

	<p style="text-align: center;">कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT& SPL ECONOMIC ZONE, MUNDRA-370421</p>		
A. File No.	:	GEN/ADJ/COMM/202/2020-Adjn-O/o-Pr Mundra	Commr-Cus-
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-05 -23-24	
C. Passed by	:	Shri T.V. Ravi Commissioner of Customs, Customs House, AP & SEZ, Mundra.	
D. Date of order and Date of issue	:	07.06.2023 07.06.2023	
E. SCN No. & Date	:	SCN F.NO. DRI/AZU/GRU/Pradeep-PUF/Int- 31/2017Date:11.12.2017	
F. Importer(s)/Party	:	1. M/s. Pradeep Impex, KP-87, Pithampura, Nr. City Park Hotel, Delhi-110034. 2. Shri Pradeep Jindal, Propreitor of M/s. Pradeep Impex, KP-87, Pithampura, Nr. City Park Hotel, Delhi-110034.	
G. DIN	:	20230671MO000000FA39	

- यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

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

- 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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

**“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर,
बहुमालीभवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”
**“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor,
Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge,
Girdharnagar PO, Ahmedabad 380 004.”****

- 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.
- उक्त अपील के साथ 1000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो -/5000 रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंच आहरित टिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्ड पीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा। Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.
- उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत -/5 रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मद सं 6-के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए। The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
- अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए। While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.
- इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा। An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

On the basis of an intelligence that M/s. Pradeep Impex, KP-87, Pithampura, Nr. City Park Hotel, Delhi (IEC No. 0505016508) (hereinafter also referred to as "Importer") was involved in mis-declaration of description and value of goods being imported as 'stock lot of PU leather cloth mixed of different sizes / thickness / colour width 56" +/- 10%' (hereinafter also referred to as "import goods" or "subject import goods"), goods covered under Bill of Entry No. 2088636 dated 14.06.2017 imported in containers bearing No. MRKU4923714 & MSKU0898810 under cover of Invoice Nos. G-405 and 406 both dated 18.05.2017 and MBL No. NPOAN2026 dated 21.05.2017 (HBLs NBJMSE1705216 & NBJMSE1705217 both dated 21.05.2017) were examined under Panchanama dated 16.06.2017 by the officers of Directorate of Revenue Intelligence, Regional Unit, Gandhidham (hereinafter referred to as DRI for the sake of brevity). Upon examination, the goods were found to be stuffed in form of rolls wrapped by transparent / semi transparent covering. Further, on each of the rolls paper slips were found pasted which contained details viz Item Name, Colour Roll No. and Mtrs along with words "Stock Lot". As the goods appeared to be of prime quality having specific details of Item Name, Colour, and quantity in Meters, further clearance of goods was withheld, vide same Panchanama.

Searches conducted and seizure of import goods

2.1 Whereas on the basis of above intelligence, the premises of M/s. Pradeep Impex located at Jindal Tower, 189,-191, Lawrence Road Industrial Area, Delhi-110035 which was being used as godown was searched under Panchanama dated 19.06.2017 by officers of DRI, under which documents and computer / mobile hardware found relevant to investigation were withdrawn and stock of imported PU leather found at the premises was placed under detention & handed over to Shri Anil Aggarwal, Stock Manager of M/s. Pradeep Impex, Delhi under Supratnama dated 19.06.2017. During the Panchanama Shri Anil Aggarwal informed that stock of imported PU Leather was not updated in Tally but he provided printouts of stock details maintained by them as per which around 10,032 rolls of imported PU Leather were available as stock. Further, one other premises of M/s. Pradeep Impex, Delhi situated at KP-87, Pithampura, Nr. City Park Hotel, Delhi were also searched by officers of DRI under another Panchanama dated 19.06.2017 under which documents/ printouts of email correspondence and mobile hardware were withdrawn. The documents withdrawn under the said Panchanama inter-alia included printouts of Invoices and Packing lists in respect of consignment of PU Leather imported and sought clearance under Bill of Entry No. 2088636 dated 14.06.2017 and many other consignments of PU Leather imported prior to said consignment. The price of import goods (i.e. PU Leather) in these Invoices downloaded from email ID of Shri Pradeep Jindal, the Proprietor of M/s. Pradeep Impex, Delhi (i.e. pjindal16@yahoo.com) during the course of search proceedings, was mentioned much higher than that mentioned in Invoices submitted by Importer to Customs Department at the time of clearance of goods. Moreover, the goods, in these Invoices (hereinafter also referred to as "*Parallel Invoices*"), downloaded from email ID of Shri Pradeep Jindal, were described with specific name, its thickness, unit price and length in meters. The Packing Lists (hereinafter also referred to as "*Parallel Packing Lists*"), downloaded from email, contained further details viz colour within each items, No. of rolls and length of fabric in each roll.

2.2 Consequent upon finding set of parallel Invoices & Packing List, the import goods covered under Bill of Entry No. 2088636 dated 14.06.2017 were again examined in detail under Panchanama dated 29.06.2017 in order to understand the authenticity of facts & figures contained therein by matching with the details of imported consignment. The goods were de-stuffed from containers and stacked according to specific Item Name and Colour (within items) which were found affixed on each of the rolls. Upon final counting and totalling of goods it was found that actual quantity of goods in Meters (having width 56"), Item wise and Colour wise, was same as mentioned in parallel Invoices (No. G405 and G 406 both dated 19.05.2017) and Packing Lists. The goods during examination had been found to be of prime quality with each roll of goods tagged with Item Name, colour and even Roll Number. Moreover, the goods matched in description and quantity with description and quantity thereof mentioned in Parallel Invoices and Packing Lists, indicating the said parallel Invoices found in email of Importer were the actual invoices. The value of the goods

mentioned in said parallel invoices was much higher than the value thereof declared in Bill of Entry No. 2088636 dated 14.06.2017 and invoices presented to customs. As such, the goods covered under Bill of Entry No. 2088636 dated 14.06.2017 were placed under seizure vide seizure memo dated 29.06.2017 and handed over to Custodian CFS for safe custody vide Supratnama dated 29.06.2017.

Statements of concerned persons recorded under Section 108 of Customs Act, 1962

3.1 Statement of **Shri Pradeep Jindal**, Proprietor of M/s. Pradeep Impex, Delhi was recorded on 22.06.2017, wherein, he inter alia, stated that his email IDs was pjindal16@yahoo.com; that he was proprietor of M/s. Pradeep Impex, Delhi handled all of its work; that he also tried to register one other company in the name of M/s. Pradeep Enterprises which Sales Tax and Income Tax departments did not allow; that he had imported around 22 to 25 containers since last quarter of 2016; that he used to sell most of imported goods to small manufacturers of shoes and bags in local market. He was shown one set of documents consisting of (i) two Invoices bearing No. G405 and G406 both dated 18th May 2017, (ii) Packing List and Detailed Packing list pertaining to Invoice Nos. G405 and G406 both dated 18th May 2017 and (iii) B/Ls bearing Nos. and dates, respectively, NPOAN2026 dated 21/23.05.2017 (issued by Safmarine), NBJMSE1705216 dated 21.05.2017 & NBJMSE1705217 dated 21.05.2017 (House BLs both issued by Ninjbo JM International). On seeing the said set he confirmed that the scanned copy of said documents i.e. Invoices, Packing List, Detailed Packing List and Bill of Lading was sent by him to CHA M/s. Lara Exim Private Limited, through M/s. Falcon India, for obtaining custom clearance of "PU Leather cloth" imported under Bill of Lading No. NPOAN2026 dated 21/23.05.2017 in containers MSKU0898810 and MRKU4923714. Thereafter he was shown another set of documents i.e. (i) Invoices bearing Nos. G405 and G406 both dated 18th May 2017, (ii) Packing Details (i.e. Packing List) both bearing No. G405 and G406 and date 18th May 2017. On seeing said second set he confirmed that said Invoices and Packing List were received by him, in mail, from supplier M/s. Zhejiang Sino Rich International Enterprises Co., Limited, Zhejiang, China in respect of "PU Leather cloth" imported under same Bill of Lading No. NPOAN2026 dated 21/23.05.2017 in containers MSKU0898810 and MRKU4923714.

3.2 Further statement of **Shri Pradeep Jindal** was recorded on 24.07.2017, wherein, he inter-alia, stated that he had been importing "PU Leather Cloth" mostly from M/s Zhejiang Sino Rich International Enterprises Co. Ltd., Zhejiang, China but sometimes from other suppliers also; that basically manufacturer was M/s. Fujian Hai Chuan Plastics Co. Ltd., and the suppliers were trading companies. On being asked, he further stated that 3-4 people namely Tracy, Annia, Kevin and Tom of the supplier company often came to India and used to note their orders as per their demands; that sometimes, the purchase order was placed through e-mail and sometimes telephonically. On being asked, he further stated that the agreements, with Suppliers, used to be mostly verbal and payment on credit for 3-4 months; that he used to receive the details/documents of import goods viz invoice & packing list in excel format and bill of lading and other documents in pdf format on his e-mail ID pjindal16@yahoo.com from supplier's e-mail tracy@hc-pu.com; that the original import documents used to be received either through DHL Courier or used to be handed by Ms. Tracy, an employee of supplier company and in some cases through banks. On being asked, he further stated that his Customs Brokers at CH Mundra, were M/s. Lara Exim Pvt. Ltd. and M/s. Shivam Seatrans Pvt. Ltd; that the documents to them were forwarded through M/s. Falcon India and M/s. Praveen & Co. respectively. On being asked he further stated that on receipt of customs cleared goods, they used to segregate and prepare inventory of items as per sticker of Item Name, Colour and Quantity pasted on each rolls. On being shown a black colour diary recovered under Panchanama dated 19.06.2017, he stated that in the said diary details, inter alia, of imported consignments received in godown were maintained with details of Item Name and number of rolls of each type of item and confirmed that the details are based on the actual goods imported. On being asked about difference in manner of description of goods and their value in Invoices received in mail and that received through courier or through Bank he stated that he knew that said goods were being cleared in terms of Kgs at Custom House Mundra at around USD 1.5 / Kgs; that he made the mistake of asking supplier to prepare invoices and packing list in terms of Kgs

and at around similar rates. On being asked about payment of difference of amount between invoices received in excel sheets in mail (which are in terms of Item Name and quantity in Meters) and that sent to Customs Broker (which are in terms of stock lot and quantity in Kgs), he stated that payment of said differential amount was still pending.

3.3 Statement of Shri Sabu George, G Card Holder and Power of Attorney Holder of Customs Broker Company **M/s. Lara Exim Private Limited**, was recorded on 23.11.2017, wherein, he, inter alia, stated that they received work of import of M/s. Pradeep Impex, Delhi-34 and that of M/s. Sai Exports, New Delhi through M/s. Falcon India; that Falcon India had CHA licence in Delhi but not in Mundra; Falcon India usually gave customs work to them. On being asked specifically he stated that Shri Shailesh Singh of M/s. Falcon India used to remain in contact with them on behalf of both M/s. Pradeep Impex, Delhi and M/s. Sai Exports, New Delhi; that copy of import documents i.e. Invoice, BL (House BL), Packing List, Country of Origin used to be received from Shri Shailesh Singh (ID shailesh.singh@falconfreight.com) in his mail ID rainbowshipp@gmail.com; that they used to get confirmation of correctness of checklist from Importer through Shri Shailesh;

3.4 Statement of Shri Shailesh Kumar Singh, authorised signatory of **M/s. Falcon India**, was recorded on 27.11.2017 wherein he inter alia stated that he had handled all the work of M/s. Falcon India at Mundra in respect of imports of M/s. Pradeep Impex, Delhi and M/s. Sai Exports, New Delhi during January 2017 to June 2017 and had been authorized by M/s. Falcon India to appear before DRI for providing documents and recording of statement on behalf of M/s. Falcon India; that he used to receive scanned copy of import documents in respect of both Importers in email ID shailesh.singh@falconfreight.com from email ID pjindal16@yahoo.com or adnan24ahmed@gmail.com; that he used to forward said documents by mail to Shri Sabu George of M/s. Lara Exim Private Limited (at email ID rainbowshipp@gmail.com); that he used to get confirmation of correctness of details in Checklist from Shri Pradeep Jindal or Adnan Ahmed (through email IDs pjindal16@yahoo.com or adnan24ahmed@gmail.com) and used to intimate the same to Customs Broker.

