

	<p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE : 02838-271426/271163 FAX :02838-271425 E-mail id- adj-mundra@gov.in</p>	
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A	FILE NO. फाइल संख्या	GEN/ADJ/ADC/2132/2023-Adjn-O/o Pr. Commr-Cus-Mundra
B	OIO NO. आदेश संख्या	MCH/ADC/AKM/258/2024-25
C	PASSED BY जारीकर्ता	Amit Kumar Mishra/ अमित कुमार मिश्रा, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	DATE OF ORDER आदेश की तारीख	17.01.2025
E	DATE OF ISSUE जारी करने की तिथि	20.01.2025
F	SCN No. & Date कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/2132/2023-Adjn dtd. 15.11.2023.
G	NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/ आयातक	<ol style="list-style-type: none"> 1. Shri Vijay Goel. 2. M/s Shri Mahadev Ji Exports. 3. Shri Pranshu Goel. 4. Smt. Nisha Goel. 5. M/s Goel Exim. 6. M/s Dev Shree Bhatt Prop: of M/s Shree International. 7. M/s Shree International. 8. Shri Upender Pratap Singh, Prop: of M/s Maha Shakti Exims. 9. M/s Maha Shakti Exims. 10. Shri Santan Kamat, Prop: of M/s Ganesh Steel. 11. M/s Ganesh Steel.

		12. Shri Ajay Kumar, Prop: of M/s Vinayak Steel. 13 M/s Vinayak Steel.
H	DIN/दस्तावेज़ पहचान संख्या	20250171MO000071237A

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए 3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त (अपील), चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009”

“The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009.”

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

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

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

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

6. अपील ज्ञापन के साथ झूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

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

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

FACTS OF THE CASE IN BRIEF

In the course of an ongoing investigation in respect of fraudulent Export of Ready-Made Garments (RMG) against the various Export Firms under control of **Shri Vijay Goel**. The office of DRI-HQ, New Delhi conducted a search at residential premise of Shri Vijay Goel located at DU-10, Pitampura, New Delhi on 21.09.2021. In the course of search, two mobile phones of son of Shri Vijay Goel (i.e., Shri Pranshu Goel) were resumed under panchnama dated 21.09.2021. Forensic examination of resumed mobile phones conducted under panchnama dated 18.04.2022 and 19.04.2022 was done which resulted in retrieval of relevant Customs documents (i.e., Invoices/Sale Contracts/Bill of Ladings) related to imports made by following firms:

Sl. No.	IEC Code	Name of the Importer
1	AIFPG0671A	M/s Goel Exim
2	BJUPB6242F	M/s Shree International
3	CPTPG4273F	M/s Shri Mahadev Ji Exports
4	EERPS7577K	M/s Maha Shakti Exims

2. Careful examination of import data of aforesaid firms unveiled that the said importers were Delhi based merchant traders. They were mainly engaged in import of **“Cold Rolled Stainless Steel Coils J3 grade (Ex-stock/Stock lot)”** through Mundra port with the unit price declared in the range of USD 0.75 to USD 1.40 (per kg).

3. Forensic Examination of two mobile phones (referred in Para 1) resulted in retrieval of parallel set of invoices. These invoices have identical description of goods, invoice numbers and dates but different unit prices. The parallel set of

invoices have one set with higher unit price value whereas other with lower value, where invoices with lower unit price value were submitted to Customs for Custom Clearance of Goods. Further examination of Bill of Entries data indicated lower declared unit price value. On analysis of the said invoices, it was observed that values declared in Bill of Entries were almost half of the values found in invoices gathered during forensic examination. This indicated plausible under-valuation in import of Cold Rolled Stainless Steel Coil J3 Grade (Ex-stock) by the above said importers.

4. Pursuant to the aforementioned gathered intelligence, searches were conducted at the residences and offices of the aforementioned importers, including the office premises of the Customs House Agent (CHA). The details of these searches are outlined as follows:

- i. **Residential Premises of M/s Nisha Goel, Proprietor of M/s Goel Exim (RUD-4):** Located at DU-10, Pitampura, New Delhi, the search was conducted on 16.11.2022, under a duly executed panchnama. During the search, specific documents were resumed.
- ii. **Office Premises of M/s Shri Mahadev Ji Exports and M/s Maha Shakti Exims (RUD-5):** Situated at Plot No. A-104, Block-A, 1st Floor, Wazirpur Industrial Area, Near Shri Ram Chowk, North West Delhi, Delhi, 110052, the search took place under a panchnama. Electronic devices and files were resumed during the search operation.
- iii. **Residential Premises of M/s Dev Shree Bhatt, Proprietor of M/s Shree International (RUD-6):** Discovered at H.No. H-26, Anandvihar Colony, Raipur, Chhattisgarh, the search was conducted on 16.11.2022, under the authority of a panchnama.
- iv. **Office Premises of CHA, M/s Shri Balaji Logistics (RUD-7):** Located at 501, 5th Floor, 55, Madhuban Building, Nehru Place, New Delhi, the search was conducted under a panchnama dated 16.11.2022. A pen drive was resumed during this operation.

4.1 Additionally, visit reports dated 16.11.2022 regarding the remaining residential and office premises of the aforementioned importers are detailed as follows:

- (i) **CHA M/s Balaji Logistics Office Premise:** It has been reported that office premises of CHA, M/s Balaji Logistics located at S-35/5, DLF Phase-III, Gurgaon, Haryana had been shifted to 501, 5th Floor, Madhuban Building, Nehru Place, New Delhi.
- (ii) **M/s Goel Exim Office Premises:** It has been verified and reported that office premises of M/s Goel Exim located at A-84/1, Ground Floor, Industrial Area, Wazirpur, North West Delhi-110052 was an under construction building and the owner of said building was Shri Vijay Goel.
- (iii) **Residential Premises of Shri Pranshu Goel:** Upon verification, it was revealed that the residential premises of Shri Pranshu Goel, located at BU-108, Pitampura, New Delhi was sold to one Shri Subhash Jain five years ago.

- (iv) **Residential Premises of Proprietor of M/s Maha Shakti Exim:** It was verified that residential premises of proprietor of M/s Maha Shakti Exim located at House No. 354, Gali No. 7, Village Shalimar Bagh, New Delhi was owned by another individual. This person was not acquainted with anyone named Shri Upendra Pratap Singh, the proprietor of M/s Maha Shakti Exim.
- (v) **M/s Shree International Office Premises:** According to the verification report, the office premises of M/s Shree International, located at Property No. 112, Plot No. 15, Kumar Tower, Community Centre, Wazirpur, New Delhi has never been operational at the specified address.

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

- During the course of investigation, it was determined that all the aforementioned firms were under the control of Shri Vijay Goel, residing at DU-10, Pitampura, New Delhi. Consequently, statements of Shri Vijay Goel were recorded on 16.11.2022 & 17.11.2022 & 07.12.2022 under Section 108 of the Customs Act, 1962.
- As stated by Shri Vijay Goel that the firms were also controlled by his son Shri Pranshu Goel, accordingly, voluntary statements of Shri Pranshu Goel proprietor of M/s Shri Mahadev Ji Exports were recorded on 16.11.2022 & 17.11.2022 under Section 108 of the Customs Act, 1962.
- Statement dated 16.11.2022 of Sh. Jitender Kumar, Proprietor of M/s Shri Balaji Logistics (CHA firm) was recorded on 16.11.2022 under Section 108 of the Customs Act, 1962
- Statement of Ms. Devshree Bhatt, proprietor of M/s Shree International was recorded on 17.11.2022 under Section 108 of the Customs Act, 1962.
- Voluntary **statement of Shri Ajay Kumar proprietor of M/s Vinayak Steel** and younger brother of Shri Vijay Goel was recorded on **14.12.2022** under Section 108 of the Customs Act, 1962.
- During the course of investigation, Shri Pranshu Goel informed that goods were being cleared through CHA firm M/s Oriental Trade Link. Accordingly, voluntary statement of Shri Pinkal Rathi Partner of M/s Oriental Trade Link was recorded on 20.12.2022 under Section 108 of the Customs Act, 1962.
- Voluntary statement of Smt. Nisha Goel, Proprietor of M/s Goel Exim was recorded on 27.01.2023 under Section 108 of the Customs Act, 1962.

- Voluntary statement of Shri Dhanraj Jain, Director of M/s Savitri Stainless Steel Pvt. Ltd, New Delhi was recorded on 23.03.2023 under Section 108 of the Customs Act, 1962.
- Voluntary Statement of Shri Ram Singhal Proprietor of M/s Singhal Steel was recorded on 18.04.2023 under Section 108 of the Customs Act, 1962.
- Voluntary statement of Shri Dinesh Goel Proprietor of M/s Shiv Enterprises was recorded on 09.04.2023 under Section 108 of the Customs Act, 1962.
- Voluntary Statement of Shri Sanjay Goel Director of M/s Karan Metawares Pvt. Ltd. (now M/s Naman Metawares Pvt. Ltd.) was recorded on 08.05.2023 under Section 108 of the Customs Act, 1962.
- Voluntary statement of Shri Manoj Singhal, Proprietor of M/s Sohum Trading Company was recorded on 09.05.2023 under Section 108 of the Customs Act, 1962.
- Voluntary statement of Shri Kartik Singla, Proprietor of M/s Singla Metals was recorded on 26.05.2023 under Section 108 of the Customs Act, 1962.
- voluntary statement of Shri V. Radhakrishnan, Director of M/s Fast Track CFS Pvt. Ltd. was recorded on 11.07.2023 under Section 108 of the Customs Act, 1962.
- Voluntary statement of Sh. Pinkal Rathi Partner of M/s Oriental Trade Link was recorded on 28.08.2023 under Section 108 of the Customs Act, 1962

6. Investigation conducted indicated that Shri Vijay Goel is a repeat offender and Shri Vijay Goel along with his son are involved in controlling of various firms for fraudulent import of Cold Rolled Stainless Steel Coil J3 Grade (Ex-Stock)/ 304 Grade. It appeared that both Shri Vijay Goel and Shri Pranshu Goel engaged in under-valuation and manipulation of invoices which made them liable for penal action under Section 132 and 135 of the Customs, Act, 1962. **Accordingly, both were arrested on 17.11.2022.** On 04.01.2023 Ld. Additional Session Judge, Patiala House Court, New Delhi had granted bail to both the accused persons i.e. Shri Vijay Goel and Shri Pranshu Goel. Subsequently, bail of M/s Pranshu Goel was cancelled vide order dated 03.11.2023 of Ld. ASJ-06, Patiala House Court, New Delhi as Shri Pranshu Goel jumped the bail condition by not joining the investigation.

6.1 Shri Vijay Goel and Shri Pranshu Goel had filed retraction dated 18.11.2022 before the ACMM-2, Patiala House Court, New Delhi to their statements dated 16.11.2022 and 17.11.2022 tendered by them voluntarily under Section 108 of the Customs Act, 1962. The Department filed rebuttal against their

retraction before Ld. ACCM-2 Court, Patiala House on 03.12.2022 and was taken on record by the Ld. Court.

6.2 Shri Vijay Goel played a vital role in smuggling of impugned goods by under-valuing and mis-classifying the same along with his associates. Accordingly, CEIB (COFEPOSA) issued detention order F. No. PD-12001/1/2023-COFEPOSA dated 03.01.2023 under the Conservation of Foreign Exchange and Prevention of Smuggling Activities (COFEPOSA) Act, 1974 with a view to preventing him from smuggling goods, abetting the smuggling of goods and engaging in transporting or concealing or keeping smuggled goods in terms of Section 3(1)(i), Section 3(1)(ii) and Section 3(1)(iii) of the COFEPOSA Act, 1974. On 04.01.2023, the said detention order was executed and Shri Vijay Goel was lodged in Tihar Jail.

7. During the course of investigation, it was gathered that Shri Vijay Goel and Shri Pranshu Goel intended to import Cold Rolled Stainless Steel Coil 304 Grade by way of under-valuation. To prevent the same, this office vide letter dated 17.11.2022 requested Mundra Customs to put the consignments of M/s Goel Exim, M/s Mahadev Ji Export, M/s Shree International, M/s Maha Shakti Exim, M/s Ganesh Steel and M/s Vinayak Steel on hold for examination by DRI.

8. Further, in compliance of the above said letter dated 17.11.2022, SIIB Mundra Customs put 7 containers of M/s Goel Exim, 1 container of M/s Maha Shakti Exims and 2 container of Shri Mahdev Ji Exports on hold. The goods imported by M/s Goel Exim were examined under panchnama dated 14.02.2023, 18.03.2023 and 30.03.2023. The goods imported by M/s Shri Mahadev Ji Exports were examined under panchnama dated 17.03.2023 and the goods imported by M/s Maha Shakti Exim were examined under panchnama dated 18.0.2023. After examination of the goods, it was found that Cold Rolled Stainless Steel 304 Grade was being imported by way of mis-declaring the goods in value to evade the customs duty. **Accordingly, the goods were seized vide Seizure Memo dated 10.03.2023 and 22.04.2023.** Details of the same areas under:

Table: 1

Sl. No.	Name of the Importer	Date of Panchnama	Container No.	Bill of Entry No. & Date	Date of Seizure Memo (U/s 110)	Quantity of Goods in Kg.
1	M/s Goel Exim	14.02.2023	TELU2237293	3257125 Dt. 11.11.2022	10.03.2023	28330
2		18.03.2023	IAAU2709160 IAAU2738298	3303610 Dt. 15.11.2022	22.04.2023	55454
3		18.03.2023	IAAU2811188 TCLU3683594	3072207 Dt. 28.10.2022	22.04.2023	55088
4		30.03.2023	TRHU2464885 GRMU212483 7	3091438 Dt. 29.10.2022	22.04.2023	54840

5	M/s Maha Shakti Exims	18.03.2023	IAAU2867905	3303633 Dt. 15.11.2022	22.04.202 3	27994
6	M/s Shri Mahadev Ji Exports	17.03.2023	TEMU3390438 TEMU3722954	3293673 Dt. 14.11.2022	22.04.202 3	53478

9. Further, during the course of investigation, Shri Vijay Goel and Shri Pranshu Goel were unable to disclose all the bank accounts associated with M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh Steel and M/s Vinayak Steel. All the above mentioned firms were being controlled by Shri Vijay Goel and Shri Pranshu Goel. Therefore for protecting the interest of revenue, letters dated 17.11.2022 were forwarded to the respective Nodal Officers of IDFC First Bank, ICICI Bank Ltd., Kotak Mahindra Bank, Karnataka Bank, Canara Bank and Yes Bank with account numbers available with this office and PAN number of the above said firms with request to provisionally attach the bank accounts under the provision of Section 110(5) of the Customs Act, 1962. It was also requested that the bank accounts associated with the PAN number may also be provisionally attached under Section 110(5) of the Customs Act, 1962.

9.1. In response to letter dated 17.11.2022, following bank accounts were provisionally attached under Section 110(5) of the Customs Act, 1962. A detail of the firm/person, bank a/c no. and balance available is as under:

Table: 2

Sl. No.	Firm/Person name	Bank A/c No.	Bank Name	Balance Available (Rs.)
1	Devshree Bhatt	1145433104	Kotak Mahindra	25,790.00
2	Nisha Goel	1645148522	Kotak Mahindra	No balance
3	Nisha Goel	1645663704	Kotak Mahindra	2,10,708.00
4	Nisha Goel	1645663711	Kotak Mahindra	52,677.00
5	Nisha Goel	1645663728	Kotak Mahindra	2,10,708.00
6	Nisha Goel	1645663735	Kotak Mahindra	52,677.00
7	Pranshu Goel	1815053151	Kotak Mahindra	9,567.94
8	M/s Shree International	2245256426	Kotak Mahindra	5,271.58
9	M/s Shri Mahadev Ji Exports	3114460319	Kotak Mahindra	60,224.20
10	M/s Shri Mahadev Ji Exports	3145141591	Kotak Mahindra	18,894.00
11	M/s Shri Mahadev Ji Exports	3145150340	Kotak Mahindra	11,347.00
12	Ajay Kumar	4047571257	Kotak Mahindra	12,000.00
13	Ajay Kumar	4047575507	Kotak Mahindra	NIL
14	Santan Kamat	4412482775	Kotak Mahindra	Nil
15	Vijay Goel	6245382239	Kotak Mahindra	3,253.80

16	Goel Exim	8845156470	Kotak Mahindra	5,610.49
17	Ganesh Steel	9746304465	Kotak Mahindra	96,144.94
18	Shri Siddhi Vinayak Exports	402711009694	Kotak Mahindra	No Balance
19	M/s Ganesh Steel	10085098300	IDFC First Bank	18,70,000.00
20	Ganesh Steel	10085457157	IDFC First Bank	24,164.00
21	M/s Shree International	10087171153	IDFC First Bank	22,232.00
22	Prasnuh Goel	10088283561	IDFC First Bank	177.75
23	M/s Shri Mahadev Ji Exports	10089013784	IDFC First Bank	22,78,000.00
24	M/s Goel Exim	10092744754	IDFC First Bank	27,54,000.00
25	M/s Maha Shakti Exims	10103248501	IDFC First Bank	30,11,000.00
26	M/s Shri Mahadev Ji Exports	33105005777	ICICI Bank	52,869.54
27	M/s Vinayak Steel	10064173260	ICICI Bank	60,224.20
28	M/s Goel Exim	33105005788	ICICI Bank	2,05,79,354.30
29	M/s Maha Shakti Exims	33105005809	ICICI Bank	8,63,381.00
30	Ajay Goel(linked account to vinayak steel)	36901513636	ICICI	7,351.00
31	AJAY Goel	36905003537	ICICI	12,486.00
32	M/s Vinayak Steel	36905003562	ICICI Bank	
33	M/s Shree International	102801508912	ICICI Bank	1,871.00
34	M/s Vinayak Steel	636905003562	ICICI Bank	No Balance
35	M/s Shri Mahadev Ji Exports	1565201003915	Canara Bank	60,698.53
36	Nisha Goel	1565101026396	Canara Bank	3,35,580.66
38	Vijay Goel	1565136000091	Canara Bank	7,08,986
39	Ajay Goel(linked account to vinayak steel)	90962010053749	Canara Bank	6,836
40	Pooja Goel (linked account to vinayak steel)	90962010073368	Canara Bank	25,145
41	M/s Shree International	107563300001862	Yes Bank	19,452
			Total (in Rs.)	3,34,68,683.1

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10. Since, forensic examination of the electronic devices resumed under panchnama dated 16.11.2022, forensic of mobile phone submitted by Shri Pranshu Goel vide letter dated 17.11.2022, investigation of local buyers, financial enquiry and examination of purported proprietors were pending. Therefore, investigation could not be completed within 06 months. Thus, as per Section 110(2) & (5) of the Customs Act, 1962, with the approval of competent authority provisional attachment of the bank accounts were extended for further period of 06 months and the same was informed to the controller and respective importers vide letters dated 15.05.2023. Similarly, Extension of the period of Show Cause Notice for the goods seized under Section 110 of the Customs Act, 1962 in respect of M/s Goel Exim, M/s Maha Shakti Exims and M/s Mahadev Ji Exports had also been extended for a period of 06 months with approval of competent authority. Information of the said extension was duly communicated to the controller and respective importers vide letter dated 15.05.2023.

11. During the course of investigation, Shri Pranshu Goel vide his letter dated 17.11.2022, submitted his mobile phone of make Oppo having black colour, Model F21 pro having IMEI No. 861950055443851 & 861950055443844 for ongoing investigation against M/s Mahadev Ji Exports. Further, he signed certificated under Section 138C of the Customs Act, 1962 declaring that he was using the phone in normal course of business.

12. Since, during search at office premises of M/s Shri Mahadev Ji Exports and M/s Maha Shakti Exims, certain electronic devices were resumed. Therefore, forensic examination of those electronic devices and mobile phone submitted by Shri Pranshu Goel was to be done. In this regard, summons dated 18.01.2023, 06.02.2023, 13.03.2023, 28.03.2023 were issued to Shri Pranshu Goel. However, he did not appear to join the investigation. Therefore, complaint under Section 174 of IPC was filed in Ld. Patiala House Court. Further application for cancellation of bail order dated 04.01.2023 was moved before the Ld. Additional Session Judge, Patiala House Court New Delhi which was cancelled by Ld. ASJ-06, Patiala House Court vide order dated 03.11.2023.

13 In view of non-cooperation forensic of non-cooperation from Shri Pranshu Goel Proprietor of M/s Shri Mahadev Ji Exports, forensic examination of resumed electronic devices and mobile phone submitted by Shri Pranshu Goel vide letter dated 17.11.2022 was done in presence of two independent Panchas under Record of Proceedings dated 16.05.2023 and 17.05.2023.

