abdul Majid Ansari G-Card Holder of M/s Startek Enterprises. He also informed that the fake purchase invoices procured from S.K. Enterprises and export invoices were provided by Shri Pankaj Sharma who also used to manage all the banking transaction related to the payments to CHA, supplier, logistic and payments related to Customs and GST. The same was also affirmed by Shri Abdul Majid Ansari G-Card Holder of M/s Startek Enterprises in his statement dated 30.04.2025. Neither Mr. Deepak, proprietor of M/s D.K. Trading, nor Mr. Pankaj Sharma appeared in compliance of the summons issued to them, which further indicates their deliberate evasion of the proceedings, presumably to avoid legal consequences. Such non-compliance, despite due service of summons, reflects a clear disregard for lawful directions issued by the department. Their conduct raises a reasonable inference that they intentionally abstained from appearing to avoid examination of facts and possible penal consequences. This deliberate absence further strengthens the conclusion that they sought to obstruct the course of investigation and evade accountability under law.

31.4. I also find that none of the noticees apart from M/s Startek Enterprise appeared for personal hearing and also did not submit any defence reply. Further, Shri Mahesh, accountant of M/s D. k. Trading submitted that he take all instructions from Shri Pankaj Sharma regarding all transactions related to the export of the present consignment and Shri Pankaj has arranged all the fraudulent documents to provide to CHA for filing the said shipping bills. In view of the above, I hold that Shri Pankaj Sharma acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak has attempted to export the goods covered under 06 Shipping bills all dated 28.03.2025 has rendered the subject goods liable for confiscation and is actually the Mastermind and beneficiary owner of the goods. Accordingly, he is liable for Penalty under section 114(iii) of Customs Act, 1962. He has also provided these export invoices and fake purchase invoices which were not being reflected in GST portal to the Customs authorities for valuation purposes which make him liable to a penalty under

Section 114AA for use of false and incorrect material. I further find that Section 114AC reads as under:

Section 114AC : Penalty for Fraudulent utilisation of input tax credit for claiming refund:

"Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall liable for penalty not exceeding five times the refund claimed."

I find that in the present case the exporter has filed Nil returns and has not utilized the input tax credit on the invoices of M/s S. K. Enterprise and also they did not receive the refund claim in the present case, therefore, I do not find that content of the Section 114AC is available in the present case.

31.5. Mr. Deepak, proprietor of M/s D.K. Trading, did not appear in compliance of the summons issued to him nor responded against the SCN or letters of personal hearings. This persistent failure to appear pursuant to summons suggests a calculated effort to distance himself from the investigation. This conduct is indicative of an attempt to evade due process of law. Further, it is incumbent upon a registered exporter/taxpayer to strictly comply with all the provisions of the Act and the Rules framed thereunder. However, in the present case, Shri Deepak has neither adhered to the statutory provisions nor responded to the proceedings initiated against him in respect of such a serious offence. Thus, the department has also filed a criminal complaint bearing number 194445/2025 under Section 208 and 210 of the Bhartiya Nyay Sanhita, 2023 read with Section 108 of the Customs Act, 1962 against Shri Deepak on 01.09.2025 in the CJM Court, Surat.

31.6. I also note that Shri Dipak is the proprietor of the firm. Further all the documents and accounts are of his name. It is clear that without his signature and the KYC documents all the required documents for establish a company could not be done. I find that he had been given various opportunities to represent himself before the Department, however, he neither appeared nor submitted any reply in his defence. Accordingly, I hold that Shri Deepak has rendered himself liable to penal action under Section 114 of the Customs Act, 1962. His failure to comply with the statutory provisions and deliberate non-participation in the proceedings, despite due opportunity, clearly establishes his role in the attempted contravention. Such conduct not only reflects disregard for the law but also justifies the imposition of penalty as envisaged under the said provision.

31.7. In view of the above, I hold that Shri Deepak, proprietor of M/s D.K. Trading is liable for Penalty under section 114(iii) of Customs Act, 1962 for illegal attempt to export mis-declared goods on inflated value. wrong overvalued export invoices and fake purchase invoices which were not being reflected in GST portal were provided by his firm to the Customs authorities for valuation purposes which make him liable to a penalty under Section 114AA for use of false and incorrect material. As discussed supra, I do not find that content of the Section 114AC is available in the present case.