3.5 Statement of Shri Vikram Bahadur Singh, G Card Holder and Exim Operations Manager in Custom Broker Company **M/s. Shivam Seatrans Private Limited**, was recorded on 04.07.2017, wherein, he, inter alia, stated that documents in respect of M/s. Pradeep Impex, Delhi used to be received from Shri Praveen through mail (email ID Praveen_co@hotmail.com); that original copies of documents used to be received by couriers. He submitted copies of import documents pertaining to import of PU Leather.

3.6 Statement of Shri Praveen Chand Kausik, Proprietor of **M/s. Praveen & Company** was recorded on 07.07.2017, wherein, he, inter alia, stated that he had requested Shri Pradeep Jindal to give him work related to transportation work; that he asked him if he could arrange custom clearance work at Mundra; that he roped in Shri Rajubhai for customs clearance work; that he used to receive import documents from Shri Pradeep Jindal via mail from email ID pjindal16@yahoo.com or adnan24ahmed@gmail.com which he used to forward to M/s. Shivam Seatrans Private Limited at email ID vikram@shivamseatrans.com; that he used to receive checklist from email ID vikram@shivamseatrans.com of M/s. Shivam Seatrans Private Limited; that he used to check items mentioned in checklist and confirmed its correctness telephonically from Shri Pradeep and conveyed the same to M/s. Shivam Seatrans Private Limited.

Facts and Evidences revealing mis-declaration of value and description of import goods:

4.1 As discussed at Para 1 and 2 above, documents withdrawn from premises of M/s. Pradeep Impex, Delhi and examination of goods covered under Bill of Entry No. 2088636 dated 14.06.2017 revealed that description of import goods in the corresponding set of documents submitted by Importer to Customs Department through Customs Broker was mentioned as 'stock lot of PU leather cloth mixed of different sizes / thickness / colour width 56" +/- 10%' whereas on examination it was found that specific details viz Item Name, Colour (within each Item Name), Quantity in Meters were affixed on each roll. During

examination, the goods were stacked and arranged as per Item Name and Colour and inventory of quantity was prepared as per Item Name and Colour. It was found that the quantity of goods, so inventorized, matched with the quantity thereof mentioned in parallel set of Invoices / Packing Lists, in respect of same consignment, resumed from premises of Importer during search proceedings. Item wise / colour wise quantity of import goods in Meters were not available in set of Invoices / Packing Lists presented to Customs Department for the purpose of clearance. Further, the price of goods in Parallel Invoices was found to more than double that declared in Invoices presented to Customs and in Bill of Entry No. 2088636 dated 14.06.2017 filed in respect of the subject import consignment. It, therefore, appeared that Importer was not presenting actual Invoices / Packing List to Customs Department for clearance import goods i.e. PU Leather. Instead false Invoices showing less price of import goods were being submitted to Customs through Customs Brokers. Based on such forged documents less value of goods was being declared in the Bills of Entry. Further, it seems, goods were mis-declared as stock lot to portray them as low quality goods and to align them with suppressed value. This is also supported by the fact that it was noticed during examination of import goods that last two stacks / rows (i.e. towards container gate) had rolls of different type of Items and in stack / rows thereafter goods were uniformly arranged Item Wise. Therefore, if 10% of goods were examined, the last two stack / rows would give the impression of goods being of mixed lot / stock lot.

4.2 (a) During the search proceedings of premises of M/s. Pradeep Impex at Pithampura, Invoices and Packing Lists of not only live consignment but many other Invoices and Packing Lists pertaining to consignments of PU Leather imported in past were also found in the email account of Shri Pradeep Jindal i.e. Proprietor of M/s. Pradeep Impex, Delhi. Further, some more Invoices / Packing List were retrieved from email ID of Shri Pradeep during recording of his statement in the office of DRI Gandhidham. In all these Invoices goods i.e. PU Leather are described by Item Names, Quantity mentioned, Item wise, in Meters. The value of goods in these invoices is mentioned per meter, item wise. In Packing Lists further details of quantity of goods, in Meters, Item wise and colour (within each Item) wise is mentioned. Copies of Bills of Entry and that of import documents viz Invoices, Packing Lists etc presented to Customs Department for clearance of all the consignments of PU Leather, imported by M/s. Pradeep Impex, Delhi, were called from Office of Commissioner Customs, CH Mundra which were forwarded by said office vide letter F. No. VIII/48-695/GR-III/MCH/Misc/17-18 dated 18.10.2017.

4.2(b) Scrutiny of both sets of Invoices & Packing lists i.e. one which were presented to Customs Department for clearance of goods (hereinafter also referred to “First Set of Invoices and Packing List” or First Invoices / Packing Lists”) and the other Parallel Invoices and Packing List obtained from email ID of Shri Pradeep Jindal (pjindal16@yahoo.com), it is revealed that both sets bear same Serial Numbers; that goods described in first invoices as “stock lot of PU leather” and by specific Item Name in parallel Invoices; that quantity mentioned by weight in first invoices and by Meters in parallel Invoices; that per unit price in first invoices is USD / Kgs and that in parallel Invoices is USD / Meter. Further it is also observed that in first Packing List detailed packing is mentioned according to thickness of fabric whereas in parallel Packing Lists packing is mentioned according to Item Name wise and Colour wise. As a sample, images of first and parallel Invoice / Packing List for Invoice Sr. No. 406 are appended below:-

Image-1

Scan copy sent by me signed
to us for clearance from customs
P. J. Sadayn
6/10/17
Baskin
22/6/2017
Baskin

Image-2

30	3		
32	1		
34	1		
	1093	2704	85.00

Scan copy send by mail
to A/C for clearance
from customs
Credit
22/6/2018
Credit Index

Image-3

**ZHEJIANG SINO RICH INTERNATIONAL ENTERPRISE
CO.,LTD**

No.1-8, North of Zhongshan Road, Opposite Baiyun Garden, Liandu District, Lishui, Zhejiang

Tel.: 86-578-2953799, Fax: 86-578-2953344, www.hc-pu.com

INVOICE

TO: PRADEEP ENTERISES
5291,HARDHAN SINGH ROAD,DEV NAGAR,KAROL
Tel:
Fax:
Attn: Pradeep Jindal

INVOICE NO: G406
DATE: 19/05/2017
BL No:
Shipment: Sea

THIS CONTRACT IS MADE OUT BY THE BUYER AS PER FOLLOWING TERMS AND CONDITIONS MUTUALLY CONFIRMED

ITEM NO.	Description	Specification	QUANTITY (MTRS)	UNIT PRICE USD	TOTAL AMOUNT USD
FOB NINGBO,CHINA					
AR155	AR155	1	10915	2.37	25870.92
SHEEP NAPA	SHEEP NAPA	0.9	1917	1.9	3642.3
POLY NAPA	POLY NAPA	0.7	3203	1.6	5124.8
BLASTER	BLASTER	0.7	12037.5	2.2	26482.5
LIVERPOOL	LIVERPOOL	0.7	6070	2.2	13354
SHINING NAPA	SHINING NAPA	0.5	14614	1.02	14906.28
WRINKLE MILLER	WRINKLE MILLER	0.5	2539	1.45	3681.55
Remarks:					
TOTAL: 51296.5 Meters				93062.35 USD	

TOTAL:

SHIPPING MARKS: ADVISE FOLLOW

DELIVERY:

PORT OF LOADING:

NINGBO,CHINA

PACKING:

PAYMENT:

T/T

1 Terms of payment:T/T, from the BL shipment date 60 days.

2 Time of delivery:15-30days

3 Packing term:IN ROLL with two decks plastic bag with cutting samples and shipping mark,40m/roll.

4 All disputes arising from the execution of, in connection with this Sales Confirmation,shall be settled amicably through friendly negotiation.

5 Consignee name for this shipment: Parth Overseas.

BUYER:

THE SELLER: LISHUI HAHE

Copy of invoice received in mail
from zhejiang sino rich international sold
in respect of Consignment Confirmed under export
#BJMSE70526 dated - 21/5/2017 (on board)
Pradeep
21/5/2016
Pradeep Jindal

Image-4

ZHEJIANG SINO RICH INTERNATIONAL ENTERPRISE CO.,LTD						
No.1-8, North of Zhongshan Road, Opposite Baiyun Garden, Liandu District, Lishui,Zhejiang						
Tel.: 86-578-2953799, Fax: 86-578-2953344, www.hc-pu.com						
PACKING DETAILS						
G406				DATE:2017-5-18		
ITEM NO.	Specification	COLOR	DETAILS	Rolls	Total Quantity	
AR155	1.0mm	BLACK	196ROLLS*40+30+30+32	199	7932	
		BROWN	49ROLLS*40	49	1960	
		TAN	24ROLLS*40+34+30	26	1024	
SHEEP NAPPA	0.9MM	BROWN	15ROLLS*40+34	16	634	
		BLACK	31ROLLS*40+43	32	1283	
POLY NAPA	0.7MM	BROWN	20ROLLS*50+51	21	1051	
		BLACK	41ROLLS*50+57+45	43	2152	
BLASTER	0.7MM	BROWN	39rolls*50+51.5	40	2001.5	
		CAMEL-1	38rolls*50+52.5+48.5	40	2001	
		CAMEL	38rolls*50+51+51.5+23	41	2025.5	
		LEMON	37rolls*50+51.5+51.5+36	40	1989	
		TAN	37rolls*50+51+51+67.5	40	2019.5	
		BLACK	39rolls*50+51.5	40	2001	
		BLACK	18rolls*50+51+70	20	1021	
LIVERPOOL	0.7MM	BLUE	19rolls*50+29	20	979	
		KHAKI	19rolls*50+24	20	974	
		BEIGE	18rolls*50+48+5+47	20	995.5	
		CAMEL	19rolls*50+48.5+57	21	1055.5	
		BROWN	20rolls*50+45	21	1045	
		BLACK	126ROLLS*50+30	127	6330	
SHINING NAPPA	0.45MM	RANI	8ROLLS*50	8	400	
		PEACH	20ROLLS*50	20	1000	
		R.BLUE	7ROLLS*50+65	8	415	
		BROWN	22ROLLS*50+46	23	1146	
		WHITE	16ROLLS*50	16	800	
		C.GREEN	6ROLLS*50+43	7	343	
		RED	15ROLLS*50	15	750	
		CREAM	31ROLLS*50	31	1550	
		SULTAN	29ROLLS*50+30	30	1480	
		PURPLE	8ROLLS*50	8	400	
WRINKLE MILLER	0.5MM	D.GOLD	39ROLLS*50+29	40	1979	
		L.GOLD	9ROLLS*50+52+58	11	560	
TOTAL				1099	54296.5	

copy of packing list in hand from shijiang shu in respect of H/C NO HBJMES70546 - 2/19/12 (for book)

heavy 2/26/16 heavy index

4.2(c) Goods covered under above sample Invoice imported in container No. MSKU0898810 were examined under Panchanama dated 29.06.2017 and it was found that parameters i.e. Item Name, Colour and quantity in meters were found affixed on each roll of fabric. The quantity of each type of Item and Colour (within Item) in meters matched with the quantity thereof mentioned in parallel Packing List. It therefore emerges that the parallel set of Invoices and Packing List were the actual Invoice and Packing Lists for the import goods. Moreover, since thickness of fabric was not mentioned on import goods, the quantity of said goods could not have been ascertained according to first Packing List in which quantity was mentioned according to thickness. It, therefore, became clear that first Packing List did not mention actual packing of goods imported in container No. MSKU0898810 and thus, apparently, was not the true and correct packing list. A brief comparison of description and quantity of goods, covered under Bill of Entry No. 2088636 dated 14.06.2017, as mentioned in first Invoices / Packing List presented to Customs, that actually found during examination dated 29.06.2017 and that mentioned in Parallel Invoices / Packing Lists, is illustrated below: -