13.1 During record of proceedings following electronic devices were forensically examined as mentioned in Table 3.

Table: 3

Sl. No.	Particulars	Description of device
1	Laptop	HP Probook 4540s having Serial No. JPA316PMG7
2	Laptop	Dell Latitude E6540 having Serial number 9QKVM22
3	Internal Hard Disc	Western Digital 250 GB internal hard disc having serial number WCC2F1750071
4	Pen Drive (quantity 02)	HP Pendrive 32 GB capacity
5	Pen Drive (quantity one)	HP pendrive of 64 GB capacity
6	Pen Drive (quantity one)	Sandisc Cruzer Blade of 32 GB capacity
7	Pen Drive (quantity 2)	Sandisc Cruzer Blade of 16 GB capacity
8	Mobile phone	Mobile phone of make <u>Oppo</u> having black colour, <u>Model F21 Pro</u> having IMEI No. <u>861950055443851 and 861950055443844</u>

13.2 Data retrieved from the above electronic devices were analysed and found that there were certain parallel invoices related to the goods seized during the course of investigation as mentioned in **Table: 1**. The value of details of the same are mentioned in **Table: 4**:

Table: 4

Sl. No.	Name of the importer	Container No.	Bill of Entry & Date	Invoice No. & date as filed in bill of entry	Supplier filed in bill of entry	Actual average Unit price per kg in USD found in invoices retrieved from electronic	Remarks
1	M/s Goel Exim	TELU2237293	3257125 dt. 11.11.2022	FSSR220926-5 dt. 12.10.2022	Foshan Xuanzheng Trading Co. Ltd.	2.4	All particulars same except supplier name as Foshan Hong Ning Trading Co. Ltd.
2		IAAU2709160 IAAU2738298	3303610 dt. 15.11.2022	FSSR220920-6 dt. 04.10.2022	Foshan Hong Ning	2.4	Parallel invoice

					Trading Co. Ltd.		
3		IAAU2811188 TCLU3683594	3072207 dt. 28.10.2022	FSSR220920-5 dt. 04.10.2022	Foshan Hong Ning Trading Co. Ltd.	2.4	Parallel invoice
4		TRHU2464885 GRMU2124837	3091438 dt. 29.10.2022	FSSR220920-12 dt. 05.10.2022	Foshan Hong Ning Trading Co. Ltd.	2.4	Parallel invoice
5	M/s Maha Shakti Exims	IAAU2867905	3303633 dt. 15.11.2022	FSSR220920-7 dt. 04.10.2022	Foshan Hong Ning Trading Co. Ltd.	2.4	Parallel invoice
6	M/s Shri Mahadev Ji Exports	TEMU3390438 TEMU3722954	3293673 dt. 14.11.2022	EM20220930S A dated 11.10.2022	E metal Company	2.4	Similar invoice with same supplier name

13.3 Further, summons dated 19.05.2023 and 24.07.2023 were issued to Shri Pranshu Goel to cross examination of documents retrieved from electronic devices and Oppo mobile phone submitted by him. However, he did not appear on summons in violation of Bail Bond condition, to cooperate with DRI during the course of investigation.

14. During the course of investigation, bank account statements of all the bank accounts provisionally attached under Section 110(5) of the Customs Act, 1962 were examined. During the course of examination of the said bank accounts and the statements of buyers recorded under Section 108 of the Customs Act, 1962, it appeared that all the balance available in the bank accounts are sale proceeds of the goods of Shri Vijay Goel and Shri Pranshu Goel.

15. Summary of Investigation:

Based on the investigation done so far, evidences examined, data analysed, statements recorded the Modus Operandi of Shri Vijay Goel and Shri Pranshu Goel is investigated and decodified in the following ways:

Shri Pranshu Goel and Shri Vijay Goel opened many Proprietor Firms namely, M/s Mahadev Ji Exports, M/s Goel Exim, M/s Shree International, M/s Mahashakti Exims, M/s Ganesh Steel, etc. in the name of namesake Proprietors. These namesake Proprietors have very limited to no role in the operations of Business including Import and Export. These firms were registered with an intent to Import Cold Rolled Stainless Steel of 304 and J3 Grade from Chinese Suppliers. These Chinese Suppliers like Crown Steel Company Ltd, Foshan Jia wei Import and Exports, Leo Metal Ltd., China etc. supplied Cold Rolled Stainless Steel of 304 and J3 Grade via agents like Sunny to Indian importers like Shri Pranshu Goel and Shri Vijay Goel. These Chinese Suppliers supplied Parallel Invoices (dual Invoices with different per unit price) to these Indian suppliers. Whereas, the actual value of unit price is for financial transaction purpose and lower valued unit price of same supply of Goods for Custom Declaration. These Chinese Suppliers are paid by

Indian Importers like Shri Pranshu Goel and Vijay Goel by banking channels to the tune of under invoice value and differential amount is paid through Hawala Channels.

Additionally, these lower Invoice were used with an intent to evade the Custom Duty by Under-Valuing the Goods. These invoices and related documents are supplied through DHL courier as well as WhatsApp communication. Indian Importers like Shri Pranshu Goel and Shri Vijay Goel involved in under-valuation of Invoices to evade Custom Duty. This was done with the support of CHAs like M/s Balaji Logistics and M/s Oriental Trade Link also SEZ units like M/s Fast Track CFS Pvt Ltd. They further supplied such Goods in Domestic Market at lower Invoice price. The actual transaction of Domestic Supply was higher than these Invoice values. Amount mentioned in Invoice were transferred to these Importers through Banking Channels i.e., RTGS. Whereas, the differential amount was either settled in Cash or through fake RTGS supplies. Fake RTGS supplies means, banking transfer in relation to fictitious supply. This was done with intent of launder money by transforming cash into legal source of funds.

Role played by Shri Pranshu Goel and Shri Vijay Goel is further elaborated below:

- (i) Shri Pranshu Goel was looking after import related work of M/s Mahadev Ji Export and M/s Goel Exim.
- (ii) Shri Pranshu Goel also authenticated the veracity of copies of parallel invoices of M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exim and M/s Shree International obtained through forensic analysis of his phone under record of proceedings dated 18.04.2022 & 19.04.2022.
- (iii) Shri Pranshu agreed that he used to call or chat with foreign suppliers for import documents i.e. commercial invoice, packing list and Bill of Lading on WhatsApp. He admitted that the Chinese suppliers used to send two sets of invoices with same invoice number with different value, one was of higher value and other was of lower value. He further submitted that the foreign suppliers also used forward import documents of lower value through courier mainly from DHL at the official address A-104, Wazipur Industrial Area, Delhi. After getting documents through courier, Shri Pranshu Goel used to forward the same to CHA for customs clearance.
- (iv) Shri Vijay Goel opened firm M/s Shri Mahadev Ji Export in the name of his son in the year 2018, one more firm M/s Goel Exim was opened in the name of his wife Smt. Nisha Goel.
- (v) Vijay Goel and his son Shri Pranshu Goel looked after all the import related work of M/s Mahadev Ji Export, M/s Goel Exim, M/s Shree International, M/s Ganesh Steel, M/s MahaShankti Exim like fixing price of imported goods for under-valuation in Customs, fund transfers and customs clearance work. These firms are controlled by Shri Vijay Goel and Shri Pranshu Goel, though they had their namesake proprietors. These namesake proprietors played minimal or no role in the operations. They were paid on Container

basis, whereas the entire Profit and Loss accrued Shri Vijay Goel and Shri Pranshu Goel.

- (vi) Shri Vijay Goel used the firms M/s Shri International and M/s Shri Ganesh Steel for import of Cold Roller Stainless Steel Coil and subsequent sale of the good(s) in local market. He used to pay Rs. 10,000/- per container to the owners of the controlled firms.
- (vii) He accepted undervaluation in import of Cold Roll Stainless steel and submitted that the remaining differential amount due to said undervaluation to supplier was being made through **Hawala**.
- (viii) He accepted the facts of statement dated 16.11.2022 of Shri Jitender Kumar, CHA M/s Balaji Logistics from which it emerges that Shri Vijay Goel and his son Shri Pranshu Goel were involved in import of impugned goods through M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh Steel and M/s Vinayak Steels. That his son Pranshu Goel used to provide the documents of customs clearance of import consignments of Cold Rolled Stainless Steel Coils to the CHA. That all the import and other supporting documents of above mentioned six firms were sent through their respective email ids to the email ID of CHA by Shri Pranshu Goel.
- (ix) Shri Vijay Goel admitted that facts of statement of dated 17.11.2022 of Ms. Devshree Bhatt, Prop of M/s Shree International as per which Shri Vijay Goel and his son Pranshu Goel were actively involved in import related all activities of M/s Shree International. That he was paying Rs. 15000/- per month to Ms. Devshree Bhatt in lieu of import made in her firm. That Ms. Devshree Bhatt used to share OTP received on her mobile number to Shri Vijay Goel and his son Pranshu Goel. That his son Shri Pranshu Goel also used to sign on bank related documents on behalf of Ms. Devshree Bhatt.
- (x) That the invoices found in forensic analysis of the resumed electronic devices under panchnama dated 16.11.2022 having the correct value of goods i.e. Cold Rolled Stainless Steel Coil which indicates that unit price of the goods were USD 2.4.
- (xi) As recorded in the statements of Shri Kartik Singla, Shi Manoj Singhal, Shri Sanjay Goel, Shri Dinesh Goel, Shri Ram Singhal, Shri Dhanraj Jain that Shri Vijay Goel and Shri Pranshu Goel sold these imported Cold Rolled Steel of 304 or J3 Grade to them at lower Invoice value. Where amount prescribed in the Invoice is paid through Banking Channels and differential amount is either settled through Cash or fake RTGS transfers against fictitious supplies.
- (xii) That the unit price of goods seized declared as USD 1.1 appears to be incorrect price of the Cold Rolled Stainless Steel Coil 304 (Ex-Stock).
- (xiii) That the amount lying in the provisionally attached bank accounts appears to be sale proceed of impugned goods.
- (xiv) The details of the evidences gathered so far with respect to the various offences committed by Shri Vijay Goel and his son Shri Pranshu Goel through the firms/entities under their control were undervaluation of imported goods, forging of invoices in connivance of the foreign supplier, transferring of funds abroad through hawala channels.

- (xv) Sales of the smuggled goods partly in cash and partly through invoices for maintaining book of accounts.

16. As elaborated above Shri Vijay Goel and Shri Pranshu Goel, were engaged in a systemic scheme of fraud to mis-declare imported goods by the means of undervaluation with an intent to evade Custom duty. It had been observed that the offence was of a serious nature involving a substantial loss of revenue to the Govt. Exchequer. Further, Section 2(39) of Customs Act, 1962 defines "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 of the Customs Act, 1962. The impugned undervalued and mis-declared import goods were liable to confiscation under section 111(m) of the Customs Act, 1962 and hence, the illegal import of such goods falls under the category of "smuggling" in terms of section 2(39) of the Customs Act, 1962. Which makes the act of importation of impugned goods Smuggling and impugned goods as smuggled goods itself.

17. Rejection of the Transaction Value declared by firms M/s Goel Exim, M/s Maha Shakti Exims, M/s Mahadev Ji Exports for Seized Goods (Table 1):

From the investigation caused in the matter, it appeared that the firms M/s Goel Exim, M/s Maha Shakti Exims, M/s Mahadev Ji Exports had imported goods i.e. Cold Rolled Stainless Steel Coil 304 grade (Ex-stock) by way of undervaluation and evaded the Customs duty. Shri Vijay Goel and Shri Pranshu Goel, both controller of the firms also admitted that they used to import the goods i.e. by way of mis-declaring their value to evade payment of Customs duty. During forensic examination of the electronic devices resumed from the office premises of M/s Shri Mahadev Ji Exports and M/s Maha Shakti Exims certain parallel/similar invoices were found in respect of the seized goods which were having higher value as compared to declared value indicating under-valuation in import. Refer to **Table 1 and Table 4**, to compare the declared value with actual value of goods seized.

17.1 There were substantial grounds to doubt the veracity and the truth of the values declared in relation to the imported goods i.e Cold Rolled Stainless Steel Coil vide Seizure Memo dated 10.03.2023 and 22.04.2023. These reasons thus form the basis for rejection of the declared value. The unequivocal evidence, voluntary statements of the persons concerns (as discussed herein above) clearly bring out the fact that the value declared by the importing firm for the imported goods seized vide Seizure Memo dated 10.03.2023 and 22.04.2023 was not the true value of the goods imported thereunder has thus come on record and has been categorically accepted by the person involved that they were doing undervaluation. Further, other evidence in the form of parallel invoices duly corroborates modus operandi of under invoicing of the goods at the time of import by M/s Goel Exim, M/s Maha Shakti Exims, M/s Mahadev Ji Exports.

17.2 As per Rule 3 of the CVR 2007, the transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export. The evidences and Statements recorded under Sec 108 of Customs Act, discussed

herein before have strongly suggested that the value declared in relation to the imported seized goods i.e Cold Rolled Stainless Steel 304 grade (Ex-stock) vide seizure Memo dated 10.03.2022 and 22.04.2023 was not correct value and the same and appeared to be rejected in terms of Rule 12 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007.

18. Re-determination of value of Seized Goods (Table 1):

18.1 As a result of investigation, it had been ascertained that the goods had been imported by mis-declaration in terms of value. The specifications essential for comparison of the goods with other goods were not mentioned in the import documents. The vital specifications essential for holding the goods to be identical or similar were not on the record.

18.2 It is recapitulated that in terms of Section 14 of the Customs Act, 1962, the value of the imported goods shall be the transaction value that is to say that price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, subject to such other conditions as may be specified in this behalf by the rules made in this regard. Further, in accordance with such provisions, Central Government has made Customs Valuation (Determination of value of imported goods) Rules, 2007 (herein after referred to as 'the valuation rules'). Rule 3 (1) of the valuation rules lays down that the value of the imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. Further Rule 2(g) defines transaction value as the value referred to in subsection (1) of Section 14 of the Act. Rule 13 of the valuation rules lays down that the interpretative notes specified in the Schedule to these rules shall apply for the interpretation of these rules. The interpretative Rule 3 provides that price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods.

18.3 On a combined reading of the Section 14 *ibid* & the valuation rules, it appears that customs duty is payable on transaction value that is to say that:

1. Price actually paid or payable for the goods i.e. the total payment made by the buyer
2. When sold for export to India for delivery
3. At the time and place of importation

It appeared that in terms of Rule 3 of the valuation rules read with Section 14 of the Customs Act, 1962 and the schedule to the valuation rules, the actual price paid or payable for the impugned goods, should have formed part of the assessable value for the purpose of calculation of Customs duty as the same is the actual transaction value of the imported goods. Since it appeared that the values declared by these importers are not the correct values and appeared liable to be rejected in terms of Rule 12 of the Customs Valuation Rules, 2007, as the importer had indulged in mis-declaration of value of the goods and had used fraudulent and manipulated documents [explanation 1(iii) (d) & (f) of Rule 12]. Rule 12(1) provides that in such cases it shall be deemed that the transaction value cannot be determined under the provisions of sub- Rule 1 of Rule 3.

18.4 Further, it appeared that in terms of explanation 1(i) of Rule 12 of the said rules, the value has to be re-determined by proceeding sequentially through Rule 4 to 9. It further appeared that value cannot be determined in terms of Rule 4 of the said rules as no identical goods imported in India at or about the same time as the goods being valued (which is mandatory for Rule-4) could be identified. Similarly, it further appeared that Rule 5, providing for transaction value of similar goods, can also not be invoked for similar reasons. It also appeared that the deductive value as provided for under Rule 7 cannot be arrived at in the absence of exact sales values and the data required for quantification of the deductions allowed under the said Rule 7. Further, it appeared that computed value, as provided under Rule 8, cannot be calculated in the absence of quantifiable data relating to cost of production, manufacture or processing of import goods. As such, it appeared that there is no option but to invoke the provisions of Rule 9 i.e. residual method for determining the value of the impugned import goods. Rule 9 provides for determination of value using reasonable means consistent with the principles and general provisions of these rules. The underlying principle behind the Valuation Rules for determination of transaction value is that it should reflect the actual price paid or payable for the import goods. The wording employed in Section 14 of the Customs Act, 1962 also lends credence to this theory. It appears that, in keeping with the principles of the said rules and Section 14, the ends of justice would be met if the actual price paid by the buyer of the goods is taken as the transaction value of the impugned goods.

19. As discussed above, it appeared that the actual price paid or payable for the impugned goods, should have formed part of the assessable value for the purpose of calculation of Customs duty as the same is directly relatable to the imported goods and shows the total payment made by the buyer (importer) to the supplier for the imported goods. Thus, in terms of the Rule 9 of the Valuation Rules, the actual price paid, wherever the directly relatable evidence is available as explained above, is required to be taken as the basis for arriving at the assessable value of the goods in terms of Rule 9 *ibid*. Explanation to Rule 12 provides for rejection of value in case of mis-declaration of value as well as in case of fraudulent or manipulated documents. The evidence unearthed during the course of investigation, as discussed above, is a direct proof of the fraudulent and manipulative documents used by the importer for the purpose of mis-declaring the value of the imported goods and seized vide Seizure memo dated 10.03.2023 and with the intent to evade payment of due Customs duties. From the forensic analysis, actual value of those imported goods have been found and hence the value of those imported goods is required to be determined in terms of the Rule-9 of the Valuation Rules.

20. Thus, from the facts and circumstances of the case, documentary evidences adduced during investigation, and applicable legal provisions in the matter it appears/emerges that the seized goods had been imported in contravention of Customs Act, 1962. Re-determined value of the **Seized Goods** i.e. Cold Rolled Stainless Steel Coil 304 grade (Ex-stock) (**Table 1**) are as under:

Table: 5

COL 1	COL2	COL3	COL4	COL5	COL6	COL7	COL 8	COL 9
Name of importer	Container No	Bill of Entry No. and Date	Quantity in Kg	Declared rate \$/Kg	Rate of Exchange Applicable	Assessable Value declared (Rs.) (COL4*COL5*COL 6)	Rate \$ per kg as per invoices found	Re-determined Assessable Value ^(Rs.) (COL 4 *COL6*COL 8)
M/s Goel Exim	TELU2237293	3257125 DT. 11.11.2022	28330	1.1	83.8	2611459.4	2.4	5697730
	IAAU2709160	3303610 DT. 15.11.2022	55454	1.1	83.8	5111749.72	2.4	11152908
	IAAU2738298							
	IAAU2811188	3072207 DT. 28.10.2022	55088	1.1	83.9	5084071.52	2.4	11092520
	TCLU3683594							
	TRHU2464885	3091438 DT. 29.10.2022	54840	1.2	83.9	5521291.2	2.4	11042582
	GRMU2124837							
M/s Mahashakti Exim	IAAU2867905	3303633 DT. 15.11.2022	27994	1.1	83.8	2580486.92	2.4	5630153
M/s Shri Mahadev Ji Export 2018	TEMU3390438	3293673 DT. 14.11.2022	53478	1.1	83.8	4929602.04	2.4	10755495
	TEMU3722954							
						Total (Rs.)		55371389

20.1 From the above table it appeared that the seized goods imported by M/s Goel Exim, M/s Mahadev Ji Exports and M/s Maha Shakti Exims were undervalued to evade customs duty. Details of the same are mentioned below:

Table:6

Name of the Importer	No. of bill of entries	Declared Assessable Value (Rs.)	Assessable Value Calculated as per Investigation (Rs.)
M/s Goel Exim	4	18328572	38985740
M/s Mahashakti Exim	1	2580487	5630153
M/s Shri Mahadev Ji Exports	1	4929602	10755495

21. Shri Vijay Goel and Shri Pranshu Goel in connivance of their associates played a vital role in smuggling of impugned goods by mis-declaration in value by the way of producing forged documents. Shri Vijay Goel and Shri Pranshu Goel had indulged in

the prejudicial activities in an organized and fraudulent manner. From various Statements recorded under Customs Act, 1962. It appeared that Shri Vijay Goel and Shri Pranshu Goel were well aware of under-valuation in import made through the firms under their control, spite of that, they attempted to import such huge quantity of under-valued goods with intent to defraud govt. exchequer in total disregard to law of the country. Both Shri Vijay Goel and Shri Pranshu Goel were indulged in smuggling of goods and engaging in transporting or concealing or keeping smuggled goods in connivance with the importers concerned. Their deliberate actions resulting in undervaluation and rendering the seized goods liable to confiscation, as well as by dealing with such goods, they appeared to be liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962. For having used false documents (invoices) mis-declaring the value of seized goods in effecting clearance of these goods, they also appear liable to penalty under Section 114 AA of the Customs Act, 1962.

21.1 Seized goods were imported by M/s Shri Mahadev ji Exports, M/s Maha Shakti Exim, M/s Goel Exim and were being used for improper importation. As per the Customs Act, 1962, the importer of any goods is required to file a Bill of Entry under Section 46 of the Customs Act, 1962, in the proforma prescribed under Bill of Entry (Form) Regulations, 1976 or Bill of Entry (Electronic Declaration) Regulations, 2011, before the proper officer. In terms of the said provisions, the importer, while presenting the Bill of Entry shall make and subscribe to a declaration as to the truth of the contents of such a Bill of Entry and shall, in support of such declaration, produce to the proper officer, the invoice, if any, relating to the imported goods. In view of the above, it appeared that M/s Shri Mahadev ji Exports, M/s Maha Shakti Exim, M/s Goel Exim had violated the provisions of Section 46 of the Customs Act, 1962 by mis-declaring the actual value of the imported goods, which had resulted in improper assessment of duty under Section 17 of the Customs Act, 1962. Further, it appeared that the impugned goods seized vide Seizure memo dated 10.03.2023 and 22.04.2023 imported by M/s Shri Mahadev ji Exports, M/s Maha Shakti Exim, M/s Goel Exim appeared to be liable for confiscation under Sections 111(m) of the Customs Act, 1962 and therefore, the firms though their proprietor appeared to be liable for penal action under Section 112 (a) & (b) and Section 114AA of the Customs Act, 1962.

