



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009  
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20260171MN000000F1C7

क	फ़ाइल संख्या FILE NO.	S/49-320/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-672-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	29.01.2026
च	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/175/2024-25 dated 25.10.2024
छ	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	29.01.2026
ज	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch



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

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
(घ)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
अधिसूचना	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

**ORDER-IN-APPEAL**

Appeal has been filed by Shri Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AKM/175/2024-25 dated 25.10.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority')

2. Facts of the case, in brief, are that the present case involves an intricate and wide-ranging investigation conducted by the Directorate of Revenue Intelligence (DRI), Gandhidham, which unearthed a large-scale, highly organized smuggling cartel operating through the Mundra Port. The investigation revealed that a common group of persons had established a sophisticated, multi-layered syndicate designed specifically to exploit the regulatory relaxations and procedural flexibilities inherent in the Special Economic Zone (SEZ) to Domestic Tariff Area (DTA) clearance mechanism. This syndicate was created for the primary purpose of importing prohibited and restricted goods—specifically high-value foreign-brand electronic cigarettes and various types of toys requiring mandatory Bureau of Indian Standards (BIS) compliance—by resorting to gross and calculated mis-declaration of description, quality, quantity, and value. While the broader investigation covered a staggering 18 import consignments involving eight different importers, the specific subject of this adjudication is the consignment imported in the name of M/s. M.M. Enterprises (IEC: BMEPM3625G) covered under DTA Bill of Entry No. 2012895 dated 26.08.2022.

2.1 The genesis of the case lies in specific, actionable intelligence gathered by the DRI suggesting a systematic and predatory abuse of the "self-assessment" and "trusted trader" schemes that underpin modern customs operations within the SEZ. The intelligence indicated that a smuggling cartel was utilizing front companies to move prohibited contrabands into the domestic market. Analysis of system data revealed that Vehicle No. GJ12BV0610 was carrying the import consignment imported through



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Container No. TLLU4615592. Acting swiftly upon this intelligence, DRI officers, in coordination with the Surat Regional Unit, intercepted the truck near Palsana Chokdi on the National Highway on 01.09.2022.

2.2 The vehicle was found to be carrying Container No. TLLU4615592, which had been cleared from the SEZ Warehouse Unit of M/s. Empezar Logistics, Mundra, and was supposedly destined for a godown in Bhiwandi. Upon interception, the driver, Shri Chuna Singh Rawat, was questioned regarding the nature of the cargo. The preliminary inquiry and the recovery of incriminating documents from the driver—including e-way bills featuring unrelated entities—corroborated the intelligence that the container did not merely contain the declared items but was a vessel for contraband. Given the complexity of the concealment, the vehicle was escorted to ICD Sachin, where DRI officials requested the assistance of mechanical labor and equipment to de-stuff the entire container for an exhaustive examination in the presence of two independent arbitrators (Panchas). During the process, a person named Mr. Parvez Alam arrived at ICD Sachin, introducing himself as the representative of the actual buyers, Shri Mohammad Asif Sathi and Shri Sarfaraj Kamani, confirming the syndicate's oversight of the transit.

2.3 The rigorous examination of the impugned goods at ICD Sachin was conducted under Panchnamas dated 01/02.09.2022 and 19.10.2022. This process revealed a masterclass in smuggling techniques. Amidst the declared cargo of "Head Massagers" and "Exercise Books," officers recovered 107 cartons marked with the brand "DK123 XXL." Upon opening these cartons, they discovered a total of 85,600 pieces of electronic cigarettes of the "Yuoto" brand. These were found in a wide array of flavors clearly designed to appeal to younger demographics, including Strawberry Watermelon, Two Apples, Blueberry Ice, Watermelon Ice, Peach Ice, Mint Ice, Grape Ice, Energy Drink, Mango Ice, Pina Colada, Aloe Black Currant, Passion Fruit, Milk, and Coffee. These goods, falling under CTH 85434000, are strictly prohibited for import in terms of DGFT Notification No. 20/2015-2020 dated 26.09.2019 and the Prohibition of Electronic Cigarettes Act, 2019.