Table - 1

		In Invoices / Packing List presented to Customs	Actual goods found during Examination dt 29.06.2017	In parallel Invoices / Packing Lists found in email ID of proprietor
Description	Invoice	Goods described as “Stock Lot of PU Leather”	<i>Paper slip having details of Item Name, Colour, Meters found affixed on each roll. Goods were segregated and quantity tallied as per Item Name and Colour.</i>	Goods described by Item Names
	P. List	As “stock lot” further categories by thickness		Further categorised by colour within Item Name and quantity of goods of each Item and Colour (within Item) mentioned.
Item Names	Invoice	Not mentioned	Invoice 405:- Kareena, Zarina, New Led, London, Poly Napa, Don Burnish, Wood, Baba Glitter, Dot Punch, Shining Nappa Invoice 406: Ar155, Sheep Nappa, Poly Napa, Blaster, Liverpool, Shining Napa	Invoice 405:- Kareena, Zarina, New Led, London, Poly Napa, Don Burnish, Wood, Baba Glitter, Dot Punch, Shining Nappa Invoice 406: Ar155, Sheep Nappa, Poly Napa, Blaster, Liverpool, Shining Napa
	P. List	Not mentioned		
Quantity	Invoice	Only total No of rolls and total weight mentioned	Item Wise / Colour wise quantity in Meters was ascertained during Examination. Details of thickness were not found in Paper Slips pasted on rolls. So thickness wise quantity could not have been ascertained. Item wise and colour wise quantity in meters matched with that given in parallel Packing Lists.	Item wise quantity in Meters and Total Quantity in Meters was mentioned
	P. List	Thickness wise quantity i.e. No. of rolls and quantity in Meters for each roll mentioned. Total weight mentioned but total quantity in Meters not mentioned.		Items wise and colour wise (within Item) quantity i.e. No. of Rolls and quantity (in meters) of each roll mentioned. Thickness of each item also mentioned. Total quantity in meters also mentioned.

From the above discussed facts, it appears that first set of Invoices / Packing List were not the actual Invoices Packing Lists of the goods imported as PU Leather by M/s. Pradeep Impex, Delhi. Instead, the parallel set of documents retrieved from email ID of Shri Pradeep were the true and correct Invoice / packing list of said goods imported by M/s. Pradeep Impex, Delhi.

4.3 After the goods were cleared from Customs Mundra Shri Pradeep Jindal used to check the goods and make entry of goods received by him in the container in a black coloured diary. This fact has been stated by Shri Pradeep Jindal in his voluntary statement given under provisions of Sections 108 of Customs Act, 1962. The Relevant Pages of said diary, wherein entries in respect of import goods have been recorded by Shri Pradeep, it is revealed that he used to tally the import goods by Number of rolls, colour wise, of each of Item. It shows he used to receive details of import goods item wise and colour wise and that the goods were not purchased as stock lot. Had the subject import goods been sold as stock lot per unit of weight, the seller would not have maintained Item wise / colour wise details of goods and intimated the said details to Importer. An image of such an entry (dated 26.04.2017) made in diary in respect of container imported under Invoice No. G 230 and got cleared under Bill of Entry No. 9309218 dated 14.04.2017 is appended below as a sample.

Image 5

(59)

MARCH
Week 12

26/04/17
Container 948 Roll

80-285
FRIDAY
21

Leechi Suede 0.9MM = Camel 13 + BR 12 + Black 13

Smile 8MM = Mehndi 11 + TAN 22 + Black 34 + BR 12

TC LYCRA 0.9MM = Rani 19 + Blue 32 + Cherry 7 + BR 65 + Black 120

LYCRA + B 0.9MM = Blue 16 + Cherry 20 + BR 40 + Black 173

DON BURNISH 1.0MM = Lemon 13 + Khaki 14 + Black 13 + Camel 14
BR 15 + Beige 12

H.N Softy 0.9MM = TAN 14 + BR 14 + Black 13

Suber Softy 1.0MM = Blue 63 + BR 25

Suber Softy 0.8MM = BR 15 + Blue 32

Patent Football 0.7MM = Black 14

D. film mailat = Rani 8

948 Roll

APR 2003

Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
01	02	03	04	05	06	07	08	09	10	11	12	13	14
15	16	17	18	19	20	21	22	23	24	25	26	27	28

2003

Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
01	02	03	04	05	06	07	08	09	10	11	12	13	14
15	16	17	18	19	20	21	22	23	24	25	26	27	28

MAY 2003

It can be clearly seen from above image that details of number of rolls item wise and colour wise are noted in the diary with tick mark below confirming its matching with the details available in corresponding parallel invoice. The details of number of rolls, Item wise / Colour wise, are not available in corresponding first Invoice / Packing List presented to Customs.

4.4 As mentioned at Para 3.1 and 3.2 above, statement of Shri Pradeep Jindal, proprietor was recorded under provisions of Customs Act, 1962, wherein he stated, inter alia, that he used to receive the details/documents of import goods viz invoice & packing list in excel format on his e-mail ID pjindal16@yahoo.com from supplier's e-mail tracy@hc-pu.com. On being asked specifically about difference in manner of description of goods and their value in two sets of Invoices i.e. first Invoices received through courier or through Bank which were submitted to Customs and parallel Invoices received in mail he stated that he knew that said goods were being cleared in terms of Kgs at Custom House Mundra at around USD 1.5 / Kgs and admitted that he made the mistake of asking supplier to prepare invoices and packing list in terms of Kgs showing value at similar rates. Therefore, the facts that the parallel invoices received in mail were the actual invoices was confirmed by the Importer in his voluntary statement. Even in one of mail correspondence dated 02.06.2017 from email ID tracy@hc-pu.com, suppliers have asked Shri Pradeep for declaration in respect of payments made by some companies to M/s. Lishui Haihe International Enterprise Co. Ltd., indicating that differential amount was being arranged by him. Even though he has confirmed that the Suppliers have not agreed to, the plea given by Shri Pradeep, that he was trying to get discount on the amount mentioned in the parallel invoices (excel sheet), does not seem convincing given the fact there are clear remarks, (as can be seen in image-4 above) "this contract is made out by the buyer as per following terms and conditions mutually confirmed" in the parallel invoices being received by Importer, which show that rate of goods mentioned in said invoices were mutually confirmed, ruling out any scope of

discount. It is known fact that discount is given on quoted / offered price and not in finalised contracts. Shri Pradeep also admitted that the difference in value of goods as shown in parallel invoices and that in first invoices, was to be paid to the supplier. From the above discussed facts it clearly emerges that the parallel invoices / packing lists received in mail pjindal16@yahoo.com and retrieved by DRI were the true and correct invoices of the consignments of PU leather / coater fabric imported and got cleared through CH Mundra by M/s. Pradeep Impex, Delhi and that invoices / packing list presented to Customs department prepared to show value of goods in terms of weight @ USD 1.5 or 1.3 per Kgs were not true and correct documents.

4.5 Consequent to seizure of consignment covered under Bill of Entry No. 2088636 dated 14.06.2017, M/s. Pradeep Impex, Delhi had imported two more consignments of PU Leather, one under Invoices bearing Nos. G 442 and G 443 both dated 23.05.2017 and other under Invoices bearing Nos. G 476 & G 477 both dated 05.06.2017. The said consignments were cleared through Bills of Entry No. 2550913 dated 21.07.2017 and 2611922 dated 26.07.2017, respectively. The price of the goods in the Invoices pertaining to above consignments is in terms of per unit Meter and not per unit Kgs. The value of the goods shown in the above Invoices is equivalent to the value thereof shown in parallel invoices pertaining to earlier consignments of PU leather, which are subject matter of investigation and covered under present Notice. The said value is much higher than the value of goods shown in corresponding first Invoices and declared before Customs Department. Moreover, parallel Invoices bearing Nos. G 442 and G 443 both dated 24.05.2017 and other under Invoices bearing Nos. G 476 & G 477 both dated 08.06.2017 in respect of these two consignments were available in email ID pjindal16@yahoo.com. The value of import goods mentioned in said parallel invoices matches with the value declared in the above four invoices presented by M/s. Pradeep Impex, Delhi before Customs seeking clearance of goods under Bills of Entry No. 2550913 dated 21.07.2017 and 2611922 dated 26.07.2017. This fact further confirms that that the value shown in the Parallel Invoices retrieved by officers of DRI from email ID of Importer were actual transaction values of the import goods.

Payment of differential customs duty during investigation:

5. During the course of investigation M/s. Pradeep Impex, Delhi has made payment / cash security of following amounts towards differential duty and other dues in respect of consignments of PU leather imported and cleared by them through CH Mundra vide TR-6 Challans mentioned against each of the amounts.

Sr.No.	TR6 Challan No.	Date of Deposit	Amount (Rs.)
1	689/2017	27.06.2017	19,41,000/-
2	690/2017	27.06.2017	40,00,000/-
3	2022/2017	07.07.2017	5,00,000/-
4	2122/2017	13.07.2017	72,00,000/-
5	2145/2017	14.07.2017	25,00,000/-
6	2307/2017	06.07.2017	7,28,000/-
		Total	1,68,69,000/-

Rejection of value declared before Customs and re-determination of value of Import goods.

6. Whereas Section 14 of Customs Act, 1962 stipulates that the value of the imported shall be the transaction value of such goods, i.e. the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation. At discussed above at Para 4.1 to 4.5, it has clearly emerged that first Invoices presented to Customs Department were prepared to show value of imported PU leather at around USD 1.5 / Kgs and were not the true and correct invoices; that transaction values mentioned in shown said first Invoices was not correct transaction value of the import goods; that parallel Invoices retrieved from mail ID pjindal16@yahoo.com of Shri Pradeep Jindal by officers of DRI were the actual Invoices; that transaction value reflected in such parallel Invoices was

the actual transaction value of import goods. As such value declared before Customs in the Bills of Entry filed in respect of PU leather imported and got cleared by M/s. Pradeep Impex, Delhi through CH Mundra is required to be rejected in terms of Section 14 of Customs Act, 1962 read with provisions of Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter also referred to as “Rules 2007”) and re-determined on the basis of parallel Invoices retrieved from email ID of Importer in terms of Section 14 of Customs Act, 1962 read with provisions of Rule 3 of Rules 2007. The terms of sale as per prices shown in parallel Invoices is FOB China ports. Importer has forwarded, to DRI Gandhidham, copies of Freight Invoices vide mail dated 10.07.2017. An Annexure containing details in respect of consignments of PU leather imported by M/s. Pradeep Impex, Delhi at suppressed value is prepared and annexed as **Annexure - I** to the Notice. The value of subject goods re-determined in terms of Section 14 read with Rule 3 of Rules 2007 is ascertained in its Column 11 on the basis of FOB value given in parallel invoices retrieved from email ID of Importer and freight invoices provided by Importer. Parallel Invoices in respect of some import consignments were not available in email ID of Importers. However, Importer and Customs Brokers have stated in their respective statements that all goods were of similar type. The description and other parameters of goods given in first Invoices / Packing List of these consignments matches with description etc given in the first Invoices / Packing Lists pertaining to other consignments for which parallel invoices are available. Therefore, the value in respect of these consignments is re-determined in terms of Rule 5 of Rules 2007 on the basis of average value of similar goods i.e. consignments in respect of which parallel invoices reflecting actual transaction value are available. Annexure I is accordingly bifurcated in two parts; Annexure IA having details of consignments in respect of which Parallel Invoices are available and Annexure IB wherein value of goods is determined in terms of Rule 5 of Rules 2007. Insurance amount is taken as per provisions of Rule 10(2) of Rules 2007 while determining Assessable Value.

