



प्रधानआयुक्तकाकार्यालय, सीमाशुल्क, अहमदाबाद
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निबन्धितपावतीडाकद्वारा / By SPEED POST A.D.

फा. सं./F. No.: VIII/10-09/Commr/O&A/2015

DIN-20241071MN000000CCOA

आदेशकीतारीख/Date of Order : 04.10.2024
जारीकरनेकीतारीख/Date of Issue : 04.10.2024

द्वारापारित :- शिव कुमार शर्मा, प्रधान आयुक्त
Passed by :- **Shiv Kumar Sharma, Principal Commissioner**

मूलआदेशसंख्या : **Order-In-Original No:AHM-CUSTM-000-PR.COMMR-51-2024-25**
dtd.04.10.2024 in the case of Shri Rashid Kaladia and Shri Riyaz Kaladia both
Partners of M/s. Pearl Exim, 4 Sardar Patel Estate, Beside Gujarat Petrol Pump, Narol,
Ahmedabad.

1. जिसव्यक्ति(यों) कोयहप्रतिभेजीजातीहै, उसेव्यक्तिगतप्रयोगकेलिएनिःशुल्कप्रदानकीजातीहै।

1. This copy is granted free of charge for private use of the person(s) to whom it is sent.

2. इसआदेशसेअसंतुष्टकोईभीव्यक्तिइसआदेशकीप्राप्तिसेतीनमाहकेभीतरसीमाशुल्क, उत्पादशुल्कएवंसेवाकरअपीलीयन्यायाधिकरण, अहमदाबादपीठकोइसआदेशकेविरुद्धअपीलकरसकताहै।अपीलसहायकरजिस्ट्रार, सीमाशुल्क,
उत्पादशुल्कएवंसेवाकरअपीलीयन्यायाधिकरण, दुसरीमंजिल, बहुमालीभवन, गिरिधरनगरपुलकेबाजुमे, गिरिधरनगर,
असारवा, अहमदाबाद-380 004 कोसम्बोधितहोनीचाहिए।

2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, Ahmedabad - 380004.

3. उक्तअपीलप्रारूपसं. सी.ए.3 मेंदाखिलकीजानीचाहिए।उसपरसीमाशुल्क (अपील) नियमावली, 1982 केनियम3केउपनियम(2)मेंविनिर्दिष्टव्यक्तियोंद्वाराहस्ताक्षरकिएजाएंगे।उक्तअपीलकोचारप्रतियोंमेंदाखिलकियाजाएतथाजिसआदेशकेविरुद्धअपीलकीगईहो, उसकीभीउतनीहीप्रतियोंसंलग्नकीजाएँ(उनमेंसेकमसेकमएकप्रतिप्रमाणितहोनीचाहिए)।अपीलसेसम्बंधितसभीदस्तावेजभीचारप्रतियोंमेंअग्रेषितकिएजानेचाहिए।

3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपीलजिसमेंतथ्योंकाविवरणएवंअपीलकेआधारशामिलहैं,चारप्रतियोंमेंदाखिलकीजाएगीतथाउसकेसाथजिसआदेशकेविरुद्धअपीलकी गईहो,उसकीभीउतनीहीप्रतियाँसंलग्नकीजाएंगी(उनमेंसेकमसेकमएकप्रमाणितप्रतिहोगी)।

4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपीलकाप्रपत्रअंगेजीअथवाहिन्दीमेंहोगा एवं इसेसंक्षिप्तात्मकस्तरक्तर्कअथवाविवरणकेबिनाअपीलकेकारणोंकेस्पष्टशीर्षोंकेअंतर्गततैयार करनाचाहिए एवं ऐसेकारणोंकोक्रमानुसारक्रमांकितकरनाचाहिए।

5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. केंद्रियसीमाशुल्कअधिनियम, 1962कीधारा 129एकेउपबन्धोंकेअंतर्गतनिर्धारितफीसजिसस्थानपरपरीठस्थितहै, वहकेकिसीभीराष्ट्री यकृतवैककीशाखासेन्यायाधिकरणकीपीठकेसहायकरजिस्ट्रारकेनामपररेखांकितमाँगड्राफ्टकेजरिए अदाकीजाएगीतथायहमाँगड्राफ्ट अपीलकेप्रपत्रकेसाथसंलग्नकियाजाएगा।

6. The prescribed fee under the provisions of Section 129A of the Customs Act, 1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. इसआदेशकेविरुद्धसीमाशुल्क, उत्पादशुल्क एवं सेवाकरअपीलीयन्यायाधिकरणमेंशुल्कके 7.5% जहां शुल्कअथवाशुल्क एवं जुरमानाका विवादहै अथवाजुरमानाजहांशीर्फजुरमानाकेबारेमेविवादहै उसकाभुक्तानकरकेअपीलकीजाशक्तीहै।

7. 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".

8. न्यायालयशुल्कअधिनियम, 1870केअंतर्गतनिर्धारितकिए अनुसार संलग्नकिए गए आदेशकीप्रतिपरउपयुक्तन्यायालयशुल्कटिकटलगाहो ना चाहिए।

8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

Sub: Show Cause Notice No. DRI/AZU/INV-23/2012 dated 22.06.2015 issued by the Additional Director General, DRI, AZU, Ahmedabad to M/s. Pearl Exim, 4 Sardar Patel Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad.

Brief facts of the case:

An intelligence received by Directorate of Revenue Intelligence, Zonal Unit,Ahmedabad indicated that the following firms, whose IEC numbers have been mentionedagainst their names and the reference name for the sake of brevity are also mentionedagainst their names (controlled by two persons namely Shri Rashid Kaladia and Shri RiyazKaladia), were exporting poor quality of Made Ups (Scarves) of M.M.F. by declaring highervalue of the consignment before the Customs with an intent to avail higher export benefit inthe form of duty drawback. The duty drawback on Scarves was 9.1% subject to a cap ofRs.24 per piece.

Sr No	Name & Address of the Firm	IEC No.	Referred name for the sake of brevity
1	M/s Ganesh Trading Co, 75, Ganesh Nagar, Opp Rabari Vasahat, Amraiwadi, Ahmedabad-380026	0811030814	"M/s Ganesh"
2	M/s Midland Trading Co, cr Floor, 13, Classic Sunny Complex, Nr Swaminarayan College, Shah-e-Alam Tolnaka, Ahmedabad	081 1030822	"M/s Mid-Land"
3	M/s S M Exports, GF-11, Classic Sunny Compex, Nr Swaminarayan College, Shahalam Tolnaka, Ahmedabad	0809019671	"M/s S.M.Export"
4	M/s. Universal Impex, Gala no. 6, Subash Nagar, NM Joshi Marg, Chinckpokli (w), Mumbai- Maharashtra-11	0302025626	"M/s. Universal"
5	M/s Saffron Overseas, 4 Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad	0811026779	"M/s Saffron"
6	M/s Somebody Casuals, Sharaf Apt, Shop No 1, Gr Floor, 4rh Rd, Opp to Corporation Bank, Khar (W), Mumbai-400052	0308024729	"M/s Somebody"
7	M/s Daffodil Overseas, Saraf Apartment, Shop No 1, 4th Rd, Khar), Mumbai- 400052	0309060796	"M/s Daffodil"
8	M/s Royal Enterprise, D/3, Momin Park-1, Nr Garib Nawaz, Masjid, Randalja Road, Vadodara390012	03411003430	"M/s Royal"
9	M/s. Raza Enterprise, J-27, Haji Park, Nr Momin Park-II, Tandalja Road, Vadodara - 390015	3409004190	"M/s. Raza"
10	M/s Yooza Enterprise, GF-11, Classic Sunny Complex, Nr Swaminarayan College, Shah Alalm Tolnaka Ahmedabad	0809014211	"M/s Yooza"
11	M/s Pearl Exim, 4, Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad- 382405	0811026817	"M/s Pearl"

2. Based on the above intelligence some consignments of M/s Ganesh, M/s Mid-land &M/s Pearl, scheduled to be exported from Inland Container Depot, Khodiyar, Ahmedabadwere put on hold for further examination. Simultaneously searches were carried out at the following premises on 13.7.2012, 16.7.2012, 23.7.2012.