21.2 The amount lying in the bank accounts of the 06 firms namely M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Vinayak Steel, M/s Ganesh Steel and M/s Shree International and their proprietors including the controlled Shri Vijay Goel are the sales proceeds of the smuggled goods and are liable for confiscation under Section 121 of the Customs Act, 1962. Further, certain bank accounts have no balance and therefore, not considered for confiscation. Details of the same are, as under:

Table: 7

Sl.No.	Firm /person name	Bank A/c No.	Bank Details	Balance
1	AJAY Goel	36905003537	ICICI	12,4 86.00
2	Ajay Goel(LINKED ACCOUNT TO VINAYAK	36901513636	ICICI	7,3 51.00

	STEEL)			
3	Ajay Goel(LINKED ACCOUNT TO VINAYAK STEEL)	90962010053749	Canara Bank	6,836
4	Ajay Kumar	4047571257	Kotak Mahindra	12,0 00.00
5	POOJA GOEL(LINKED ACCOUNT TO VINAYAK STEEL)	90962010073368	Canara Bank	2 5,145
6	M/s Vinayak Steel	10064173260	ICICI	60,2 24.20
			Total	1,24,0 42.05
1	Devshree Bhatt	1145433104	Kotak Mahindra	25,7 90.00
2	M/s Shree International	2245256426	Kotak Mahindra	5,2 71.58
3	M/s Shree International	10087171153	IDFC First Bank, Ashok Vihar, New Delhi	22,2 32.00
4	M/s Shree International	102801508912	ICICI Bank, Ashok Vihar, New Delhi	1,8 71.00
5	M/s Shree International	107563300001862	Yes Bank, GT Karnal Road, New Delhi	1 9,452
			Total	74,616
1	M/s Ganesh Steel	9746304465	Kotak Mahindra	96,1 44.94
2	M/s Ganesh Steel	10085457157	IDFC First Bank, Ashok Vihar, New Delhi	24,1 64.00
3	M/s Ganesh Steel	10085098300	IDFC First Bank, Ashok Vihar, New Delhi	18,70,0 00.00
			Total	19,90,3 08.94
1	M/s Goel Exim	8845156470	Kotak Mahindra	5,6 10.49
2	M/s Goel Exim	10092744754	IDFC First Bank, Ashok Vihar, New Delhi	27,54,0 00.00
3	M/s Goel Exim	33105005788	ICICI Bank, Ashok Vihar, New Delhi	2,05,79,3 54.30
4	Nisha Goel	1565101026396	Canara Bank	3,35,5 80.66
5	Nisha Goel	1645663704	Kotak Mahindra	2,10,7 08.00
6	Nisha Goel	1645663711	Kotak Mahindra	52,6 77.00
7	Nisha Goel	1645663728	Kotak Mahindra	2,10,7 08.00
8	Nisha Goel	1645663735	Kotak Mahindra	52,6 77.00
			Total	2,42,01,3 15.45
1	M/s Maha Shakti Exims	10103248501	IDFC First Bank, Ashok Vihar, New Delhi	30,11,0 00.00

2	M/s Maha Shakti Exims	33105005809	ICICI Bank, Ashok Vihar, New Delhi	8,63,381.00
			Total	38,74,381.00
1	M/s Shri Mahadev Ji Exports	3145141591	Kotak Mahindra	18,894.00
2	M/s Shri Mahadev Ji Exports	3145150340	Kotak Mahindra	11,347.00
3	M/s Shri Mahadev Ji Exports	10089013784	IDFC First Bank, Ashok Vihar, New Delhi	22,78,000.00
4	M/s Shri Mahadev Ji Exports	33105005777	ICICI Bank, Ashok Vihar, New Delhi	52,869.54
5	M/s Shri Mahadev Ji Exports	1565201003915	Canara Bank, Pitampura, New Delhi	60,698.53
6	M/s Shri Mahadev Ji Exports	3114460319	Kotak Mahindra Bank, Ashok Vihar, New Delhi	60,224.20
7	Pranshu Goel	1815053151	Kotak Mahindra	9,567.94
8	Prasnhu Goel	10088283561	IDFC First Bank, Ashok Vihar, New Delhi	177.75
			Total	24,91,779
1	Vijay Goel	6245382239	Kotak Mahindra	3,253.80
2	Vijay Goel	1565136000091	Canara Bank	7,08,986
			Total	7,12,239.80
			G. Total	3,34,68,683

22. Accordingly, the Importer **M/s Goel Exim** was called upon to show casue as to why:-

- The declared value of Rs. **1,83,28,572/-** of the impugned goods seized vide Seizure Memo dated 10.03.2023 and 22.04.2023 should not be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined at **Rs. 3,89,85,740/-** in terms of Rule 9 of the said Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962.
- All the impugned goods seized vide Seizure Memo dated 10.03.2023 and 22.04.2023 imported vide 4 Bills of entry having total assessable value **Rs. 3,89,85,740/-** should not be confiscated under **Section 111(m)** of the Customs Act, 1962.
- Penalty should not be imposed upon M/s Goel Exim though its proprietor Smt. Nisha Goel under Section 112 (a) & (b) and Section 114AA of the Customs Act, 1962.

22.1 Shri Pranshu Goel and Shri Vijay Goel controller of M/s Goel Exim were called upon to show cause as to why penalty should not be imposed upon them under Section 112 (a) & (b) & Section 114AA of the Customs Act, 1962.

23. Importer **M/s Shri Mahadev Ji Exports** were called upon to show cause as to why:-

- (a) The declared value of **Rs. 49,29,602/-** of the impugned goods seized vide Seizure Memo dated 22.04.2023 should not be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined as **Rs. 1,07,55,495/-** in terms of Rule 9 of the said Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962.
- (b) All the impugned goods seized vide Seizure Memo dated 22.04.2023 imported vide 1 Bill of entry having total assessable value **Rs. 1,07,55,495/-** should not be confiscated under **Section 111(m)** of the Customs Act, 1962.
- (c) Penalty should not be imposed upon M/s Shri Mahadev Ji Export though its proprietor Shri Pranshu Goel under Section 112 (a) & (b) and Section 114AA of the Customs Act, 1962.

23.1 Shri Vijay Goel controller of M/s Shri Mahadev Ji Export was called upon to show cause as to why penalty should not be imposed upon them under Section 112 (a) & (b) & Section 114AA of the Customs Act, 1962.

24. Importer **M/s Shri Maha Shakti Exims** were called upon to show cause as to why :-

- a) The declared value of **Rs. 25,80,487/-** of the impugned goods seized vide Seizure Memo dated 22.04.2023 should not be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined as **Rs. 56,30,153/-** in terms of Rule 9 of the said Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962.
- b) All the impugned goods seized vide Seizure Memo dated 22.04.2023 imported vide 1 Bill of entry having total assessable value **Rs. 56,30,153/-** should not be confiscated under **Section 111(m)** of the Customs Act, 1962.
- c) Penalty should not be imposed upon M/s Shri Maha Shakti Exims through its proprietor Shri Upender Pratap Singh under Section 112 (a) & (b) and Section 114AA of the Customs Act, 1962.

24.1 Shri Vijay Goel and Shri Pranshu Goel controller of M/s Maha Shakti Exim were called upon to show cause as to why penalty should not be imposed upon them under Section 112 (a) & (b) & Section 114AA of the Customs Act, 1962.

25. **M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exims, M/s Vinayak Steel, M/s Shree International and M/s Ganesh Steel** and their proprietors including controller Shri Vijay Goel were called upon to show cause as

to why:

- i. An amount of **Rs. 1,24,042.05/-** lying in the bank accounts of M/s Vinayak Steel and its proprietor as detailed below should not be confiscated under Section 121 of the Customs Act, 1962.
- ii. An amount of **Rs. 74,616/-** lying in the bank accounts of M/s Shree International and its proprietor as detailed below should not be confiscated under Section 121 of the Customs Act, 1962.
- iii. An amount of **Rs. 19,90,308.94 /-** lying in the bank accounts of M/s Ganesh Steel though its proprietor should not be confiscated under Section 121 of the Customs Act, 1962.
- iv. An amount of **Rs. 2,42,01,315.45/-** lying in the bank accounts of M/s Goel Exim and its its proprietor should not be confiscated under Section 121 of the Customs Act, 1962.
- v. An amount of **Rs. 38,74,381.00/-** lying in the bank accounts of M/s Shri Maha Shakti Exims through its proprietor should not be confiscated under Section 121 of the Customs Act, 1962.
- vi. An amount of **Rs. 24,91,779/-** lying in the bank accounts of M/s Shri Mahadev Ji Exports and its proprietor should not be confiscated under Section 121 of the Customs Act, 1962.
- vii. An amount of **Rs. 7,12,239.80 /-** lying in the bank accounts of Shri Vijay Goel should not be confiscated under Section 121 of the Customs Act, 1962.
- viii. Penalty Should not be imposed against them under Section 117 of the Customs Act, 1962.

26. This show cause notice was issued in respect of the goods seized vide Seizure memo dated 10.03.2023 and 22.04.2023 (**As mentioned in Table 1**) and for sale proceeds of the smuggled goods available in the provisionally attached bank accounts. The scope and intent of this Show Cause Notice was limited to the Seized Goods and sale proceed of smuggled goods available in provisionally attached bank accounts.

27. DEFENCE SUBMISSIONS

27.1 Shri Navneet Panwar (Advocate) on behalf of M/s. Goel Exim (Noticee No. 5) has submitted written submission vide letter dated 25.12.2023 wherein they interalia submitted that:

- i. Apart from the statements there is no record that the noticee has sold the goods imported in the past at prices lower than the invoice value. Apart from the statements there is no record that the noticee has sold the goods imported in the past at prices lower than the invoice value. A perusal of the stafements

show that they have not been asked to » substantiate their statements by producing evidence. The said persons have not been made noticees and the goods purchased by them from the noticee have not been proposed to be confiscated notionally.

- ii. The SCN has relied on whatsapp chat with the buyers viz. Shyam ji of M/s Star India, Manish ji of Star India, Mukesh ji of Dalmia Steel & Chandan. The chat refers to samples of the coil for placing purchase order and has been wrongly attributed as token for hawala payment. It is pertinent to mention that statements of the aforesaid persons has not been recorded so as to get to the root of the matter. Hence reliance on the whatsapp chat to fasten the charge of mis-declaration is highly premature, misplaced and unsustainable in law. Hence, reliance on the above statements is unsustainable and they carry no evidentiary value.
- iii. It is submitted that the procedure of examination and cross-examination of persons whose statements are to be relied upon in the proceedings, is a fundamental requirement for fair play and basic requirement of Principles of Natural Justice. Therefore, the noticee requests for cross examination of the following persons so that the truth comes out:
 - (i) Dhanraj Jain, Director of M/s Savitri Stainless Steel Pvt. Ltd.
 - (ii) Ram Singhal, prop. of M/s Singhal Steel
 - (iii) Sanjay Goel, Director of M/s Karan Metawares Pvt. Ltd. (now M/s Naman Metawares Pvt. Ltd.)
 - (iv) Manoj Singhal, prop. of M/s Sohum Trading Company
 - (v) Kartik Singla
 - (vi) Dinesh Goel
- iv. The Show Cause Notice has placed reliance on the data retrieved from 2 mobile phones of Sh. Priyanshu Goel. The mobile phones were resumed under. Panchnama dated 21.09.2021. Strangely, forensic examination of the mobile phones was done on 48.04.2020 and 19.04.2022. No intimation of forensic examination was given to the noticee and it was done behind his back. Hence, it is inadmissible in evidence. A certificate under Section 138C of the Customs Act, 1962 has been got signed by Sh. Pranshu Goel under duress while he was in custody of the DRI officers. Hence the data retrieved from the mobile phones is inadmissible in evidence.
- v. In the normal course of business since the goods were stock lot there was negotiation with the suppliers regarding the price and proforma invoice was forwarded by the suppliers. However, after finalization of the negotiations, the invoice for transaction value was forwarded alongwith other documents to the noticee, based upon which the subject Bills of entry for clearance of the goods was filed. Hence, reliance on the proforma invoices is highly misplaced and they cannot be relied to fasten the charge of mis declaration on the noticee. The Invoice on the basis of which the bill of entry is filed represents the actual transaction value and is sacrosanct.
- vi. Apart from presumptions and assumptions there is no justiciable reason for rejection of transaction value as envisaged under Rule 12 of Customs

(Determination of value of import goods) Rues, 2007. The Hon'ble Supreme Court in the case of Commissioner of Central Excise, Noida Vs. M/s. Sanjivani Non Ferrous Trading Pvt. Ltd. in Civil Appeals No.18300-18305 of 2017, has held that value can be re-determined without first rejecting the transaction value.

- vii. The rejection and re-determination of value is contrary to the ratio laid down by the Hon'ble Supreme Court in the case of Eicher Tractor Ltd. Vs. Commissioner of Customs, Mumbai [2000(122)]ELT321(SC) followed in a catena of judgments, wherein it has been held that "it is only when the transaction value is rejected, then under Rule 3(ij) the value shall be determined by proceeding sequentially through Rule 5 to 8 conversely, if the transaction value can be determined Under Rule 4(1) and does not fall Under any of the exceptions in Rule(2), there is no question of determining the value under subsequent Rules."
- viii. The officers of the D.R. |. have either not collected the data or upon coming to know that the transaction value declared by the noticee was in the same range as that of contemporaneous imports have deliberately not relied upon the same and jumped to rule 9 of the rules ibid which is totally illegal.
- ix. The statements of Sh. Vijay Goel and Sh. Pranshu Goel have been relied to fasten charge of mis declaration. The statements were recorded under threat and duress when Sh. Vijay Goel and Pranshu Goel were confined in the DRI office. The statements have since been retracted at the first available opportunity and hence cannot be relied to fasten the charge of mis-declaration on the noticee.
- x. That the amount standing in the bank accounts of the noticee is legitimate sale proceeds of the goods imported and sold by the noticee in the normal course of business. It is pertinent to mention that the Sh. Vijay Goel and Sh. Pranshu Goel were forced and compelled to get the amounts deposited in the accounts of the noticee and once the deposit was made letters were written to the bank giving no withdrawal instructions. Since the import is legitimate and not offending qua provisions of the Customs Act, 1962, there is no reason or occasion for confiscation of the same under Section 121 of the Customs Act, 1962 and the same is likely to be dropped being unsustainable in law and also on facts.

27.2 Further, Shri Anmol Arya and Ritaj Kacker (Advocates) through letter dated 01.12.2024 have submitted written submissions on behalf of Shri Vijay Goel and Shri Pranshu Goel wherein they inter alia stated that:

- i. It is submitted that the statements of Shri Vijay Goel and Pranshu Goel, as recorded under Section 108 of the Customs Act, 1962 cannot be treated as an admissible evidence. It is worthwhile to consider that the retracted statements without due corroboration can not be relied upon by the department towards implication of Noticees. They referred case K.I. Pavunny v. Assistant Collector (Hon'ble Supreme Court), K. Sugumar v. Commissioner of Customs (2021) (Hon'ble Madras High Court).

- ii. It is a settled law that if confirmation of duty and penalty were based on confessional statements which were promptly retracted and there was no other independent material on record, confirmation of duty and penalty needs to be set aside.
- iii. Re-determination of transaction value is not in accordance with the mandate of procedure and law. It is submitted that there exist nothing on record that suggest that the price actually paid towards importation is what the department has re-determined the transaction value to. It is submitted that the department by way of the captioned SCN has mis interpreted the provision of Section 14 of the Customs Act, 1962. Therefore, it is submitted that the reliance of the department on Rule 9 read along with Section 14 of the Customs Act, 1962 towards redetermination of the transaction value, is illegal and unreasonable and liable to be set aside.

27.3 Further, the Advocate of shri Vijay Goel and Pranshu Goel through their advocate have submitted that the Noticee No. 3 and Noticee No. 1 is being implicated in the captioned Show Cause Notice on the basis of statements tendered by third parties. It is pertinent to mention that in addition to placing reliance on the statements tendered by third parties, the department has miserably failed to put on record upon investigation, any corroboratory evidences to substantiate the averments of respective third parties. They made request for cross examination of Shri Dhanraj Jain, Shri Ram Singhal , Shri Dinesh Goel , Shri Sanjay Goel, Shri Manoj Singhal and Shri Kartik Singla. He placed reliance of the following judgements:

- ❖ Commissioner of Customs Versus Shri Himadri Chakraborty bearing Appeal Number CUSTA/4/2022- Hon'ble High Court of Calcutta
- ❖ Swadeshi Polytex Ltd. v. Collector of Central Excise (2000) 122 ELT 641 (SC)
- ❖ Kothari Filaments v. Commissioner of Customs (Port) (2009) 233 ELT 289 (SC).

28. RECORDS OF PERSONAL HEARING

- Following the principles of natural justice, opportunities of personal hearing was granted to all noticees on 02.04.2024, Shri Vijay Goel and Shri Pranshu Goel attended hearing on 02.04.2024 and sought adjournment. Other noticees have not attended hearing.
- Further, Shri Ritaj Kacker on behalf of M/s. Goel Exim, Shri Mahadev Ji Exports, Shri Vijay Goel, Shri Pranshu Geol, M/s.Vinayak Steel submitted a letter dated 17.04.2024 and stated that RUDs have not been supplied to the said Noticees. Hence, they requested for 04 weeks' time to attend hearing. Accordingly, personal hearings was re-

scheduled on 15.05.2024 & 15.10.2024, however, no one appeared for personal hearing.

- Since, the Adjudicating Authority had been changed, a hearing in the subject matter was granted on 08.11.2023. However, the said letter of hearing dated 08.11.2023 was not served on time, hence, next date of hearing was fixed on 13.11.2024. Shri Vijay Goel through mail shown his inability to attend ph due to his medical condition. Therefore, next for hearing to shri Vijay Goel was granted on 02.12.2024. However, he had not attended personal hearing on the scheduled date. Meanwhile, Shri Ritaj kacker & Anmol Arya (advocate and authorised representative of M/s. Goel Exim, Shri Mahadev Ji Exports, Shri Vijay Goel, Shri Pranshu Geol, M/s. Vinayak Steel) stated that they will represent the case for above said noticees. It is further noticed that no authorisation letters were issued by the Noticees in their name (Shri Ritaj Kacker and Shri Amol Aarya), hence, the advocate were instructed to produce authorisation letters in their name. In compliance of the same, authorisation letters to attend hearing on behalf of Noticee No. 1, 2, 3, 4 & 5, Shri Ritaj Kacker (Advocate) has mailed on 05.12.2024. Shri Pramarth Gupta on behalf of Noticee No. 12 & 13 also submitted authorisation letter through mail dated 05.12.2024.
- Considering the request of the advocate of the Noticees, the adjudicating authority has granted last opportunity to make final submissions and the said fact also communicated to them vide letter dated 10.12.2024 that this will be the last opportunity. Accordingly, final date for hearing was granted to Noticee No. 1,2,3,4,5,12 & 13 on 19.12.2024. Shri Ritaj Kacker attended personal hearing on behalf of Shri Vijay Goel (Noticee-1), M/s. Shri Mahadev Ji Exports (Noticee-2), Shri Pranshu Geol (Noticee-3), Smt. Nisha Goel (Noticee-4) and M/s. Goel Exim (Noticee-5) on 19.12.2024 and stated that the present issue is related to the undervaluation of imported goods. He re-iterated their written submissions in the subject matter which were sent by him through mail on 01.12.2024. He further stated that there are mainly 06 persons involved whose statement were recorded by the investigating agency and based on that the case was made. He requested for cross examination of these 06 persons. They further stated that the cross examination request has been made through their written submissions dated 19.12.2024 also.
- Shri Pramarth Gupta (Advocate) appeared for personal hearing on 19.12.2024 on behalf of Shri Ajay Kumar, Proprietor of M/s. Vinayak Steel (noticee-12) and M/s. Vinayak Steel (noticee-13). He stated that he will submit his detailed final reply in the subject matter by

27.12.2025. However, no reply has been submitted till the issuance of this order.

DISCUSSIONS AND FINDINGS

29. I have gone through the facts of the case, Show Cause Notice dated 15.11.2023 and the noticee's submissions both, in written and in person. I noticed that ample opportunities have been granted to the noticees however, except noticee no. 1,2,3,4,5,12 & 13; no one appeared to attend personal hearing. I noticed that authorised representatives of the noticee no. 1,2,3,4,5,12& 13; on the last stage of adjudication appeared to defend the case. I have taken their submissions on record made during the last hearing dated 19.12.2024. I now proceed to frame the issues to be decided in the instant SCN before me. On a careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided: -

- i. Whether the value declared by the Importers M/s. Goel Exim, M/s Shri Mahadev Ji Exports & M/s Maha Shakti Exims is liable to be rejected under Rule 12 of the CVR, 2007 and the same are required to be re-determined in terms of Rule 9 of the said Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962 or otherwise.
- ii. Whether the goods imported by the Importers M/s. Goel Exim, M/s Shri Mahadev Ji Exports & M/s Maha Shakti Exims are liable for confiscation under Section 111(m) of the Customs Act, 1962 or otherwise.
- iii. Whether the Noticees called upon to show cause under para 40, 40.1, 41, 41.1, 42 & 42.1 are liable for penalty under Section 112 (a) & (b) and 114AA of the Customs Act, 1962 or otherwise.
- iv. Whether the amount lying in the bank account of firms M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exims, M/s Vinayak Steel, M/s Shree International and M/s Ganesh Steel is liable to be confiscated under Section 121 of the Customs Act, 1962 or otherwise.