Confiscation of goods and Demand of duty

7.1 Whereas, from the facts and evidences discussed above at Para 4.1 to 4.5, it emerges that import goods were mis-declared as stock lot in the 19 Bills of Entry filed before Customs Department and their value was declared less as compared to actual transaction value. The examination of consignment covered under Bill of Entry No. 2088636 dated 14.06.2017 has revealed that the goods were not stock lot. Further from the parallel invoices it has emerged that actual value of the goods was much higher than the value thereof declared in the corresponding Bill of Entry. The acts of mis-declaration of value and description of subject import goods, has rendered subject import goods, i.e. PU leather, valued at **Rs. 17,47,41,743/-** (details as per Annexure I to SCN) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962. Out of these, 1,09,876.5 meters of goods valued at Rs.1,19,32,913/- covered under Bill of Entry No. 2088636 dated 14.06.2017 were placed under seizure vide Seizure Memo dated 29.06.2017. Further, 10032 Rolls of subject imported goods were detained under Panchanama dated 19.06.2017. The Importer vide letter dated 03.07.2017 stated the number of imported rolls to be 10259. Since, exact quantity of these goods in meters was not available and it was not practicable to measure their length, their value has to be estimated on the basis of the number of rolls. The total number of rolls involved in all 19 consignments is 28,889 (column No. 5 of Annexure I to SCN) and their total assessable value Rs. 17,47,41,743/- (column No. 11 of Annexure I to SCN). As such, average value per roll comes to Rs. 6048.73 and assessable value of 10259 rolls is estimated to be **Rs. 6,20,53,915/-**

7.2 As discussed at Para 4.1 to 4.5 and Para 6, above, value of the import goods declared in the Bills of Entry (as detailed in Annexure I to SCN) filed before the Customs Department was much less than the actual transaction value thereof. Since duty on the subject import is required to be paid as percentage of their value, duty has been short levied and short paid in respect of consignments covered under 19 Bills of Entry listed in Annexure I to SCN. The duty on the PU leather imported under above mentioned Bills of Entry is required to be levied on the value of said goods arrived at on the basis of actual transactions reflected in parallel invoices, as discussed in foregoing Para 6. Accordingly, the duty leviable and differential duty as compared to duty levied and paid at the time of clearance of import goods are ascertained in Annexure-I to SCN.

7.3 Parallel Invoices reflecting actual transaction value were recovered from email ID of proprietor of M/s. Pradeep Impex, Delhi Shri Pradeep Jindal under Panchanama proceedings. Further, Shri Pradeep Jindal has himself admitted in his statement that he committed the mistake of asking supplier to prepare invoices showing prices in the range of USD 1.5/Kgs. He was regularly receiving parallel Invoices showing actual transaction value. However, he did not present said parallel Invoices to Customs Department for clearance of goods. The first Invoices presented to Customs through Customs Brokers reflected false value of goods in the range of USD 1.5 / Kgs. As such, value of import goods (mentioned in Annexure I to SCN) was mis- stated in the import documents filed before Customs Department and actual transaction value was deliberately suppressed from Department with obvious motive of evasion of Customs Duty. Therefore, duties of customs aggregating to **Rs. 3,07,03,348/-** (as detailed in Annexure I to SCN) is required to be levied and demanded from M/s. Pradeep Impex, Delhi as per provisions of Section 28(4) along with applicable interest in terms of Section 28 AA of Customs Act, 1962.

Penalties on M/s. Pradeep Impex, Delhi and its proprietor Shri Pradeep Jindal

8.1 M/s. Pradeep Impex, Delhi is a proprietary concern and Shri Pradeep Jindal its Proprietor. He used to supervise most of the work of M/s. Pradeep Impex, Delhi. The parallel invoices recovered under search proceedings dated 19.06.2017 were found in his email ID Pjindal16@yahoo.com. Further, first Invoices / Packing Lists, wherein value and description of import goods was found to be mis-declared as discussed in foregoing paras 4.1 to 4.5 and Para 6, used to be forwarded to Customs Brokers M/s. Shivam Seatrans Private Limited and M/s. Lara Exim Private Limited through M/s. Praveen & Co. & M/s. Falcon India, respectively, by Shri Pradeep Jindal. Value and description of import goods was declared in the Bills of Entry on the basis of the said first Invoices. Both the Customs Brokers as well as authorised persons of M/s. Praveen & Co. & M/s. Falcon India have stated in their respective statements that the correctness of details of Checklists were got confirmed from Shri Pradeep Jindal. From these facts and from his statement it is clear that he was aware of the correct invoices based on true transaction value and thus he ought to have submitted said parallel invoices for filing Bills of Entry for clearance of goods. By these acts of commission and omission Shri Pradeep Jindal have rendered subject import goods, i.e. PU leather, valued at **Rs. 17,47,41,743/-** (details as per Annexure I to SCN) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and himself liable to penalty as per provisions of Section 112 (a) of Customs Act, 1962. Further, in his statement he has stated that he asked supplier to prepare invoices showing false value. As such, he has rendered himself liable to penalty as per provisions of Section 114 AA of Customs Act, 1962.

8.2 Whereas, as discussed at Para 7.3 above, duty in respect of 19 consignments (as detailed in Annexure I to SCN) has short levied and short paid by M/s. Pradeep Impex, Delhi by reason of mis-statement and suppression of facts. The value of import goods was mis-declared in the Import Invoices presented to Customs Department and actual invoices reflecting correct transaction value were not submitted to customs department at the time of seeking clearance of goods. Therefore, M/s. Pradeep Impex, Delhi have rendered themselves liable for penalty under provisions of Section 114A of Customs Act, 1962.

9. In view of the above, vide Show Cause Notice F.No. **DRI/AZU/GRU/Pradeep-PUF/Int-31/2017 dated 11.12.2017, M/s. Pradeep Impex**, KP-87, Pithampura, Nr. City Park Hotel, Delhi (IEC No. 0505016508) and its proprietor **Shri Pradeep Jindal** are hereby called upon to Show Cause to the Principal Commissioner of Customs, Mundra Port & SEZ having his office situated at Ground Floor & 1st Floor, 5B, Port User Building, Custom House, Mundra Port, District Kutch -370421 within thirty days from the receipt of this notice as to why: -

- (i) The value of import goods i.e. 'PU leather' declared in 19 Bills of Entry detailed in Annexure I to SCN should not be rejected under Rule 12 of Customs Valuation

(Determination of prices of the imported goods) Rules, 2007 read with Section 14 of Customs Act, 1962.

- (ii) Value of import goods i.e. 'PU leather' covered under 17 Bills of Entry as detailed in Annexure IA should not be re-determined at **Rs. 15,56,43,335/-** as per provisions of Section 14 of Customs Act, 1962 read with Rule 3 (1) of the Customs valuation (Determination of value of imported goods) Rule, 2007.
- (iii) Value of import goods i.e. 'PU leather' covered under 2 Bills of Entry as detailed in Annexure IB should not be re-determined at **Rs. 1,90,98,408/-** as per provisions of Section 14 of Customs Act, 1962 read with Rule 5 of the Customs valuation (Determination of value of imported goods) Rule, 2007.
- (iv) Import goods i.e. 'PU leather' valued at **Rs. 17,47,41,743/-** (details as per Annexure I) should not be held liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962.
- (v) **1,09,876.5 meters** of import goods i.e. 'PU leather' valued at **Rs. 1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 seized under seizure memo dated 29.06.2017, should not be confiscated as per the provisions of Section 111(m) of Customs Act, 1962.
- (vi) **10,259 rolls** of import goods i.e. 'PU leather' valued at **Rs. 6,20,53,915/-** detained as per Panchanama dated 19.06.2017 handed over to Shri Anil Aggarwal, Stock Manager, M/s. Pradeep Impex, Delhi vide Supratnama dated 19.06.2017 should not be confiscated as per the provisions of Section 111(m) of Customs Act, 1962.
- (vii) Differential duties of customs aggregating to **Rs. 3,07,03,348/- (Rupees three crore seven lakhs three thousand three hundred forty eight only)** in respect of 19 consignments, as detailed in the **Annexure-I**, evaded by them on the said goods, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with interest applicable under provisions of Section 28 AA of Customs Act, 1962.
- (viii) **Rs. 1,68,69,000/-** paid / cash security deposited by them during course of investigation should not be adjusted and appropriated against differential duty & other dues demanded from them at sub para (vii) above.
- (ix) Penalty should not be imposed on M/s. Pradeep Impex, Delhi under Section 114A of the Customs Act, 1962.
- (x) Penalty should not be imposed on Shri Pradeep Jindal under Section 112 (a) of the Customs Act, 1962.
- (xi) Penalty should not be imposed on Shri Pradeep Jindal under Section 114 AA of the Customs Act, 1962.

10. In the matter of above stated Show Cause Notice, M/s. Pradeep Impex and Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex filed application nos. 5531/2018 and 5532/2018 on 21.03.2018, under Section 127B of the Customs Act, 1962, before the Additional Bench Mumbai Settlement Commission for the settlement of case covered by the aforesaid Show Cause Notice admitting the differential duty of Rs. 1,94,48,397/- against the demand of Rs. 3,07,03,348/- as mentioned in SCN.

11. The importer paid Rs. 30,00,000/- towards different duty vide challan bearing no. IMPORT/MPSEZ/2244/17-18 dated 21.07.2017. They had paid Rs. 5,52,446/- towards interest liability vide challan bearing no. IMP/MP&SEZ/5046/17-18 dated 27.03.2018.

12. The Settlement Commission, Principal Bench, New Delhi vide Final Order No. F-3458-3459/CUS/2018-SC(PB) dated 20.12.2018 ordered the case as settled on Rs. 3,07,03,348/- as demanded in SCN. The amount of Rs. 1,94,48,576/- deposited by the applicant is ordered to be appropriated towards settled duty liability of Rs. 3,07,03,348/-. The applicant has paid an amount of Rs. 5,52,446/- towards their interest liability and the said amount is ordered to be appropriated. The Bench orders confiscation of the goods valued at Rs.1,19,32,913/- seized under Seizure memo dated 29.06.2017 in respect of imports made under Bill of Entry no. 2088636 dated 16.06.2017. However, an option is given to the applicant to redeem the same on payment of a fine of Rs.1,00,000/- in lieu of confiscation. The Bench orders confiscation of the goods totally valued at Rs. 6,20,53,915/- detained vide Panchanama dated 19.06.2017. However, an option is given to the applicant to redeem the same on payment of a fine of Rs.6,00,000/- in lieu of confiscation. The Bench imposes penalty of Rs. 15,00,000/- on the applicant and grants immunity to them from penalty in excess of the above amount. No separate penalty is imposed on Shri Pradeep Jindal being Proprietor. Subject to payment of duty, interest, penalty and fine within 30 days of receipt of order, the Bench grants immunity to applicant and co-applicant from prosecution under the Act and Rules framed there under as applicable in so far as this case is concerned.

12.2 Aggrieved with the said Settlement Commission's order, M/s. Pradeep Impex filed Special Civil Application No. 8995 of 2019 before the High Court of Gujrat against the Final Order No. F-3458-3459/CUS/2018-SC(PB) dated 20.12.2018 issued by the Settlement Commission, Principal Bench, New Delhi.

12.3 The Hon'ble High Court of Gujrat vide Order dated 19.01.2022 in SCA No. 8995 of 2019 has held that the "this writ application is partly allowed. The impugned order passed by the Settlement Commission to the extent the same "adjudicate" and confirm the demand raised in the Show Cause Notice is hereby quashed. The legal consequences as postulate in law would follow. The proceeding pursuant to Show Cause Notice before the concerned authority shall commence. The Show Cause Notice shall be decided by the authority concerned on its own merits after hearing the parties. We clarify that we have not decided the Show Cause Notice on merits."