2.1 M/s Ganesh Trading Co., 75, Ganeshnagar, Opp.Rabari Vasahat, Amraiwadi,Ahmedabad-380026 was verified and found that the address was that of a residentialpremises.

2.2 M/s Global Express (CHA no AABCI0301C), 102, Akashrath, Nr Handloom House, Law Garden, Ahmedabad, who had acted as a CHA on behalf of the exporting firms, vide panchnama dtd 13.7.2012, wherein documents related to Export by the exporting firms were retrieved and Shri Dharmesh Pandit Proprietor of M/s Global Express, admitted that he dealt with Shri Riyaz Ahmed Kaladia having office at M/s Yooza Enterprise, GF-13, Classic Sunny Complex, Nr Swaminarayan College, Shah-e-alam Tolnaka, Ahmedabad.

2.3 Yooza Enterprise, GF-13, Classic Sunny Complex, Nr Swaminarayan College, Shah-e-alam Tolnaka, Ahmedabad wherein documents relevant to inquiry was recovered vide panchnama dtd 16.7.2012.

2.4 Godown premises situated at Highway Commercial Centre, Sabida Hotel Lane, Next to Italian Bakery, Opp. BRTS Bus Stand, Chhipa Society, Danilimda, Chandola Talav Road, Ahmedabad under panchnama dated 16.07.2012.

2.5 Premises situated at 13A, Highway Commercial Centre, Sabida Hotel Lane, Next to Italian Bakery, Opp. BRTS Bus Stand, Chhipa Society, Danilimda, Chandola Talav Road, Ahmedabad under panchnama dated 23.07.2012.

3.1 The consignments of M/s Ganesh, M/s Mid-Land & M/s Pearl were examined which revealed that the export goods were found to contain pieces of fabrics of various sizes, colours, designs and quality. Some of these fabrics were found to be of a length of 80-90 cms approximately, while some of them were of a length of about 1 to 1.5 meters approximately. All the said pieces of fabrics were of varying width. Many of the said pieces of fabrics were loosely stitched / interlocked at two sides in some cases and in other cases on four sides. It was also found that the pieces of fabrics, though loosely stitched/interlocked did not have even edges or shapes. Some of these pieces of fabrics were still bearing the marks and numbers written on them when they were in the form of fabrics. These marks were with indelible ink impressed at the time of processing of the fabrics.

3.2 Investigation related to the seized goods was completed and Show cause Notice proposing confiscation of the seized goods was issued by the Additional Director, DRI, Ahmedabad to all the three firms as per below mentioned F.No.

3.2.1 SCN to M/s Ganesh was issued vide F.No DRI/AZU/INV-23/2012 dtd 11th Jan, 2013.

3.2.2 SCN to M/s Mid-Land was issued vide F.No DRI/AZU/INV-21/2012 dtd 11th Jan, 2013.

3.2.3 SCN to M/s Pearl was issued vide F.No DRI/AZU/INV-22/2012 dtd 10th Jan, 2013.

4. Statement of Shri Dharmesh Pandit, Proprietor of CHA firm, M/s. Global Express, 102, Akashrath, Nr. National Handloom, Law Garden, C.G. Road, Ahmedabad was recorded on 13.07.2012 and 16.07.2012 under Section 108 of the Customs Act, 1962 (RUD - 05) wherein he inter alia stated that he had an understanding with M/s IOCC Shipping P Ltd, CHA based in Mumbai who was registered with Customs Kandla, Ahmedabad & Nhava Sheva port; No authority letter was issued by M/s IOCC Shipping P Ltd to him or his firm for carrying out Custom clearance work. He also admitted that for all the works related to the exports made by the said 11 firms, he was dealing and interacting with Shri Riyaz Ahmed Moosabhai Kaladia of Ahmedabad; initially Shri Rashid Kaladia, Partner of M/s Pearl Exim interacted with him regarding the clearance of the export cargo from these 11 firms. Thereafter Shri Rashid introduced him to Shri Riyaz Kaladia who was his nephew and also a partner of M/s Saffron Overseas and Proprietor of M/s. Yooza Enterprise and the bills relating to the

CHA charges were raised in the name of the respective firms whereas payments of these bills were made by Shri Riyaz Kaladia. Shri Riyaz Ahmed Kaladia used to forward the soft copies of the invoice, packing list, etc., by e-mail to his office e-mail id 'dharmesh.pandit@globalexpress.co.in' and on the basis of these documents he was filing documents for customs clearance online through ICEGATE with the customs department; After customs clearance of export goods, they handed over all the original documents to Shri Riyaz Ahmed at his office at Shah Alam, Ahmedabad, Shri Riyaz Ahmed had not given any authority in respect of the aforesaid firms to him till date;

5. Statement of Shri Prakash Arjunbhai Jadhav, Proprietor of M/s Ganesh Trading Co, 75, Ganesh Nagar, Opp. Rabari Vasahat, Amraiwadi, Ahmedabad was recorded on 18.9.2012 under section 108 of Customs Act, 1962 (RUD - 06), wherein he stated that M/s. Ganesh Trading Co. which was under his proprietorship but was created and operated by Shri Rashid Ahmed Kaladia and Shri Riyaz Ahmed Kaladia. He had signed documents, bank cheques, pay-in slips etc as directed by Shri Riyaz Kaladia. He was not aware about the activities of the said firm as the entire business was handled by Shri Riyaz Ahmed Kaladia, and they were only using his name; He also admitted that he has not received any money separately for lending his name, but got it whenever required in case of any emergency, medical needs, family functions etc. He perused Panchnama dated 14.07.2012 drawn at ICD, Sabarmati and Panchnama dated 16.07.2012 drawn at the premises of GF-13, Classic Sunny Complex, Near Swaminarayan College, Shahalam Tolnaka, Ahmedabad.

6. Statement of Shri Ashik Hussain Mohammad Multani, Proprietor of M/s. Mid-Land Trading Co, GF-13, Classic Sunny Complex, Nr Swaminarayan College, Shahalam Tolnaka, Ahmedabad was recorded under section 108 of the Customs Act, 1962 on 12.9.2012 (RUD-07), wherein he stated that his maternal uncle Shri Rashid and his cousin Shri Riyaz Kaladia wanted to start exports and for that purpose they created a new firm in the name of M/s Mid-land Trading Co, wherein he was the proprietor. He had signed some documents, Bank cheques, payin slips etc as and when directed by Shri Riyaz Kaladia and Shri Rashid Kaladia. He was not aware about the details of the exports made in the name of his firm except that some fabrics and scarves were being exported. The IEC was obtained by Shri Rashid and Shri Riyaz after obtaining signatures on various documents. The entire activities of the firm were handled and controlled by his uncle Shri Rashid and his cousin brother Shri Riyaz Kaladia and he was only signing the required export documents as per their directions.