30.1 I find that the issue in the present case is centred on the undervaluation of the imported goods "**Cold Rolled Stainless Steel Coils J3 grade** (*Ex-stock/Stock lot*)" through Mundra Port. The unit prices were declared in the subject shipments within the range of USD 0.75 to USD 1.40 (*per kg*). During the investigation, two mobile phones of son of Shri Vijay Goel (i.e., Shri Pranshu Goel) were resumed under panchnama dated 21.09.2021 and forensic examination of resumed mobile phones conducted under panchnama dated 18.04.2022 & 19.04.2022 which resulted in retrieval of relevant Customs documents (i.e., Invoices/Sale Contracts/Bill of Ladings) related to imports made by following firms M/s Goel

Exim, M/s Shree International, M/s Shri Mahadev Ji Exports and M/s Maha Shakti Exims.

30.2 During the forensic examination of these above mentoned 02 mobiles phone of Shri Pranshu Goel, parallel set of invoice were retrieved which have identical description of goods, invoice numbers and dates but different unit prices. The parallel set of invoices have one set with higher unit price value whereas other invoice was found with lower value. The invoices having lower unit price value were submitted/produced before the Customs for Clearance of Goods. Investigation revealed that values declared in Bill of Entries were almost half of the values found in invoices gathered during forensic examination i.e. parallel invoices. This indicated plausible under-valuation in import of Cold Rolled Stainless Steel Coil J3 Grade (Ex-stock) by the above said importers.

30.3 The fact which noticed during the investigation is that Shri Vijay Goel is a habitual offender and Shri Vijay Goel along with his son were involved in controlling of various firms for fraudulent import of Cold Rolled Stainless Steel Coil J3 Grade (Ex-Stock)/ 304 Grade. Shri Vijay Goel and Shri Pranshu Goel were engaged in under-valuation and manipulation of invoices which made them liable for penal action under Section 132 and 135 of the Customs, Act, 1962. **Accordingly, both were arrested on 17.11.2022.** On 04.01.2023 Ld. Additional Session Judge, Patiala House Court, New Delhi had granted bail to both the accused persons i.e. Shri Vijay Goel and Shri Pranshu Goel. Subsequently, bail of M/s Pranshu Goel was cancelled vide order dated 03.11.2023 of Ld. ASJ-06, Patiala House Court, New Delhi as Shri Pranshu Goel jumped the bail condition by not joining the investigation.

30.4 I also noticed that Shri Vijay Goel and Shri Pranshu Goel had filed retraction dated 18.11.2022 before the ACMM-2, Patiala House Court, New Delhi to their statements dated 16.11.2022 and 17.11.2022 tendered by them voluntarily under Section 108 of the Customs Act, 1962. The Department filed rebuttal against their retraction before Ld. ACCM-2 Court, Patiala House on 03.12.2022 and was taken on record by the Ld. Court.

30.5 Shri Vijay Goel played a vital role in smuggling of impugned goods by under- valuing and mis-classifying the same along with his associates. Accordingly, CEIB (COFEPOSA) issued detention order F. No. PD-12001/1/2023-COFEPOSA dated 03.01.2023 under the Conservation of Foreign Exchange and Prevention of Smuggling Activities (COFEPOSA) Act, 1974 with a view to preventing him from smuggling goods, abetting the smuggling of goods and engaging in transporting or concealing or keeping smuggled goods in terms of Section 3(1)(i), Section 3(1)(ii) and Section 3(1)(iii) of the COFEPOSA Act, 1974. On 04.01.2023, the said detention order was executed and Shri Vijay Goel was lodged in Tihar Jail.

30.6 I find that during the investigiaton period it had been gathered that Shri Vijay Goel and Shri Pranshu Goel intended to import Cold Rolled Stainless Steel Coil 304 Grade by way of under-valuation through the import firm namely M/s Goel Exim, M/s Mahadev Ji Export, M/s Shree International, M/s Maha Shakti

Exim, M/s Ganesh Steel and M/s Vinayak Steel. Hence, the consignments were put on hold by the DRI. I find that 7 containers of M/s Goel Exim, 1 container of M/s Maha Shakti Exims and 2 container of Shri Mahdev Ji Exports were put on hold. The goods imported by M/s Goel Exim were examined under panchnama dated 14.02.2023, 18.03.2023 and 30.03.2023. The goods imported by M/s Shri Mahadev Ji Exports were examined under panchnama dated 17.03.2023 and the goods imported by M/s Maha Shakti Exim were examined under panchnama dated 18.0.2023. After examination of the goods, it was found that Cold Rolled Stainless Steel 304 Grade was being imported by way of mis-declaring the goods in value to evade the customs duty. Accordingly, the goods were seized vide Seizure Memo dated 10.03.2023 and 22.04.2023. Details of these 10 Containers are as follows:

DF-I

Sl. No.	Name of the Importer	Date of Panchnama	Container No.	Bill of Entry No. & Date	Date of Seizure Memo (U/s 110)	Quantity of Goods in Kg.
1	M/s Goel Exim	14.02.2023	TELU2237293	3257125 Dt. 11.11.2022	10.03.2023	28330
2		18.03.2023	IAAU2709160 IAAU2738298	3303610 Dt. 15.11.2022	22.04.2023	55454
3		18.03.2023	IAAU2811188 TCLU3683594	3072207 Dt. 28.10.2022	22.04.2023	55088
4		30.03.2023	TRHU2464885 GRMU2124837	3091438 Dt. 29.10.2022	22.04.2023	54840
5	M/s Maha Shakti Exims	18.03.2023	IAAU2867905	3303633 Dt. 15.11.2022	22.04.2023	27994
6	M/s Shri Mahadev Ji Exports	17.03.2023	TEMU3390438 TEMU3722954	3293673 Dt. 14.11.2022	22.04.2023	53478

30.7 During investigation the fact has been revealed that Shri Vijay Goel and Shri Pranshu Goel were controlling the operations of firms namely M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh Steel and M/s Vinayak Steel.. Therefore for protecting the interest of revenue, letters dated 17.11.2022 were forwarded to the respective Nodal Officers of IDFC First Bank, ICICI Bank Ltd., Kotak Mahindra Bank, Karnataka Bank, Canara Bank and Yes Bank with account numbers and PAN number of the above said firms with request to provisionally attach the bank accounts under the provision of Section 110(5) of the Customs Act, 1962. It was also requested that the bank accounts associated with the PAN number may also be provisionally attached under Section 110(5) of the Customs Act, 1962. Accordingly, the following bank accounts were provisionally attached under Section 110(5) of the Customs Act, 1962:

DF-II

Sl. No.	Firm/Person name	Bank A/c No.	Bank Name	Balance Available (Rs.)
1	Devshree Bhatt	1145433104	Kotak Mahindra	25,790.00
2	Nisha Goel	1645148522	Kotak Mahindra	No balance
3	Nisha Goel	1645663704	Kotak Mahindra	2,10,708.00
4	Nisha Goel	1645663711	Kotak Mahindra	52,677.00
5	Nisha Goel	1645663728	Kotak Mahindra	2,10,708.00
6	Nisha Goel	1645663735	Kotak Mahindra	52,677.00
7	Pranshu Goel	1815053151	Kotak Mahindra	9,567.94
8	M/s Shree International	2245256426	Kotak Mahindra	5,271.58
9	M/s Shri Mahadev Ji Exports	3114460319	Kotak Mahindra	60,224.20
10	M/s Shri Mahadev Ji Exports	3145141591	Kotak Mahindra	18,894.00
11	M/s Shri Mahadev Ji Exports	3145150340	Kotak Mahindra	11,347.00
12	Ajay Kumar	4047571257	Kotak Mahindra	12,000.00
13	Ajay Kumar	4047575507	Kotak Mahindra	NIL
14	Santan Kamat	4412482775	Kotak Mahindra	Nil
15	Vijay Goel	6245382239	Kotak Mahindra	3,253.80
16	Goel Exim	8845156470	Kotak Mahindra	5,610.49
17	Ganesh Steel	9746304465	Kotak Mahindra	96,144.94
18	Shri Siddhi Vinayak Exports	402711009694	Kotak Mahindra	No Balance
19	M/s Ganesh Steel	10085098300	IDFC First Bank	18,70,000.00
20	Ganesh Steel	10085457157	IDFC First Bank	24,164.00
21	M/s Shree International	10087171153	IDFC First Bank	22,232.00
22	Prasnhu Goel	10088283561	IDFC First Bank	177.75
23	M/s Shri Mahadev Ji Exports	10089013784	IDFC First Bank	22,78,000.00
24	M/s Goel Exim	10092744754	IDFC First Bank	27,54,000.00
25	M/s Maha Shakti Exims	10103248501	IDFC First Bank	30,11,000.00
26	M/s Shri Mahadev Ji Exports	33105005777	ICICI Bank	52,869.54
27	M/s Vinayak Steel	10064173260	ICICI Bank	60,224.20
28	M/s Goel Exim	33105005788	ICICI Bank	2,05,79,354.30

29	M/s Maha Shakti Exims	33105005809	ICICI Bank	8,63,381.00
30	Ajay Goel(linked account to vinayak steel)	36901513636	ICICI	7,351.00
31	AJAY Goel	36905003537	ICICI	12,486.00
32	M/s Vinayak Steel	36905003562	ICICI Bank	
33	M/s Shree International	102801508912	ICICI Bank	1,871.00
34	M/s Vinayak Steel	636905003562	ICICI Bank	No Balance
35	M/s Shri Mahadev Ji Exports	1565201003915	Canara Bank	60,698.53
36	Nisha Goel	1565101026396	Canara Bank	3,35,580.66
38	Vijay Goel	1565136000091	Canara Bank	7,08,986
39	Ajay Goel(linked account to vinayak steel)	90962010053749	Canara Bank	6,836
40	Pooja Goel (linked account to vinayak steel)	90962010073368	Canara Bank	25,145
41	M/s Shree International	107563300001862	Yes Bank	19,452
			Total (in Rs.)	3,34,68,683.14

30.8 Shri Pranshu Goel vide his letter dated 17.11.2022, submitted his mobile phone for ongoing investigation against M/s Mahadev Ji Exports and signed certificated under Section 138C of the Customs Act,1962 declaring that he was using the phone in normal course of business. I find that summons dated 18.01.2023, 06.02.2023, 13.03.2023, 28.03.2023 were issued to Shri Pranshu Goel for forensic examination of the certain electronic devices which were resumed by the investigating agency during the search of office premises of M/s Shri Mahadev Ji Exports and M/s Maha Shakti Exims. Shri Pranshu Geol had not appeared to join the investigation. Therefore, complaint under Section 174 of IPC was filed in Ld. Patiala House Court. Further application for cancellation of bail order dated 04.01.2023 was moved before the Ld. Additional Session Judge, Patiala House Court New Delhi which was cancelled by Ld. ASJ-06, Patiala House Court vide order dated 03.11.2023.

30.8.1 In view of non-cooperation from Shri Pranshu Goel Proprietor of M/s Shri Mahadev Ji Exports, forensic examination of resumed electronic devices and mobile phone submitted by Shri Pranshu Goel was done in the presence of two independent Panchas under Record of Proceedings dated 16.05.2023 and 17.05.2023. Thus, I find that there was no infirmity in the forensic examination of the electronic devices. Data retrieved from the above electronic devices were analysed and found that there were certain parallel invoices related to the goods

seized during the course of investigation pertaining to 10 Containers as mentioned above. The value of details of the same are mentioned in Table: 4 above and the same is not reproduced here for the sake of brevity.

30.8.2 I find that summons dated 19.05.2023 and 24.07.2023 were issued to Shri Pranshu Goel for cross examination of documents retrieved from electronic devices and Oppo mobile phone submitted by him. However, he did not appear on summons in violation of Bail Bond condition, to cooperate with DRI during the course of investigation.

31. After careful perusal of the investigating report and case details, I find that the import firm involved in the present show cause Notice dated 15.11.2023 were under the control of Shri Pranshu Goel and Shri Vijay Goel. They were opened by them to avoid the vigilance/watch from the investigating agencies as they were habitual offender and many cases were already booked against Shri Vijay Goel. The Proprietors of these firms were for the limited purpose of namesake and had very limited to no role in the operations of Business including Import and Export. These firms were registered with an intent to Import Cold Rolled Stainless Steel of 304 and J3 Grade from Chinese Suppliers. These Chinese Suppliers like Crown Steel Company Ltd, Foshan Jia wei Import and Exports, Leo Metal Ltd., China etc. supplied Cold Rolled Stainless Steel of 304 and J3 Grade via agents like Sunny to Indian importers like Shri Pranshu Goel and Shri Vijay Goel. These Chinese Suppliers supplied Parallel Invoices (dual Invoices with different per unit price) to these Indian suppliers. Whereas, the actual value of unit price was for financial transaction purpose and lower valued unit price of same supply of Goods for Custom Declaration. These Chinese Suppliers were paid by Indian Importers like Shri Pranshu Goel and Vijay Goel by banking channels to the tune of under invoice value and differential amount is paid through Hawala Channels. These undervalued Invoices were used with an intent to evade the Custom Duty. These invoices and related documents were supplied through DHL courier as well as WhatsApp communication. Indian Importers like Shri Pranshu Goel and Shri Vijay Goel involved in under-valuation of Invoices to evade Custom Duty. This was done with the support of CHAs like M/s Balaji Logistics and M/s Oriental Trade Link also SEZ units like M/s Fast Track CFS Pvt Ltd. They further supplied such Goods in Domestic Market at lower Invoice price. The actual transaction of Domestic Supply was higher than these Invoice values. Amount mentioned in Invoice were transferred to these Importers through Banking Channels i.e., RTGS. Whereas, the differential amount was either settled in Cash or through fake RTGS supplies. Fake RTGS supplies means, banking transfer in relation to fictitious supply. This was done with intent of launder money by transforming cash into legal source of funds.

32. VALUATION OF THE IMPORTED GOODS:

32.1 I find that total 06 Bills of Entry were filed against these 10 Containers imported by M/s Goel Exim, M/s Mahashakti Exim and M/s Shri Mahadev ji Exports. As discussed in foregoing paras, I find that M/s Goel Exim, M/s Maha Shakti Exims, M/s Mahadev Ji Exports had imported goods i.e. *Cold Rolled*

Stainless Steel Coil 304 grade (Ex-stock) by way of undervaluation and evaded the Customs duty. This act of undervaluation of the goods was also admitted by Shri Vijay Goel and Shri Pranshu Goel (both controller of the firms) that they used to import the goods i.e. by way of mis-declaring their value to evade payment of Customs duty. Further, I also noticed that parallel invoices were retrieved pertaining to the present shipments under the hold of department wherein the actual price i.e. USD 2.4/kg was found at higher side. These points indicated undervaluation of the goods by the import firms. I find that the unequivocal evidence, voluntary statements of the concerned persons clearly bring out the fact that the value declared under these bills of entry for the imported goods seized vide Seizure Memo dated 10.03.2023 and 22.04.2023 was not the true transaction value of the goods imported thereunder and has been categorically accepted by the person involved that were doing undervaluation. Further, other evidences in the form of parallel invoices duly corroborates modus operandi of under invoicing of the goods at the time of import by M/s Goel Exim, M/s Maha Shakti Exims, M/s Mahadev Ji Exports. In view of the same, I find that there are substantial base to doubt the veracity of the values declared in relation to the imported goods i.e *Cold Rolled Stainless Steel Coil*. Further, on comparison of the value declared in the Bill of Entry with the parallel invoices found during the investigation, I find that the importers had grossly undervalued the goods with a clear intention to evade the legitimate customs duty.

32.2 I state that "Value" has been defined under Section 2(41) of the Customs Act, 1962 as "Value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14".

32.3 As per Rule 11 of the CVR, 2007, Importer is required to furnish declaration disclosing full and accurate details relating to the value of the imported goods along with other documents & information including the invoice in respect of the actual transaction price. However, I find that the relied upon documents (SR. NO. 3 of Annexure-Y to the Show Cause Notice dated 15.11.2023) which had been retrieved/found during forensic examination clearly indicate that the value was not declared truly at the time of filing of Bills of Entry for the purpose of the Customs clearance. Further, I find that Shri Vijay Goel in his voluntary statement dated 16.11.2022 has admitted that "undervaluation to the tune of approximately 20-25% was done was done in import of Cold Rolled Stainless Steel 304 & J3 grade through M/s Shree Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exim, M/s Ganesh Steel & M/s Shree International. Whereas the differential amount of actual and declared value was paid to the overseas supplier through Hawala Channels". Further, he admitted that the overseas suppliers sent the Invoices with lower value on his Whatsapp number (98180XXXXX) and the said mobile number was being used by him. I also find that Shri Pranshu Goel (son of Shri Vijay Goel) in his voluntary statement dated 16.11.2022 admitted that there was huge difference of value of the invoices filed before Indian Customs during clearance and value of invoices found in his phone. He further mentioned that usually they clear the item stainless steel coil J3 grade at USD 0.75 per kg. However, the same item

was being brought from Chinese supplier at 2 times higher rate. Further, he also admitted that for higher value, he used to make advance payment for adjustment against undervaluation from banking channel and also in cash by his father. I noticed that they had made advance payments for undervaluation adjustments through both banking channels and cash payments arranged by Shri Vijay Goel. Payments to foreign suppliers were made through ICICI Bank and IDFC First Bank. I find that there is no dispute in the fact and also admitted by Shri Vijay Goel and Shri Pranshu Goel that Chinese suppliers used to send two sets of invoices with same invoice number with different value, one was of higher and other was of lower value. The foreign suppliers used to send import documents of lower value through courier mainly from DHL at his address A-104, Wazipur Industrial Area, Delhi.

32.4 The impugned investigation report discusses in detail the evidences regarding reasonable doubt on the value declared by the import firms. Here, again I state that parallel invoice were retrieved from the possession of the offenders. These invoices are further supported by the evidence in the form of voluntary statements and whatsapp chats. The noticees during adjudication proceeding challenge that no intimation of forensic examination was given to the noticee and it was done behind his back; that a certificate under Section 138C of the Customs Act, 1962 has been got signed by Sh. Pranshu Goel under duress while he was in custody of the DRI officers; that the data retrieved from the mobile phones is inadmissible in evidence.

With respect to this Noticee's claim, I noticed that summons dated 18.01.2023, 06.02.2023, 13.03.2023, 28.03.2023 were issued to Shri Pranshu Goel for forensic examination of the certain electronic devices, however, he had not appeared to join the investigation. Therefore, complaint under Section 174 of IPC was filed in Ld. Patiala House Court. Further application for cancellation of bail order dated 04.01.2023 was moved before the Ld. Additional Session Judge, Patiala House Court New Delhi which was cancelled by Ld. ASJ-06, Patiala House Court vide order dated 03.11.2023. I also find that the Noticee was not co-operating for forensic examination of resumed electronic devices and mobile phone submitted by Shri Pranshu Goel. Hence, the forensic examination was done in the presence of two independent Panchas under Record of Proceedings dated 16.05.2023 and 17.05.2023. The copy of the said proceedings were provided to the Noticee alongwith the SCN. Thus, I find that there was no infirmity in the forensic examination of the electronic devices and the same are vital evidence in the present case.

32.5 I also find that there are other evidences on record to substantiate the charge of undervaluation of the goods on the parallel invoices wherein the unit prices were declared at lower side. I also notice that the Noticees failed to produce any documentary evidence that the parallel invoices were not genuine as the parallel invoice having same quantity, invoice no. and other particulars. Thus, these are authentic documents (invoices). These parallel invoices have been found to be issued by the supplier and later on the authenticity have been admitted by the Noticees in their voluntary statements. I find that names of the importers,

description of the goods, name of supplier, weight of shipments and other particulars are same, hence, authenticity of documents i.e. parallel invoices are beyond doubt.

32.6 Now, without prejudice to the proceedings of the present show cause notice, I find that Shri Vijay Goel is a habitual offender and this fact is also corroborated with his statement dated 17.11.2022 also wherein he admitted that there was a case booked against him in the year 2012-13 by DRI Kolkata for mis-declaration for which he penalized in the subject case. An another case also booked by SIIB, Chennai for fraudulently availment of notification benefit on import of Cold Rolled Stainless Steel Coil J-3 (Stock lot) by M/s Shri Mahadev Ji Export for which he paid duty of Rs. 74,00,000/-

32.7 As per Rule 3 of the CVR 2007, the transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export. I find that Rule 3(1) of Rules 2007 provides that *“subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10”*. Rule 3(4) ibid states that *“if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9 of Custom Valuation Rules, 2007”*. In the present case there are sufficient evidences are available on records in the forms of parallel invoice, disclosure of the transaction value of the impugned goods by Shri Vijay Goel, Shri Pranshu Goel and other stakeholders, in their voluntary statements recorded under Section 108 of the Customs Act 1962, whatsapp chats which were retrieved after following the due procedure and valid evidences in eyes of law. Statements recorded under Sec 108 of Customs Act, have strongly indicated that the value declared in relation to the imported seized goods i.e *Cold Rolled Stainless Steel 304 grade (Ex-stock)* vide seizure Memo dated 10.03.2022 and 22.04.023 was not correct value and the same cannot be accepted as the true transaction for the purpose of levy of duty. Thus, I find that the declared value liable to be rejected in terms of Rule 12 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007. The relevant Rules of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are reproduced hereunder:-

3. Determination of the method of valuation-

(1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;

(2) Value of imported goods under sub-rule (1) shall be accepted:

Provided that -

(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

i. *do not substantially affect the value of the goods;*

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

4. Transaction value of identical goods. -

(1)(a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

Rule 5 (Transaction value of similar goods).-

(1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule 7 of CVR, 2007.