13. The importer vide letter dated 26.12.2017 submitted that they have decided to file application before Settlement Commission, therefore, adjudication proceedings may be kept in abeyance. Subsequently, the instant SCN was transferred to call book on 16.04.2018 in view of the instructions contained in CBEC Circular no. 162/73/95-CX dated 14.12.1995. The Settlement Commission, Principal Bench, New Delhi vide Final Order No. F-3458-3459/CUS/2018-SC(PB) dated 20.12.2018 had settled the case. However, M/s. Pradeep Impex had filed an Appeal before High Court of Gujrat vide SCA No. 8995 of 2019 against the Settlement Commission's Order. The Hon'ble High Court of Gujrat vide Order dated 19.01.2022 in SCA No. 8995 of 2019 has held that the impugned order passed by the Settlement Commission is quashed and the Show Cause Notice shall be decided by the authority concerned on its own merits after hearing the parties. Further, Legal Section, Customs House, Mundra vide e-mail dated 09.12.2022 has informed that the order dated 19.01.2022 passed by the Hon'ble Gujarat High Court in SCA No. 8995 of 2019 has been accepted by the Commissioner on 20.09.2022 and as per records available, M/s Pradeep Impex has not preferred any appeal against the subject order. Thereafter, the instant SCN was taken out from call book on 12.12.2022

PERSONAL HEARING AND WRITTEN SUBMISSION

14. Personal Hearing in this matter was fixed on 15.02.2023, 20.02.2023 & 24.02.2023, however, the importer vide letter dated 14.02.2023 requested to grant a month's time to prepare reply to SCN as they have just now informed about the decision of the Hon'ble High Court of Gujrat.

Personal Hearing in this matter was fixed again on 26.05.2023. Shri Paritosh Gupta, advocate on behalf of M/s. Pradeep Impex and Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex, has attended the personal hearing which was conducted in virtual mode. He

contested the proposals raised in the Show Cause Notice on the basis of the grounds and contention raised in their written submission. He also emphasized that SCN has been issued by Officers of DRI and therefore, in view of the judgement of the Hon'ble Supreme Court in the case of M/s. Canon India as also various other subsequent judgements of the High Courts, the SCN is required to be dropped on the said ground itself.

14.2 In response to SCN F.No. DRI/AZU/GRU/Pradeep-PUF/Int-31/2017 dated 11.12.2017, Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex, submitted written submission through his advocate Shri Paritosh Gupta, vide letter dated 26.05.2023 wherein they, inter-alia, submitted as under:

- They had imported various consignment of PU Leather Cloth declaring the same to be import of 'Stock Lot PU Leather' of different sizes. The declared value of these goods was accepted by the Customs department and appropriate amount of customs duties including Special Additional duty levied under Section 3(5) of the Customs Tariff Act, 1975 came to be paid by them. These imported goods were sold off in the domestic market under the cover of proper invoices and also on payment of sales tax/VAT or CGST/SGST as applicable.
- Perusal of SCN clearly shows that the department has completely overlooked the fact the goods in question were a stock lot quantity meaning thereby that though the material forming part of the lot was of prime quality but the same was made up of different colours, sizes etc. A stock lot sale as against a regular transaction of sale is entirely different as the stock lot consists of huge quantity of material which varies in size/pattern/colour/technical specification etc. which are bundled together as a single sale. It is a matter of common understanding that in regular course of business old stocks of material mainly consisting of garments, are disposed of by the wholesaler, stockists etc. in bulk at a discounted rate. While scrutinizing the material in question, the department has however, observed that the material was prime i.e. to say that the same was not in the nature of waste. As pointed out hereinabove, purchase of stock lot is not purchase of waste per se but of a bundled quantity which varies in specification and other factors. It is pertinent to note that it is not the findings in the investigation that the goods imported by the noticee was not part of bundled consignment of various materials which was of different specification /colours etc. However, the said fact has been disregarded merely on the basis of passing observation that the goods were of prime quality. It may be noted that it has never been the case of the noticee that the goods were of poor quality but merely that the rolls which comprised of the consignment of different specifications. They therefore, submit that present one is a clear case where the entire investigation has been conducted on a blatant misunderstanding on part of the investigation officers. There is not even an iota of evidence on record that the goods are not stock lot and hence, the allegation of undervaluation on the premise that the goods were not part of the stock lot is clearly devoid of any merit in law and in facts.
- The show cause notice also places emphasis on the documents recovered from the emails which are termed as 'parallel' invoices. The authorities have however, overlooked the fact that the invoices which were taken from email were merely proforma invoices which are indicative/list prices of the prime goods and which is merely the starting point of negotiation between the parties. Perusal of the said invoices would clearly show that the same are not issued by the foreign supplier as a confirmed transaction and hence, the said invoices could never be termed as Parallel invoices. There is not even an iota of evidence on record to show that the said invoices were final invoices issued by the foreign supplier. If at all the investigation officers were of the view that the said proforma invoices was the final invoice issued by the foreign supplier and/or some tangible material should have been brought on record to show that the said invoices were not proforma invoices but final invoices.
- The department has also not brought on record any evidence to show any additional payments made to the supplier. If it is the case of the department that the values were suppressed in the documents filed by the noticee and the value which were

shown in the proforma invoices were the final value of the sales, then evidence to show additional payments ought to have been brought on record.

- The SCN, in an endeavour to justify its reliance on the proforma invoices, states that subsequent import by the noticee after the start of investigation reveals that the goods were priced on per meter basis and the price mentioned therein matched with the relevant invoices found in the email. The said inference is also however, without any merit because the said imports were not of stock lot as was the case of other transactions. On the contrary, the said instances of import supports the case of the importer inasmuch as it clearly establishes that the value is shown in meters only in cases where the purchase is of fresh stock and not stock lot purchases which are priced on per kg basis. At this stage, it should be pointed out that the noticee seeks to create a prejudice by inferring that the modus adopted by the noticee was changed upon initiation of investigation and subsequent imports were made on per meter basis; however, the said assertion is completely mis-leading and false inasmuch as invoices in two subsequently filed bills of entry were issued much prior to initiation of investigation and as the invoices related to purchase of fresh stock of good as against stock-lot, the same were priced on per meter basis rather than per kg basis which was the norm for purchase of stock lot.
- In the present case, it is an admitted fact that the noticee has paid only the invoice value to the foreign supplier, and it is also an admitted fact that the noticee has not paid any further amount over and above the agreed price, and therefore the invoice value has been transaction i.e. the price actually paid for the goods in question when sold for export to India. In the present case, however, the authority has not specifically rejected the transaction value i.e. the price actually paid by the noticee to the foreign supplier, by holding that any amounts over and above the amount indicated in the invoice was paid by the noticee. Thus, in absence of any of the above exceptions of Rule 4 for rejecting the transaction value being attracted in this case, the entire basis of the Show Cause Notice is illegal and unauthorized.
- Nowhere in the proceedings has it been shown that there was any doubt about the genuineness of the price actually paid by the noticee to the overseas suppliers. There is no basis for rejecting the price actually paid by the noticee as the transaction value. In this view of the matter, the authority has no jurisdiction to proceed to re-determine the transaction value when the price actually paid by the noticee was not rejected or rejectable is ex-facie illegal and without jurisdiction. The Hon'ble Supreme Court has held in the case of Eicher Tractors Ltd. 2000(122) ELT 321 that the price actually paid for importing any goods was the value of assessing duties unless it was established that the price so paid was not the sole consideration and that the transaction was tainted by any extra commercial consideration. In the present import, however, it is not even the case of revenue that the noticee had paid any extra money or consideration, or that the price paid by the noticee for purchasing the goods from the foreign based supplier was not the sole consideration or that the price was influenced by any other consideration, and thus the genuineness of the price actually paid by the noticee is not under any doubt or dispute in this case.
- They further draw attention to Notification No. 102/2017 dated 14.10.2007 issued by the Central Government whereby an exemption scheme has been brought in force thereby allowing refund of Special Additional Duty paid at the time of import of goods subject to the requirement that such imported goods are resold in the domestic market on payment of Sales Tax or VAT. Since, the goods imported by them were subsequently sold in the domestic market on payment of Sales Tax/VAT or GST levies, as may be applicable, we had from time to time claimed benefit of refund under the said notification and the refund claims made by them had been duly allowed in our favour.

- As per the terms of provisions of the new GST regime, as a transactional provision, an assessee was made eligible for claiming input tax credit of CVD and SAD paid on the imported goods, lying in possession of the assessee which was meant to be supplied on payment of GST under the new regime. On the date of the introduction of the new GST regime, we had various quantities of such imported goods on which they had paid CVD and SAD and therefore, in terms of the transactional provision, they had filed the required TRANS-1 Form thereby claiming input tax credit on the quantum of CVD and SAD paid at the time of imported goods. It is submitted that the said differential amount of duty is attributable to SAD and CVD which would have been available to them by way of refund/credit and hence should be deducted from the total demand made herein the show cause notice. It is submitted that the said amount is attributable to component of SAD and CVD payable on import of goods and if mandated to be paid, would have been consequently, available to them as refund or input tax credit. Therefore, the mandate to pay the said amount and to take back the said amount would be completely revenue neutral.
- They state that they had sold the entire quantity of goods covered under the impugned 19 bills of entry and paid the SAD @4% at the time of import in respect of all the 19 Bills of Entry. For ease of understanding and convenience, the imports sold in domestic market are bifurcated into two parts: (a) goods sold before 01.07.2017 in respect of 17 Bills of Entry during pre-GST regime and b) goods sold under GST regime on or after 01.07.2017. The goods imported under 12 Bills of Entry, in respect of which SAD had been paid, were sold before 01.07.2017 on payment of VAT or sales tax thereon. The claim for refund of SAD were fulfilled. By the subject SCN, DRI has computed total SAD liability for there 12 Bills of Entry as Rs.4963187/- and has demanded Rs.2996784/- towards the SAD being the differential amount on account of value enhancement. Since the goods have already been sold and we would be eligible for refund of additional amount of SAD, no purpose would be served by demanding the same by this SCN and then going through the refund process.
- With regard to remaining 7 Bills of Entry, on which SAD amounting to Rs.15,41,150 at the declared value at the time of import had already been paid, goods were sold after 30.06.2017 on payment of IGST. They are eligible to get the input tax credit in terms of Section 18 of the CGST Act, 2017 of both SAD and CVD paid at the time of import in respect of goods covered under those 7 Bills of Entry, took input tax credit of Rs. 5797615/-. By this show cause notice, DRI has computed total SAD and CVD liabilities for 7 Bills of Entry as Rs. 3736324/- and Rs. 10319279/- respectively totalling Rs. 14055603/-. Since the goods have been already been sold and we would be eligible to take credit of Rs. 8257988/- towards the aforesaid additional amounts of SAD and CVD, no purpose would be served by demanding the same by this SCN and going through the process of paying the additional amount of tax and thereafter, taking input tax credit.
- They stated that Hon'ble Supreme Court in Commissioner of Customs Vs. Sayed Ali 2011 (265) E.L.T. 17(SC), wherein the Hon'ble Supreme Court held that only such officers who have been designated as proper officer u/s 2(34) of the Act would be the officers, would be empowered for issuing SCN u/s 28 of the Act, are illegal and such notice will not be sustainable. Thus, by virtue of judgements rendered in the case of Saiyed Ali, over and above the issue of being 'the proper officer' under Section 28, it was clearly held that officers of DRI were even otherwise not proper officers as envisaged under Section 2(34) of the Customs Act, 1962. The Hon'ble Delhi High Court in the judgement of Mangali Impex Ltd. Vs. Union of India, has held that the Validation Act dated 02.08.2011 in as much as it sought to validate the action taken by DRI and other preventive officers prior to 8th April 2011 is bad in law. It further held that even subsequent to 8th April 2011 the Show Cause Notice issued by the DRI and other preventive officers who were made proper officers on 6th July 2011 for demands made for period prior to 8th April 2011 will not be sustainable and is liable

to be quashed. The Hon'ble Supreme Court in Canon India Pvt. Ltd has held that Additional Director General of DRI was not "the" proper officer to exercise the power under Section 28(4) and the initiation of the recovery proceedings in the present case is without any jurisdiction and liable to be set aside. The Hon'ble Gujrat High Court in the case of M/s. Adani Enterprises Ltd. Vs. Commissioner of Customs in Tax Appeal No. 2591 of 2010 wherein vide judgement dated 09.06.2022, the Hon'ble High Court of Gujrat was pleased to quash and set aside the proceedings initiated on the basis of SCN issued by DRI only on the ground that the officers DRI had no jurisdiction to issue SCN. It would be further pertinent to note that the said issue had also come up for hearing before the Hon'ble Madras High Court in the case of Quantum Coal in W.P.(MD) No. 10186 of 2014 wherein vide Order dated 16.03.2021, the show cause notice issued by the Additional Director General of DRI has also been held to be illegal and without any authority of law and is consequentially quashed and set aside. In the present case as well, the show cause notice has been issued by the Additional Director General, DRI and thus, in view of law laid by the Hon'ble Courts, the same is legally unsustainable.