7. Statement of Shri Md Azim Moosabhai Kaladia, Prop of M/s. S.M. Exports, GF-11, Classic Sunny Complex, Nr Swaminarayan College, Shah Alam Tol Naka, Ahmedabad was recorded under section 108 of the Customs Act, 1962 on 26.7.2012 (RUD-08) wherein he stated that He was not aware about the income Tax returns filed in the name of his firm. His uncle Shri Rashid Kaladia and brother Shri Riyaz Kaladia created a firm in the name of M/s S M Exports, with him as the Proprietor. He had signed some documents, bankcheques, paying slips etc as directed by Shri Rashid and Shri Riyaz. He was not aware of the items exported in the name of M/s S M Exports but knew that some garments and scarves were being exported. M/s Saffron overseas was opened about 6 months back with himself as a partner in both the firms. He did not know about the activities undertaken in the said firms as the same were controlled by Shri Rashid and Shri Riyaz Kaladia. As per the directions of Shri Rashid and Shri Riyaz he had signed some bank and other documents required for obtaining an IEC code. He also admitted that the entire export activities of all the firms are handled and controlled by Shri Rashid and Shri Riyaz and he was only signing the export documents as per their directions. He was getting Rs. 10,000/- per month from Shri Rashid and Shri Riyaz for this work. He agreed with the panchnama dtd 13.7.2012 drawn at 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Ahmedabad and stated that the said godown was rented by Shri Riyaz and Shri Rashid as they required a Godown for keeping their export goods.

8. Statement of Shri Yusuf A Kaladia, Prop of M/s Universal Impex, Gala no 6, SubashNagar N M Joshi Marg, Chinchpokli(W), Mumbai was recorded under section 108 of the Customs Act, 1962 on 20.8.2014 (RUD-09) wherein he stated that he was the proprietor of M/s Universal Impex. The said firm was opened as per the directions of Shri Rashid Kaladia. Shri Rasfiid had offered him to open firm and an IEC, with him as the proprietor wherein Shri Rashid would be operating the said firm and he would be paid a reasonable amount. He had signed all the documents as and when directed by Shri Rashid in respect of the said firm. He was not aware of the activities undertaken in the said firm. It was Shri Rashid who had undertaken all the activities and the financial transactions in the said firm. The cheque books and the internet password of the banks were given to Shri Rashid who was operating the bank account of the firm. He was not aware of the filing of Income tax returns of the said firm since all the activities related to the said firm were handled by Shri Rashid. He was only doing his father's business of selling miscellaneous items. He had not received any money separately for lending his name but as and when required Shri Rashid used to help him with money in case of emergency, medical needs, family functions etc.

9. It was found that Shri Riyaz Ahmed Kaladia was the partner / proprietor in three of the above mentioned 11 firms i.e (1) M/s Saffron Overseas, Ahmedabad with Shri Azim Kaladia, Prop of M/s S M Exports as another partner (2) M/s Yooza Enterprise, Ahmedabad (Prop) & (3) M/s Pearl Exim, Ahmedabad with Shri Rashid Kaladia as another partner.

9.1 Statements of Shri Riyaz Ahmed Moosabhai Kaladia, Partner of M/s Pearl Exim, 4, Sardar Patel Estate, B/s- Gujarat Petrol Pump, Narol, Ahmedabad was recorded on 13.07.2012, 16.07.2012, 17.07.2012 & 10.1.2013 under section 108 of Customs Act, 1962 (RUD-10), wherein he stated that in 2009, he established a Proprietary firm in the name and style of Yooza Enterprises, (IEC No. 0809014211), GF-11, Classic Sunny Complex, Near Swaminarayan College, Shahalam Tolnaka, Ahmedabad and started export business of scarves, women's tops, leather wallet, leather belts etc. and import of mobile accessories etc. In the year of 2011-2012, he had also established the following partnership firms with him as the partner.

- i. M/s Pearl Exim (IEC No. 0811026817), 4, Sardar Patel Estate, B/s. Gujarat Petrol Pump, Narol, Ahmedabad;
- ii. M/s Saffron Overseas (IEC- 0811026779) 4 Sardar Patel Estate, B/s Gujarat petrol Pump, Narol, Ahmedabad and;

all the above firms were engaged in the export business of scarves, women's tops, leather wallet, leather belts etc. and import of mobile accessories etc.;

9.2 In addition to the above firms he also established the following firms in the name of his family members/ known friends/employees and the business activities of these firms were fully handled / controlled by him since their inception:

- (a) M/s Ganesh Trading Co. (IEC No. 0811030814), 75, Ganesh Nagar, Opp. Rabari Vasahat, Amaraiwadi, Ahmedabad - established under the proprietorship of Shri Prakashbhai Arjunbhai Jadhav who was his employee since long;
- (b) M/s S M Exports (IEC- 0809019671) GF-11, Classic Sunny Complex, Nr Swaminarayan College, Shah Alam Tolnaka, Ahmedabad established under the proprietorship of his brother Shri Mohammed Azim Moosabhai Kaladia.
- (c) M/s Mid-Land Trading Co., (IEC No. 0811030822), GF-13, Classic Sunny Complex, Near Swaminarayan College, Shahalam Tolnaka, Ahmedabad - established under the proprietorship of Ashik Hussain Mansur Multani his cousin and living with him;

- (d) M/s Raza Enterprises, J-27, Hali park, Nera Momin Park-II, Tandalja Road, Vadodara established under the proprietorship of Shri Irfanbhai Rafiq Shaikh who was his cousin.
- (e) M/s Royal Enterprises (IEC-3411003430) D/3, Momin Park-I, Nr Garib Nawaz Masjid, Tandalja Road, Vadodara who was his cousin.
- (f) M/s Universal Impex (IEC- 032025626), Gala No 6, Subash Nagar, N M Joshi Marg, Chinchpokli(W), Mumbai established under the proprietorship of Shri Yusuf Kaladia who is his uncle at Mumbai.
- (g) M/s Daffodil Overseas (IEC- 0309060796) Saraf Apartment, Shop No 1, 4th Khar West, Mumbai established under the partnership of M Shafi A Gani Tai and Asraf A Gani Tai who are his friends.
- (h) M/s Somebody Casuals (IEC- 0308024729) Sharaf Apartment, Shop No 1, Ground floor, 4th Road to Corp Bank, Khar (W), Mumbai established under the proprietorship of Shri Mohammed Safi A Gani Tai who was his friend.

all these firms were also engaged in export of scarves, women's tops, leather wallet, leather belts etc. and import of mobile accessories etc;

9.3 In respect of the Export-Import activated of the aforesaid firms, he interacted with Shri Dharmesh pandit at the Ahmedabad branch of M/s IOCC Shipping Pvt Ltd. He forwarded the export-import documents to the CHA on their e-mail id. [dharmesh.pandit@globalexpress.co.in](mailto:id.dharmesh.pandit@globalexpress.co.in) from his e-mail id. vooza@yahoo.com and original documents were sent alongwith the consignments;

9.4 He procured the goods for export from Shri Maheshbhai of M/s. V S. Textiles, Barabanki, Lucknow, Uttar Pradesh; Shri Mukhtarbhai of M/s Izhar Handloom, Barabanki, Lucknow, Uttar Pradesh & Shri Javedbhai of Mumbai; that in addition to the above procurement his uncle Shri Rashid Kaladia was running a firm M/s Alright Impex at Mumbai and his uncle also procured goods for export from local Mumbai market and forwarded them to him for further export. He agreed with the panchnama dtd 13.7.2012 drawn at the premise of Shed no 58, Shop no 4, Sardar Patel industrial Estate, Beside Gujarat Petrol Pump, Ahmedabad.

