



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**
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DIN - 20260371MN000000A5A4

क	फ़ाइल संख्या FILE NO.	S/49-423/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-913-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/205/2024-25 dated 27.11.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Parwej Alam, Anand Nagar, Shri Kiran Ubale Ki Chawl, Anjul Fata, Bhiwandi-Thane Maharashtra



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 हैं।
	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)	बैगेज़ 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 दस्तावेज़ों 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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd 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 हज़ार 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; पांच हज़ार 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 हज़ार रूपए.
(c)	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
	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।
	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 Parwej Alam, Anand Nagar, Shri Kiran Ubale Ki Chawl, Anjul Fata, Bhiwandi-Thane, Maharashtra, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AKM/205/2024-25 dated 27.11.2024 (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 matter originated from specific, actionable intelligence gathered by the Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit. The intelligence indicated the operation of a high-level, organized smuggling cartel involving a common set of individuals who utilized multiple dummy entities and front firms to facilitate the illegal importation of restricted and prohibited goods. Initial enforcement actions were triggered on September 1, 2022, by the interception of vehicle No. GJ12BV0610 near Palsana Chokdi, Surat. This vehicle was found to be carrying a consignment of 823 cartons cleared from Mundra Port (Container No. TLLU4615592). Upon detailed inspection at ICD Sachin, officers discovered a massive concealment of foreign-brand E-cigarettes of the "Yuotto" brand, totaling 85,600 pieces in various flavors such as Strawberry Watermelon and Blueberry Ice. These items were hidden behind a "cover" of declared household goods to deceive visual inspections.

2.1 Subsequent analysis of the Customs system data, combined with extensive field investigations and the recovery of incriminating digital records, revealed that this interception was merely the tip of a much larger operation. Investigations revealed that this was part of a larger operation involving 18 containers imported under the names of eight different dummy entities, including M/s. Nikhat Enterprises.

2.2 The specific focus of the impugned OIO involves the activities surrounding a consignment imported by M/s. Nikhat Enterprises (IEC: ANDPB0477C) via Container No. NYKU0844232. In a calculated and professional attempt to bypass automated risk management systems (RMS)



and standard regulatory scrutiny, the goods were initially declared in the Import General Manifest (IGM) as "Floor Clean Mop (Misc Item Non-popular Brand)" under HS Code 96039000. This specific HS code was selected by the syndicate for its low duty profile and the physical volume of the product, which provided ample "void space" for the concealment of high-value contraband.

2.3 When filing the Warehouse Bill of Entry (No. 1011448 dated August 25, 2022), the syndicate slightly adjusted the declaration to include "Back Cover, Exercise Book, and Tempered Glass," creating a "mixed-merchandise" profile. This profile was designed to deter customs officers from conducting a full de-stuffing, as mixed consignments are often perceived as standard low-risk consumer imports. The container was processed through the Mundra SEZ warehouse unit M/s. Empezar Logistics Pvt. Ltd., which, rather than serving its intended statutory purpose for value-addition, manufacturing, or legitimate storage, acted as a high-speed transit point or "revolving door." This facility was utilized to rapidly facilitate the diversion of goods into the Domestic Tariff Area (DTA) under DTA Bill of Entry No. 2012900 dated August 26, 2022, after which the cargo was immediately dispatched to a decentralized distribution hub in Bhiwandi, Maharashtra.

2.4 The investigative trail, supported by GPS tracking and statement analysis, led DRI officers to the Madhvi Compound godowns in Village Rahanal, Bhiwandi. This location was strategically chosen by the cartel for its proximity to major transportation routes serving the Mumbai Metropolitan Region, allowing for rapid "last-mile" distribution to retailers. During the course of investigation, the driver of the transport vehicle (Registration No. GJ-12 BT-4667), Shri Poona, provided a comprehensive voluntary statement under Section 108 of the Customs Act, 1962. His testimony provided an insider's view of the operation, detailing how he received real-time location coordinates and voice instructions via WhatsApp, directing him to offload the cargo from container No. NYKU0844232 at these specific premises under the cover of night on August 31, 2022.