- With regard to the confiscation of the goods under Section 111 of the Customs Act, 1962, it is stated that the declaration made on the import documents were accurate and in line with the actual nature of the goods. We therefore, submit that our case was not covered within the scope of clause (m) to Section 111. The proposal in the show cause notice proposing to hold the goods liable for confiscation is thus, illegal and not in consonance with the provisions of the act. It is pertinent to note that they have not made any attempt to evade payment of duty since they have shown all the details presented to them by the supplier. Therefore, it is submitted that since there is no element of collusion, willful mis-statement or suppression of facts while making import of the subject goods, they can not be held liable for penalty under Section 114A of the Customs Act, 1962.
- The matter of penalty is governed by the principles as laid down by the honourable Supreme Court in the landmark case of M/s. Hindustan steel Ltd reported in 1978 ELT (J159), wherein the Hon'ble Supreme Court has held that penalty should not be imposed merely because it was lawful to do so. The Apex Court has further held that only in cases where it was proved that the person was guilty of conduct contumacious or dishonest and the error committed by the person was not bonafide but was with a knowledge that he was required to act otherwise, penalty might be imposed. It is held by the Hon'ble Supreme Court that in other cases where there were only irregularities or contravention flowing from a bonafide belief, even a token penalty would not be justified. Thus, the imposition of penalty under sections 112 of the said act on the noticee would be bad and illegal.
- The imposition of penalty on the noticees under section 114AA would also be unsustainable. Section 114AA of the said act provides for penalty if a person knowingly or intentionally makes, signs or use or uses or causes to be made, signed or used any declaration, statement or documents which is false or or incorrect in any material particular in the transaction of any business or the purpose of the act. However, it is not established in this case that the noticees had knowingly or intentionally made signed or used or caused to be made, signed or used any declaration, statement or document which was false or incorrect in any material particular. Thus, it is clear that the said provision comes into play only in cases where material particulars have been found to be incorrect and false. However, as has been substantiated earlier there has been no mis-declaration by the noticees and therefore the same could not be the basis for imposing any penalty under section 114AA of the customs act.

DISCUSSION AND FINDINGS

15. I have carefully gone through the Show Cause Notice dated 11.12.2017, the written submissions submitted by the Noticee, oral submissions made during the course of personal hearing and the available records of the case. An opportunity of personal hearing in this matter has been given to the noticee i.e. M/s. Pradeep Impex and Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex. Personal Hearing in the subject matter was held on 26.05.2023 in virtual mode, which was attended by Shri Paritosh Gupta, advocate on behalf of noticee(s) and reiterated the submissions made vide letter dated 26.05.2023. Therefore, I find that principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case on the basis of documentary evidences available on records. I find that the following issues are involved in the subject Show Cause Notice, which are required to be decided –

- i. Whether the value of import goods i.e. 'PU leather' declared in 19 Bills of Entry detailed in Annexure I to SCN is liable for rejection under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007 read with Section 14 of Customs Act, 1962.
- ii. Whether the value of import goods i.e. 'PU leather' covered under 17 Bills of Entry as detailed in Annexure IA to SCN is to be re-determined at **Rs. 15,56,43,335/-** as per provisions of Section 14 of Customs Act, 1962 read with Rule 3 (1) of the Customs valuation (Determination of value of imported goods) Rule, 2007.
- iii. Whether the value of import goods i.e. 'PU leather' covered under 2 Bills of Entry as detailed in Annexure IB is to be re-determined at **Rs. 1,90,98,408/-** as per provisions of Section 14 of Customs Act, 1962 read with Rule 5 of the Customs valuation (Determination of value of imported goods) Rule, 2007.
- iv. Whether the import goods i.e. 'PU leather' valued at **Rs. 17,47,41,743/-** (details as per Annexure I) is liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962.
- v. Whether, **1,09,876.5 meters** of import goods i.e. 'PU leather' valued at **Rs. 1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 seized under seizure memo dated 29.06.2017, is liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962.
- vi. Whether, **10,259 rolls** of import goods i.e. 'PU leather' valued at **Rs. 6,20,53,915/-** detained as per Panchanama dated 19.06.2017 handed over to Shri Anil Aggarwal, Stock Manager, M/s. Pradeep Impex, Delhi vide Supratnama dated 19.06.2017 is liable for confiscation under Section 111(m) of Customs Act, 1962.
- vii. Whether, differential duties of customs aggregating to **Rs. 3,07,03,348/- (Rupees three crore seven lakhs three thousand three hundred forty eight only)** in respect of 19 consignments, as detailed in the **Annexure-I**, evaded by them on the said goods, is to be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with interest applicable under provisions of Section 28 AA of Customs Act, 1962.
- viii. Whether, **Rs. 1,68,69,000/-** paid / cash security deposited by them during course of investigation is to be adjusted and appropriated against differential duty & other dues demanded from them at sub para (vii) above.
- ix. Whether, M/s. Pradeep Impex, Delhi is liable for penalty under Section 114A of the Customs Act, 1962.
- x. Whether, Shri Pradeep Jindal is liable for penalty under Section 112 (a) of the Customs Act, 1962.
- xi. Whether, Shri Pradeep Jindal is liable for penalty under Section 114 AA of the Customs Act, 1962.

16. I find that the importer M/s. Pradeep Impex and Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex filed an application under Section 127B of the Customs Act, 1962, before the Additional Bench Mumbai Settlement Commission for the settlement of case covered by the aforesaid Show Cause Notice admitting the differential duty of Rs. 1,94,48,397/- against the demand of Rs. 3,07,03,348/- as mentioned in SCN. The Settlement Commission, Principal Bench, New Delhi vide Final Order No. F-3458-3459/CUS/2018-SC(PB) dated 20.12.2018 had ordered the case as settled on Rs.

3,07,03,348/- as demanded in SCN. Aggrieved with the said Settlement Commission's order, M/s. Pradeep Impex had filed an Appeal before High Court of Gujrat vide SCA No. 8995 of 2019 against the Settlement Commission's Order. The Hon'ble High Court of Gujrat vide Order dated 19.01.2022 in SCA No. 8995 of 2019 has held that the impugned order passed by the Settlement Commission is quashed and the Show Cause Notice shall be decided by the authority concerned on its own merits after hearing the parties. Thus, the matter is required to be decided by the Adjudicating Authority.

17. After having framed the issues to be decided, now I proceed to deal with each of the issues individually. The foremost issue before me to be decided in the instant case is whether the importer M/s. Pradeep Impex, indulged in undervaluation of prime quality PU Leather cloth by mis-declaring the same as 'stock lot of PU leather cloth mixed of different sizes/thickness/width 56' +/-10%' and also submitting false set of invoices showing less value and description as stock lot and quantity in Kgs to the Customs Department for the purpose of clearance of the impugned goods.

18. On going through the case records and the Show Cause Notice, I find that the total 19 consignments of PU Leather fabric were imported in the name of M/s. Pradeep Impex, New Delhi and cleared through CH Mundra between January, 2017 to June, 2017. The goods covered under Bill of Entry No. 2088636 dated 14.06.2017 were examined on 16.06.2017 by the Officers of DRI. On examination, the goods were found to be of prime quality having specific details such as name, colour, quantity in meter. The proceedings were recorded under Panchanama dated 16.06.2017 and placed under seizure, vide seizure memo dated 29.06.2017, under the reasonable belief that the same are offending in nature and liable for confiscation under the provisions of Customs Act, 1962. The investigation carried out by DRI revealed the modus operandi that the invoices and packing list, with true and correct details, used to be received in the mail ID of Shri Pradeep Jindal(piindal16@yahoo.com), Proprietor of M/s. Pradeep Impex, Delhi. However, for customs clearance of the import goods, another set of invoices showing less value and description as stock lot and quantity in Kgs used to be presented to the Customs Department.

19. The investigation Agency (DRI) has adduced the following evidences to substantiate the allegations of mis-declaration and under valuation by the importer:

19.1 The godown of the importer situated at Jindal Tower, 189-191, Lawrence Road, Industrial Area, Delhi 110035 was searched on 19.06.2017. During search, documents, Computers/Mobile hardware were resumed and stock of PU Leather were detained vide Panchanama dated 19.06.2017. The search was also conducted at importer's premises situated at KP-87, Pitampura, NR City Park Hotel, Delhi on 19.06.2017. During search, documents, printouts of email correspondence and mobile hardware resumed. The documents resumed inter-alia included printout of invoices/packing list in respect of Bill of Entry No. 2088636 dated 14.06.2017 as well as in respect of many other consignments of PU Leather imported by noticee. It was noticed that value and description of goods mentioned in these parallel invoices was different from the value and description mentioned in the Invoices and Packing List submitted to the Customs Department for clearance of goods imported by M/s. Pradeep Impex, New Delhi. The goods in first invoice (presented to customs) were described as stock lot, whereas the goods in parallel invoices are described as item name wise. Further the quantity in the first invoice is declared in Kgs, whereas that in parallel invoice it is mentioned in meters. Therefore, the investigation revealed that the importer has tried to portray the goods as stock lot by declaring description as 'stock lot of PU Leather cloth' and quantity in Kgs but the truth was the goods were of uniform size, color and thickness of PU Leather as declared in parallel invoices retrieved from email id of Shri Pradeep Jindal and said parallel invoice were true and correct invoices of the goods imported by M/s. Pradeep Impex.

19.2 The goods imported under Bill of Entry No. 2088636 dated 14.06.2017 were examined by DRI under Panchanama dated 29.06.2017. On comparing the details of goods mentioned in Parallel Invoice (No. G405 and G 406 both dated 19.05.2017) and Packing List

retrieved from email ID of Shri Pradeep Jindal with the inventory of goods covered under Bill of Entry No. 2088636 dated 14.06.2017 prepared under panchanama dated 29.06.2017, it was found that the quantity of goods in Meters (having width 56”), mentioned in parallel invoice and packing list, accurately matched, even item wise and colour wise, with the actual quantity found during panchanama. Further, invoice and packing list presented to Customs Department and retrieved from email id of Shri Pradeep Jindal bear the same Sr No. i.e. G405 and G 406.

19.3 Moreover, the goods matched in description and quantity with description and quantity thereof mentioned in Parallel Invoices and Packing Lists, indicating the said parallel Invoices found in email of Importer were the actual invoices. The value of the goods mentioned in said parallel invoices was much higher than the value thereof declared in Bill of Entry No. 2088636 dated 14.06.2017 and invoices presented to customs.

19.4 Further, it was also noticed during examination of import goods of live consignment that last two stacks/rows (i.e. towards container gate) had rolls of different type of Items and in stack/rows thereafter goods were uniformly arranged Item Wise. Therefore, if 10% of goods were examined, the last two stack / rows would give the impression of goods being of mixed lot / stock lot. Further, on each of the rolls paper slips were found pasted which contained details viz Item Name, Colour Roll No. and Mtrs along with words “Stock Lot”. These facts shows there was a deliberate attempt to present the imported goods as Stock Lot before Customs.