31.8. Shri Mahesh Soni who is Accountant of M/s D.K. Trading, in his statements dated 12.06.2025 under Section 108 of the Customs Act, 1962 had accepted that he was an accountant in the firm M/s D.K. Trading and was in regular touch for instructions related to the firm with Shri Pankaj Sharma and used to communicate regarding documentation and export from the firm with Shri Abdul Majid Ansari G-Card Holder of M/s Startek Enterprises. He has also informed that the fake purchase invoices procured from S.K. Enterprises and export invoices provided by Shri Pankaj Sharma were used for this attempted export and he was actively involved in all works of the exporter firm and had helped Mr. Pankaj Sharma and handled documentation for mis-declaring the value and quantity of goods entered for exportation. The same was also affirmed by Shri Abdul Majid Ansari G-Card Holder of M/s Startek Enterprises in his statement dated 30.04.2025.

31.9. In view of the above, I hold that Shri Mahesh Soni acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak has attempted to export the goods covered under 06 Shipping bills all dated 28.03.2025 has rendered the subject goods liable for confiscation. Therefore, he is liable for Penalty under section 114(iii) of Customs Act, 1962. He has also provided these export invoices and fake purchase invoices which were not being reflected in GST portal to the CHA firm/Customs authorities for valuation purposes which make him liable to a penalty under Section 114AA for use of false and incorrect material. As discussed supra, I do not find that content of the Section 114AC is available in the present case.

32. Whether M/s. Startek Enterprise, Custom Broker is liable for penalty under Section 114, 114AA, 114AB and Section 117 of the Customs Act, 1962 ?

The SCN also proposes penalty under Section 114, 114AA, 114AB and 117 of the Customs Act, 1962 on the CHA, M/s Startek Enterprise. I note that M/s Startek Enterprises, Customs Broker of M/s. D.K. Trading has submitted two written submissions vide their letters dated 11-10-2025 & 12-03-2026 wherein they have pleaded that they had fulfilled all KYC requirements based on GST Registration Certificate, IEC, KYC Form, Office Registration documents, Pan Card and Aadhar Card of Proprietor, Bank AD Code letter and acted only as an intermediary. They further submitted that Mr. Jayesh, an executive in their company had also enquired about the overvaluation. The CB argued that they have complied with all Regulations 10(b), 10(h) and 10(n) by verifying IEC, GSTIN, identity and functioning at the declared address through reliable, independent and authentic documents/data; the law does not mandate physical premises verification. The noticee has further submitted that they had no knowledge or intent to make, use or causes the use of any false document. The noticee submitted that they did not obtain or utilise any "instrument" (scrip /authorisation /licence /certificate under the FTDR/FTP framework) to pay the duty or to claim refund. They contended that they are not liable for any penalty in the present case and relied upon some case laws in their defence.

32.2. I find that the Shipping Bills for export of goods in the name of M/s. D. K. Trading were filed through their authorized Customs Broker, M/s. Startek Enterprise. As discussed in detail in the foregoing paragraphs, the goods declared as "FANCY CERAMIC WALL TILES" were, upon examination, found to be "Floor Tiles" of inferior quality and significantly lower value. This establishes deliberate and material mis-declaration with respect to both description and value of the export goods.

It is a settled legal position that a Customs Broker, being a licensed professional under the Customs Act, 1962, is not a mere conduit but a critical compliance intermediary entrusted with statutory responsibilities. The Customs Broker is obligated to exercise due diligence and verify the correctness and authenticity of the documents and declarations filed before Customs. Failure to do so renders the Customs Broker liable for penal consequences. In this regard, reliance is placed on judicial pronouncements wherein it has been consistently held that negligence or deliberate inaction on the part of a Customs Broker, particularly in cases involving mis-declaration, amounts to abetment.

In the instant case, the physical examination of the goods, conducted in the presence of independent panch witnesses and a Department-nominated Chartered Engineer, conclusively established that the goods were mis-declared both in description and value. The facts and circumstances of the case clearly point towards a premeditated attempt by the exporter, in active connivance with the Customs Broker, to export low-value goods under highly inflated declarations with the sole intent of fraudulently claiming ineligible export incentives, including IGST refunds.