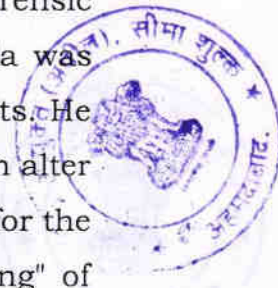
2.5 During search conducted on September 2, 2022, at Gala Nos. 5, 6, and 7—warehouses managed by the associate Shri Parwej Alam—officers recovered 12 leftover cartons containing 9,600 pieces of "Yuoto" brand e-cigarettes (specifically the XXL 2500 Puffs Disposable Vape model). These items were found hidden behind voluminous stacks of "cover goods," including mops, exercise books, and plastic chocolate moulds. The recovery of these goods



highlighted a severe and intentional breach of the Prohibition of Electronic Cigarettes Act, 2019. Consequently, the recovered 9,600 pieces were placed under absolute seizure as prohibited contraband.

2.6 The investigation unearthed a structured syndicate masterminded by Shri Asif Sathi, a Mumbai-based operative who exercised absolute control over the network's financial, logistical, and communicative architecture. Shri Sathi's modus operandi relied on the systematic exploitation of economically vulnerable individuals to serve as "dummy" proprietors for front entities. Mrs. Nikhat Baig, the declared proprietor of M/s. Nikhat Enterprises, admitted in her statement that she was merely an "on-paper" owner with no knowledge of the firm's actual imports, suppliers, or bank accounts. She had been induced by an intermediary named Shri Kishore to provide her KYC documents, PAN, and Aadhaar, and to sign multiple blank forms in exchange for a nominal fee, which was presented to her as a facilitation fee for a bank loan. This tactic created a legal shielding Shri Sathi from direct culpability and allowing the cartel to burn through IECs once they were compromised. The mastermind coordinated these imports with key associates, including Shri Sarfaraz Kamani and Shri Mohammed Tahir Menn. Together, they managed an "end-to-end" chain that originated with suppliers in China—often managed through shadow entities like M/s. AH International Trading Co. Limited and M/s. HK Longcheng Trade Co. Limited—and concluded with a network of domestic buyers such as Sohail Bhai and Raju Bhai, who specialized in the distribution of contraband into the grey market.

2.7 A critical component of this scheme was the role played by Shri Baldevsinh Vala of M/s. Kalpana Exim, who functioned as the syndicate's primary forwarder, logistics manager, and "fixer" at Mundra Port. Forensic analysis of messages of WhatsApp group "Mm" revealed that Shri Vala was instrumental in the fabrication and manipulation of shipping documents. He would routinely receive original invoices from Chinese suppliers and then alter them to ensure they matched the false, low-value declarations intended for the Bills of Entry. Furthermore, the syndicate employed a tactical "crossing" of containers—a sophisticated counter-surveillance maneuver where goods were de-stuffed and re-loaded into different domestic vehicles immediately after customs clearance but before leaving the port vicinity. This was designed to generate fresh e-way bills with new vehicle numbers, effectively "cleaning" the cargo of its import history. By doing so, the syndicate effectively broke the



digital audit trail, making it nearly impossible for enforcement agencies to link the original import container at Mundra to the final delivery point in Bhiwandi.

2.8 Shri Samir Sharma, a G-Card holder of M/s. Al Cargo Services, filed the false Bills of Entry. He conspicuously and willfully neglected the mandatory due diligence on IEC holders required under the Customs Broker Licensing Regulations (CBLR). Rather than acting as a gatekeeper of the law, he served as a professional enabler, receiving payments ranging from ₹2.5 lakh to ₹3 lakh per consignment for his cooperation.

2.9 Finally, the DRI noted a failure in the regulatory oversight provided by the Customs Preventive Officer, Shri Vipin Sharma. Despite receiving explicit, system-generated examination orders to "examine as per SEZ norms and check description and packages with respect to invoice and packing list," the officer submitted a cursory and misleading report claiming the cargo matched the declarations. This "casual approach" was not merely a procedural lapse; it was the final, critical gap in the safety net that allowed prohibited contraband to flow into the domestic market. The implications of such failures are profound, as they compromise the integrity of the entire SEZ framework, which relies heavily on the trust and diligence of its officers to prevent the leak of goods into the DTA.

2.10 Regarding the valuation of the seized goods, the total absence of a legal market meant that traditional valuation methods were inapplicable. Consequently, the DRI utilized internet-based pricing from the official "Yuoto" brand website (www.yuoto.in), which listed the product at a retail price of ₹2,499 per unit. This valuation brought the total market value of the seized 9,600 pieces to a staggering ₹2,39,90,400. The department has alleged that these goods are liable for absolute confiscation under multiple sub-sections of Section 111 of the Customs Act, 1962, including 111(d) for the violation of absolute prohibitions, 111(f) for non-mention in manifest, and 111(m) for the deliberate and mala-fide mis-declaration of quantity, value, and description.