Rule 7 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

- (i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;*
 - (ii) the usual costs of transport and insurance and associated costs incurred within India;*
 - (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.*
- (2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.*
- (3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.*
- (b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).*

Rule 8 of the CVR, 2007, stipulates that:-

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;*
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;*
- (c) the cost or value of all other expenses under sub-rule (2) of rule 10.*

Rule 9 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of' this rule on the basis of –

- (i) the selling price in India of the goods produced in India;*
- (ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;*
- (iii) the price of the goods on the domestic market of the country of exportation;*
- (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;*
- (v) the price of the goods for the export to a country other than India;*
- (vi) minimum customs values; or*
- (vii) arbitrary or fictitious values.*

32.8 The Explanation (l)(iii) to Rule 12 of the CVR, 2007 provides that the proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include (a) significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed, (b) an abnormal discount/ reduction from the ordinary competitive price, (c) sale involves special discounts limited to exclusive agents, (d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production, (e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value, (f) the fraudulent or manipulated documents.

32.9 As discussed above, it is evident that Shri Vijay Goel is a habitual offender and value was not correctly disclosed at the time of filing of bills of entry. The documents showing manipulated value were arranged and used for clearance of the subject goods. The evidences and statements of the concerned persons prove/show undervaluation and made a strong base to raise reasonable doubt on the value declared for the impugned goods. Therefore, I find that there exist reasons to doubt the truth or accuracy of the values declared for the subject imported goods. However, they have failed to produce any documentary evidence in support of their claim that the value was declared by them is the true transaction value. The burden to prove has not been discharged by them with the documentary evidences. In view of these evidences, I find that the values declared in the impugned bills of entry cannot be accepted as the true transaction values, thus, the same are liable to be rejected under Rule 12 of the CVR, 2007 read with Section 14 of the Customs Act, 1962.

32.10 From the investigation, I noticed that there were no specific identifications were mentioned in the import documents based on which comparison of the impugned goods with other goods can be made. Thus, the vital specifications essential for holding the goods to be identical or similar were not available on the records. In terms of Section 14 of the Customs Act, 1962, the value of the imported goods shall be the transaction value that is to say that price actually paid or payable for the goods when sold for export to India for delivery at

the time and place of importation, subject to such other conditions as may be specified in this behalf by the rules made in this regard. Further, in accordance with such provisions, Central Government has made Customs Valuation (Determination of value of imported goods) Rules, 2007 (herein after referred to as 'the valuation rules'). Rule 3 (1) of the valuation rules lays down that the value of the imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. Further Rule 2(g) defines transaction value as the value referred to in subsection (1) of Section 14 of the Act. Rule 13 of the valuation rules lays down that the interpretative notes specified in the Schedule to these rules shall apply for the interpretation of these rules. The interpretative Rule 3 provides that price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. On a combined reading of the Section 14 *ibid* & the valuation rules, it appears that customs duty is payable on transaction value that is to say that:

1. Price actually paid or payable for the goods i.e. the total payment made by the buyer
2. When sold for export to India for delivery
3. At the time and place of importation

In terms of Rule 3 of the valuation rules read with Section 14 of the Customs Act, 1962 and the schedule to the valuation rules, the actual price paid or payable for the impugned goods, should have formed part of the assessable value for the purpose of calculation of Customs duty as the same is the actual transaction value of the imported goods. Since it is found that the values declared by these importers are not the correct values and liable to be rejected in terms of Rule 12 of the Customs Valuation Rules, 2007, as the importer had indulged in mis-declaration of value of the goods and had used fraudulent and manipulated documents [explanation 1(iii) (d) & (f) of Rule 12]. Rule 12(1) provides that in such cases it shall be deemed that the transaction value cannot be determined under the provisions of sub- Rule 1 of Rule 3.

32.11 Further, In terms of explanation 1(i) of Rule 12 of the said rules, the value has to be re-determined by proceeding sequentially through Rule 4 to 9. It further appeared that value cannot be determined in terms of Rule 4 of the said rules as no identical goods imported in India at or about the same time as the goods being valued (which is mandatory for Rule-4) could be identified. Further. The goods were mis declared in terms of value. Besides, due to the nature of goods that vary greatly in physical characteristics due to their composition and also quality, reputation etc. "identical goods" are not available for an effective comparison. Similarly, Rule 5, providing for transaction value of similar goods, can also not be invoked for similar reasons as the goods have been mis declared in terms of value and "similar goods" are not available for comparison due to large variation in physical characteristics due to difference in composition, quality, reputation etc. I also notice that deductive value as provided for under Rule 7 cannot be arrived at in the absence of exact sales values and the data required for quantification of the deductions allowed under the said Rule 7. Further, computed value, as provided under Rule 8, cannot be calculated in the absence of quantifiable data relating to

cost of production, manufacture or processing of import goods. In such scenario, I find it appropriate to invoke the provisions of Rule 9 i.e. residual method for determining the value of the impugned import goods. Rule 9 provides for determination of value using reasonable means consistent with the principles and general provisions of these rules. The underlying principle behind the Valuation Rules for determination of transaction value is that it should reflect the actual price paid or payable for the import goods. The wording employed in Section 14 of the Customs Act, 1962 also lends credence to this theory. In keeping with the principles of the said rules and Section 14, the ends of justice would be met if the actual price paid by the buyer of the goods is taken as the transaction value of the impugned goods.

32.12 As stated above, the actual price paid or payable for the impugned goods, should have formed part of the assessable value for the purpose of calculation of Customs duty as the same is directly relatable to the imported goods and shows the total payment made by the buyer (importer) to the supplier for the imported goods. Thus, in terms of the Rule 9 of the Valuation Rules, the actual price paid, wherever the directly relatable evidence is available as explained above, is required to be taken as the basis for arriving at the assessable value of the goods in terms of Rule 9 ibid. Explanation to Rule 12 provides for rejection of value in case of mis-declaration of value as well as in case of fraudulent or manipulated documents. The evidence unearthed during the course of investigation, as discussed above, is a direct proof of the fraudulent and manipulative documents used by the importer for the purpose of mis-declaring the value of the imported goods and seized vide Seizure memo dated 10.03.2023 and with the intent to evade payment of legitimate Customs duties. From the forensic analysis, actual value of those imported goods have been found and hence the value of the impugned goods is required to be re-determined in terms of the Rule-9 of the Valuation Rules. I find it appropriate to re-determined value of the impugned goods as per below table as proposed in the show cause notice and I do not find any infirmity in the same:

DF-3

COL 1	COL2	COL3	COL4	COL5	COL6	COL7	COL 8	COL 9
Name of importer	Container No	Bill of Entry No. and Date	Quantity in Kg	Declared rate \$/Kg	Rate of Exchange Applicable	Assessable Value declared (Rs.) (COL4*COL5*COL6)	Rate \$ per kg as per invoices found	Re-determined Assessable Value(Rs.) (COL 4 *COL6*COL 8)
M/s Goel Exim	TELU2237293	3257125 DT. 11.11.2022	28330	1.1	83.8	2611459.4	2.4	5697730
	IAAU2709160	3303610 DT. 15.11.2022	55454	1.1	83.8	5111749.72	2.4	11152908
	IAAU2738298							
	IAAU281118	3072207	55088	1.1	83.9	5084071.	2.4	11092520

	8	DT. 28.10.2022						
	TCLU368359 4					52		
	TRHU246488 5	3091438 DT. 29.10.2022						
	GRMU21248 37		54840	1.2	83.9	5521291. 2	2.4	11042582
M/s Mahashakti Exim	IAAU286790 5	3303633 DT. 15.11.2022	27994	1.1	83.8	2580486. 92	2.4	5630153
M/s Shri Mahadev Ji Export 2018	TEMU339043 8	3293673 DT. 14.11.2022						
	TEMU372295 4		53478	1.1	83.8	4929602. 04	2.4	10755495
						Total (Rs.)		55371389

33. CONFISCATION OF THE GOODS UNDER SECTION 111(m) OF THE CUSTOMS ACT, 1962:

33.1 It is alleged in the SCN that the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below: -

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

33.2 I find that Shri Vijay Goel and Shri Pranshu Goel, were engaged in a scheme of fraud to mis-declare imported goods by the means of undervaluation with an intent to evade Custom duty. I already discussed in details in previous paras that values had been mis-declared by the Noticee and true transaction value had not been disclosed while filing bills of entry. It had been observed that the offence was of a serious nature involving a substantial loss of revenue to the govt. exchequer. Further, Section 2(39) of Customs Act, 1962 defines "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 of the Customs Act, 1962. The impugned undervalued and mis-declared import goods were liable to confiscation under section 111(m) of the Customs Act, 1962 and hence, the illegal import of such goods falls under the category of "smuggling" in terms of section 2(39) of the Customs Act, 1962. Which makes the act of importation of impugned goods Smuggling and impugned goods as smuggled goods itself. I find that true transaction value was not declared in the bills of entry before the Customs authorities. I noticed that the impugned goods have taken place after a well

hatched conspiracy by Shri Vijay Goel, Shri Pranshu Goel and other Noticees by generating two parallel invoices with the help of foreign suppliers. Thus, I find that the Noticees have contravened the provisions of Customs Act, 1962, in as much as they had willfully mis-declared the imported goods, in the corresponding import documents. Thus, I find that the said smuggled goods are liable for confiscation under the provisions of Section 111 (m) of the Customs Act, 1962.

33.3. From the above, it is clear that the impugned goods had been improperly imported to the extent that they were declared undervalued by hiding true transaction value by manipulating import documents with the help of foreign suppliers. As the impugned goods are found to be liable for confiscation under the provisions of Section 111 of the Customs Act, 1962, it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCNs. The Section 125 *ibid* reads as under:-

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

A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. I observe that there is no post clearance policy restriction on the imported goods i.e. “Cold Rolled Stainless Steel Coils J3 Grade”. Hence, I find no infirmity to allow the goods on payment of redemption fine for home consumption.

34. With regards to Cross Examination sought by Shri Vijay Goel and Shri Pranshu Goel

34.1 I find that **Shri Vijay Goel and Shri Pranshu Goel** during their defence submissions; requested for Cross Examination of the following persons whose statement were recorded during the investigation period:

- (i) Dhanraj Jain, Director of M/s Savitri Stainless Steel Pvt. Ltd
- (ii) Ram Singhal, prop. of M/s Singhal Steel
- (iii) Sanjay Goel, Director of M/s Karan MetawaresPvt. Ltd. (now M/s Naman MetawaresPvt. Ltd.)
- (iv) Manoj Singhal, prop. of M/s Sohum Trading Company
- (v) Kartik Singla
- (vi) Dinesh Goel

34.2 I observe that other noticees have not raised objection on statements of these concerned persons. I also noticed that above mentioned 06 persons have not retracted their statement till date. I also find that all the RUDs had already

been supplied to Shri Vijay Goel and Shri Pranshu Goel. In this connection, I find that the statements of the Noticees had been incorporated in the impugned SCN. Whereas, I find that Shri Vijay Goel and Shri Pranshu Goel in their defence submission has not given any specific and valid grounds for seeking the cross-examination. I also notice that the allegations against them in the subject show cause notice are not based solely on the statement of these 06 persons. The allegation made against the noticee were admitted by Shri Vijay Goel and Shri Pranshu Goel also.

34.3 I also noticed that Shri Vijay Goel and Shri Pranshu Goel during the investigation period had filed retraction dated 18.11.2022 before the ACMM-2, Patiala House Court, New Delhi to their statements dated 16.11.2022 and 17.11.2022 tendered by them voluntarily under Section 108 of the Customs Act, 1962. However, the Department had filed rebuttal against their retraction before Ld. ACCM-2 Court, Patiala House on 03.12.2022 and was taken on record by the Ld. Court. Thus, I find that statement were given by them will be considered and taken on records during the adjudicating proceedings as the same had crucial part in undervaluation of the imported goods. Shri Vijay Goel played a vital role in smuggling of impugned goods by under-valuing and mis-classifying the same along with his associates. Accordingly, CEIB (COFEPOSA) issued detention order F. No. PD-12001/1/2023-COFEPOSA dated 03.01.2023 under the Conservation of Foreign Exchange and Prevention of Smuggling Activities (COFEPOSA) Act, 1974 with a view to preventing him from smuggling goods, abetting the smuggling of goods and engaging in transporting or concealing or keeping smuggled goods in terms of Section 3(1)(i), Section 3(1)(ii) and Section 3(1)(iii) of the COFEPOSA Act, 1974. On 04.01.2023, the said detention order was executed and Shri Vijay Goel was lodged in Tihar Jail. Further, the fact cannot be just overlooked that Shri Vijay Goel is a habitual offender and already made noticee in various cases (mentioned in previous paras) for duty evasion and mis-declaration. From the investigation, it is beyond doubt that Shri Vijay Goel and Shri Pranshu Goel had not co-operated during the investigation and violated the conditions of bail. For violation of bail conditions they were again detained. I also find that they have failed to produce grounds or any documentary evidences before me which can prove their bonafide intentions in the present case.

34.4 Further, I also observed that the Noticee failed to provide the grounds as to how the cross examination of the said persons whose statements recorded during investigation is concerned/crucial with the present shipment. The Noticees failed to provide valid grounds on which cross examination of these person may be allowed. The Noticee stated that the department failed to put on records any corroboratory evidences to substantiate the averments of respective third parties. I already discussed in previous paras of this order that the allegation made against the noticee were admitted by Shri Vijay Goel and Shri Pranshu Goel themselves and also evidence are available on records in the form of parallel invoices which were retrieved from the possession of Shri Pranshu Goel. I find that sought of cross examination is clearly a dilatory tactic. I observe that no purpose would be

served to allow cross examination of such person as same would only unnecessarily protract the proceedings. I find that denial of Cross-examination does not amount to violation of principles of natural justice in every case. The bonafide of the noticee is also judged from the tremendous amount of mis-declaration and concealment of prohibited items in the import consignments.

34.5. I observe that when there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross examination. Reliance is placed on Judgment of **Hon'ble Supreme Court in case of K.L. Tripathi vs. State Bank of India & Ors [Air 1984 SC 273]**, as follows:

"The basic concept is fair play in action administrative, judicial or quasi-judicial. The concept fair play in action must depend upon the particular lis, if there be any, between the parties. If the credibility of a person who has testified or given some information is in doubt, or if the version or the statement of the person who has testified, is, in dispute, right of cross-examination must inevitably form part of fair play in action but where there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross-examination to be fulfilled to justify fair play in action."

Therefore, I find that cross examination in the instant case is not necessary.

34.6 I observe that the principles of proving beyond doubt and cross examination cannot be applied to a quasi-judicial proceeding where principle remains that as per the preponderance of probability the charges should be established. The cross examination of persons can be allowed during a quasi-judicial proceeding. It is true that as per section 138B(2) of the Customs Act, 1962, the provision regarding cross examination shall so far as may be apply in relation to any other proceedings under the Customs Act, 1962. The usage of phrase 'so far as may be' in section 138B (2) shows that cross examination is not mandatory in all cases but the same may be allowed as per circumstances of the case and the circumstance of the present consignment leaves no scope in my mind that the Shri Vijay Goel and Shri Pranshu Goel were actively involved persons who were with their full knowledge indulged in the act of undervaluation of these impugned goods.

34.7 I find that in the instant case there remains no scope of ambiguity for a man of prudence. Therefore, I observe that no purpose would be served to allow cross examination of such person as same would only unnecessarily protract the proceedings. I find that denial of Cross-examination does not amount to violation of principles of natural justice in every case. Further, it is a settled position that proceedings before the quasi-judicial authority is not at the same footing as proceedings before a court of law and it is the discretion of the authority as to which request of cross examination to be allowed in the interest of natural justice. I also rely on following case-laws in reaching the above opinion:-

- a. **KITTI STEELS LTD v. COMMISSIONER OF CUS. & C. EX., HYDERABAD-III- 2011 (266) E.L.T. 375 (Tri. - Bang.)**:- wherein it has been held that

cross-examination is not a matter of right and should be claimed by stating valid reasons.

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

In view of the above, I find no appropriate reason to allow the cross examination sought by the accused persons whose culpability is evident and beyond doubt from the fact of the case and also Shri Vijay Goel and Shri Pranshu Goel failed to put strong reasons or motive behind seeking the cross examination of these 06 persons. I observe that this case involves an offense committed by the offenders, who, upon being apprehended, did not cooperated with the investigation.

35. I already discussed and established facts that the goods were undervalued and sufficient documentary evidences are available in the present cases. I noticed that rebuttal against the statement retracted by Shri Vijay Goel and Shri Pranshu Goel was already filed before the competent authority by the investigation agency immediately after retraction and the same have already discussed by me in previous paras. Thus, there is no doubt that their statements are still valid and cannot be treated null and void. I notice that the offenders instead of acknowledging their obligation that the parallel invoices and facts disclosed during

their statements directly involved themselves in the act of under valuation of the goods with the help of foreign suppliers, they sought clarification on the absence of documentary evidence. I find that sufficient documentary evidences are available in the present case and even Shri Pranshu Goel handed over his mobiles phones under his signature during the investigation. Thus, noticees cannot claim that the documentary evidences are not available in the present case. There is no ambiguity regarding the fact that the Noticees played a crucial role in the undervaluation of the goods i.e. *cold rolled stainless Steel Coils J3 Grade*. In such a situation, confessional and corroborative statements recorded under Section 108 of the Customs Act, 1962, are the crucial tools in the hands of the department to establish the role of the offenders. These statements are in the nature of substantive evidence and culpability of the concerned persons can be based on the same. The scope of these provisions of law have been the subject matter of a large number of authoritative pronouncements of the Supreme Court and the High Courts, as under:

35.1 It has been held by the Hon'ble Supreme Court in the judgment in *Bhana Khalpa Bhai Patel v. Asstt. Collector of Customs, Bulsar - 1997 (96) E.L.T. 211 (S.C.)* that:

"7. An attempt was made to contest the admissibility of the said statements in evidence. It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide *Ramesh Chandra v. State of West Bengal*, AIR 1970 SC 940, and *KI. Pavynny v. Assistant Collector (HQ), Central Excise Collectorate, Cochin*, 1997 (90) E.L.T. 24] (S.C.) = (1997) 3 SCC 721."

35.2 The Hon'ble Supreme Court has observed in the case of *Naresh J. Sukhwani v. Union of India - 1995 Supp. (4) SCC 663 = AIR 1996 SC 5 = 1996 (83) E.L.T. 258*:

"4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act. That material incriminates the petitioner inculpating him in contravention of the provisions of the Customs Act. The material can certainly be used to connect the petitioner in the contravention inasmuch as Mr. Dudani's statement clearly inculpates not only himself but also the petitioner. It can, therefore, be used as substantive evidence connecting the petitioner with the contravention by exporting foreign currency out of India. Therefore, we do not think that there is any illegality in the order of confiscation of foreign currency and imposition of penalty. There is no ground warranting reduction of fine."

35.3 A Constitution Bench of Apex Court of India in the matter of *Romesh Chandra & Mehta v. State of W.B. - (1969) 2 SCR 461 : AIR 1970 SC 940*, held that the Customs Officers are entrusted with the powers specifically relating to the collection of customs duties and prevention of smuggling and for that purpose they

are invested with the power to search any person on reasonable suspicion, to summon, X-ray the body of the person for detecting secreted goods, to arrest a person against whom a reasonable suspicion exists that he has been guilty of an offence under the Act, to obtain a search warrant from a Magistrate, to collect information by summoning persons to give evidence and produce documents and to adjudge confiscation. He may exercise these powers for preventing smuggling of goods dutiable or prohibited and for adjudging confiscation of those goods. For collecting evidence the Customs Officer is entitled to serve summons to produce a document or other thing or to give evidence and the person so summoned is bound to attend either in person or by an authorised agent, as such officer may direct, is bound to state the truth upon any subject respecting which he is examined or makes a statement and to produce such documents and other things as may be required. The power to arrest, the power to detain, the power to search or obtain a search warrant and the power to collect evidence are vested in the Customs Officer for enforcing compliance with the provisions of the Customs Act. He is invested with the power to enquire into infringements of the Act primarily for the purpose of adjudicating forfeiture and penalty.

35.4 In the present proceeding, the case is based on the seizure of goods which were grossly undervalued by declaring incorrect/false invoicing of value and parallel invoice were retrieved by the agency during investigation. The statements of the key persons involved in the smuggling activities recorded under Section 108 of the Customs Act, 1962. I find that it is settled law that statements made to an officer of Customs are admissible as evidence under Section 108 of the Customs Act, 1962. Apex Court of India in their judgment in case of **Gulam Hussain Shaikh Chougule v. S. Reynolds, Supdt. of Customs, Marmgoa, reported in 2001 (134) ELT (SC)**, after quoting from several other judgments, has held that such statements are admissible in evidence. Further the admitted facts need not to be proved as held by Hon'ble High Court of Madras in the case of **Govindasamy Raghupati reported in 1998 (98) ELT 50 (Mad.)**. Hon'ble Supreme Court in the case of **Surjeet Singh Chhabra Vs UOT reported in 1997 (89) ELT 646 (SC)** has also pronounced that confessional statement made before Customs officer under Section 108 of the Customs Act, 1962, though retracted, is an admission and binding since Customs Officers are not Police Officers. Further, in the case of *Gulam Hussain Shaikh Chougule Vs S. Reynolds, Supdt. Of Customs, Marmgoa reported in 2001 (134) ELT 3 (SC)*, relying on various judgments of Apex Court of reported at AIR 1972 SC 1224, 2000 (120) ELT 280 (S.C.); 1999 (110) ELT 324 (S.C.); 1992 (60) ELT 24 (S.C.); 1999 (110) ELT 309 (S.C.); 1983 (13) ELT 1443 (S.C.); 1983 (13) ELT 1590 (S.C), has further held that confessional statement recorded by Customs officer under Section 108 of Customs Act, 1962 are not required to follow safeguards provided under Section 164 of the Code of Criminal Procedure, 1973.