2.4 Furthermore, the examination revealed 89,000 pieces of silicon "Pop up" toys falling under CTH 9503. These items were imported in direct violation of Policy Condition 2 of Chapter 95 of the Customs Tariff. This policy mandates that all imported toys conform to rigorous BIS standards, including



IS: 9873 Part 1 (Safety aspects related to mechanical and physical properties), Part 2 (Flammability), and Part 3 (Migration of certain elements). The importer failed to produce any valid BIS compliance certificates, rendering the toys "prohibited goods" under Section 2(33) of the Customs Act, 1962. The examination also found excess quantities of declared items, such as 240 additional Head Massagers and 1,364 Exercise Books. These "filler" goods were strategically used to pad the container, ensuring that the prohibited items remained shielded from the container doors and providing a facade of legitimacy during any casual visual inspection at the port or SEZ gate.

2.5 The investigation into the role and culpability of the noticees revealed a deep-rooted conspiracy characterized by a high degree of planning and division of labor. M/s. M.M. Enterprises, through its proprietor Shri Mohammed Tahir Hanif Menn, acted as a willing front for the syndicate. Shri Tahir Menn admitted that he allowed the smuggling cartel led by Shri Mohammad Asif Sathi to use his firm's IEC and bank accounts in exchange for "rental" monetary benefits ranging from Rs. 15,000 to Rs. 50,000 per consignment. To further insulate the mastermind from detection, Shri Tahir Menn facilitated the creation of dummy firms like M/s. J.H. Enterprises in the names of domestic workers, such as Shri Juma Hamir Halepotra, demonstrating the predatory nature of the syndicate's recruitment.

2.6 A critical aspect of the syndicate's modus operandi was the "crossing" operation, a tactical maneuver designed to disrupt the surveillance of enforcement agencies. After a container was cleared from the Mundra SEZ, the syndicate would monitor its movement in real-time via "Wheelseye" tracking links. To evade detection by agencies tracking e-way bills or container numbers, the syndicate would arrange for the "crossing" of goods at intermediate locations like Navsari or Surat. This involved transloading the contraband from the original container into secondary vehicles, effectively breaking the digital and physical trail between the port of entry and the final destination. In the present case, Shri Parvej Alam was dispatched specifically to oversee this transloading just before the vehicle was tactically intercepted.

2.7 During the investigation, it was revealed that the smuggling cartel had utilized the IEC of M/s. M.M. Enterprises for successful importations in the past. Shri Tahir Menn, Shri Asif Sathi, and Shri Parvez Alam all confirmed in their voluntary statements that a total of 265 cartons (comprising 125 and



140 cartons respectively) had been imported in July and August 2022. These consignments contained approximately 212,000 pieces of electronic cigarettes. Although these goods had already been disposed of in the domestic market and were not available for physical seizure, the Adjudicating Authority held them liable for confiscation under Section 111, noting that the proceeds of these past crimes were laundered through the same dummy accounts.

2.8 The individual roles in this well-oiled machinery were established through various voluntary statements recorded under Section 108:

- a. Shri Mohammad Asif Sathi (The Mastermind): Sathi was the architect and financier of the racket. He coordinated directly with overseas suppliers in China (such as "Mrs. Shelly") and finalized deals through firms like "AH International Trading Co." and "HK Longcheng Trade Co." He managed the financial trail, collecting cash from domestic purchasers and depositing it into dummy firm accounts to facilitate outward remittances, thereby bypassing legitimate forex regulations.
- b. Shri Mohammed Tahir Menn (The Facilitator): As the proprietor of M.M. Enterprises, he lent the "credibility" of a local business to the cartel. He introduced Shri Baldevsinh to Sathi to handle port-side logistics and was actively involved in monitoring the location of trucks via shared GPS links. He admitted that his firm never conducted any actual business in the goods imported but served merely as a conduit for Sathi's contrabands.
- c. Shri Sarfaraj Kamani (The Associate): A close partner of Sathi, Kamani was involved in the loading phase in China and was identified as a joint owner of the Bhiwandi godowns. Evidence confirmed his participation in planning the import of counterfeit goods and mobile phone accessories infringing the Intellectual Property Rights (IPR) of brands like Vivo, Oppo, and Realme.
- d. Shri Baldevsinh Vala (The Logistical Operative): Operating through M/s. Kalpana Exim, Vala was the operative who manipulated the shipping documents and invoices provided by the overseas suppliers. For ensuring the smooth clearance of prohibited items, he charged Sathi a premium of approximately Rs. 17 Lakhs per container—a fee far exceeding any legitimate forwarding commission.
- e. Shri Samir Sharma (The Customs Broker): A G-Card holder of M/s. Al Cargo Services, Sharma misused the SEZ Online portal's sub-login



functionality. He filed the Bills of Entry despite knowing that the descriptions were false. To facilitate the exit of the trucks from the SEZ gate, he submitted e-way bills featuring unrelated parties, ensuring the actual destination remained masked.