Section 50(2) of the Customs Act, 1962 mandates that the exporter shall make a true and correct declaration as to the value and particulars of the goods. Any deviation from such declaration constitutes mis-declaration, which is a serious offence under the Act. It is equally well established that where such mis-declaration is facilitated or not prevented by the Customs Broker despite being in a position to detect the same, the Customs Broker cannot escape liability by pleading ignorance.

In the present case, I find that M/s. Startek Enterprise prepared the checklists, filed the Shipping Bills, and submitted the supporting documents, including purchase invoices, without verifying their authenticity or correctness. As a result, incorrect particulars were knowingly placed before the Customs authorities, which did not correspond to the actual goods sought to be exported. This directly enabled an attempt to avail inadmissible IGST refund amounting to Rs. 66,97,857/-, thereby causing potential loss to the Government exchequer.

More importantly, I find that the Customs Broker had actual knowledge of serious discrepancies in the valuation of the goods. The purchase value of the goods was Rs. 1,70,63,792/-, and even as per their own internal calculation, the maximum permissible export value could not exceed Rs. 2,55,95,688/-. However, the export invoices reflected an inflated value of approximately Rs. 3,72,10,320/-, resulting in an abnormal and unjustified escalation of about Rs. 1.17 crore.

Despite being fully aware of this glaring discrepancy, the Customs Broker proceeded to file the Shipping Bills on the mere assurance that clarification would be provided later. This conduct is not only imprudent but indicative of conscious facilitation. A reasonable and prudent Customs Broker, acting in accordance with law, would have withheld filing until satisfactory explanation was received or brought the matter to the notice of the Department.

The failure to do so clearly establishes willful blindness, which in law is equivalent to knowledge and intent.

I further observe that the discrepancies were so apparent and substantial that failure to detect and act upon them cannot be attributed to oversight but amounts to gross negligence bordering on deliberate complicity. The Customs Broker ignored multiple red flags, including non-response from the exporter, inconsistencies in documentation, and the absence of corresponding records on the GST portal. Such conduct is in clear violation of the obligations prescribed under Regulations 10(d) and 10(e) of the Customs Brokers Licensing Regulations, 2018, which mandate advising clients to comply with the law and exercising due diligence to verify the correctness of information.

The plea of the noticee that they had raised queries regarding valuation is found to be an afterthought and does not absolve them of liability. Mere raising of a query, without ensuring its resolution and without taking corrective action, does not discharge statutory responsibility. On the contrary, proceeding further despite unresolved discrepancies establishes active participation in the fraudulent attempt.

I also find that the Customs Broker relied upon and submitted invoices which were not reflected on the GST portal, thereby raising serious doubts regarding their genuineness. By knowingly using such false or fabricated documents in a material particular, the Customs Broker has rendered itself liable to penalty under Section 114AA of the Customs Act, 1962. It is a settled principle that use of forged or unreliable documents in customs transactions attracts stringent penal consequences.

In view of the foregoing, the contention of the noticee that they did not abet the mis-declaration is untenable and is rejected outright. The totality of evidence on record clearly establishes that M/s. Startek Enterprise, by acts of commission as well as omission, actively facilitated the attempted overvaluation and mis-declaration of export goods.

Accordingly, since the goods have been held liable for confiscation under Sections 113(h), 113(i), and 113(ja) of the Customs Act, 1962, I hold that M/s. Startek Enterprise is liable to penalty under Section 114(iii) of the Customs Act, 1962 for abetment of improper export, and also under Section 114AA for knowingly using false and incorrect documents in the course of customs proceedings.

32.3. I further find that Shri Abdul Majid Ansari, G-Card holder of the Customs Broker firm M/s. Startek Enterprises, in his statement dated 30.04.2025, categorically stated that he used to interact with one person identifying himself as "Shri Praveen" on mobile number 8447203063 in connection with export-related work of M/s. D. K. Trading.

However, investigation has revealed that the proprietor of the exporter firm is Shri Deepak, and no individual by the name of "Shri Praveen" was found to be associated with the said firm at any stage. On the contrary, it has come on record that Shri Mahesh Soni, acting at the behest and under the directions of Shri Pankaj Sharma, had falsely impersonated himself as "Shri Praveen" for the purpose of dealing with the Customs Broker in respect of export consignments of M/s. D. K. Trading.