In view of the above, the statements under the present proceeding are material piece of evidence to establish the case for Revenue. Apex Court in the case of **K.1. Pavunny Vs AC Chochin reported at 1970 (90) ELT 241 (SC)** has held that when the material evidence establish fraud against the revenue, white collar

crimes committed under absolute secrecy shall not be exonerated from penal consequence of law. Enactments like Customs Act, 1962, are not merely taxing statute but are also potent instruments in the hands of the Government to safeguard the interest of the economy, Preponderance of probability comes to rescue of Revenue and revenue is not required to prove its case by mathematical precision. The Supreme Court has observed in ***Kanhaiyalal Vs Union of India - (2008) 4 SCC 668***, that specialized enactments, like Narcotic Drugs & Psychotropic Substances Act and Customs Act, are meant to deal with the special situations and circumstances.

36. I find that core issues of the case have been discussed in the foregoing paras in detailed. Now, I proceed to examine the **roles** of the various noticees and **liability** in this elaborate scheme of mis-declaration and smuggling of the imported goods with intent to defraud the government exchequer. Accordingly, I proceed with the discussion on the remaining issues.

36.1 CULPABILITY OF SHRI VIJAY AND PRANSHU GOEL AND LIABILITY OF PENALTY UNDER SECTION 112(a), 112(b) and 114AA OF THE CUSTOMS ACT, 1962;

22.1 Role of Shri Vijay Goel and Shri Pranshu Goel has already been discussed in details in foregoing paras of this order. I find that Shri Vijay Goel and Shri Pranshu Goel in connivance of their associates played a vital role in smuggling of impugned goods by mis-declaration in value by the way of producing forged documents. Shri Vijay Goel and Shri Pranshu Goel had indulged in the prejudicial activities in an organized and fraudulent manner.

- Shri Vijay Goel in his statement dated admitted that he established M/s Shri Mahadev Ji Exports (IEC: CPTPG4273F) under his son's name, Shri Pranshu Goel and also established M/s Goel Exim (IEC: AIFPG0671A) in the name of his wife Smt. Nisha Goel in 2021. The mains purpose to establish such firms is import of Stainless Steel Coil J3 Grade (Ex-Stocks) through Mundra Port.
- I find that Shri Vijay Goel was indulged in the act of determining import prices, managing transactions, customs clearances, and sale to buyers in domestic market for various firms, namely, M/s Maha Shakti Exims in the name of Shri Upendra Pratap Singh, M/s Shree International in the name of Ms. Devshree Bhatt, M/s Ganesh Steel in the name Shri Santan Kamat. He used to give Rs. 10,000/- per container to the proprietors of the aforementioned firms.
- I find that all the firm involved in the present case were controlled by Shri Vijay Goel and Shri Pranshu Goel and these firms were opened by them in the name of relatives, friends and known persons. According to their statements Shri Vijay Goel and Shri Pranshu Goel were responsible for all the profit or losses. Thus, I have no doubt that **Shri Vijay Goel and Shri Pranshu Goel were the actual beneficial owners** of the subject goods imported in the name of such firms.

- It is also beyond doubt that Shri Vijay Goel and Shri Pranshu Goel were involved in act of undervaluing the imported goods and using Hawala channels to pay the differential amounts to overseas suppliers of that goods. Shri Vijay Goel in his statement dated 16.11.2022 had admitted that undervaluation was done to the tune of approximately 20-25% was done in import of Cold Rolled Stainless Steel 304 & J3 grade through M/s Shree Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exim, M/s Ganesh Steel & M/s Shree International. Whereas the differential amount of actual and declared value was paid to the overseas supplier through **Hawala** Channels.
- I notice that that the main overseas suppliers of the said goods were Crown Steel Company Ltd, Foshan Jia wei Import and Exports, Leo Metal Ltd., China. These overseas suppliers sent the Invoices with lower value on Vijay Goel's Whatsapp number (98180XXXXX) and the said mobile number was being used by him.
- I also find that first statements were given by Shri Vijay Goel and Pranshu Goel on 16.11.2022 and during their second Statements on 17.11.2022 they clearly stated that their first statements ere true and correct. Thus, I find that statements given by them were voluntarily in nature. Furthermore, I have already clarified the issue of Shri Vijay Goel and Shri Pranshu Goel Statement in previous paras and the same is not required to be repeated here.
- I find that Shri Vijay Goel is a habitual offender and this fact is also corroborated with his statement dated 17.11.2022 also wherein he admitted that there was a case booked against him in the year 2012-13 by DRI Kolkata for mis-declaration for which he penalized in that case. An another case also booked by SIIB, Chennai for fraudulently availment of notification benefit on import of Cold Rolled Stainless Steel Coil J-3 (Stock lot) by M/s Shri Mahadev Ji Export for which he paid duty of Rs. 74,00,000/-
- I find that Shri Ajay Goel is the owner of M/s Vinayak Steel and younger brother of Shri Vijay Goel, Smt. Nisha Goel owner of M/s. Goel Exim is the wife of Shri Vijay Goel and Shri Pranshu Goel owner of M/s. Shri Mahadev Ji Exports is the son of Shri Vijay Goel. They all were indulged in the said cartel and also made noticee to the impugned proceedings. Thus, I have no doubt in my mind that the whole family was indulged in the smuggling cartel and all activities were done with the full indulgence and involvement of all members with the purpose of duty evasion by way of submitting fake/forged invoices for undervaluation of the goods.
- Despite knowing that their actions are against the law and that cases had already been made in the past against Shri Vijay Goel; they still dared to engage in illegal activities that are not permissible under any circumstances. For these actions, Shri Vijay Goel and Shri Pranshu Goel were arrested. Even after their arrest, they violated the conditions of their bail and were re-arrested. Offenders of this type cannot be considered bona fide, unlike in other cases.

- I find that Shri Vijay Goel and Shri Pranshu Goel had provided all import related documents to CHA, M/s Balaji Logistics for the import of Cold Rolled Stainless Steel Grade- J3 in the name of M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh steel, M/s Vinayak Steels. The fact admitted by Shri Vijay Goel in his statement also. Further, the said fact also re-confirmed from the statement of Shri Sh. Jitendra Kumar, Proprietor of M/s Balaji Logistics (CHA firm) wherein he clearly stated that *“He provided CHA services to following controlled firms of Shri Vijay Goel and Shri Pranshu Goel from April 2021 to Oct 2022; M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh steel, M/s Vinayak Steels for import of “Cold Rolled Stainless Steel Coils” from Mundra Port. Shri Pranshu Goel provided all Customs related documents to his email id (neeraj@endurancelogistics.com) through email Ids of all controlled firms.*

Sl. No.	Firm	Email address
(i)	M/s Goel Exim	goelexim69@gmail.com
(ii)	M/s Shri Mahadev Ji Exports	shrimahadevji2000@gmail.com
(iii)	M/s Maha Shakti Exims	mahashaktiexims1@gmail.com
(iv)	M/s Shree International	Shreeinternational1990@gmail.com
(v)	M/s Ganesh Steels	ganeshsteel60@gmail.com
(vi)	M/s Vinayak Steels	Vinayaksteel09@gmail.com

Thus, it is clear that Shri Pranshu Goel and Shri Vijay Goel controlled all the above-mentioned firms and imported goods by declaring lower unit prices before the customs authorities through undervaluation of the goods in question. The differential amount was then routed through hawala channels to their respective foreign suppliers.

- I find that All the import related work of M/s Vinayak Steel was looked after by Shri Vijay Goel and he also admitted in his statement dated 17.11.2022 that he appointed CHA M/s Balaji Logistics for clearance of the following firms, M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exim, M/s Shree International, M/s Ganesh Steel, M/s Vinayak Steel. He also agreed with the fact that all the import related documents of Cold Rolled Stainless Steel J-3 Grade were sent to email of CHA neeraj@endurancelogistics.com for clearance of the said goods by his son Shri Pranshu Goel.
- I find that Shri Pranshu Goel in his statement dated 16.11.2022 had provided the name of foreign supplier of the goods imported by them. The fact also confirmed by his father Shri Vijay Goel in his statement dated 17.11.2022. Thus, I have no doubt that both son and father were actively involved and mutually handling the said cartel.
- I notice that Shri Pranshu Goel in his statement dated 16.11.2022 clearly stated that *“ I have seen the Panchnama dated 21.09.2021 drawn at my residence..... wherein my two mobke phones resumed and forensic analysis of my two mobile*

phones of proceedings dated 18.04.2022 and 19.04.2022 was done by DRI in presence of two independent witnesses. I have read and understood the same and I put my dated signature on panchanama dated 21.09.2021, records of proceedings dated 18.04.2022 and 19.04.2022. The above said mobile phones were used by me in normal course of business and I have signed Certificate under 138C of Customs Act, 1962". Further, Shri Pranshu Goel in his statement stated that "I have gone through the invoice of M/s. Shri Mahadevi Ji Exports, M/s. Goel Exim, M/s. Maha Shakti Exims and M/s. Shree International obtained after forensic analysis of my phone and invoices filed before India Customs during clearance. I state that there is huge difference in the value of the invoice filed before Indian Customs during the clearance and value of invoice found in my phone"

The above-stated facts were also admitted by Shri Vijay Goel in his statement dated 17.11.2022. Thus, it is evident that Shri Vijay Goel and Shri Pranshu Goel produced fake or forged invoices in which the unit prices of the imported goods were influenced or manipulated. The actual price was revealed in the parallel invoices retrieved during the forensic examination of the mobile phones of Shri Pranshu Goel.

- Shri Vijay Goel and Shri Pranshu Goel in their statements admitted that clearance of stainless steel coil grade J-3 were done at the price of 0.75 USD per Kg, although the same was purchased from the Chinese supplier at almost twice of the declared rate. It is found during investigation that the actual unit price was found 2.4 USD in parallel invoices. The fact is not disputed by Shri Vijay Goel and his son that the value was wrongly declared before the customs authority at the time of filing Bills of Entry.
- I find that there was Whatsapp chat was also collected as evidences during the investigation wherein WhatsApp Chats with Sunny in WhatsApp group named Vijay Sunny Coil was found. Shri Pranshu Geol admitted that Sunny was a Supplier of Cold Rolled Stainless Steel Coil of Chinese company M/s Fosan Jia Wei Import and Export Co. Ltd. From this watsapp chat it revealed that Shri Pranshu Goel asked for Commercial Invoices, Packing Lists and Bill of Ladings for goods imported in M/s Goel Exim. The printout of said watsapp chat contained certain Invoices, Packing Lists and Bill of Ladings, Sale Purchase contact for goods imported by M/s Goel Exim with the actual invoices they received from the supplier. Sunny China was foreign supplier of goods for import in India. In the said chat (conversation) Shri Pranshu Goel was talking to Sunny China for supply of goods and its payment. Shri Pranshu Goel also stated that for higher value, he used to make advance payment for adjustment against undervaluation from banking channel and also in cash by his father. I find that Chinese supplier named Sunny provided actual invoices to Shri Vijay Goel and his son.
- From the investigation, it is evident that Chinese suppliers used to send two sets of invoices with same invoice number with different value, one was of higher and other was of lower value. The foreign suppliers also forwarded

import documents of lower value through courier mainly from DHL at Vijay Goel's address A-104, Wazipur Industrial Area, Delhi. On receipt, documents were sent to Shri Jitender, CHA of M/s Shri Balaji Logistics. After that (just before 3-4 months of investigation) Shri Pranshu Goel used to forward import documents to Shri Pinkal, CHA of M/s Oriental Logistics for custom clearances.

- I also find that Shri Vijay Goel, father of Pranshu Goel, instructed Pranshu Goel to prepare local sale invoices for M/s Star India and M/s Dalmia Steel, raising tokens for cash collection as part of the transaction process. Pranshu Goel also communicated with foreign suppliers such as Sunny China for the supply of goods and their payment. For higher-value transactions, Shri Pranshu Goel and Vijay Goel made advance payments for undervaluation adjustments through both banking channels and cash payments arranged by Shri Vijay Goel. Payments to foreign suppliers were made through ICICI Bank and IDFC First Bank.
- Shri Pranshu Goel stated that all the work related to import, sale and purchase in M/s Goel Exim was being looked after by his father Sh. Vijay Goel. I find that suppliers of M/s Goel Exim were Crown Steel Company Limited, Foshan Ambocoy Stainless Steel, Foshan Jia Wei Import and Export, Hongkong Winner Steel Co Limited etc. and suppliers of M/s Shri Mahadev Ji Exports were Aofeng Metal Material Co. Ltd, Crown Steel Company Limited, Foshan Jia Wei Import and Export etc. Shri Pranshu Goel admitted that all the negotiations related to import of Cold Rolled Stainless Steel Coil in his firm M/s Mahadev Ji Exports and in his mother's firm M/s Goel Exim, was being looked after by his father Sh. Vijay Goel. He also interacted with some persons of above-mentioned suppliers of China. From the said facts, one can imagine how deeply a person can be involved in a case of undervaluation and in attempting to evade duty from the Customs Department.
- Shri Pranshu Goel in his statement dated 17.11.2022 admitted that his father Shri Vijay Goel had been looking after the import related work of M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Shree International, M/s Ganesh Steel, M/s Mahashakti Exim and M/s Vinayak Steel. I find that Shri Pranshu Goel used to provide vehicle details to Shri Jitender Kumar CHA for delivery of goods after import in respect of above said firms.
- I notice that Shri Pranshu Goel in his whatsapp Chat with Chandan Mukesh Ji Dalmia mentioned a term "*10 Kgs Mangolpuri **cash ke liye** note de do*". During investigation Shri Pranshu Goel, on being asked, stated that it means that token number i.e., serial number of two rupee note has to be given to party as instructed by his father (Shri Vijay Goel).
- I find that Shri Jitender Kumar, Proprietor of M/s Shri Balaji Logistics (CHA firm) was handling the Customs Clearance related work and Shri Pranshu Goel was handling transportation related work of imported goods. In this way, CHA firm (M/s Shri Balaji Logistics) handled 350-400 shipments involving 800

to 900 containers for these 06 firms namely M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh steel, M/s Vinayak Steels.

- I also notice that samples of MTC/quality Certificate wherein quantity of nickel was less than 1 % and Chromium is approx. 12-14% and were classified under CTH-72209022 were examined during investigation. Shri Shri Jitender Kumar, Proprietor of M/s Shri Balaji Logistics stated that as per his knowledge nickel chromium austenitic type steel contains 16 to 26 percent chromium and should contain higher percentage of nickel by weight. However, in the MTC/Quality Certificate shown the %age of nickel and chromium were very low and should not be classified under 72209022; he got to know the same in Aug, 2021 and he instructed the importers not to claim the benefit of SAPTA under CTH-72209022; that the goods declared under 72209022 and having such low % age of Nickel and Chromium would fall under others category and would not eligible for the SAPTA benefit.

From the said facts, I find that despite being aware that the notification benefit was not available on the imported goods, and even after receiving information from the CHA, the importer remained silent and did not come forward to pay the duty. Thus, they suppressed the facts from the department and enjoyed duty evasion which liable to be paid by them. However, the present proceedings are for live shipments and confiscation of amount lying in the bank account. A separte Show Cause Notice dated 08.11.2024 has been issued by the Commissioner of Customs, Mundra on the issue which is not required to be discussed here.

- I notice that **Ms. Devshree Bhatt** was **proprietor of M/s Shree International** and the office address of the firm was not known to her. The said firm was registered in 2020. I notice that she was aware about the fact that the main business of the firm was to import goods i.e. stainless Steel from 3-4 countries and supply the same to different buyers in India. I find from the statement of Ms. Devshree Bhatt that the firm M/s. Shree International was opened in her name but she was not the actual beneficiary. Further, he stated that Shri Pranshu Goel and his father Shri Vijay Goel were the actual beneficiary of the firms and were being looked after all import and further sale of imported goods in India in respect of M/s Shree International. The fact is also not disputed by Shri Vijay Goel and Shri Pranshu Goel. I also find that Shri Jitender Kumar, Proprietor of M/s Shri Balaji Logistics (CHA firm) who was handling the Customs Clearance related work also admitted that all the import related documents of Cold Rolled Stainless Steel J-3 Grade were sent to email of CHAneeraj@endurancelogistics.com for clearance of the said goods by Shri Pranshu Goel. Further, it is also revealed from the investigation that all transportation related work was done by Shri Pranshu Goel. Further, invoices of this firm were also obtained during forensic examination of his Shri Pranshu Goel's phone. I have no doubt in my mind that Shri Pranshu Goel and his father Shri Vijay Goel were looking after and managing the operations and made arrangement for clearance of goods of the firm M/s Shree International. I find that all

banking related formalities or any other formalities of M/s Shree International were looked after by Shri Vijay Goel and his son Shri Pranshu Goel. Shri Pranshu Goel used to sign on behalf of Ms. Devshree Bhatt in bank related documents. I find that Ms. Devshree Bhatt proprietor of the firm with the help of Shri Vijay Goel decided to open a firm namely M/s. Shree International. I find that she provided her documents such as AADHAR, PAN, Driving License, Bank Details etc. to open the firm related to import and export. However, she was not actively involved in the operations of the said firm. Her role was limited to share OTP, received on her mobile, with Shri Vijay Goel and his son Shri Pranshu Goel for customs clearance work and for other firm related activities. Her role was limited to sharing the OTP received on her mobile with Shri Vijay Goel and his son, Shri Pranshu Goel, for customs clearance and other firm-related activities. Thus, it is clear that she was aware that import and export-related work was being carried out in the name of her firm. However, she did not make any effort to understand what was actually being imported under the IEC of her firm. Thereby, by such act she had allowed his KYC documents and IEC license to be used by unscrupulous elements. Ms. Devshree Bhatt admitted that Shri Vijay Goel explained to her that in case that she works in Delhi and manage and control the firm then she would get the percentage of profit earned from M/s Shree International and other option was that she would not work and Shri Vijay Goel would manage and control the firm then she would get and amount of Rs. 15,000/- per month.

- I find that **Shri Ajay Kumar proprietor of M/s Vinayak Steel** and younger brother of Shri Vijay Goel provided documents to Shri Vijay Goel and based on the same IEC of M/s Vinayak Steel was obtained for import of Cold Rolled Stainless Steel from China. All payments for import from Chinese supplier in M/s Vinayak Steel were made by Shri Vijay Goel through the bank account of M/s Vinayak Steel. The fact admitted and stated that by Shri Ajay Kumar that Shri Vijay Goel used to sign all banking related documents along with cheque on his behalf and all online transactions and RTGS related to M/s Vinayak Steel were done by Shri Vijay Goel as he knew the password and all the bank OTP's were received being in Vijay Goel's phone. I also noticed that Vijay Goel used to forge signature of Ajay Goel with his consent. During investigation Shri Ajay Kumar stated that Shri Pranshu Goel used to forward import related documents to CHA through the email ID vinayaksteel109@gmail.com. Shri Ajay Kumar also admitted that On the direction of Shri Pranshu Goel, he had done some cash transaction with M/s Savitri Stainless Steel Pvt. Ltd. for which Shri Pranshu Goel received RTGS from M/s Savitri Stainless Steel Pvt. Ltd. Shri Ajay Kumar also corroborated the fact with his statement that Shri Pranshu Goel and Shri Vijay Goel were controlling 4-5 firms whose bank accounts were also controlled by Shri Vijay Goel and Shri Pranshu Goel by means of forged signatures of the concerned persons under their control. I notice that during investigation he also submitted the bill for which Shri Pranshu Goel received RTGS. From the above, it is beyond doubt that Shri Vijay Goel and pranshu Goel are the actual beneficial owners of the goods imported in the name of M/s. Vinayak Steel and Shri Vijay Goel was controlling bank accounts opened in the

name of Shri Ajay Kumar and M/s. Vinayak Steel for the purpose of import related work.

- I find from the statement of **Shri Pinkal Rathi Partner of M/s Oriental Trade Link** that he visited Vijay Goel office situated in Delhi where Shri Vijay Goel introduced him with his son Shri Pranshu Goel. Shri Pinkal Rathi stated that he provided services of his CHA firm to the firms of Shri Vijay Goel and Shri Pranshu Goel for import of “Cold Rolled Stainless Steel Coils 304 grade (Ex-stock)” in the name of M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh steel. He also admitted that Sh. Pranshu Goel used to provide him the documents for customs clearance of import consignments of “Cold Rolled Stainless Steel Coils 304 Grade Ex-Stock” in above stated firms through respective email ids of the above said firms to his email id otl.docs@gmail.com. I also noticed that Shri Pranshu Goel used to provide him the details of transporters (Vehicle no and driver no.) and he used to hand over the imported goods for delivery of the same to Sh. Pranshu Goel.

From the above, it is evident that Shri Vijay Goel and Shri Pranshu Goel dealt the matter in the same manner in respect to the consignments handled by M/s Oriental Trade Link (Customs Broker).