9.5 Shri Riyaz was using the e-mails id's - riyaz7861977@yahoo.com, yooza@yahoo.com, yooza@hotmail.com - for carrying out the business transactions with his overseas buyers. He voluntarily accessed all the above three e-mails from a laptop computer in DRI office at Ahmedabad and allowed the officers of DRI to examine through his emails stored in all the folders of the above e-mail id's. He was shown the print outs of some e-mails derived from the above mentioned e-mail accounts and sent/received from their overseas receivers as mentioned above; he read and understood the e-mail print outs contained an pages 01 to page-17 and all these e-mails were derived from their e-mail account yooza@yahoo.com which was being used by him.

9.6 He was shown the following emails retrieved from the email ID used by Shri Riyaz Kaladia:-

- (i) email dated 05.01.2012 sent from e-mail id akpatwa89@yahoo.com to his email id Yooza@yahoo.com regarding Dupatta Samples.
- (ii) email dated 09.04.2012 sent from akpatwa89@yahoo.com to the email account Yooza@yahoo.com.
- (iii) email dated 09.02.2012 sent from e-mail Yooza@yahoo.com to the email akpatwa89@yahoo.com.

9.6.1 On perusing the said emails he stated that in the said e-mail the overseas buyer confirmed that 'Dupatta size 40" X 2 mtrs, were accepted at Dubai and Saudi Arabia. Chamki Scarf was accepted at 6-7 Riyals per dozen and 2 mtr, Dupatta was accepted at 40Riyal per dozen; He also accepted that the local firms from whom they had shown the purchase did not show the price of the goods purchased from them in the invoices. He also admitted that M/s Izhaar Handlooms and M/s V.S. Textiles were

their major suppliers of the scarves exported by their firms M/s Ganesh Trading Co., M/s Pearl Exim, M/s Midland Trading Co., M/s Raza Enterprise, M/s Royal Enterprise, M/S Yooza Enterprise, M/s S.M.Exports, M/s Saffron Overseas, M/s Universal Impex during the period 2011-12 and they were all received from the above two suppliers of Barabanki, U.P.;

9.6.2 He also admitted that the price mentioned in the e-mail i.e Rate: 3.25 SAR per dozen, showing a total amount: 5144.75 SAR for 19000 scarves is the actual price of the scarves exported by the firms M/s Ganesh Trading Co., M/s Pearl Exim, M/s Midland Trading Co., M/s Raza Enterprise, M/s Royal Enterprise, M/s Yooza Enterprise, M/s S. M.Exports, M/s Saffron Overseas, M/s Universal Impex during the period 2011-12 and that all these firms were managed and handled by him with the connivance of his uncle Shri Rashid M Kaladia; Shri Riyaz further clarified that as per the said e-mail the actual price of each scarf works out to Rs.4.00 per piece; He confirmed that the prices declared in the export shipping bills and Invoices of all the exports made by M/s Ganesh Trading Co., M/s Pearl Exim, M/s Midland Trading Co., M/s Raza Enterprise, M/s Royal Enterprise, M/s Yooza Enterprise, M/s S.M. Exports, M/s Saffron Overseas, M/s Universal Impex during the period 2011-12 were grossly overvalued by them in order to avail the excess amount of duty drawback from the Govt. of India; He also admitted that for all the exports made by all the above units mentioned above they have availed the excess amount of duty drawback in their bank accounts of the respective firms;

9.6.3 As a responsible person on behalf of all the above exporting firms/companies i.e M/s Ganesh Trading Co., M/s Pearl Exim, M/s Midland Trading Co., M/s Raza Enterprise, M/s Royal Enterprise, M/s Yooza Enterprise, M/s S.M.Exports, M/s Saffron Overseas, M/s Universal Impex, he admitted their offence of overvaluation in the export consignments during the period 2011-12 and he agreed to repay the excess amount of drawback availed by all the above firms to the Government of India alongwith interest as per the prescribed norms of the government;

9.6.4 His entire business of export of scarves, ladies tops, leather belts, leather purses etc. was started by him under the guidance and directions of his uncle Shri Rashid Ahmed Kaladia who was residing at Mumbai and was associated with the textile business since. In 2009 Shri Rashid Ahmed Kaladia informed him that he was having export orders for readymade Made-up articles like ladies tops, Scarves and men's accessories like wallets and belts etc from buyers based in Dubai and Saudi Arabia. Shri Rashidbhai also explained that exports would be made under duty drawback scheme and the exporters would get the benefit of drawback directly from Customs. Thereafter as per the guidance and proposal of Shri Rashidbhai Kaladia, he opened a firm in the name of M/s Yooza Enterprise, with himself as a proprietor and procured the IEC number 0809014211. Thereafter he gradually procured many IEC's under the names of many of his relatives as stated above.

9.6.5 As per the directions of Shri Rashid Kaladia he had procured many IEC's and distributed the exports in all of them; since they were exporting sub-standard goods with overvalued rates, in order to avail high duty drawback benefits, they were apprehensive that if all the exports were done in one IEC the name of the exporter would be highlighted and they will be caught easily by the Customs. Therefore, they procured so many IEC numbers and did not use one IEC for a long time. Shri Riyaz once again reiterated that although all the IEC numbers were in the name of different persons, the firms/companies holding the IEC numbers were actually controlled by him and his uncle Shri Rashid Kaladia; the overseas receivers based in Dubai were known to his uncle Shri Rashidbhai Kaladia, and exporters based in Jeddah were directly communicating with him through his e-mail i.e yooza@yahoo.com which was exclusively used by him only.

9.6.6 The overseas buyers based in Dubai did not communicate with him directly, they were communicating with his uncle Shri Rashidbhai Kaladia; regarding the e-mail printouts shown to him during the course of his statement dated 16.07.2012, he stated that" all the e- mails i.e pages-1 to 17 were retrieved from the inbox folder of his e-mail account yooza@yahoo.com which he had accessed on that day and allowed the officers to check the mail folders of the said mail account.

9.6.7 He was shown the following emails which were retrieved from his email ID:-

9.6.7.1e-mail dated 08.01.2012 from akpatwa89@yahoo.com (their overseas receiver A K Batwa based in Jeddah,Saudi Arabia) which was addressed to him.

9.6.7.2 E-mail dated 22.01 .2012 from akoatwa89@yahoo.com to him (RashidKaladla),

9.6.7.3e-mail dated 14.03.2012 from akpatwa89@yahoo.com to yooza@yahoo.comwith mention as Attn: Rashid Bhai (his uncle),

9.6.7.4e-mail dated 22.03.2012 from akpatwa89@yahoo.com to yooza@yahoo.comwith mention as Attn: Mr. Rashid Kaladia (his uncle),

9.6.7.5e-mail dtd 22.4.2012 from akpatwa89@yahoo.com to yash61@hotmail.comand yooza@yahoo.com showing mail directed to Shri Mahesh Verma ofBarabanki.

9.6.7.6e-mail dtd 26.2.2012 from akpatwa@yahoo.com to yooza@yahoo.com withmention as Attn: Shri Rashid and Shri Riyaz.