This sequence of events clearly establishes that the Customs Broker was interacting with an unauthorized and impersonating, whose identity and credentials were never verified. In such

a scenario, the claim of the Customs Broker that they had undertaken due verification of the exporter through “reliable sources” is wholly unsubstantiated and cannot be accepted.

A licensed Customs Broker is expected to exercise a high degree of diligence, particularly in verifying the identity, antecedents, and authorization of persons representing the exporter. The fact that an impersonator was able to represent the exporter throughout the transaction without detection demonstrates a complete failure of the verification mechanism and reflects gross negligence on the part of the Customs Broker.

Further, I note that the Customs Broker has failed to produce any documentary evidence whatsoever to substantiate their claim that verification of the exporter was carried out through reliable, independent, and authentic sources, as mandated under the Customs Brokers Licensing Regulations, 2018. Mere assertion without documentary backing does not meet the statutory requirement of due diligence.

In view of the above, I hold that M/s. Startek Enterprises failed to discharge their obligations regarding proper verification of the exporter and the persons acting on its behalf. The acceptance of instructions from an impersonating, without any independent verification, not only violates the prescribed regulatory framework but also facilitated the fraudulent export attempt in the present case.

32.4. The noticee has further contended that they had no knowledge or intention to make, use or cause the use of any false document. However, I note that it is an admitted fact that they ignored significant discrepancies relating to the quantity, description and inflated value of the goods. In their statement dated 30.04.2025, they admitted that their executive had noticed differences in quantity and valuation but still proceeded with the documents without waiting for clarification from the exporter. Despite being aware of the discrepancies, the Customs Broker neither advised the exporter to comply with the law nor reported the matter to Customs authorities. Instead, the documents were submitted before Customs without proper verification. It is a well-settled principle of law that ignorance of law or facts cannot be accepted as an excuse for failure to comply with statutory obligations. This principle has been consistently upheld by the Courts. In this regard, reliance is placed on the judgment of the Hon’ble High Court of Calcutta in the case of **Provash Kumar Dey Vs. Inspector of Central Excise & Others**, wherein it was held that ignorance of law is no excuse and the petitioner was rightly held guilty for contravention of the relevant rules [1993 (64) ELT 23 (Del.)].

32.5. I further note that Section 114AB of the Customs Act, 1962 provides that:

“Where any person has obtained any instrument by fraud, collusion, wilful misstatement or suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.”

In the present case, penalty under Section 114AB is imposable on the person to whom the instrument is issued. M/s. Startek Enterprise is merely a Customs Broker and has not obtained or utilised any

such instrument. Therefore, I hold that penalty under Section 114AB of the Customs Act, 1962 is not imposable on M/s. Startek Enterprise in the present case.

32.6. Further, I find that the Noticee has quoted and relied on various case laws/judgments in their defense submission to support their contention on some issues raised in the Show Cause Notice. I am of the view that conclusions in those cases may be correct, but they cannot be applied universally without considering the hard realities and specific facts of each case. Those decisions were made in different contexts, with different facts and circumstances, and cannot apply here directly. Therefore, I find that while applying the ratio of one case to that of the other, the decisions of the Hon'ble Supreme Court are always required to be borne in mind. The Hon'ble Supreme Court in the case of *CCE, Calcutta Vs Alnoori Tobacco Products [2004 (170) ELT 135(SC)]* has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of *Escorts Ltd. Vs CCE, Delhi [2004(173) ELT 113(SC)]* wherein it has been observed that one additional or different fact may make huge difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again in the case of *CC(Port), Chennai Vs Toyota Kirloskar [2007(2013) ELT4(SC)]*, it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to be understood in factual matrix involved therein and that the ratio of a decision has to be culled from facts of given case. Further, the decision is an authority for what it decides and not what can be logically deduced there from.

32.7. It is further observed that the proposal to impose penalty under Section 117 of the Customs Act, 1962 has been contested by the noticee on the ground that the said provision is residuary in nature and cannot be invoked in the present case. However, this contention is not tenable.