2.11 By knowingly concerning themselves with the removal, concealment, and dealing of prohibited and mis-declared goods, the noticees violated multiple sections of the Customs Act, including:

- Section 111(d), (f), and (m): For importing goods contrary to prohibitions and for filing entries that did not correspond to the actual value or description of the goods.



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- Section 112(a) and (b): For acts of omission and commission—including the failure to examine goods and the facilitation of fraudulent clearances—that rendered the goods liable for confiscation.
- Section 114AA: For the deliberate use of false and fraudulent documents, including forged invoices and manipulated packing lists, in the transaction of business with Customs.

2.12 The investigation concluded that the entire operation was a deliberate attempt to defraud the government exchequer of legitimate revenue and bypass essential quality standards intended for consumer safety. The cumulative evidence, including WhatsApp chats, voluntary statements under Section 108, and the physical recovery of contraband, established a "preponderance of probability" that the syndicate operated with full knowledge of the illegal nature of their trade.

2.13 On the basis of the investigation, Show Cause Notice was issued to M/s. Nikhat Enterprise and other persons involved. Consequently, the Adjudicating Authority confirmed the liability of the goods for confiscation and the imposition of significant personal penalties on M/s. Nikhat Enterprise and other accomplices under Sections 112 and 114 of the Customs Act, 1962, for their roles in a "well-hatched conspiracy" to defraud the national exchequer. The Adjudicating Authority passed the following order in respect of the appellant.

- (I) He imposed penalty of Rs. 10,00,000/- upon the appellant under Section 112(a)(i) of the Customs Act, 1962.
- (II) He imposed penalty of Rs. 5,00,000/- upon the appellant under Section 114AA of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:



3.1 The Appellant contends that the Respondent failed to appreciate the limited nature of his role, which was strictly confined to the loading and unloading of containers. He acted solely as an employee of Shri Asif Sathi and Shri Sarfarazbhai, following their specific instructions to supervise cargo movement at rented godowns in Bhiwandi. Legal precedents are cited to argue that an employee acting in an official capacity should not be held personally liable for the employer's malpractices unless independent involvement or personal benefit is proven—neither of which, the Appellant argues, exists in this case.

3.2 The appeal further argues that the department failed to provide evidence linking the Appellant to the alleged mis-declaration or undervaluation of goods. The Appellant highlights that during his interrogation, the authorities only questioned him regarding the import of e-cigarettes and raised no inquiries about valuation or documentation. Because his role began only after the goods were cleared from the port, he was not involved in placing orders, negotiating with suppliers, or filing Bills of Entry, and thus had no obligation or opportunity to verify the contents of the sealed cartons.

3.3 Regarding the financial aspects, the Appellant asserts there is no evidence of mala fide intent or personal gain. His compensation was limited to a fixed labor rate of ₹3 per carton for loading and ₹3 for unloading, plus a small fee for warehouse maintenance. The department has not shown that he received any "extra remuneration" or consideration that would suggest knowledge of a smuggling operation or undervaluation. The Appellant maintains that he did not receive any additional benefits beyond standard labor charges.

3.4 Finally, the Appellant challenges the imposition of penalties under Sections 112(a) and 114AA of the Customs Act, 1962. He argues that "abetment" requires intentional aid or conspiracy, which is absent here as he lacked knowledge of the container contents. Furthermore, he claims Section 114AA is inapplicable because he did not sign, use, or cause the use of any false declarations or import documents. Since mens rea (guilty mind) is a prerequisite for such penalties and has not been established, the Appellant requests that the impugned order be quashed.



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 and re-iterated the submissions made at the time of filing the appeal.

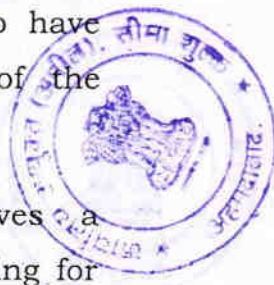
DISCUSSION AND FINDINGS:

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 The Appellant's defense that he was a "mere employee" acting without knowledge of the illicit nature of the cargo is a narrative that collapses under the weight of corroborated evidence. The investigation has revealed that the Appellant served as the crucial "logistical anchor" at the destination for the smuggling syndicate's Mumbai/Bhiwandi operations. His involvement was not peripheral or merely physical; it was administrative, coordinative, and clandestine in nature.