9.6.7.7e-mail dated 18.02.2012 from akpatwa89@yahoo.com to yooza@yahoo.comwith mention as Riyaz Kaladia (himself).

9.6.8 On perusal of the said emails he confirmed that the overseas receiver Shri A.K.Patwa had quoted final acceptable price as USD 0.11 per piece for scarves, if the supply is 100000 pieces or if it is less than 100000 pieces the price shown is USD 0.12 per piece; that he stated that many consignments of this buyer were sent by them to Dubai and then from Dubai to Jeddah it was arranged by Shri A.K.Patwa; these consignments were shipped in the name of M/s World of Textiles to Dubai. In another email Shri Patwa had confirmed that the rate for 5500 dozens was confirmed at 3.5 SAR i.e rate for scarves confirmed at 3.5 Saudi Arabian Riyals per dozen for 5500 dozen shipment. Shri Riyaz accepted that considering the conversion of the said price, the export price of one piece of scarf stands at Rs.4.37 per piece, whereas they had declared the prices as about USD 4 per piece, In another email there were forwarded e-mails from Hafiz Mukhtar Ansari of Izhaar Handloom, Barabanki, U.P. India from his e-mail mukhtarsari6@gmail.com and Shri.Ansari has confirmed to have forwarded 26400 pieces of stoles @ Rs.25 per piece, 1500 pieces of square rumal (40x40) @ Rs. 40 per piece. Another email also confirmed the price of scarves as 3.25 SAR per dozen and upon conversion the prices come to about Rs.4.06 per piece. Another email also shows the rate of scarves ranging from Rs. 27.5 to 81 per pc depending of the printing and fabric etc. Another email also showed receipt for wire transfer of USD 10000=00 from the overseas buyer to M/s Yooza Enterprsie. Shri Riyaz also stated that in most of the cases of export of scarves under drawback done by all the IEC's controlled by him and Shri Rashidbhai, the prices of scarves were declared as about USD 4 per piece, which was grossly overvalued;

9.6.9 During the course of the statement various emails were scrutinized and printout taken from the email ID yooza@yahoo.com and Shri Riyaz explained the sameas under:-

9.6.9.1 Emails at page no 1, 16,19 to 38 were from Shri Javed Akhtar wherein he hadforwarded the copies of TT vouchers of Aziz Exchange Co LLC, Dubai pertainingto cash remittances made in the name of M/s Nahla Abdulla Trading Co LLC in favour of his exporting firms M/s Yooza Enterprise and M/s S M Exports. The overseas buyer was introduced to them by Shri Javed hence the TT voucherswere being routed through him. He also identified the photograph of Shri Javed.

9.6.9.2 Email dtd 23.5.2012 at page 39 was regarding payment details of USD 45000 sentby Shri Patwa to Shri Mukhtar Ansari of Izhaar Handloom Barbanki as per his instructions.

9.6.9.3 Email 23.1.2012 at page no 40 & 24.1.2012 at page 45 was regarding expenses incurred and paid by Shri Patwa on their account in Dubai for 4 shipments. In some cases, the cost of shipment to Jeddah was borne by them and the samewere paid by Shri Patwa and reimbursed by them. Shri Patwa had alsorequesled them for the price of 1,00,000 pcs of chamki scarves.

9.6.9.4The other emails at page no 46, 49, 50, 52-61, 88 to 90 were variouscorrespondences related to the transactions with Shri Patwa, Shri Javed Akhtar, Shri Ashraf Tai of Somebody Casuals, Shri Rashid Kaladia etc related to thecommission / transportation and various business correspondences.

9.7 The Custom House Agent (CHA) for their exports and imports were M/s IOCCShipping Pvt Ltd, Ahmedabad and he interacted with Shri Dharmesh Pandit of the saidCHA firm. He directly did not come in touch with the CHA since the CHA was appointed by his uncle Shri Rashid Kaladia. They have issued authority letter to the CHA for their two or three firms while for the rest, the authority letters were not been issued by them. The goods procured by them were received in loose condition and packed at their Narol Godown. He or his uncle Shri Rashid Kaladia did not have anymanufacturlng unit in Ahmedabad. Regarding M/s. Alright Impex which is themanufacturing unit of Shri Rashid Kaladia in Mumbai, he stated that it was located in Madanpura, Mumbai and he had visited the said place about 2-3 years ago and havenot been there after that. M/s Alright Impex has been declared as the supportingmanufacturer in respect of the exports made by M/s Pearl Exim, M/s SaffronOverseas, M/s Ganesh Trading Co., M/s S M Exports, M/s Mid-Land Trading Co, M/s Saffire International, M/s Raza Enterprises, M/s Royal Enterprises, M/s Universal Impex, M/s Daffodil Overseas, M/s Somebody Casuals. He once again reiterated that for all the business transactions with his overseas suppliers he was using the following e-mails id's Yooza@yahoo.com.

9.8 He was shown and asked to explain the letter dtd 10.1.2013 of the Secretary, Finance & Accounts, Gujarat Chamber of Commerce & Industry, Ahmedabad (GCCI) alongwith its enclosures. He stated that these documents were export documents in respect of the exports made by their firm i.e M/s Pearl Exim and M/s Midland Trading Co, Ahmedabad and that he had submitted these documents to the Gujarat Chamber of Commerce & Industry, Ahmedabad for obtaining the Certificate of Origin from them.

9.8.1 He explained the first set of documents of M/s Pearl Exim, to be containing Invoice no PE/EXP/037/2011-12 dtd 19.3.2011 and its relevant packing list. Under the said invoice 4000 pcs of 'Readymade garments of MMF (Womens Long Dresses) valued at @ USD 0.45 per pc were exported to M/s Abdul Rahman Abdulla Abbas Traders LLC PO Box No 44729, Deira, Dubai (UAE). The total value of the consignment was USD 1800. The corresponding Shipping Bill no was shown as 8077810 dtd 19.3.2012 shipped under Airway bill no 17323256973 dtd 20.3.2012 of M/s Emirates.

9.8.2 He explained the Second set of documents of M/s Pearl Exim to be containing Invoice no PE/EXP/012/2012-13 dtd 08.6.2012 and its relevant packing list. Under the said invoice 10000 pcs of 'Readymade garments of MMF (Womens Blouses, Top & Skirts) valued at @ USD 0.35 per pc were exported to M/s Abdul Rahman Abdulla Abbas Traders LLC PO Box No 44729, Deira, Dubai (UAE). The total value of the consignment was USD 3500. The corresponding Shipping Bill no was shown as 9295937 dtd 08.6.2012.

9.8.3 He explained the third set of documents of M/s Midland Trading Co, to be containing Invoice no MTC/EXP/012/2012-13 dtd 13.4.2012 and its relevant packing list. Under the said invoice 5424 pcs of 'Readymade garments of cotton & MMF (Womens long Tops/Girls Frocks& Shorts-yard Dyed) valued at @USD 0.60 per pc were exported to M/s. Abdul Rahman Abdulla Abbas Traders LLC PO Box No. 44729, Deira, Dubai (UAE). The total value of the consignment was USD 3254. The corresponding shipping Bill no was shown as 8463839 dtd 13.4.2012 shipped under Airway bill no 17623265126 dtd 13.4.2012 of M/s. Emirates.