19.5 Shri Pradeep Jindal admitted in his statement that the goods were being cleared in terms of Kgs at Customs House Mundra at around USD 1.5/Kg using import documents showing value at rates around USD 1.5/Kg and admitted that he made the mistake of asking supplier to prepare invoices and packing list in terms of Kgs showing value at similar rates. Therefore, the facts that the parallel invoices received in mail were the actual invoices was confirmed by the Importer in his voluntary statement. In one of the email correspondence dated 02.06.2017 from email ID tracy@hc-pu.com, suppliers have asked Shri Pradeep for declaration in respect of payments made by some companies to M/s. Lishui Haithe International Enterprises Co. Ltd., indicating that the differential amount was being arranged by him. Further, the remarks in the parallel invoices show that rate of goods mentioned in said invoices were mutually confirmed, ruling out any scope of discount. Shri Pradeep also admitted that the difference in value of goods as shown in parallel invoices and that in first invoices, was still pending to suppliers.

19.6 Parallel invoices in respect of past consignment were also retrieved from email ID of Shri Pradeep. On comparison of the first invoices presented before the Customs Department with the parallel invoices retrieved from email ID of Shri Pradeep, it was found that in all parallel invoice, goods are described by specific Item Name and Colour and Value of goods was much more than that mentioned in the first invoice presented to Customs. Parallel Invoices in respect of some import consignments were not available in email ID of Importers. However, Importer and Customs Brokers have stated in their respective statements that all goods were of similar type.

19.7 After seizure of consignment covered under Bill of Entry No. 2088636 dated 14.06.2017, M/s. Pradeep Impex, Delhi had imported two more consignments of PU Leather, one under Invoices bearing Nos. G 442 and G 443 both dated 23.05.2017 and other under Invoices bearing Nos. G 476 & G 477 both dated 05.06.2017. The said consignments were cleared through Bills of Entry No. 2550913 dated 21.07.2017 and 2611922 dated 26.07.2017 respectively. The price of the goods in the Invoices pertaining to above consignments is in terms of per unit Meter and not per unit Kgs. The value of the goods shown in the above Invoices is equivalent to the value thereof shown in parallel invoices pertaining to earlier consignments of PU leather, which are subject matter of investigation and covered under present Notice. The said value is much higher than the value of goods shown in corresponding first Invoices and declared before Customs Department. Moreover, parallel Invoices bearing Nos. G 442 and G 443 both dated 24.05.2017 and other under Invoices bearing Nos. G 476 & G 477 both dated 08.06.2017 in

respect of these two consignments were available in email ID pjindal16@yahoo.com. The value of import goods mentioned in said parallel invoices matches with the value declared in the above four invoices presented by M/s. Pradeep Impex, Delhi before Customs seeking clearance of goods under Bills of Entry No. 2550913 dated 21.07.2017 and 2611922 dated 26.07.2017. This fact further confirms that that the value shown in the Parallel Invoices retrieved by officers of DRI from email ID of Importer were actual transaction values of the import goods.

19.8 In light of the above facts and evidences on record, I find that it is clearly established that the actual Invoices, in respect of consignments imported as 'stock lot of PU leather cloth mixed of different sizes/thickness/width 56' +/-10%' in the name of M/s. Pradeep Impex, New Delhi, were the parallel invoices received by Shri Pradeep in his email ID pjindal16@yahoo.com. The said parallel Invoices reflected actual value and description of import goods and that invoices/packing list presented to the Customs department seeking clearance of goods described as 'stock lot of PU leather cloth' had been prepared on the instructions of Importers to show false description and false value of goods as USD @1.5 or 1.3 per Kgs. The said Invoices presented to the Customs Department were not true and correct documents and the same were used to mis-declare the imported goods in respect of value, description and other material particulars before the customs department.

19.9 I find that the noticee had evaded Customs duty by way of mis-declaration and undervaluation and declared the goods of 'Prime quality' as 'Stock Lot PU Leather of different sizes'. The above facts of undervaluation and retrieval of parallel invoices reflecting actual transaction value has been admitted by Shri Pradeep Jindal in his statements dated 22.06.2017 and 24.07.2017.

20. Now, I discuss the written submission made by Shri Pradeep Jindal, through his advocate Shri Paritosh Gupta, vide letter dated 26.05.2023.

20.1 The noticee contended that the goods were found of prime quality and hence the investigation authority has not considered it as stock lot. There is not even an iota of evidence on record that the goods are not stock lot and hence, the allegation of undervaluation on the premise that the goods were not part of the stock lot is clearly devoid of any merit in law and facts. In this regard, I agree that 'stock lot' goods need not necessarily be used goods. This expression in normal parlance refers to those goods whose transaction value is less than the market value as they were purchased during clearance sale or distress sale. But in this case, all the documents such as parallel invoice and packing list retrieved from email ID of noticee only showed description as "PU Leather Cloth/fabric".

20.2 The noticee contended that invoices taken from email id of noticee were proforma invoice and there is not even an iota of evidence on record to show that the said invoices were final invoices issued by the foreign supplier. In this regard, the plea given by the noticee was an afterthought as there were clear remarks, "this contract is made out by the buyer as per following terms and conditions mutually confirmed" in the parallel invoices received by Importer, which show that rate of goods mentioned in said invoices were mutually confirmed.

20.3 The noticee contended that the authority has no jurisdiction to proceed to re-determine the transaction when the price actually paid by the noticee was not rejected. They also placed reliance in the case of Eicher Tractors Ltd. 2000(122) ELT 321 wherein the Hon'ble Supreme Court has held that the price actually paid for importing any goods was the value for assessing duties unless it was established that the price so paid was not the sole consideration and that the transaction was tainted by any extra commercial consideration. In this regard, I find that the investigation authority has retrieved parallel invoice and packing list from the email ID of noticee wherein the value of the of goods is higher than the value declared in the invoice produced before customs department. Shri Pradeep also admitted that the difference in value of goods as shown in parallel invoices and that in first invoices, was to be paid to the supplier. Therefore, noticee's relying Hon'ble Supreme Court decision in the case of Eicher Tractors Ltd. (supra), is not applicable in the present case for the reasons that the Hon'ble Supreme Court in the above case clearly held

that there was existence of price list from the foreign supplier/manufacturer and the Supreme Court held that a discount of 23% on the foreign supplier's price list was acceptable. Therefore, the Apex Court judgment is distinguishable and not applicable to the present case.

20.4 The noticee contended that in absence of any evidence to show any additional payments to the foreign supplier, the proposal for rejection of the transaction value should be dropped. In this regard, the noticee has accepted in his statement that payment of difference of amount between invoices received in excel sheets in mail (which are in terms of Item Name and quantity in Meters) and that sent to Customs Broker (which are in terms of stock lot and quantity in Kgs), was still pending. Thus, he agreed that the goods are undervalued. I also relied upon the Hon'ble Supreme Court Order in the case of Commissioner of Central Excise, Madras v. Systems and Components Pvt. Ltd. reported in 2004 (165) E.L.T. 136 (S.C.) and the Tribunal's Order in the case of Devender Exports v. Commissioner of Central Excise, Ludhiana reported in 2007 (219) E.L.T. 533 (Tri.-Del) wherein it was observed that what is admitted need not be proved.

20.5 The noticee further contended that the goods covered under 19 Bills of Entry were imported by paying SAD and CVD. Since, the goods imported by them were subsequently sold in the domestic market on payment of Sales Tax/VAT or GST levies, as may be applicable, they are eligible to claim input tax credit of CVD and SAD paid on the imported goods. It is submitted that the said differential amount of duty is attributable to SAD and CVD which would have been available to them by way of refund/credit and hence should be deducted from the total demand made herein the show cause notice. In this regard, I find that duty of Customs which includes CVD and SAD has been demanded under Section 28(4) of the Customs Act, 1962, and no such facility/procedure of adjusting CVD or SAD against input tax credit has been prescribed under provision of Section 28 of the Customs Act, 1962. The noticee has not backed his pleas with any provisions of the Customs Act, 1962 or any other law under which payment of duties of Customs (including SAD/CVD) demanded under provisions of Section 28(4) of the Customs Act, 1962, can be allowed to be adjusted against input tax credit admissible under CGST Act, 2017 or Central Excise Act, 1944. Thus, I find that the submission of noticee is baseless and illegal.

20.6 The noticee contended that DRI is not proper officer to issue SCN and they relied upon the following cases:

- i. Commissioner of Customs Vs. Sayed Ali 2011 (265) E.L.T. 17(SC)
- ii. M/s. Adani Enterprises Ltd. Vs. Commissioner of Customs in Tax Appeal No. 2591 of 2010
- iii. Canon India Private Limited Vs. Commissioner of Customs, 2021 (376) E.L.T.3(S.C)

In this regard, I find that now Section 2(34) of the Act has been amended under the Finance Act, 2022. Officers from the Directorate of Revenue Intelligence (DRI) are now explicitly recognized as "Officers of Customs" under the Customs Act, 1962 by virtue of the amendment to the Customs Act, 1962 vide amendment in the Finance Act, 2022. That apart, there is validation of all action taken by such officers under Section 97 of the Finance Act, 2022. Therefore, the contention of noticee that DRI is not proper office to issue SCN, is not sustainable

Rejection of value declared before Customs and re-determining the assessable value of goods

21. I find that the Section 14 of Customs Act, 1962 stipulates that the value of the imported goods shall be the transaction value of such goods i.e. the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation. I find that in the present case, the investigations have conclusively established that M/s. Pradeep Impex, indulged in undervaluation of prime quality PU leather cloth by mis-declaring the same as 'stock lot of PU leather cloth mixed of different sizes/thickness/width 56" +/-10%' and also submitting false set of invoices showing less value and description as stock lot and quantity in Kgs to the Customs Department for the purpose of clearance of the impugned goods. Therefore, I find that the value of import goods declared in Bills of Entry filed by M/s. Pradeep Impex, New Delhi, is required to be rejected in terms of Section 14 of Customs Act, 1962, read with the provisions of Rule 12 of the

Customs Valuation (Determination of Value of Imported goods) Rules, 2007 and re-determined on the basis of parallel invoice retrieved from email ID of Shri Pradeep Jindal in terms of Section 14 of Customs Act, 1962, read with the provisions of Rule 3 of the Customs Valuation (Determination of Value of Imported goods) Rules, 2007, in as much as the said parallel invoices reflected the actual transaction value.

Accordingly, I re-determine the Transaction Value of the goods as detailed in Annexure-1A of SCN, imported by M/s. Pradeep Impex based on the actual values reflected in the evidences in the form of Parallel Invoices retrieved during the investigation, which are true and correct Transaction Values as per Rule 3 of the CVR, 2007.

Parallel Invoices in respect of some import consignments were not available in email ID of Importers. However, Importer and Customs Brokers have stated in their respective statements that all goods were of similar type. The description and other parameters of goods given in first Invoices / Packing List of these consignments matches with description etc given in the first Invoices / Packing Lists pertaining to other consignments for which parallel invoices are available. Therefore, I re-determine the value in respect of these consignments as detailed in Annexure-1B of SCN, in terms of Rule 5 of Rules 2007 on the basis of average value of similar goods i.e. consignments in respect of which parallel invoices reflecting actual transaction value are available.

Confiscation of goods under Section 111(m) of Customs Act, 1962 and Redemption Fine in lieu of confiscation

22.1 Now, I come to the proposal in the Show Cause Notice regarding confiscation of the goods imported under the bills of entry, as detailed in Annexur-1 valued at **Rs. 17,47,41,743/-**, under Section 111(m) of the Customs Act, 1962. Out of these, 1,09,876.5 meters of goods valued at **Rs.1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 were placed under seizure vide Seizure Memo dated 29.06.2017. Further, 10259 Rolls of subject imported goods valued at **Rs. 6,20,53,915/-** were detained under Panchanama dated 19.06.2017.