Section 117 of the Customs Act, 1962 is attracted in cases where a contravention of the provisions of the Act or the rules/regulations made thereunder is established, and no express penalty has been specifically provided for such contravention. In the present case, it is evident from the records that M/s Startek Enterprise failed to exercise due diligence expected of a Customs Broker. The firm did not carry out necessary verification of the exporter and the supporting documents and, instead, acted in collusion with the exporter.

It is further established that the noticee utilized false and fabricated invoices purportedly issued by M/s S.K. Enterprises and knowingly facilitated overvaluation of goods in the Shipping Bills. Such acts directly enabled the exporter to avail ineligible benefits, including IGST refunds and other export incentives, thereby causing undue loss to the revenue.

These acts and omissions constitute a clear violation of the obligations cast upon Customs Brokers under the Customs Brokers Licensing Regulations, 2018, and amount to contravention of the provisions of the Customs Act, 1962.

In view of the foregoing, I hold that M/s Startek Enterprise has rendered itself liable to penalty under Section 117 of the Customs Act, 1962 for its failure to discharge statutory responsibilities and for facilitating wrongful availment of benefits.

33. I have already held that the Noticees are liable for penalty under Section 114 of the Customs Act, 1962, which provides for penalties on persons who, by their acts of omission or commission, render goods liable to confiscation. It is a settled principle of law that penalties must be proportionate, reasonable, and commensurate with the role played by each participant in the offence. The Hon'ble Supreme Court in *Hindustan Steel Ltd. v. State of Orissa* (1970 AIR 253) observed that penalty should not be imposed merely because it is lawful to do so; it must be justified by the conduct of the person concerned. In the present case, after careful consideration of the facts and evidence, I find that the roles of the Noticees are distinct and must be assessed individually:

- **Shri Pankaj Sharma:** He is the principal architect and mastermind of the fraudulent scheme. He orchestrated the conspiracy to claim input tax credit and IGST refunds on the basis of overvalued goods. His role is central and dominant, and therefore he bears the highest degree of culpability.
- **Shri Deepak, Proprietor of M/s D.K. Trading:** By lending his name and documents, he enabled the creation and operation of the firm. Without his active support, the fraudulent import-export activity could not have been executed.
- **Shri Mahesh Soni:** He misrepresented himself as "Shri Parveen" before the Customs House Agent (CHA) and acted as an intermediary between the mastermind and the CHA. His role facilitated the concealment of the true identity of the parties involved.
- **M/s Startek Enterprise, CHA:** Despite raising queries regarding discrepancies between purchase value and export invoice value, they failed to escalate the matter to the Department. By filing the Shipping Bill without proper disclosure, they indirectly enabled the fraudulent claim of IGST refund.

34. In view of my findings in the foregoing paras, I pass the following order for-

Order

M/s. D.K. Trading (Exporter IEC- HHNPD7475M), A-38, Shop No. B-1, Lower Ground Floor, Madhu Vihar, Delhi – 110092 –

- (i) I hereby reject the declared FOB value of Rs.3,72,10,320/- for the goods intended for export under 06 Shipping Bill No. 9439883, 9440114, 9440149, 9440124, 9440116 and 9440106 all dated 28.03.2025 pertain to M/s. D.K. Trading (Exporter) and order to re-determine the same at Rs. 11,48,000/- (Rupees Eleven Lacs Forty-Eight Thousand only) under the provisions of Section 14 of the Customs Act, 1962 read with Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (ii) I order for confiscation of the impugned goods entered for exportation covered under 06 Shipping Bill No. 9439883, 9440114, 9440149, 9440124, 9440116 and 9440106 all dated 28.03.2025 in respect of M/s D.K. Trading having declared FOB value of Rs. 3,72,10,320/- and market (re-determined) value of Rs. 11,48,000/- under 113(h), 113(i) & 113(ja) of Customs Act, 1962. However, I give an option to M/s. D.K. Trading (Exporter IEC- HHNPD7475M), under the provisions of Section 125 of the Custom Act, 1962 to redeem the said goods on payment of redemption fine of Rs.5,00,000/- (Rupees Five Lakh only) in lieu of confiscation of seized goods.