9.9 He was shown the corresponding export documents of M/s Pearl Exim and M/s Midland Trading Co submitted to Customs in respect of the three shipping bills as mentioned above and asked to explain the difference in price declared before GCCI and Customs, to which he admitted that the price declared before Customs was 17 to 26 times Higher than the actual cost which was declared to GCCI for procuring the Country of Origin Certificate.

9.10 He also provided the value of the seized goods i.e Ready made Garments (LadiesTop) attempted to be exported vide Shipping bill no 9802864 & 9802866 both dtd 11.7.2012 as Rs. 28 per Pc. He also admitted that the said garments were manufactured out of stock lot fabrics purchased at a throwaway price from the manufacturers whose designs had become outdated. These fabrics were got stitched from a local stitching unit at a very low cost. The cost of the fabric for one pc came to Rs 131 whereas the stitching charges were Rs 10/- per pc and Rs 3/- was their expense and profit. However, the said goods were intentionally overvalued by him and Shri Rashid to show the price at USD 9.25 per pc in the export documents to avail excess drawback which was inadmissible to them.

10.1 Statement of Shri.Rashid Abdulbhai Kaladia, Partner of M/s Pearl Exim, 4, Sardar Patel Estate, B/s. Gujarat Petrol Pump, Narol, Ahmedabad was recorded on 31.07.2012 under section 108 of Customs Act, 1962 (RUD - 11), wherein he stated that in the year-2002, he started a firm under the name of M/s Alright Impex at Mumbai in which he was doing trading business. He had also obtained IEC code in the name of AlrightImpex and had exported some consignments of ReadyMade garments from Mumbai. M/s Alright Impex was non-functional since last 4-5 years, although he has not surrendered the IEC of the firm. In 2008, he developed the idea of exporting fabrics, garments, scarf, leather wallets, leather belts etc. to buyers based in Saudi Arabia and after enquiry found that the same can be exported under duty drawback scheme. He along with his nephew Shri.Riyaz Ahmed Kaladia started a firm under the name and style of Yooza Enterprises with Shri. Riyaz Ahmed Kaladia as the proprietor and obtained IEC No. 0809014211 with the address as GF-11,Classic Sunny.Complex, Near Swaminarayan College, Shah-Alam Tolnaka, Ahmedabad.

10.2 As per his directions one godown was also rented at Narol, Ahmedabad with the address as 4 Sardar Patel Estate, B/s. Gujarat petrol pump, Narol, Ahmedabad; that the said godown was rented in the name of Shri.Azim Ahmed Kaladia, his another nephew and thereafter he started export business of scarves, women's tops, leather wallet, leather belts etc. and import of mobile accessories etc. in the said IEC;

10.3 Subsequently the following IEC codes were obtained by way of floating firms in the names of family members, friends, long time trusted employees, as detailed below:

- a. M/s Pearl Exim (IEC No. 0811026817), 4, Sardar Patel Estate, B/s. Gujarat Petrol Pump, Naril, Ahmedabad, with himself and Shri.Riyaz Ahmed Kaladia as partnets;
- b. M/s Raza Enterprises, J-27, Haji park, Near Momin Park-II, Tandalja Road, Vadodara under the proprietorship of his nephew Shri Irfanbhai Rafique Shaikh living in Vadodara.
- c. M/s S M Exports, (IEC No 0809019671), GF-11, Classic Sunny Complex, Nr Swaminarayan College, Shahalam Tol Naka, Ahmedabad under the proprietorship of his Nephew Shri Mohammed Azim Moosabhai Kaladia.
- d. M/s Mid-Land Trading Co., (IEC No. 0811030822), GF-13, Classic Sunny Complex, Near Swaminarayan College, Shahalam Tolnaka, Ahmedabad - established under the proprietorship of Ashik Hussain Mansur Multani who is his nephew (sister's son);
- e. M/s Ganesh Trading Co. (IEC No.0811030814), 75, Ganesh Nagar, Opp. Rabari - Vasahat, Amaraiwadi, Ahmedabad - established under the proprietorship of Shri Prakashbhai Arjunbhai Jadhav who is an old time employee of his elder brother;
- f. M/s Saffire International (IEC- 0811026787) Sardar Patel Estate B/s Gujarat Petrol Pump Narol, Ahmedabad as a partnership firm with himself and Shri Mohammed Azim Kaladia as the partners.
- g. M/s Royal Enterprise, (IEC- 3411003430), D/3 Momin Park -I Nr Garib Nawaz Masjid, Tandalja Road, Vadodara under the proprietorship of his nephew, Shri Farhan Rafik Shaikh living in Vadodara.
- h. M/s Universal Impex, (IEC- 032025626), Gala No 6, Subash Nagar, N M Joshi Marg, Chinchpokli(W), Mumbai under the proprietorship of Shri Yusuf Kaladia. This IEC was taken by him in 2002 but was used for exports only recently.
- i. M/s Daffodil Overseas (IEC- 0309060796), Saraf Apartment, Shop No. 1, 4th Road, Khar (W), Mumbai, established under the partnership of M Shafi A Gani Tai and Asraf A Gani Tai who are his friends in Mumbai.
- j. M/s Somebody Casuals (IEC-0308024729) Saraf Apartment, Shop No 1, Ground Floor,4th Road, Opp to Corporation Bank, Khar (W), Mumbai established under the proprietorship of Shri Mohammed Safi A Gani Tai.
- k. M/s Saffron Overseas (IEC-0811026779), 4, Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad with Shri Riyaz Kaladia and Shri Mohammed Azim Kaladia as the partners.
- l. M/s Super Trading (IEC- 0811027023) 4, Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad, with Shri Riyaz Kaladia and Shri Prakash Jhadav as partners.

10.4 He perused Panchnama dated 16.07.2012 drawn at the premises situated at M/S.YOOZA ENTERPRISE, situated at GF-13, Classic Sunny Complex, Near SwamiNarayan College, Shah Alam Toll Naka, Ahmedabad-380028 and agreed with thecontents of the Panchnama.

10.5 He perused Panchnama dated 23.07.2012 drawn at the premises situated at Godown No.'13/A, Highway Commercial Center, Opp. Chippa Soceity BRTS Bus Stop, Danilimda, Ahmedabad, and after agreeing to the facts mentioned therein, he confirmed that the said premises was actually rented by him and the goods lying at the said premises belonged to him and Shri.Parvez Ahmed was also doing the job work ofstitching 'Yooza' brand shirts in the said premises;

10.6 He perused Panchnama dated 14.07.2012 drawn at ICD, Khodiyaar, Ahmedabad in respect of examination of goods attempted to be exported by M/s Pearl Exim 9753196 dated 7th July, 2012, 9753222 dated 7th July,2012, 9753194 dated 7th July,2012, 9781536 dated 10th July, 2012 and 9782111 dated 10th July, 2012 and stuffed in Container No.EMCU 9857917 and agreed to the facts stated therein;

10.7 The day to day work of export was handled by Shri. Riyaz Ahmed Kaladia and he was handling the work of procurement of fabrics and other export items and also contacting the overseas receivers; that however, once contacted the overseas buyers/ receivers were also interacting with Shri. Riyaz Ahmed Kaladia directly through e-mail. Through these firms he had exported various items like scarves, women's tops, leather wallet, leather belts, shirts etc. and also imported some consignment of mobile accessories, crockeries, child bike etc. He himself alongwith Shri. Riyaz Ahmed Kaladia was controlling the entire export activities undertaken by all the above firms detailed in his statement and the IEC holders apart from both of them are only dummy persons who were not aware about the procurement or export of any of the items. He also confirmed that, only two of them are the actual beneficiaries of the excess amount of drawback availed by them by way of overvaluation of the exports and the remaining IEC holders, i.e. whose names were utilized by them were only given token amounts for allowing to use their name and identities.