5.2 The Appellant was in charge of Gala Nos. 5, 6, and 7 at Madhvi Compound, Bhiwandi. These premises were not registered offices of the importer (M/s Nikhat Enterprises) but were specialized godowns used by the cartel masterminds, Shri Asif Sathi and Shri Sarfaraz Kamani. The fact that the Appellant managed the receipt of goods at a location far removed from the declared importer's address and specifically for containers known to have concealed contraband establishes that he was an integral part of the concealment strategy.

5.3 Digital evidence recovered from mobile devices proves a sophisticated level of involvement. The Appellant was not merely waiting for trucks to arrive; he was actively monitoring their transit. WhatsApp chat records show that the Appellant was provided with specific tracking links for Truck No. GJ12BT 4667 (carrying Container NYKU0844232). He was in constant communication regarding the vehicle's location and driver details. A "mere laborer" is not tasked with tracking the GPS movement of high-value contraband



containers across state lines; such responsibilities are reserved for trusted associates who manage the secure reception of illicit goods.

5.4 The statement of the truck driver, Shri Poona, is particularly damning. He confirmed that he unloaded the goods at the Bhiwandi godown only after receiving specific locations and directions via WhatsApp. These directions originated from the coordination hub involving the Appellant. This confirms that the Appellant had the authority to divert and receive cargo, which is a hallmark of a managerial role within a smuggling operation.

5.5 The Appellant's own admission under Section 108 of the Customs Act reveals a pattern of criminal conduct rather than an isolated incident. He admitted to handling 125 cartons of e-cigarettes in July 2022 and another 140 cartons in August 2022. The 9,600 pieces recovered on 02.09.2022 were identified as the "leftover" stock from these previous illicit shipments. This admission proves that the Appellant was fully aware that the business he was facilitating involved the large-scale distribution of e-cigarettes a commodity strictly prohibited for import into India since 2019. The "lack of knowledge" defense is thus factually bankrupt.

5.6 Beyond storage, the Appellant was responsible for the further dispatch of these prohibited items. He coordinated with domestic buyers such as "Raju Bhai" and "Sohail Bhai" for e-cigarettes and others for mis-declared toys. This secondary distribution role signifies a high level of trust within the cartel and a clear understanding of the prohibited nature of the trade. Facilitating the "last mile" delivery of smuggled goods is a critical act of abetment that directly enables the profit-making mechanism of the syndicate.

5.7 In light of these facts, it is clear that the Appellant was a knowing and active participant. He provided the necessary "safe harbor" for the goods after they were cleared through the port under false pretenses. His actions were essential for the completion of the smuggling cycle, as he ensured that the mis-declared cargo vanished from the official logistical chain and was safely integrated into the grey market.

5.8 The Appellant has placed heavy reliance on his status as an "employee" to seek immunity from penal provisions, citing the case of O.P. Agarwal Vs. Commissioner of Customs, Kandla [2005 (185) E.L.T. 387 (Tri. - Del.)]. I have perused this judgment and find that the legal principles therein are diametrically opposed to the facts of the instant case. In O.P. Agarwal, the



appellants were General Managers of a functioning company, performing standard industrial duties where the illegality was buried in technical documentation they did not prepare.

5.9 In contrast, the Appellant's "employment" here was not with a legitimate commercial entity, but with a clandestine smuggling syndicate. The "company" in whose name the goods were imported, M/s Nikhat Enterprises, was found to be a dummy entity with a proprietor who had no knowledge of the business. Consequently, the Appellant was not an employee in the conventional legal sense but a coconspirator and facilitator.

5.10 The protection afforded to employees in customs law applies when the individual acts in good faith, performing duties that are part of a lawful business process. However, when an individual manages secret godowns, tracks contraband using GPS, and interacts with known smugglers to distribute prohibited items (E-Cigarettes), the "official capacity" defense evaporates. The Hon'ble Supreme Court in **K.I. Pavunny vs. Assistant Collector (HQ), Central Excise, Collectorate, Cochin [1997 (3) SCC 721]** has held that statements under Section 108 are substantive evidence. The Appellant's detailed knowledge of the syndicate's past imports (July and August 2022) proves that his "employment" was explicitly centered around the successful execution of smuggling.

5.11 The Appellant argues that he lacked knowledge of the contents. However, the law does not require absolute scientific certainty of the cargo's chemical composition. It requires "reason to believe." Handling 85,600 pieces of e-cigarettes (as recovered from ICD Sachin) and managing the "leftover" 9,600 pieces in Bhiwandi—items which have been under a nationwide ban since 2019—provides more than sufficient "reason to believe" that the goods were liable to confiscation. The sheer volume and the clandestine nature of the unloading at night in a rented godown (Gala No. 7) instead of the importer's office are facts that would alert any reasonable person to the illegality.