2.9 The investigation also highlighted gross professional negligence on the part of the then-Preventive Officer, Shri Vipin Sharma. Charged with the statutory duty to verify the physical cargo against the invoice, Sharma submitted an examination report stating he had "inspected the lot." The subsequent seizure of nearly 175,000 units of prohibited or un-declared cargo from that very container proved that no meaningful physical examination was ever performed. This "casual approach" provided the syndicate with a virtual "green channel," directly enabling the entry of prohibited contrabands that pose a risk to national health and child safety.

2.10 Under the Customs Valuation Rules (CVR), 2007, the Adjudicating Authority rejected the transaction values declared in Bill of Entry No. 2012895. Rule 12 was invoked because the significant mis-declaration rendered the declared values—and the associated invoices—fraudulent. Consequently, the value was re-determined using the "Best Judgment Method" under Rule 9. A government-approved Chartered Engineer assessed the market price of the seized goods at approx. Rs. 21.67 Crores, compared to a declared value of approx. Rs. 4.43 Lakhs.

2.11 On the basis of the investigation, Show Cause Notice dtd 31.08.2023 was issued to the appellant and other persons. Consequently, the Adjudicating Authority passed the following order in respect of the appellant.

**IN RESPECT OF GOODS IMPORTED AND CLEARED THROUGH BILL OF ENTRY NO. 2012895 DT. 26.08.2022:**

- (I) He imposed penalty of Rs. 6,00,000/- upon the appellant (associate of beneficial owner) under Section 112(a)(i) of the Customs Act, 1962.
- (II) He imposed penalty of Rs. 5,00,000/- upon the appellant (associate of beneficial owner) under Section 114AA of the Customs Act, 1962.





**PERSONAL HEARING:**

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

**DISCUSSION AND FINDINGS:**

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

5.1 I have carefully examined the role attributed to the Appellant in the overall scheme of things. Smuggling, particularly of high-value prohibited items like E-cigarettes, is rarely a solitary act. It requires a sophisticated network of specialized actors: the "Mastermind" who finances the operation, the "IEC Providers" who provide the legal facade, and the "Logistics Associates" who handle the "crossing" or clandestine movement of goods post-clearance. The Appellant, in this case, has functioned in a dual capacity—as both an IEC provider and a logistics supervisor. The Appellant's primary defense is that he was a "bonafide service provider" or a "victim of circumstances." However, the evidence on record tells a different story. A "bonafide" professional provides services within the bounds of law and transparency. The Appellant's involvement in the "crossing" of containers is the most damning piece of evidence against this claim of innocence. "Crossing" is a term of art in the smuggling world, referring to the practice of transferring goods from a port-cleared truck to another vehicle at a remote location to break the digital and physical trail of the cargo. By supervising this process, the Appellant was not merely "handling logistics"; he was actively participating in a concealment strategy designed to shield the prohibited cargo from the Directorate of Revenue Intelligence (DRI) and Customs enforcement.

5.2 The sheer secrecy involved in these operations provides a clear answer to the question of mens rea. No legitimate businessman would agree to have their goods "crossed" in the middle of a journey unless the contents were such that they could not withstand scrutiny. The Appellant's active presence during these clandestine transfers establishes, beyond any reasonable doubt, that he had "reason to believe" the goods were liable to confiscation under



Section 111 of the Customs Act, 1962. Furthermore, the Appellant's participation in the WhatsApp group "Mm" and his travel to Dubai with the mastermind, Shri Asif Sathi, indicate a high degree of integration within the cartel. In such organized syndicates, every participant is a "cog in the wheel." The Appellant's actions—lending his IEC for a significant fee, supervising the illegal transfer of goods, and maintaining close ties with the mastermind—collectively form a chain of evidence that points exclusively to his role as a willing facilitator.