- I find that **Shri Dhanraj Jain**, Director of M/s Savitri Stainless Steel Pvt. Ltd, New Delhi in his statement categorically stated that that as per direction of Shri Pranshu Goel, Shri Ajay Goel has made some cash transaction and for that cash transaction Shri Pranshu Goel received RTGS from M/s Savitiri Stainless Pvt. Ltd. From the said statement, I noticed that, Shri Vijay Goel and Shri Pranshu Goel sell the imported Stainless Steel Coil J3 grade (ex-stock) in market in high value. However, to maintain the price of Stainless Steel Coils J3 grade with respect to import price, low value invoices were issued to the local buyers. However, same goods were actually sold at higher price market. The differential amount was being paid to Shri Vijay Goel and Pranshu Goel through hawala and fake RTGS from various traders. I find that Shri Dhanraj Jain admitted that he had made RTGS to Shri Vijay Goel and Shri Pranshu Goel for their firms M/s Vinayak Steel and M/s Goel Exim at a commission of 4% of amount involved in transaction and he used to receive cash amount through local agent. He also admitted that he received fake invoices and e-way bill of purchase of scrap from the firms of Shri Vijay Goel and Shri Pranshu Goel i.e M/s Vinayak Steel. However, no actual goods were purchased. He received invoices and made RTGS in lieu of the 4% commission. He further confirmed for making payment through RTGS of more than one Crore for fake transaction in the firms M/s Goel Exim which was firm of Shri Vijay Goel and Shri Pranshu Goel.
- I find that **Shri Ram Singhal Proprietor of M/s Singhal operate business through firms** namely M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Ganesh Steels, M/s Vinayak Steels, M/s Shree International and M/s Maha

Shakti Exim. He confirmed that the range of invoice value was between Rs. 75 per kg to Rs. 102 per kg of Cold Rolled Stainless Steel J3 grade which was provided by Vijay Goel and Pranshu Goel. However, these values were not the correct value. The actual value of Cold Rolled Stainless Steel J3 grade was higher than the invoices issued. Actual value was in the range of Rs. 120 to Rs. 125 per Kg. For the sake of covering undervaluation done by Sh. Vijay Goel and Pranshu Goel, the invoice value was shown in the range of Rs. 75 per kg to Rs. 102 per kg. Payment for the same was done through RTGS by him through banking channel to the respective firms of Shri Vijay Goel and Shri Pranshu Goel and remaining differential amount of actual value and invoice value was paid in cash as per the direction of Sh Vijay Goel & Pranshu Goel to them.

- I find from the statement of **Shri Dinesh Goel Proprietor of M/s Shiv Enterprises** that he had purchased only imported stainless steel coils from Shri Vijay Goel and Shri Pranshu Goel who operate through their controlled firms namely M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Ganesh Steels, M/s Vinayak Steels, M/s Shree International and M/s Mahashakti Exim. He made payment in their respective bank account of the firms and for lower value invoices, he made cash transaction.
- From the statement of **Shri Sanjay Goel Director of M/s Karan Metawares Pvt. Ltd. (now M/s Naman Metawares Pvt. Ltd.)**, I find that he purchased goods from firms of Shri Pranshu Goel and Vijay Goel namely M/s Mahadev Ji Exports, M/s Shree International, M/s Mahashakti Exim, M/s Goel Exim and M/s Ganesh Steel. These firms were controlled by Shri Pranshu Goel and Vijay Goel. He also confirmed that rate for local sale was being fixed by Shri Vijay Goel and payment related matters were being dealt by Shri Pranshu Goel. He purchased Cold Rolled Stainless Steel Coil from the firms of Shri Vijay Goel and Shri Pranshu Goel at average price of Rs. 70 per kg. However, the price of imported Cold Rolled Stainless Steel Coil J3 grade was approximately Rs. 120-125 per kg. Shri Vijay Goel and Shri Pranshu Goel used to issue invoice of Rs. 70 per kg. The amount occurred in this regard was being paid through RTGS to the aforesaid respective firms of Shri Vijay Goel and Shri Pranshu Goel. The differential amount i.e., difference of actual value of goods and invoice value issued by Shri Vijay Goel and Shri Pranshu Goel were being paid in cash by him. I find that Shri Sanjay Goel had paid Rs. 2 to 3 crore in cash to Shri Pranshu Goel. He further confirmed that there were very few transactions where goods were actually delivered to him. In most of the cases, the transactions were made only on paper for which Shri Pranshu Goel used to pay him a commission of 3.5% of the amount involved in transaction.
- From the statement of **Shri Manoj Singhal, Proprietor of M/s Sohum Trading Company**, I find that he made payment in their respective bank account of the firms as per direction of Shri Vijay Goel and Pranshu Goel. He had purchased Stainless Steel Coil/sheet J3 Grade at price ranging from Rs. 69 to Rs. 98 per kg from Shri Vijay Goel and Prasnhu Goel; however, actual value of Cold Rolled Stainless Steel J3 grade was higher which was ranging

from Rs. 100 to Rs. 110 depending upon the condition/quality of the Cold Rolled Stainless Steel coil/sheet. He confirmed that as per direction of Sh. Vijay Goel and Pranshu Goel, the invoice value was shown in the range of Rs. 69 per kg to Rs. 98 per kg for which RTGS were done by him through banking channel to the respective firms of Shri Vijay Goel and Shri Pranshu Goel and remaining differential amount of actual value and invoice value was paid in cash.

- From the statement of **Shri Kartik Singla, Proprietor of M/s Singla Metals**, I find that he also aware about the fact that Shri Vijay Goel and Shri Pranshu Goel were controlling the firms in question and he bought Stainless Steel coil/sheet J3 Grade from them. He confirmed that the invoice value of cold rolled stainless steel was not correct and the correct value was ranging from 120-135 per kg for which remaining differential amount of actual value and invoice value was paid in cash by him to Shri Vijay Goel and Shri Pranshu Goel.
- I find that M/s Fast Track CFS Pvt. Ltd. at APSEZ Mundra had done warehousing and handling related work for the firms namely M/s Goel Exim, M/s Maha Shakti Exims, M/s Ganesh Steel, M/s Shree International and M/s Shri Mahadev Ji Export. From the statement Shri V. Radhakrishnan, Director of M/s Fast Track CFS Pvt. Ltd, I find that Shri Pinkal Rathi dealt with all the import related documents of above said firms and the payment was also made by Pinkal Rathi through the bank account of M/s Oriental Trade Link. They don't have any link with the actual importer. Now, if we correlated the above statement of Shri V. Radhakrishnan with the statement of Shri Pinkal Rathi, there is no confusion that the all imported related work of firms in question which have been made noticees in the impugned SCN, was being controlled by Shri Vijay Goel and Shri Pranshu Goel.

36.1.1 From the above, I hold that **Shri Vijay Goel and Shri Pranshu Goel are the actual beneficial owners** of the subject goods imported in the name of such firms. Their omission and commission has been well discussed above. Therefore, by doing such acts and omissions which resulted in contravention of the provisions of Customs Act, 1962 and rules made thereunder; Shri Vijay Goel and Shri Pranshu Goel have rendered the impugned goods liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Accordingly I hold that **Shri Vijay Goel and Shri Pranshu Goel** have made themselves **liable for penalty under Section 112(a)(ii)** of Customs Act 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

36.1.2 As regards the penalty under Section 114AA of the Customs Act, 1962 is concerned, I find that penalty under Section 114AA is imposable for intentional usage of false and incorrect material. I already stated that Shri Vijay Goel and Shri Pranshu Goel despite knowing the fact that unit price mentioned in invoices

produced before the customs authority was not the true/actual transaction value. They also with the help of overseas supplier made forged/fake invoice and get original invoice through mobile phones and through courier at their premise's address. They controlled the operation of firms as mentioned in the Show Cause Notice and used thier IEC's for smuggling of goods into India. They also controlled bank accounts of these firms and also signed the documents. They paid amount to import firm's owners and used their documents, mobile OTPs for smuggling of the goods which were well discussed above. Thus, I have no doubt that Vijay Goel and Shri Pranshu Goel had involved themselves in causing to be prepare false import documents and used the same in attempt of illegal clearance of goods. In view of above, it is evident that they have knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in all material particular, therefore such acts of omission and commission has rendered **Vijay Goel and Shri Pranshu Goel are liable for penalty under Section 114AA** of the Customs Act, 1962.

36.2 ROLE AND CULPABILITY OF SHRI UPENDRA PRATAP SINGH, PROPRIETOR OF M/S MAHA SHAKTI EXIMS:

- I find that firm M/s Maha Shakti Exims which was under the proprietorship of Shri Upendra Pratap Singh having its registered address of premise which was owned by Shri Vijay Goel. I find that Shri Upendra Pratap Singh allowed Shri Vijay Goel to manage and control his firm. I find that that he had knowledge that Shri Vijay Goel was using his firm M/s Maha Shakti Exims in importing goods namely i.e. Cold Rolled Stainless Steel Grade J3/304 by undervaluing it using modus-operandi of parallel/fake invoices. I find that Shri Upendra Pratap Singh allowed Shri Vijay Goel to use Bank accounts of his firms and, in return, he used to receive Rs. 10,000/- per container from Shri Vijay Goel. I find that Shri Vijay Goel determined import prices, managed transactions, customs clearances, and sales to buyers in domestic market for M/s Maha Shakti Exims, owned by Shri Upendra Pratap Singh.
- I also find that during the visit of Residential Premises of Proprietor of M/s Maha Shakti Exim, it had been found that residential premises of proprietor of M/s Maha Shakti Exim located at House No. 354, Gali No. 7, Village Shalimar Bagh, New Delhi was owned by another individual. This person was not acquainted with anyone named Shri Upendra Pratap Singh, the proprietor of M/s Maha Shakti Exim. Thus, the residential address was found fake.
- I have no doubt in my mind that Shri Pranshu Goel and his father Shri Vijay Goel were looking after and managing the operations and made arrangement for clearance of goods of the firm M/s Maha Shakti Exim. The said fact have also confirmed and admitted by the Shri Pranshu Goel and Shri Vijay Goel.
- I also find that Shri Jitender Kumar, Proprietor of M/s Shri Balaji Logistics (CHA firm) who was handling the Customs Clearance related work also admitted that all the import related documents of Cold Rolled Stainless Steel J-

3 Grade were sent to email of [CHA neeraj@endurancelogistics.com](mailto:CHA_neeraj@endurancelogistics.com) for clearance of the said goods by Shri Pranshu Goel. Further, it is also revealed from the investigation that all transportation related work was done by Shri Pranshu Goel. Further, invoices of this firm were also obtained during forensic examination of his Shri Pranshu Goel's phone.

- **From the above, I have no doubt that Shri Vijay Goel and Pranshu Geol are the actual beneficial owners of the imported goods imported in the name of M/s Maha Shakti Exim.**
- I find that Shri Upendra Pratap Singh provided her documents such as AADHAR, PAN, Driving License, Bank Details etc. to open the firm related to import and export. It is clear that he was aware that import and export-related work was being carried out in the name of his firm. However, he did not make any effort to understand what was actually being imported under the IEC of his firm. Thereby, by such act he had allowed his KYC documents and IEC license to be used by unscrupulous elements. The find that Shri Upendra Pratap Singh lent his IEC in exchange for a monthly amount of Rs. 10,000/- and allowed goods to be smuggled in the name of his firm. I hold that Shri Upendra Pratap Singh knowingly lent his IEC to other persons for import and never bothered to get to know the business activities which were being conducted in their name of M/s Maha Shakti Exim. I find that Shri Upendra Pratap Singh received substantial monetary benefits from the masterminds (Shri Vijay Goel and Shri Pranshu Goel) in lieu of facilitating the illegal import in the IEC of firms M/s Maha Shakti Exim and services provided by him for knowingly facilitating the illegal import, clearance, transportation etc.
- I find that Shri Upendra Pratap Singh (Prop: M/s Maha Shakti Exim) was willfully and deliberately indulged into conspiracy of importing and clearance of impugned goods by way of undervaluation. Further, the Importer by knowingly concerning himself in removing, depositing, harbouring, keeping, concealing, selling and dealing with smuggled which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, Shri Upendra Pratap Singh through his firm have made goods liable for confiscation under Section 111 of the Customs Act, 1962. In view of above, I find that Shri Upendra Pratap Singh has rendered himself liable for penalty **under Section 112(a)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.
- I find that Shri Upendra Pratap Singh had allowed to manage his firm, bank accounts and other firm related activities to other persons in lieu of moentry benefit. The forge/parallel invoice were used for import in the name of his firm M/s Maha Shakti Exim based on which incorrect documents were submitted before the Customs Authority with false declarations. Further, in the present case, Shri Upendra Pratap Singh had lent its IEC to Shri Vijay Goel. This IEC of

the Importer was used by Shri Vijay Goel and others for their own import, and they have used KYCs of this firm for clearance of offending goods by way of mis-declaration/undervaluation. Investigation had revealed that Shri Upendra Pratap Singh (Proprietor of M/s. Maha Shakti Exim) had knowingly and intentionally prepared/get prepared, signed/got signed and used the declaration, statements and/or documents presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual classification/valuation of the imported goods, with mala-fide intention to defraud the govt. exchequer, and therefore, M/s. Maha Shakti Exim through its proprietor Shri Upendra Pratap Singh is liable to penalty under **Section 114AA** of the Customs Act, 1962.

36.3 ROLE AND CULPABILITY OF SMT. NISHA GOEL, PROPRIETOR OF M/S GOEL EXIM:

- I find that Nisha Goel is wife of Shri Vijay Goel and also Proprietor of M/s Goel Exim.
- She admitted that that she used to sign in documents as per direction of her husband Shri Vijay Goel. Further, he stated that as per her knowledge she did not have any bank account. However, during investigation it has been found that there are several bank accounts were available in her name and her firm's name.
- She also admitted that her husband and son were doing import of Cold Rolled Stainless Steel and sale the same in local market. She also stated that apart from M/s Goel Exim she was director with her husband in M/s KVM Apparels Pvt. Ltd. and M/s Siddhi Vinayak Private Limited. However, all the work related to the firms were being taken care of by her husband Shri Vijay Goel.
From the said fact, I find that smt. Nisha Goel was the proprietor only on the papers, all works and management related work was being handled by his husband and son. She was just a namesake proprietor.
- I find that she used to share the OTP with Shri Vijay Goel and Shri Pranshu Goel to complete the banking transaction of M/s Goel Exim. He was also not aware how the duty payment for import made in M/s Goel Exim was done, that can be answered only by his son and husband.
- I notice that she was also aware about the fact that her husband and son were controlling the work of other firms apart from the work related to M/s Goel Exim and M/s Shri Mahadev Ji Exports. Further he admitted that her husband and son were involved in under-valuation and mis-classification and for this omission she would try to pay the duty liability.
- It is clear that she was aware that import and export-related work was being carried out in the name of his firm. However, she did not make any effort to understand what was actually being imported under the IEC of her firm.

Thereby, by such act she had allowed his KYC documents and IEC license to be used by her husband and son. I find that Shri Vijay Goel determined import prices, managed transactions, customs clearances, and sales to buyers in domestic market for M/s Goel Exim, owned by her wife Smt. Nisha Goel.

- I also find that during the visit of Residential Premises of Proprietor of M/s Goel Exim, it had been found that residential premises of proprietor of M/s Goel Exim located at North West Delhi was under construction building and the owned by Shri Vijay Goel. Thus, the residential address was found not on the name of her.
- I have no doubt in my mind that Shri Pranshu Goel and his father Shri Vijay Goel were looking after and managing the operations and made arrangement for clearance of goods of the firm M/s Goel Exim. The said fact have also confirmed and admitted by the Shri Pranshu Goel, Shri Vijay Goel and Smt. Nisha Goel.
- I also find that Shri Jitender Kumar, Proprietor of M/s Shri Balaji Logistics (CHA firm) who was handling the Customs Clearance related work also admitted that all the import related documents of Cold Rolled Stainless Steel J-3 Grade were sent to email of CHA_neeraj@endurancelogistics.com for clearance of the said goods by Shri Pranshu Goel. Further, it is also revealed from the investigation that all transportation related work was done by Shri Pranshu Goel. Further, invoices of this firm were also obtained during forensic examination of his Shri Pranshu Goel's phone.
- From the above, I have no doubt that Shri Vijay Goel and Pranshu Geol are the actual beneficial owners of the impugned imported goods imported in the name of M/s Goel Exim.
- I find that Smt. Nisha Goel provided her documents such as AADHAR, PAN, Driving License, Bank Details etc. to open the firm related to import and export to facilitate the import goods i.e. cold rolled stainless Steel. It is clear that she was aware that import and export-related work was being carried out in the name of hers firm M/s. Goel Exim. I find that being a family member of smuggling cartel, she knowingly allowed her husband and son to use her firm's IEC for import of offending goods. Thereby, by such act she had allowed his KYC documents and IEC license to be used by unscrupulous elements. I hold that Smt. Nisha Goel knowingly allowed her IEC to her husband and son for import and never bothered to get to know the business activities which were being conducted in the name of M/s Goel Exim. Thus, I find that Smt. Nisha Goel had facilitated the illegal import and provided services facilitating the illegal import, clearance, transportation etc
- I find that Smt. Nisha Goel (Prop: M/s Goel Exim) was willfully and deliberately indulged into conspiracy of importing and clearance of impugned goods by way of undervaluation. Further, the Importer by knowingly concerning himself in

removing, depositing, harbouring, keeping, concealing, selling and dealing with smuggled which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, Smt. Nisha Goel through his firm have made goods liable for confiscation under Section 111 of the Customs Act, 1962. In view of above, I find that Smt. Nisha Goel has rendered himself liable for penalty **under Section 112(a)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

- I find that Smt. Nisha Goel had allowed to manage her firm, bank accounts and other firm related activities to her husband and son. The forge/parallel invoice were used for import in the name of his firm M/s Goel Exim based on which incorrect documents were submitted before the Customs Authority with false declarations. This IEC of M/s. Goel Exim owned by Smt. Nisha Goel was used by Shri Vijay Goel and others for their own import, and they have used KYCs of this firm for clearance of offending goods by way of mis-declaration/undervaluation. Investigation had revealed that Smt. Nisha Goel (Proprietor of M/s. Goel Exim) had knowingly and intentionally prepared/get prepared, signed/got signed and used the declaration, statements and/or documents presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual classification/valuation of the imported goods, with mala-fide intention to defraud the govt. exchequer, and therefore, M/s. Goel Exim through its proprietor Smt. Nisha Goel is liable to penalty under **Section 114AA** of the Customs Act, 1962.

37. I notice that during the course of the investigation, on reasonable belief and to protect the interest of revenue, DRI vide letter dated 17.11.2022 requested to the respective banks to provisionally attach the bank accounts under Section 110(5) of the Customs. Act, 1962. Further, during course of investigation, import consignments of M/s Shri Mahadev Ji Exports, M/s Goel Exim and M/s Mahashakti Exims were examined and on reasonable belief of under-valuation, goods of such consignments were seized. I noticed that the Show Cause Notice proposes under para 43 of the SCN to confiscate the amounts that lying in the bank accounts of M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exims, M/s Vinayak Steel, M/s Shree International and M/s Ganesh Steel, under the provisions of Section 121 of the Customs Act, 1962. The amount lying in the following bank accnts has been proposed for confiscation:

TABLE-8

Sl.No.	Firm /person name	Bank A/c No.	Bank Details	Balance
1	AJAY Goel	36905003537	ICICI	12,4 86.00
2	Ajay Goel(LINKED	36901513636	ICICI	7,3

	ACCOUNT TO VINAYAK STEEL)			51.00
3	Ajay Goel(LINKED ACCOUNT TO VINAYAK STEEL)	90962010053749	Canara Bank	6,836
4	Ajay Kumar	4047571257	Kotak Mahindra	12,000.00
5	POOJA GOEL(LINKED ACCOUNT TO VINAYAK STEEL)	90962010073368	Canara Bank	25,145
6	M/s Vinayak Steel	10064173260	ICICI	60,224.20
			Total	1,24,042.05
1	Devshree Bhatt	1145433104	Kotak Mahindra	25,790.00
2	M/s Shree International	2245256426	Kotak Mahindra	5,271.58
3	M/s Shree International	10087171153	IDFC First Bank, Ashok Vihar, New Delhi	22,232.00
4	M/s Shree International	102801508912	ICICI Bank, Ashok Vihar, New Delhi	1,871.00
5	M/s Shree International	107563300001862	Yes Bank, GT Karnal Road, New Delhi	19,452
			Total	74,616
1	M/s Ganesh Steel	9746304465	Kotak Mahindra	96,144.94
2	M/s Ganesh Steel	10085457157	IDFC First Bank, Ashok Vihar, New Delhi	24,164.00
3	M/s Ganesh Steel	10085098300	IDFC First Bank, Ashok Vihar, New Delhi	18,70,000.00
			Total	19,90,308.94
1	M/s Goel Exim	8845156470	Kotak Mahindra	5,610.49
2	M/s Goel Exim	10092744754	IDFC First Bank, Ashok Vihar, New Delhi	27,54,000.00
3	M/s Goel Exim	33105005788	ICICI Bank, Ashok Vihar, New Delhi	2,05,79,354.30
4	Nisha Goel	1565101026396	Canara Bank	3,35,580.66
5	Nisha Goel	1645663704	Kotak Mahindra	2,10,708.00
6	Nisha Goel	1645663711	Kotak Mahindra	52,677.00
7	Nisha Goel	1645663728	Kotak Mahindra	2,10,708.00
8	Nisha Goel	1645663735	Kotak Mahindra	52,677.00
			Total	2,42,01,315.45
1	M/s Maha Shakti Exims	10103248501	IDFC First Bank, Ashok Vihar, New Delhi	30,11,000.00

2	M/s Maha Shakti Exims	33105005809	ICICI Bank, Ashok Vihar, New Delhi	8,63,3 81.00
			Total	38,74,3 81.00
1	M/s Shri Mahadev Ji Exports	3145141591	Kotak Mahindra	18,8 94.00
2	M/s Shri Mahadev Ji Exports	3145150340	Kotak Mahindra	11,3 47.00
3	M/s Shri Mahadev Ji Exports	10089013784	IDFC First Bank, Ashok Vihar, New Delhi	22,78,0 00.00
4	M/s Shri Mahadev Ji Exports	33105005777	ICICI Bank, Ashok Vihar, New Delhi	52,8 69.54
5	M/s Shri Mahadev Ji Exports	1565201003915	Canara Bank, Pitampura, New Delhi	60,6 98.53
6	M/s Shri Mahadev Ji Exports	3114460319	Kotak Mahindra Bank, Ashok Vihar, New Delhi	60,2 24.20
7	Pranshu Goel	1815053151	Kotak Mahindra	9,5 67.94
8	Prasnhu Goel	10088283561	IDFC First Bank, Ashok Vihar, New Delhi	1 77.75
			Total	24,91,7 79
1	Vijay Goel	6245382239	Kotak Mahindra	3,2 53.80
2	Vijay Goel	1565136000091	Canara Bank	7,0 8,986
			Total	7,12,2 39.80
			G. Total	3,34,68,683

As per Section 121 of the Customs Act, 1962, sale-proceeds of a goods which were sold by a person can be confiscated. In the instant case the fact has been well established and also accepted by the proprietor of their respective firms that the actual price of the goods was not the true value on which they were sold by Shri Vijay Goel and Pranshu Goel. Further, the fact has been well established above regarding payments through RTGS wherein goods were not actually taken place which on paper sold to local buyers. It had already been discussed in details in foregoing paras. However, some of the relevant facts are reproduced below for better appreciation;

- i. I find that Shri Vijay Goel and Shri Pranshu Goel had provided all import related documents to CHA, M/s Balaji Logistics for the import of Cold Rolled Stainless Steel Grade- J3 in the name of M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh steel, M/s Vinayak Steels. The fact also admitted by Shri Vijay Goel in his statement. Further, the same also re-confirmed from the statement of Shri Sh. Jitendra Kumar, Proprietor of M/s Balaji Logistics (CHA firm).
- ii. I find that all the import related work of these firms was looked after by Shri Vijay Goel and he also admitted in his statement dated 17.11.2022 that he appointed CHA M/s Balaji Logistics for clearance of the following firms, M/s

Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exim, M/s Shree International, M/s Ganesh Steel, M/s Vinayak Steel. He also agreed with the fact that all the import related documents of Cold Rolled Stainless Steel J-3 Grade were sent to email of CHA neeraj@endurancelogistics.com for clearance of the said goods by his son Shri Pranshu Goel.