10.8 In respect of the export-import activities of the above firms, he engaged M/s IOCC Shipping Pvt. Ltd., since last two years and the day to day interaction was done with Shri Dharmesh Pandit from the CHA firm, however, major day to day work was looked after by Shri. Riyaz Ahmed Kaladia at Ahmedabad;

10.9 Scarves of MMF were procured from Shri Harishbhai of Mumbai, whose address and contact details he promised to submit at a later stage; Ladies Top and Bottom of MMF was purchased from Shri Manish Moolchadani of Khar, Mumbai and leather belts and leather wallets were purchased from Shri Javed Akhtar of Mumbai. He was shown the shipping bills filed by them which were attempted to be exported in the name of M/s Pearl Exim, M/s Midland Trading Co and M/s Ganesh Trading Co and he agreed that the value of the export goods mentioned in the said shipping bills were highly overvalued and the said overvaluation was done with an intention to avail higher amount of drawback from the government; He also admitted that the ladies top dress attempted to be exported in the name of M/s Midland Trading Co was actually valued at Rs 50/- per pc whereas they have declared the same as USD 9.25 per pc in the shipping bill.

10.10 He was also shown the statements of Shri. Riyaz Ahmed Kaladia dated 13.07.2012, 16.07.2012 and 17.07.2012 and after reading and understanding the contents of the facts stated by Shri. Riyaz Ahmed Kaladia, he admitted the facts stated therein. On being shown Annexure-II i.e. the Supporting Manufacturer's job workers declarations of M/s. Alright Impex, Mumbai submitted by M/s. Pearl Exim at the time of filing shipping bills for export, he admitted that presently there was no activity in the said firm and the said Annexure - II were issued to show credible procurement of the goods by the exporting firms, on which they were claiming duty drawback. In all the shipping bills the details of supporting manufacturer was deliberately misdeclared as M/s. Alright Impex, Mumbai whereas no goods were manufactured or supplied by M/s. Alright Impex, Mumbai to M/s. Pearl Exim. He also admitted that they had availed excess duty drawback on the highly overvalued goods exported by them during the period 2011 and 2012. He undertook to pay back the drawback availed by them in excess of the actual entitlement,

11. Statement of Shri M Ashraf A Gani, partner of M/s Daffodil Overseas & Authorised Signatory of M/s Somebody, Casuals, both at Sharaf Apts, Shop No 1, 14th Road, Khar(W), Mumbai-52, was recorded under section 108 of the Customs Act, 1962 on 21.4.2014, wherein he stated that as per the directions of Shri Rashid Kaladia, he formed two firms i.e. M/s Daffodil Overseas, with himself as the partner and his brother Shri Mohd Safi A Gani Tai as another partner and M/s Somebody Casuals with his brother Shri Mohammed Shafi as the proprietor. He had signed documents, bank cheques etc as and when directed by Shri Rashid in respect of the said firms. He was only signing the document related to M/s Daffodil Overseas and M/s Somebody Casuals and that his brother Mohd Safi A Gani Tai was not involved in the said activity.

He also confirmed that though he was the owner of both the firms, the activities undertaken in the said firms were handled by Shri Rashid and Riyaz Kaladia. As regards the Income tax returns, he stated that he was totally unaware about the activities in the said firms as the same were not handled by him and that Shri Rashid was only using his and his brother's name. He had not received any money separately for lending his name but as and when required Shri Rashid used to help him with money. He did not have any knowledge about the purchase of the goods exported by both the firms. Purchase of goods, preparation of invoices and other documents etc for both the firms were looked after by Shri Rashid Kaladia. As regards the amount of drawback received towards exports made in the name of both the firms, he stated that he had signed blank cheques and handed over the same to Shri Rashid or Riyaz Kaladia, who encashed the same from his bank account. He again admitted that the exports made in the name of M/s Daffodil Overseas and M/s Somebody casuals were being done by Shri Rashid and Riyaz Kaladia and that he was in no way involved in the said activity.

12. Statement of Shri Farhan Rafiqbhai Shaikh, Proprietor of M/s Royal Enterprise, D/3 Momin Park-I, Nr Garib Nawaz Masjid, Tandalja Road, Vadodara was recorded under Section 108 of the Customs Act, 1962 on 5.8.2014(RUD-16), wherein he stated that the said firm was opened as per the directions of his uncle Shri Rashid Kaladia who was also operating the said firm/ IEC. He had signed documents as and when directed by Shri Rashid in respect of the said firm. He did not know about the activities undertaken in the said firm. It was Shri Rashid who had undertaken all the activities and the financial transactions in his firm. The bank cheques and the password of the banks were given to his uncle Rashid who was operating the bank accounts held in the name of his firm. As regards the Income tax returns, he stated that he was totally unaware about the activities in the said firms as the same were not handled by him and that Shri Rashid was only using his and his brother's name. He had not received any money separately for lending his name but as and when required Shri Rashid used to help him with money. He was only doing the business of repairing of computer hardware and did not have any knowledge about the purchase of the goods exported in the name of his firm.

13. Statement of Shri Irfan Rafiqbhai Shaikh proprietor of M/s Raza Enterprise, J-27, Haji park, Nr Momin Park-II, Tandalja Road, Vadodara was recorded under section 108 of the Customs Act, 1962 on 5.8.2014 (RUD-17) wherein he stated that he is in the business of trading of non woven carrybags and limited to only local sale and not for exports and he is only involved in this activity and not in any other activity made in the name of the said firm. He has not made any export of fabrics or any other material in the name of M/s Raza Enterprise. He had opened an IEC in the name of his firm, wherein activities related to all exports/imports would be handled by Shri Rashid and he was assured of a reasonable amount for letting Shri Rashid use his IEC. His uncle had owned many such firms and his firm was one of such firm. He has signed documents as and when required in respect of his firm. It was Shri Rashid who had undertaken all the activities and the financial transactions in his firm. He had only signed documents which were given to him by Shri Rashid. The bank cheques and the password of the banks were given to his uncle Rashid who was operating the bank accounts held in the name of his firm. He also admitted that the financial transactions related to his local sale of non-woven carry bags were being done by him whereas those related to exports were being handled by Shri Rashid. As regards the income tax returns, he stated that he was filing the incometax returns for local trading at Godhra till last year and not the same is being filed online. Income Tax return for the export part was not known to him.