5.3 The Appellant's primary legal defense rests on the assertion that "lending an IEC is not an offence per se" under the Customs Act. He relies heavily on judicial precedents that suggest a mere procedural lapse in using someone else's IEC does not automatically equate to smuggling. However, this interpretation is overly simplistic and ignores the fundamental statutory obligations attached to an Importer Exporter Code (IEC). An IEC is not a transferable commodity; it is a statutory authorization granted to a specific legal entity based on verified credentials (KYC). In the eyes of the Law, the person in whose name the Bill of Entry is filed is the "Importer" and bears the primary responsibility for the truthfulness of the declarations made therein. By abdicating this responsibility to a smuggling syndicate, the Appellant provided the very infrastructure required for the commission of the offence.

5.4 The concept of Abetment under Section 112(a) of the Customs Act is wide enough to cover any person who "abets the doing or omission of an act" which renders goods liable to confiscation. In the context of the present case, the "act" is the mis-declaration of prohibited E-cigarettes and non-BIS toys. Had the Appellant not provided his IEC, the syndicate would not have been able to file the fraudulent Bill of Entry. Thus, his act was a sine qua non for the smuggling operation. I must distinguish the present facts from the case of Nazirurrahman v. CC Mumbai cited by the Appellant. In cases where courts have been lenient regarding IEC lending, the goods imported were generally "freely importable" and the only issue was the identity of the importer. Here, the goods are absolutely prohibited (E-cigarettes) and restricted (non-BIS toys). When an IEC is lent to facilitate the entry of prohibited items, the lender is no longer a mere "bystander" but an active abettor.

5.5 Furthermore, the receipt of Rs. 1.5 Lakhs as "IEC usage charges" is indicative of a profit-sharing arrangement in a criminal venture rather than a



legitimate service fee. A genuine commission agent or logistics provider would charge a fee commensurate with actual services rendered, not a "rental fee" for their firm's name. This financial nexus proves that the Appellant was well aware that his firm was being used for something clandestine that required a high premium. The "Knowledge" required for Section 112(a) is not necessarily knowledge of every single piece of cargo, but the knowledge that the IEC is being used for an unauthorized and illicit purpose. In this case, the Appellant's involvement in "crossing" the goods post-clearance provides the necessary corroboration that he knew the cargo was "tainted." Therefore, the contention that lending an IEC is not an offence is rejected as it applies to these specific facts of organized smuggling.

5.6 The Appellant challenges the reliance on co-noticee statements. It is a settled principle of law that statements recorded before Customs Officers under Section 108 are substantive evidence. In **Surjeet Singh Chhabra v. Union of India [1997 (89) E.L.T. 646 (S.C.)]**, the Hon'ble Supreme Court held that Customs Officers are not police officers, and a confession made before them, even if retracted, constitutes valid evidence if it is voluntary and corroborated by circumstances. In the instant case, the statement of Shri Baldevsinh Vala (Noticee-5) explicitly names the Appellant as the person looking after the "crossing" of containers. This is further corroborated by the WhatsApp group "Mm" chats, where discussions regarding "restricted goods" and "valuation handling" were held. The Appellant's presence in this group and his subsequent trip to Dubai with the mastermind prove a conspiracy rather than a simple business error.

5.7 The Appellant cited **Naziru Urrahman v. CC Mumbai [2004 (174) E.L.T. 493 (Tri. - Mumbai)]** to argue that lending IEC is not an offence. However, in that case, the tribunal noted that there was no allegation of mis-declaration or undervaluation. In the present appeal, the facts are diametrically opposite. There is absolute mis-declaration, gross undervaluation, and violation of BIS norms. The precedent cited by the Appellant is therefore factually distinguishable and not applicable. When an IEC is lent for the purpose of committing a crime (smuggling), the lender becomes a part of the criminal enterprise.