- iii. I already disucussed the fact that Shri Vijay Goel and Shri Pranshu Goel produced fake or forged invoices in which the unit price of the imported goods was influenced or manipulated. The actual price revealed in the parallel invoices retrieved during the forensic examination of the mobile phones of Shri Pranshu Goel.
- iv. Shri Vijay Goel and Shri Pranshu Goel in their statements admitted that clearance of stainless steel coil grade J-3 was done at the price of 0.75 USD per Kg, although the same was purchased from the Chinese supplier at almost twice of the declared rate.
- v. I already disucssued that Shri Pranshu Goel for higher value to make advance payment for adjustment against undervaluation from banking channel and also in cash by his father. I find that Chinese supplier named Sunny provided actual invoices to Shri Vijay Goel and his son. From the investigation, it is evident that Chinese suppliers used to send two sets of invoices with same invoice number with different value, one was of higher and other was of lower value. The foreign suppliers also forwarded import documents of lower value through courier mainly from DHL at Vijay Goel's address A-104, Wazipur Industrial Area, Delhi.
- vi. I also discussed that Shri Vijay Goel, father of Pranshu Goel, instructed him to prepare local sale invoices, raising tokens for cash collection as part of the transaction process. Pranshu Goel also communicated with foreign suppliers such as Sunny China for the supply of goods and their payment. For higher-value transactions, Shri Pranshu Goel and Vijay Goel made advance payments for undervaluation adjustments through both banking channels and cash payments arranged by Vijay Goel. Payment to foreign suppliers was made through ICICI Bank and IDFC First Bank.
- vii. Shri Pranshu Goel in his statement dated 17.11.2022 admitted that his father Shri Vijay Goel had been looking after the import related work of M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Shree International, M/s Ganesh Steel, M/s Mahashakti Exim and M/s Vinayak Steel. I find that Shri Pranshu Goel used to provide vehicle details to Shri Jitender Kumar CHA for delivery of goods after import in respect of above said firms.
- viii. I find that Shri Jitender Kumar, Proprietor of M/s Shri Balaji Logistics (CHA firm) was handling the Customs Clearance related work and Shri Pranshu Goel was handling transportation related work of imported goods. In this way, CHA firm (M/s Shri Balaji Logistics) handled 350-400 shipments involving 800 to 900 containers for these 06 firms namely M/s Goel Exim, M/s Shri Mahadev

Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh steel, M/s Vinayak Steels.

- ix. Ms. Devshree Bhatt proprietor of M/s Shree International admitted that Shri Pranshu Goel and his father Shri Vijay Goel were the actual beneficiary of the firms and were being looked after all import and further sale of imported goods in India in respect of M/s Shree International. Shri Ajay Kumar proprietor of M/s Vinayak Steel and younger brother of Shri Vijay Goel admitted that all the payment for import from Chinese supplier in M/s Vinayak Steel was made by Shri Vijay Goel through the bank account of M/s Vinayak Steel; that all the payment for import from Chinese supplier in M/s Vinayak Steel was made by Shri Vijay Goel through the bank account of M/s Vinayak Steel; Kumar that Shri Vijay Goel used to sign all banking related documents along with cheque on his behalf and all online transaction and RTGS related to M/s Vinayak Steel was done by Shri Vijay Goel as he knew the password and all the bank OTP's were received being in Vijay Goel's phone. I find that Shri Vijay Goel was indulged in the act of determining import prices, managing transactions, customs clearances, and sale to buyers in domestic market for various firms, namely, M/s Maha Shakti Exims in the name of Shri Upendra Pratap Singh, M/s Shree International in the name of Ms. Devshree Bhatt, M/s Ganesh Steel in the name Shri Santan Kamat. He used to give Rs. 10,000/- per container to the proprietors of the aforementioned firms. Thus, I have no doubt in my mind that the owner of the above said firms were lent their IEC and offending goods were imported in the name of their firms in the contravention of the provisions of the Customs Act, 1962.
- x. It is also beyond doubt that the differential amount of actual and declared value was paid to the overseas supplier through **Hawala** Channels w.r.t. the import made in the name of above said 06 firms.
- xi. From the statement of **Shri Pinkal Rathi** Partner of M/s Oriental Trade Link also confirmed that his CHA firm provided services to the firms controlled by Shri Vijay Goel and Shri Pranshu Goel for import of "Cold Rolled Stainless Steel Coils 304 grade (Ex-stock)" in the name of M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Shree International, M/s Ganesh steel. He also admitted that Sh. Pranshu Goel used to provide him the documents for customs clearance of import consignments of "Cold Rolled Stainless Steel Coils 304 Grade Ex-Stock" in above stated firms through respective email ids of the above said firms to his email id otl.docs@gmail.com.
- xii. This is also confirmed that **Shri Ram Singhal, Shri Dinesh Goel Proprietor of M/s Shiv Enterprises, Shri Manoj Singhal, Proprietor of M/s Sohum Trading Company** made Payments through RTGS through banking channel to the respective firms of Shri Vijay Goel and Shri Pranshu Goel and remaining differential amount of actual value and invoice value was paid in cash as per the direction of Sh Vijay Goel & Pranshu Goel to them.

- xiii. **Shri Sanjay Goel Director of M/s Karan Metawares Pvt. Ltd. (now M/s Naman Metawares Pvt. Ltd.), Shri Kartik Singla, Proprietor of M/s Singla Metals** confirmed that he had paid Rs. 2 to 3 crore in cash to Shri Pranshu Goel. He further confirmed that there were very few transactions where goods were actually delivered to him. In most of the cases the transactions were made only on paper for which Shri Pranshu Goel used to pay him a commission of 3.5% of the amount involved in transaction.
- xiv. I have already hold the fact that the Shri Vijay Goel and Shri Pranshu Goel are the actual beneficial owner of the goods imported in the name of M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exims, M/s Vinayak Steel, M/s Shree International and M/s Ganesh Steel. I have already elaborated the fact in the para of role and culpability of Shri Vijay Goel and Shri Pranshu Goel that the goods imported in the name of above said firms were sold to the local buyer by fraudulent means. Thus, I hold that amount lying in the accounts of respective firms are the sale proceeds of the goods cleared by Shri Vijay Goel and Shri Pranshu Goel.
- xv. Without prejudice, I noticed that a Show Cause Notice F. No. GEN/ADJ/COMM/526/2024-Adjn dated 08.11.2024 has been issued by the Pr. Commissioner of Customs, Customs House, Mundra on a similar matter under Section 28(4) of the Customs Act, 1962 wherein noticees are same. The SCN dated 08.11.2024 is pending for adjudication with the Competent Authority. Thus, the fact here remain undisputed that the amount lying in the bank accounts are the sale proceed of the goods imported by Shri Vijay Goel and Shri Pranshu Goel in the name of M/s Shri Mahadev Ji Exports, M/s Goel Exim, M/s Maha Shakti Exims, M/s Vinayak Steel, M/s Shree International and M/s Ganesh Steel.
- xvi. In view of the above discussion and also facts discussed in this order, I hold that the amount lying in the bank accounts of the 06 firms namely M/s Goel Exim, M/s Shri Mahadev Ji Exports, M/s Maha Shakti Exims, M/s Vinayak Steel, M/s Ganesh Steel and M/s Shree International and their proprietors including the bank accounts controlled Shri Vijay Goel are the sales proceeds of the smuggled goods; thus, the same are liable for confiscation under Section 121 of the Customs Act, 1962. For the above said omission and commissions, I hold that the proprietor of the respective firms are also liable for penal action under Section 117 of the Customs Act, 1962.

38. IN VIEW OF DISCUSSION AND FINDINGS SUPRA, I PASS THE FOLLOWING ORDER:

ORDER

38.1 IN RESPECT OF GOODS IMPORTED BY M/S. GOEL EXIM VIDE BILLS OF ENTRY No. 3257125 DT. 11.11.2022, 3303610 DT. 15.11.2022, 3072207 DT. 28.10.2022 & 3091438 DT. 29.10.2022:

- i. I order to reject the declared value of Rs. 1,83,28,572/- of the impugned goods seized vide Seizure Memo dated 10.03.2023 and 22.04.2023 under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and order to re-determine the same at **Rs. 3,89,85,740/- (Rupees Three Crores Eighty Nine Lakhs Eighty Five Thousand Seven Hundred and Forty only)** in terms of Rule 9 of the said Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962.
- ii. I order to confiscate the goods having total assessable value of Rs. 3,89,85,740/- imported by M/s. Goel Exim vide above 4 Bills of entry under Section 111(m) of the Customs Act, 1962. However, I given an option to the Importers to redeem the goods on payment of redemption fine of **Rs. 40,00,000/- (Rupees Forty Lakhs Only)**.
- iii. I impose a penalty of **Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousand Only)** upon M/s. Goel Exim through its proprietor Smt. Nisha Goel under Section 112(a)(ii) of the Customs Act, 1962.
- iv. I impose a penalty of **Rs. 15,00,000/- (Rupees Fifteen Lakhs Only)** upon M/s. Goel Exim through its proprietor Smt. Nisha Goel under Section 114AA of the Customs Act, 1962.
- v. I impose a penalty of **Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousand Only)** upon **Shri Vijay Goel** (controller of M/s. Goel Exim) under Section 112(a)(ii) of the Customs Act, 1962.
- vi. I impose a penalty of **Rs. 20,00,000/- (Rupees Twenty Lakhs Only)** upon **Shri Vijay Goel** (controller of M/s. Goel Exim) under Section 114AA of the Customs Act, 1962.
- vii. I impose a penalty of **Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousand Only)** upon **Shri Pranshu Goel** (controller of M/s. Goel Exim) under Section 112(a)(ii) of the Customs Act, 1962.
- viii. I impose a penalty of **Rs. 20,00,000/- (Rupees Twenty Lakhs Only)** upon **Shri Pranshu Goel** (controller of M/s. Goel Exim) under Section 114AA of the Customs Act, 1962.
- ix. I do not impose penalty on Shri Nisha Goel, Shri Vijay Goel and Shri Pranshu Goel under Section 112(b) of the Customs Act, 1962.

38.2 IN RESPECT OF GOODS IMPORTED BY M/S. Shri Mahadev Ji Exports vide Bill of Entry No. 3293673 DT. 14.11.2022:

- i. I order to reject the declared value of Rs. 49,29,602/- of the impugned goods seized vide Seizure Memo dated 22.04.2023 under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

and order to re-determine the same at **Rs. 1,07,55,495/- (Rupees One Crore Seven Lakhs Fifty Five Thousand Four Hundred and Ninty Five only)** in terms of Rule 9 of the said Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962.

- ii. I order to confiscate the goods having total assessable value Rs. 1,07,55,495/- imported by M/s. Shri Mahadev Ji Exports vide above 1 Bill of entry under Section 111(m) of the Customs Act, 1962. However, I given an option to the Importer to redeem the goods on payment of redemption fine of **Rs. 10,00,000/- (Rupees Ten Lakhs Only)**.
- iii. I impose a penalty of **Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand Only)** upon M/s Shri Mahadev Ji Export through its proprietor Shri Pranshu Goel under Section 112(a)(ii) of the Customs Act, 1962.
- iv. I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakhs Only)** upon M/s Shri Mahadev Ji Export through its proprietor Shri Pranshu Goel under Section 114AA of the Customs Act, 1962.
- v. I impose a penalty of **Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand Only)** upon **Shri Vijay Goel** (controller of Shri Mahadev Ji Export) under Section 112(a)(ii) of the Customs Act, 1962.
- vi. I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakhs Only)** upon **Shri Vijay Goel** (controller of Shri Mahadev Ji Export) under Section 114AA of the Customs Act, 1962.
- vii. I do not impose penalty on Shri Vijay Goel and Shri Pranshu Goel under Section 112(b) of the Customs Act, 1962.

38.3 IN RESPECT OF GOODS IMPORTED BY M/S. M/s Shri Maha Shakti Exims vide Bill of Entry No. 3303633 DT. 15.11.2022:

- i. I order to reject the declared value of Rs. 25,80,487/- /- of the impugned goods seized vide Seizure Memo dated 22.04.2023 under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and order to re-determine the same at **Rs. 56,30,153/- (Rupees Fifty Six Lakhs Thirty Thousand One Hundred and Fifty Three only)** in terms of Rule 9 of the said Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962.
- ii. I order to confiscate the goods having total assessable value Rs. 56,30,153/- imported by M/s. Goel Exim vide 1 Bill of entry under Section 111(m) of the Customs Act, 1962. However, I given an option to the Importer/actual beneficiary owners to redeem the goods on payment of redemption fine of **Rs. 6,00,000/- (Rupees Six Lakhs Only)**. Furthermore, I hold that the quantum of the redemption fine will be equally shared between the beneficial

owners, at a 50:50 ratio.

- iii. I impose a penalty of **Rs. 80,000/- (Rupees Eighty Thousand Only)** upon M/s Shri Maha Shakti Exims through its proprietor Shri Upender Pratap Singh under Section 112(a)(ii) of the Customs Act,1962.
- iv. I impose a penalty of **Rs. 3,00,000/- (Rupees Three Lakhs Only)** upon M/s Shri Maha Shakti Exims through its proprietor Shri Upender Pratap Singh under Section 114AA of the Customs Act,1962.
- v. I impose a penalty of **Rs. 80,000/- (Rupees Eighty Thousand Only)** upon Shri Vijay Goel under (controller of Shri Maha Shakti Exims) Section 112(a)(ii) of the Customs Act,1962.
- vi. I impose a penalty of **Rs. 3,00,000/- (Rupees Three Lakhs Only)** upon Shri Vijay Goel (controller of Shri Maha Shakti Exims) under Section 114AA of the Customs Act,1962.
- vii. I impose penalty a Penalty of **Rs. 80,000/- (Rupees Eighty Thousand Only)** upon Shri Pranshu Goel (controller of Shri Maha Shakti Exims) under Section 112(a)(ii) of the Customs Act,1962.
- viii. I impose a penalty of **Rs. 3,00,000/- (Rupees Three Lakhs Only)** upon Shri Pranshu Goel (controller of Shri Maha Shakti Exims) under Section 114AA of the Customs Act,1962.
- ix. I do not impose penalty on M/s Shri Maha Shakti Exims, Shri Vijay Goel and Shri Pranshu Goel under Section 112(b) of the Customs Act, 1962.

38.4 I order to confiscate the amount lying in the bank accounts (as mentioned under table-8 above) of M/s Vinayak Steel, M/s Shree International, M/s Ganesh Steel, M/s Goel Exim, M/s Shri Maha Shakti Exims, M/s Shri Mahadev Ji Exports and Shri Vijay Goel under the provisions of Section 121 of the Customs Act, 1962 for the reasons stated above. Further, I order to confiscate the amount lying the bank accounts of proprietor of these firms (as mentioned under table-8 above) under the provisions of Section 121 of the Customs Act, 1962.

38.4.1 I impose penalty on the following persons under the provisions of Section 117 of the Customs Act, 1962:

Sr. No.	Penalty imposed upon (under Section 117 of CA,1962)	Amount of Penalty
1	M/s Vinayak Steel through its proprietor Shri Ajay Kumar	2,00,000/- (Rupees Two Lakhs Only)
2	M/s Shree International through its proprietor Ms. Dev	2,00,000/- (Rupees Two Lakhs Only)

	Shree Bhatt	
3	M/s Ganesh Steel through its proprietor Shri Santan Kamat	2,00,000/- (Rupees Two Lakhs Only)
4	M/s Goel Exim through its proprietor Ms. Nisha Goel	2,00,000/- (Rupees Two Lakhs Only)
5	M/s Shri Maha Shakti Exims through its proprietor Shri Upender Pratap Singh	2,00,000/- (Rupees Two Lakhs Only)
6	M/s Shri Mahadev Ji Exports through its proprietor Shri Pranshu Goel	2,00,000/- (Rupees Two Lakhs Only)
7	Shri Vijay Goel	2,00,000/- (Rupees Two Lakhs Only)

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

40. The Show Cause Notice bearing No. GEN/ADJ/ADC/2132/2023-Adjn dated 15.11.2023 stands disposed off in above terms.

अपर आयुक्त सीमा शुल्क,
(अधिनिर्णयन अनुभाग)
कस्टम हाउस, मुंद्रा।

फ़ाइल संख्या: GEN/ADJ/ADC/2132/2023-Adjn.

DIN/दस्तावेज़ पहचान संख्या: 20250171MO000071237A

By RPAD/ By Hand Delivery/Email/Speed Post

To:

- Shri Vijay Goel**, DU-10, Pitam Pura New Delhi-110034
- M/s Shri Mahadev Ji Exports**,
Plot No. A-104, Block-A, 1st Floor,
Wazirpur Industrial Area, Near Shri Ram Chowk,

- North West Delhi, Delhi, 110052
3. **Shri Pranshu Goel**, DU-10, Pitampura, New Delhi-110034
 4. **Smt. Nisha Goel**, DU-10, Pitampura, New Delhi-110034
 5. **M/s Goel Exim**,
A-84/1, Ground Floor, Industrial Area,
Wazirpur, North West Delhi-110052.
 6. **M/s Dev Shree Bhatt** Proprietor of M/s Shree International,
H.No. H-26, Anandvihar Colony, Raipur, Chhattisgarh- 492001
 7. **M/s Shree International**,
Property No. 112, Plot No. 15, Kumar Tower,
Community Centre, Wazirpur, New Delhi-110052
 8. **Shri Upender Pratap Singh**, Proprietor of M/s Maha Shakti Exims,
A-104, First Floor, Industrial Area,
Wazirpur, North West Delhi, Delhi, 110052.
 9. **M/s Maha Shakti Exims**,
A-104, First Floor, Industrial Area,
Wazirpur, North West Delhi, Delhi, 110052.
 10. **Shri Santan Kamat**, Proprietor of M/s Ganesh Steel,
1st Floor, A-84/1, Industrial Area, Wazirpur,
North West Delhi, 110052
 11. **M/s Ganesh Steel**,
1st Floor, A-84/1, Industrial Area,
Wazirpur, North West Delhi, 110052.
 12. **Shri Ajay Kumar**, Proprietor of M/s Vinayak Steel,
2nd Floor, PU-53, Pitampura, New Delhi-110055.
 13. **M/s Vinayak Steel**,
First Floor, B-26 Group, Wazirpur Industrial Area,
Wazirpur Industrial Area-110052

Copy to:

1. The Directorate of Revenue Intelligence, New Delhi
2. The Dy./Asstt. Commissioner (Legal/Prosecution), CH, Mundra.
3. The Dy./Asstt. Commissioner (RRA/TRC), CH, Mundra.
4. The Dy./Asstt. Commissioner (EDI), CH, Mundra... *(with the direction to upload on the official website immediately).*

5. The Dy./Asstt. Commissioner (Review Cell), CH, Mundra
6. Guard file.