5.12 The Appellant also cited R.K. Srivastava Vs. CC, New Delhi [2008 (225) E.L.T. 523 (Tri. - Del.)]. In that case, the appellant was merely a bank transaction runner. In the present case, the Appellant was the Custodian of the Contraband at the destination. He was the person responsible for ensuring the "last mile" success of the smuggling operation. Without his management of the Bhiwandi repository, the cartel would have no place to hide and distribute the



goods after they cleared Mundra. His role was therefore central to the commission of the offense.

5.13 The Appellant's claim that he only earned ₹3/- per carton is a self-serving statement that does not mitigate his culpability. Section 112(a) does not require the offender to be a "shareholder" in the profits; it requires the person to abet the act that renders goods liable to confiscation. By providing the warehouse and coordinating the logistics, the Appellant provided the essential infrastructure for the crime. Therefore, I hold that the Appellant cannot seek refuge under the guise of an "employee." He was a logistical coordinator who consciously participated in a high-value smuggling racket. His actions constitute active abetment under Section 112(a) and concernment in the harboring and dealing of prohibited goods under Section 112(b).

5.14 Section 112(a) of the Customs Act, 1962, provides for penalty for any person who does or omits to do any act which would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act. The Appellant's actions in arranging the unloading of mis-declared goods, tracking their movement to evade enforcement, and managing their storage at a location different from the declared address (M/s Nikhat Enterprises' office) constitute active abetment. While the Appellant claims lack of mens rea, the circumstances (handling e-cigarettes which are banned in India since 2019, using dummy IECs, and unloading at secret warehouses) clearly point toward a "guilty mind." A person of ordinary prudence would know that importing thousands of e-cigarettes under the guise of "floor mops" is illegal.

5.15 Section 114AA was introduced specifically to penalize the use of false and incorrect material in customs transactions. The Appellant assisted the cartons in a scheme where "Floor Clean Mops" were declared to cover up "E-Cigarettes." By coordinating the receipt and storage of these goods, which were cleared based on fraudulent documents, the Appellant was an integral part of the machinery that used false declarations.

5.16 The adjudicating authority correctly applied the principle of Preponderance of Probabilities. In customs smuggling cases, mathematical precision is not required if the chain of events leads to a logical conclusion of guilt. The Appellant's godown was the "nerve center" for distribution. The fact that the 9,600 pieces found were the "leftover" from a larger smuggled lot further proves that this was an ongoing criminal activity. The Adjudicating Authority

correctly noted that the Appellant was "knowingly concerned" in the removal, deposit, and harboring of prohibited goods.

5.17 The evidence against Shri Parwej Alam is overwhelming. He was not a mere laborer; he was the person on the ground ensuring that the smuggled e-cigarettes reached their destination and were safely stored for the syndicate. His defense of being an "innocent employee" fails when weighed against the frequency of these imports and the clandestine methods used to track and store the goods. The penalties imposed by the Adjudicating Authority are proportionate to the value of the prohibited goods (₹2.39 Crores) and the severity of the offense. Smuggling of e-cigarettes is a grave concern for public health and national revenue, and those facilitating such activities at any level of the chain must be dealt with strictly under the law.

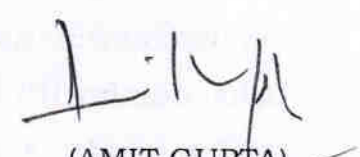
6. In view of the above discussion and findings, I find no reason to interfere with the Order-in-Original No. MCH/ADC/AKM/205/2024-25 dated 27.11.2024. The role of the Appellant, Shri Parwej Alam, in abetting the smuggling of prohibited goods is clearly established.

7. The appeal filed by Shri Parwej Alam is hereby rejected.



सत्यापित/ATTESTED

 अधीक्षक/SUPERINTENDENT
 सीमा शुल्क (अपील्स), अहमदाबाद.
 CUSTOMS (APPEALS), AHMEDABAD


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

F. No. S/49-423/CUS/MUN/2024-25

Date:30.03.2026

By Speed post A.D/E-Mail

To,
 Shri Parwej Alam
 Anand Nagar, Shri Kiran Ubale Ki Chawl,
 Anjul Fata, Bhiwandi-Thane
 Maharashtra

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.