5.8 The Adjudicating Authority correctly applied the test of preponderance of probabilities. In quasi-judicial proceedings, the department is

not required to prove the case with "mathematical precision." In **Collector of Customs v. D. Bhoormull [1983 (13) E.L.T. 1546 (S.C.)]**, the Hon'ble Supreme Court observed that the department cannot be expected to prove a case of smuggling with direct evidence like a criminal trial, as these activities are carried out in secret. The surrounding circumstances, the clandestine movement of the truck, the concealment of prohibited items, and the use of dummy firms collectively lead to the only logical conclusion: a well-planned smuggling operation. The Adjudicating Authority's decision to deny cross-examination is also upheld. In *Kanungo & Co. v. Collector of Customs [1972 (2) SCC 23]*, the Supreme Court held that the right to cross-examine is not an absolute right in customs adjudication, especially when the case is based on documentary evidence and voluntary statements which have not been proven to be obtained under duress.

5.9 I have carefully considered the penalty imposed on the Appellant under Section 114AA of the Customs Act, 1962. This section was inserted into the Act with the specific legislative intent of curbing the menace of fraudulent declarations by holding accountable not just the person who signs the document, but any person who "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." The Appellant's primary defense is that he did not personally sign the Bills of Entry and, therefore, cannot be held liable for the "falsity" of the contents. This argument fails to appreciate the gravity of the phrase "causes to be made" used in the statute. An IEC holder is the legal author of the declarations made in their name. If they allow their identity to be used as a front for a smuggling syndicate, they are the primary cause of the fraudulent declaration reaching the Customs portal (ICES).

5.10 Furthermore, the element of "knowledge and intent" required under Section 114AA is abundantly established by the Appellant's financial and logistical conduct. The investigation revealed that the Appellant received Rs. 1.5 Lakhs for the use of his IEC. In the commercial world, such a high "rental" for a mere piece of paper (the IEC) is inconsistent with legitimate trade and is only explainable as a "premium for risk" in a criminal venture. If the Appellant was truly a "bonafide service provider" as he claims, his remuneration would have been consistent with standard agency fees, not a bulk payment for the total abdication of his firm's control. The Appellant's active role in "crossing" the containers further reinforces his intent. If he believed the import was legitimate,

there would have been no necessity to supervise the clandestine transfer of goods from one truck to another at Navsari to evade tracking. This behavior is the hallmark of a person who knows that the documents filed with Customs are false and that the physical goods are "tainted."

5.11 The law does not require the department to prove that the Appellant personally typed the false declaration; it is sufficient to prove that he provided the "legal means" (the IEC) for the declaration to be made while having a reason to believe it was for an illicit purpose. In view of the absolute mis-declaration of goods—where prohibited E-cigarettes were concealed within declared items—the use of a dummy IEC was a deliberate strategy to shield the real beneficial owner. The Appellant, by being the "mask" for this operation, is squarely liable for the penalty under Section 114AA. The findings of the Adjudicating Authority on this count are comprehensive, based on the material evidence of the IEC lending and the WhatsApp communications, and therefore require no interference.

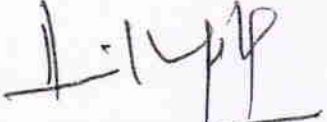
5.12 I find that the Appellant was not a "silent bystander" but an active accomplice in the smuggling syndicate. His roles—providing the IEC, supervising the crossing of containers to evade detection, and participating in the syndicate's inner circle—are sufficient to attract the maximum rigors of Sections 112 and 114AA. The organized nature of the crime, involving the smuggling of prohibited E-cigarettes (banned for public health reasons under the PECA Act, 2019) and non-BIS toys (safety risk to children), warrants no leniency. The Appellant's grounds are devoid of merit and are mere afterthoughts to escape legal consequences. The Adjudicating Authority has correctly analyzed the roles, established the nexus, and imposed proportionate penalties.

6. In view of the detailed discussion and findings hereinabove, I find no merit in the appeal filed by the Appellant. The Order-in-Original No. MCH/ADC/AKM/175/2024-25 dated 25.10.2024 is hereby UPHeld in its entirety.



7. The Appeal filed by Shri Dirgesh Dedhia is rejected.

सत्यापित/ATTESTED  
  
अधीक्षक/SUPREINTENDENT  
सीमा शुल्क (अपील्स), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD

  
(AMIT GUPTA)  
Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-320/CUS/MUN/2024-25  
5706

Date:29.01.2026

By Speed post /E-Mail

To,  
Shri Dirgesh Dedhia,  
Plot No.156, Ghanshyam Park,  
Baroi Road, Mundra-Kutch



Copy to:

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