Shri Pankaj Sharma acting through M/s. D.K. Trading, proprietorship firm of Shri Deepak

- (iii) I impose penalty of Rs.1,80,00,000/- (Rupees One Crore Eighty only) on Shri Pankaj Sharma, under Section 114(iii) of the Customs Act, 1962;
- (iv) I impose penalty of Rs.25,00,000/-(Rupees Twenty Five Lakh only) on Shri Pankaj Sharma, under Section 114AA of the Customs Act, 1962;

Shri Deepak, proprietor of M/s. D.K. Trading

- (v) I impose penalty of Rs.70,00,000/- (Rupees Seventy Lakh only) on Shri Deepak, proprietor of M/s. D.K. Trading, under Section 114(iii) of the Customs Act, 1962;
- (vi) I impose penalty of Rs.10,00,000/-(Rupees Ten Lakh only) on Shri Deepak, proprietor of M/s. D.K. Trading, under Section 114AA of the Customs Act, 1962;

Shri Mahesh Soni, Accountant of M/s. D.K. Trading

- (vii) I impose penalty of Rs.70,00,000/- (Rupees Seventy Lakh only) on Shri Mahesh Soni, under Section 114(iii) of the Customs Act, 1962;
- (viii) I impose penalty of Rs.10,00,000/- (Rupees Ten Lakh only) on Shri Mahesh Soni, under Section 114AA of the Customs Act, 1962;

M/s. Startek Enterprises, CHA for M/s. D.K. Trading

- (ix) I impose penalty of Rs.35,00,000/- (Rupees Thirty Five Lakh only) on M/s. Startek Enterprises, Customs Broker of M/s. D.K. Trading, under Section 114(iii) of the Customs Act, 1962;
- (x) I impose penalty of Rs.5,00,000/-(Rupees Five Lakh only) on M/s. Startek Enterprises, Customs Broker of M/s. D.K. Trading, under Section 114AA of the Customs Act, 1962;
- (xi) I impose penalty of Rs. 4,00,000/-(Rupees Four Lakh only) on M/s. Startek Enterprises, Customs Broker of M/s. D.K. Trading, under Section 117 of the Customs Act, 1962;

35. This order is issued without prejudice to any other action that may be taken under the provisions of the Customs Act, 1962 and Rules/Regulations framed thereunder or any other law for the time being in force in the Republic of India.

36. The Show Cause Notice No. Gen/LGL/Misc/803/2025-AH-Port-HZR-Cus-Commrte-Ahmedabad dated 27.09.2025 is disposed off in above terms.

DIN- 20260471MN000000D9AB

Digitally signed by

SHREE RAM VISHNOI

Date: 02-04-2026

18:10:30

(Shree Ram Vishnoi)

Additional Commissioner

Hazira Port, Surat.

To:

To,

1.M/s. **D.K. Trading** (IEC- HHNPD7475M),

Lower Ground Floor,

A-38, Pvt Shop No. B-1,

Madhu Vihar, Delhi- 110092

2. **Shri Pankaj Sharma,**

C/O M/s. **D.K. Trading** (IEC- HHNPD7475M),

Lower Ground Floor,

A-38, Pvt Shop No. B-1,
Madhu Vihar, Delhi- 110092

3. Shri Deepak, proprietor of
M/s. **D.K. Trading** (IEC- HHNPD7475M),
Lower Ground Floor,
A-38, Pvt Shop No. B-1,
Madhu Vihar, Delhi- 110092

4. Shri Mahesh Soni
C/O M/s. **D.K. Trading** (IEC- HHNPD7475M),
Lower Ground Floor,
A-38, Pvt Shop No. B-1,
Madhu Vihar, Delhi- 110092

5. M/s. Startek Enterprises,
CHA for M/s. **D.K. Trading** (IEC- HHNPD7475M)
401, F Block, Hayat Residency, Survey No. 560, Sarkhej, RD...,
Ahmedabad, Gujarat 382210

Copy to:

1. The Additional Director General, Ahmedabad Zonal Unit, Unit No.15, Magnet Corporate Park, S.G. Highway, Near Sola Flyover, Thaltej, Ahmedabad, 380054 for information please.
2. The Deputy/Assistant Commissioner of Customs(Export), Hazira Port for information please.
3. The Assistant Commissioner (TAR), Ahmedabad Customs, Ahmedabad.
4. The Superintendent (System), Customs HQ, Ahmedabad in PDF format for uploading on the website of Customs Commissionerate, Ahmedabad.
5. Notice Board.
6. Guard File.