22.2 I find that the goods imported under Bills of Entry as detailed in Annexure-1 to SCN, had been mis-declared in material particular in as much as the said Bill of Entry had been filed on the basis of incorrect and false invoices showing less value and false description of goods as 'stock lot of PU leather'. The examination of live consignment covered under Bill of Entry No. 2088636 dated 14.06.2017 revealed that the goods were not stock lot and quantity of goods, accurately matched, item wise and colour wise, with the quantity mentioned in parallel invoice and packing list retrieved from email ID of Shri Pradeep Jindal. The parallel invoices/packing lists, in respect of other past consignments, retrieved from mail ID of Pradeep Jindal, also mention goods by specific name, colour and quantity in meters. The value of goods shown in parallel invoices is much higher than the value of goods declared in the Bills of Entry, revealing mis-declaration of value in the Bills of Entry and import documents filed before Customs.

The Section 111(m) provides for confiscation of any goods which do not correspond in respect of value or in any other particular with the entry made under this Act.

In light of these acts of mis-declaration of value and import documents, I find that the subject import goods i.e. PU leather, are liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962.

22.3 As the impugned goods are found to be liable for confiscation under Section 111(m) of the Customs Act, 1962, I find that it necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the imported goods valued at **Rs. 17,47,41,743/-** as detailed in Annexure-I of SCN, except the 1,09,876.5 meters of goods valued at **Rs.1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 and 10259 Rolls of subject imported goods valued at **Rs. 6,20,53,915/-**, which are not physically available for confiscation. 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.”

22.4 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. I find that redemption fine can be imposed in those cases where goods are either available or the goods have been released provisionally under Section 110A of Customs Act, 1962 against appropriate bond binding concerned party in respect of recovery of amount of redemption fine as may be determined in the adjudication proceedings.

22.5 In the instant case, the impugned goods in respect of Bills of Entry as detailed in Annexure-I of SCN, except the 1,09,876.5 meters of goods valued at **Rs.1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 and 10259 Rolls of subject imported goods valued at **Rs. 6,20,53,915/-**, were neither seized, nor released provisionally. Hence neither the goods are physically available nor bond for provisional release under Section 110A *ibid* covering recovery of redemption fine is available. I, therefore, find that redemption fine cannot be imposed in respect of imported goods pertaining to Bills of Entry as detailed in Annexure-I of SCN, except the 1,09,876.5 meters of goods valued at **Rs.1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 and 10259 Rolls of subject imported goods valued at **Rs. 6,20,53,915/-**.

22.6 Further, I find that 1,09,876.5 meters of goods valued at **Rs.1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 and 10259 Rolls of subject imported goods valued at Rs. 6,20,53,915/-, were seized vide Seizure Memo dated 29.06.2017 and Panchanama dated 19.06.2017 respectively. I, therefore, hold that the same, are liable for redemption fine under Section 125 of Customs Act, 1962 in lieu of confiscation.

Demand of differential duty:

23. I find that the Custom duties have been short levied and short paid in respect of consignment covered under 19 Bills of Entry as detailed in Annexure-1 to SCN and the differential Customs Duties are recoverable from the importer. In light of the deliberate mis-declaration and value by restoring to modus operandi of parallel invoicing, I find that the provisions of Section 28(4) of the Customs Act, 1962, are invocable for the demand and recovery of differential Customs duties totally amounting to **Rs. 3,07,03,348/-** as detailed in Annexure-I to SCN, along with applicable interest in terms of Section 28AA of the Customs Act, 1962.

Imposition of penalty on M/s. Pradeep Impex under Section 114A of the Customs, Act, 1962.

24. Now, I proceed to consider the proposal for imposition of penalty on M/s. Pradeep Impex under Section 114A of Customs Act, 1962. In this regard, I find that the demands of customs duty total amounting to **Rs. 3,07,03,348/-** have been confirmed for recovery from M/s. Pradeep Impex under Section 28(4) of Customs Act, 1962, which provides for demand of duty not levied or short levied by reason of collusion or any willful mis-statement or suppression of facts. Hence, as a natural corollary penalty is imposable on the respective importers under Section 114A of the Customs Act, 1962, which provides for penalty equal to duty or interest in cases where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts. In the instant case, the ingredient of willful mis-statement or suppression of facts by the importer M/s. Pradeep Impex has been clearly established as discussed in the forgoing paras and hence, I find that this is a fit case for imposition quantum penalty equal to the amount of duty in terms of Section 114Aibid on the importer M/s. Pradeep Impex.

Imposition of penalty on Shri Pradeep Jindal under Section 112(a) of the Customs, Act, 1962.

25.1 Now, I proceed to consider the proposal for imposition of penalty on Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex under Section 112(a) of the Customs, Act, 1962.

25.2 In this connection, I rely upon the judgement of Delhi High Court in the case of **Anil Kumar Mahensaria vs. Commisioner of Customs reported as [2008 (228) ELT 166(Del)]** wherein it was held that only one set of penalty can be imposed either on the appellant or upon his proprietorship firm. I also rely upon the judgement given by hon'ble CESTAT, New Delhi, in the matter of Shahid Ali vs Principal Commissioner, Customs in Customs Appeal No.50105 of 2016 wherein the Hon'ble bench has observed the following:

“We further observe that the adjudicating authority has imposed penalty on the importing firm as well as the proprietor thereof, we are of the opinion that the same rather amounts to the double jeopardy. The penalty cannot be imposed against the sole proprietor of proprietor ship firm along with the penalty upon said firm.”

From the above, it is clear that penalty can be imposed either on the proprietor or upon his proprietorship firm. Thus, the proprietor and Proprietorship firm are same entity for imposition of penalty.

25.3 In regard to proposal for imposition of penalty on Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex under Section 112(a) of Customs Act, 1962, I refer to proviso of section 114A of Customs Act, 1962 wherein it is provided that “where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114”. In view of this proviso, I find that penalty under Section 112 cannot be imposed simultaneously with penalty under 114A. Since I am imposing penalty under Section 114A on proprietorship firm, I refrain from imposing penalty under Section 112 ibid on Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex.

Imposition of penalty on Shri Pradeep Jindal under Section 114AA of the Customs, Act, 1962.

26.1 Now, I proceed to consider the proposal for imposition of penalty on Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex under Section 114AA of Customs Act, 1962. In this connection, I have gone through the provision of Section 114AA of Customs Act, 1962, which reads as under:-

“114AA- Penalty for use of false and incorrect material-if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.”

26.2 In this regard, I find that Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex, deliberately used parallel invoices showing false description of goods and value of the import goods in order to escape their duty liability. Hence, I find that Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex had knowingly and intentionally made, signed or caused to be made, signed and fabricated documents presented to Customs Authorities, which they knew were false/fabricated and incorrect in respect of the imported goods. Hence, for the said act of contravention on their part, Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex is liable for penalty under Section 114AA of the Customs Act, 1962.

Appropriation of amount of voluntarily deposited towards differential duty during investigation

27. The importer M/s. Pradeep Impex had voluntarily deposited **Rs. 1,98,69,000/-** during investigation towards their differential duty liability. I find that same is liable to be appropriated against their said duty and interest liability as mentioned in above paras.

28. In view of the above discussion and findings, I pass the following order:

ORDER

- i. I reject the value of import goods i.e. 'PU leather' declared in 19 Bills of Entry as detailed in Annexure I to SCN, under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007 read with Section 14 of Customs Act, 1962.
- ii. I re-determine the value of import goods i.e. 'PU leather' covered under 17 Bills of Entry as detailed in Annexure IA to SCN at **Rs. 15,56,43,335/-** as per provisions of Section 14 of Customs Act, 1962 read with Rule 3 (1) of the Customs valuation (Determination of value of imported goods) Rule, 2007.
- iii. I re-determine the value of import goods i.e. 'PU leather' covered under 2 Bills of Entry as detailed in Annexure IB at **Rs. 1,90,98,408/-** as per provisions of Section 14 of Customs Act, 1962 read with Rule 5 of the Customs valuation (Determination of value of imported goods) Rule, 2007.
- iv. I order for confiscation of the import goods i.e. 'PU leather' valued at **Rs. 17,47,41,743/-** (details as per Annexure I) under Section 111(m) of Customs Act, 1962. However, I refrain from imposing redemption fine in lieu of confiscation, as the goods except the 1,09,876.5 meters of goods valued at **Rs.1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 and 10259 Rolls of subject imported goods valued at **Rs. 6,20,53,915/-**, are neither available physically for confiscation nor released provisionally on bond under Section 110A of the Customs Act, 1962.
- v. I order for confiscation of **1,09,876.5 meters** of import goods i.e. 'PU leather' valued at **Rs. 1,19,32,913/-** covered under Bill of Entry No. 2088636 dated 14.06.2017 seized under seizure memo dated 29.06.2017, under Section 111(m) of Customs Act, 1962. However, I give an option to the importer to redeem the goods on payment of Redemption Fine of **Rs.10,00,000/- (Rupees Ten Lakh Only)** under Section 125 of Customs Act, 1962 in lieu of confiscation.
- vi. I order for confiscation of **10,259 rolls** of import goods i.e. 'PU leather' valued at **Rs. 6,20,53,915/-** detained as per Panchanama dated 19.06.2017 handed over to Shri Anil Aggarwal, Stock Manager, M/s. Pradeep Impex, Delhi vide Supratnama dated 19.06.2017, under Section 111(m) of Customs Act, 1962. However, I give an option to the importer to redeem the goods on payment of Redemption Fine of **Rs. 50,00,000/- (Rupees Fifty Lakh Only)** under Section 125 of Customs Act, 1962 in lieu of confiscation.
- vii. I confirm and demand the differential duties of customs aggregating to **Rs. 3,07,03,348/- (Rupees three crore seven lakhs three thousand three hundred forty eight only)** in respect of 19 consignments, as detailed in the **Annexure-I**, evaded by them on the said goods, from them under Section 28(4) of the Customs Act, 1962 along with interest applicable under provisions of Section 28 AA of Customs Act, 1962.
- viii. I order to appropriate the amount of **Rs. 1,98,69,000/-** paid / cash security deposited by them during course of investigation against differential duty & other dues demanded from them at sub para (vii) above.
- ix. I impose a penalty equal to the differential duty i.e **Rs. 3,07,03,348/- (Rupees three crore seven lakhs three thousand three hundred forty eight only)** on M/s. Pradeep Impex, Delhi, under Section 114A of the Customs Act, 1962.
- x. I don't impose penalty on Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex under Section 112 (a) of the Customs Act, 1962 for the reasons as stated above.

- xi. I impose a penalty of **Rs.5,00,000/-(Rupees Five Lakh Only)** on Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex under Section 114 AA of the Customs Act, 1962.

29. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

T. V. Ravi 7/6/23

(T. V. Ravi)

Commissioner of Customs,
Custom House, Mundra

F. No GEN/ADJ/COMM/202/2020-Adjn

Date:07.06.2023

SCN F.NO. DRI/AZU/GRU/Pradeep-PUF/Int-31/2017

Date:11.12.2017

BY SPEED POST A.D.

प्रति/To,

1. M/s. Pradeep Impex,
KP-87, Pithampura,
Nr. City Park Hotel, Delhi-110034.
{Email: pjindal16@yahoo.com}
2. Shri Pradeep Jindal,
Proprietor of M/s. Pradeep Impex,
KP-87, Pithampura,
Nr. City Park Hotel, Delhi-110034.
{Email: pjindal16@yahoo.com}

प्रतिलिपिप्रेषित/Copy to:

1. The Chief Commissioner of Customs, CCO, Ahmedabad.
2. The Deputy Director, Directorate of Revenue Intelligence, Regional Unit, Plot No. 193, Sector 4, Gandhidham, District Kutch.
3. The Dy. Commissioner of Customs, TRC Cell, Mundra Customs.
4. The Dy. Commissioner of Customs, (Legal/Prosecution), Mundra Customs.
5. The Dy. Commissioner of Customs, EDI, Mundra Customs.
6. Guard File.