14. Statement of Shri Javeed Akhtar indulged in Trading of leather wallets and other leather goods was recorded under Section 108 of the Customs Act, 1962 on 7.1.2013, wherein he stated that the goods supplied to Shri Rashid and Shri Riyaz were purchased by him from Dharavi, Mumbai and booked in local transport in the name of

Shri Rashidbhai and the cost of transportation was also borne by him. Till date he has not received any bills for these supplies and the entire money was received by him from Shri Rashidbhai in Cash. M/s Nahla Abdulla Trading LLC, Dubai was a firm run by one Shri Jalilbhai of Mumbai through his father-in-law and he had introduced them to Shri Rashid and Shri Riyaz. He was aware that Shri Rashid was also engaged in the export business of leather accessories. He was interacting with Shri Riyaz Kaladia through his email javeed_df@yahoo.com. He was shown the statement of Shri Riyaz Kaladia dtd 17.7.2012 and the emails attached therein. He confirmed that all the emails were forwarded by him from his email ID. He also accepted that the scanned copies of the payment receipts of M/s Aziz Exchange Co LLC, Dubai were received by him from Shri Jalilbhai of M/s NahlaAbdulla Trading Co LLC, Dubai, who were indentors of various items imported into UAE from various countries. Since Shri Rashid and Shri Riyaz were introduced by him the receipts of remittances forwarded to Shri Rashid and Shri Riyaz were first forwarded to him and he was forwarding these copies to Shri Riyazbhai at email ID yooza@yahoo.com. The price of the leather wallets purchased by him from Mumbai and Supplied to Shri Rashidbhai for export were varying from a minimum of Rs 175/- to a Max of Rs 280/-. Since there were no bills raised by him, he cannot recollect regarding co-relation of each consignment.

15. A letter was issued to the Additional Director, DRI, Lucknow Zonal Unit vide F.No.DRI/AZU/INV-21/2012 dated 18.07.2012 requesting to carry out a detailed inquiry in respect of the premises of M/s Bhagwati Handloom and M/s Izhaar Handloom, Barabanki, Uttar Pradesh.

16. A reply was received from the Deputy Director, DRI, Lucknow Zonal Unit vide letter F.No.VIII (26)21/DRI/LZU/2012 dated 30.07.2012 vide the abovesaid letter it was reported that M/s Izhaar Handlooms, Barabanki and M/s Bhagwati Handlooms, Barabanki have supplied a specific type of scarves to M/s Yooza Enterprises, Ahmedabad only and not to any other firm. This implies that both these manufacturers have supplied scarves only to M/s Yooza Enterprises of Ahmedabad.

17. A letter was issued to the Additional Director, DRI, Mumbai Zonal Unit vide F.No:DRI/AZU/INT-03/2012 dated 16.07.2012 requesting for carrying out searches at the declared premises of M/s Alright Impex at Mumbai. The Assistant Director, 'D' Cell, DRI, Zonal Unit, Mumbai furnished their report vide letter F.No.DRI/MZU/D/Enq-09/2012-13/11538 dated 19.07.2012 and informed that a detailed inquiry was carried out at both the declared addresses of M/s Alright Impex. The premises declared at the address – 52/54, Khandia Street. Motiwala Chawl. First Floor, Room NO.2, Mumbai-400008, did not exist as there was no Motiwala Chawl but there was a Matiwala Chawl and the same has been demolished to construct a residential complex. At the other address at 242/244, Maulana Azad Road, Madanpura, Opp. Urdu Times, Gala No.8, Mumbai-400008, although the premises existed, but was found locked since last two years and whereabouts of the owner of the said premises was not known to the neighbours. Therefore, the declared addresses of M/s Alright Impex were found to be false and misleading.

18. Statement of Shri Zuber Ahmed Sattar Panja operating from 4, Sardar Patel Industrial Estate, Narol, Ahmedabad was recorded on 13.7.2012 (RUD-23) wherein he stated that he was managing the business of M/s Asian Mini Transport from the above mentioned address and the said premise was taken on rent by Shri Mohmed Azam Musabha Kaladia and the actual address of said place is shed no 58, Shop No 4, Sardar Patel Industrial Estate, Narol, Ahmedabad. He was carrying out the business transport booking on commission basis. He was not paying any rent to Shri Mohmed Ajam Musabhai Kaladia for using the said premises. He was not aware of the contents of the goods contained in the Boxes and HDPE bags lying at the said godown, however on verification he found it to be containing fancy imitation bangles made of plastic/lac. The packing material and garments lying in the godown pertained to Shri

Mohmed Ajaz Musabhai Kaladia and their family members who are engaged in the business of readymade garments.

19. Many more documents submitted by Shri Riyaz and Rashid Karadia to the Gujarat chamber of commerce and Industry for obtaining the certificate of origin and depicting the actual prices of the goods exported by the duo in the name of various firms were received. The same are tabled as under:-

Sr No	Name of the firm	COO No.	Item Description	Invoice no & date	Price declared per pc	Value Declared in the Shipping bill (USD)
1	Midland trading	7390	Made UPS (chimki) Scarves MMF	MTC/EXP/022/2012- 13 dt 6.6.2012	0.12 USD	4.5
2	Midland trading	4498	Readymade garments of MMF (Girls frock & 3 Pc Suits)	MTC/EXP/017/2012- 13 dt 14.5.2012	0.40 USD	9.9
2a	-do-	4498	Mens Shirts	-do-	0.85 USD	--
3	-do-	6319	Made Ups(stoles of MMF)	MTC/EXP/013/2012- 13 dt 9.5.2012	0.30 USD	4.8
4	-do-	1220	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (WALLETS)	MTC/EXP/010/2012- 13 dt 11.4.2012	0.90 USD &0.65 USD	10.3
5	Ganesh Trading Co.	2812 to 16	Madeups(Scarves of MMF Super fine High TwistQuality	GTC/EXP/011 to 15/2012-13 all dt 24.4.2012	0.25 USD	4.86-4.90
6	Raza Enterprise	18233	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (WALLETS)	RE/EXP/29/2011-12 dt 30.10.2011	0.55 USD, 1.10 USD & 0.85 USD	4.9 GBP
7	--do--	17836	Mens Shirts (of Cotton & MMF)	RE/EXP/27/2011-12 dt 24.10.2011	1.45 USD, 1.55	5.75 GBP

					USD 1.75 USD & 1.85 USD	
8	--do--	12610	Leather Wallets	RE/EXP/012/2011 -12 dt 23.08.2011	1.25 USD	7.5 GBP
8a	--do--	12610	Leather Belts	--do--	0.55 USD	5.25 GBP
9	--do--	14846	Ties (made of silk)	RE/EXP/016/2011 -12 dt 12.09.2011	0.30 USD	8.2 GBP
10	--do--	20694	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (LEATHER KEY CHAINS)	RE/EXP/039/2011 -12 dt 19.11.2011	0.10 USD	7.89
11	Saffron Overseas	31929	Made ups (fancy Scarves) of MMF	SO/EXP/01/2011-12 Dt 26.3.2012	0.15 USD, 0.20 USD, 0.30 USD & 0.35 USD	5.25
12	Royal Enterprise	2662	Made up (Scarves) of MMF	RE/EXP/01/2012-13 dt 25.04.2012	0.20 USD	4.95
13	Yooza Enterprises	10261	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (GENTS WALLETS)	YE/EXP/23/2011-12 dt 27.07.2011	1.15 USD & 0.90 USD	6 GBP
14	-do--	13389	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (WALLETS)	YE/EXP/29/2011-12 dt 16.08.2011	1.25 USD	7.5 GBP

14a	Yooza Enterprise	--do--	LEATHER BELTS	--do--	0.75 USD	5.25
15	--do--	27603	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition	YE/EXP/092/2011-12 dt 9.02.2012	0.90 USD, 0.60 USD, 0.80 USD	10.5
15a	--do--	--do--	Leather Belts	--do--	0.55 USD	7
16	--do--	8219	Readymade Garments (girls 2 pc leg top frocks)	YE/EXP/015/2011-12 dt 27.06.2011	0.45 USD	10.85
17	Daffodil Overseas	30940	Readymade garments of MMF (Womens long dresses)	Do/Exp/007/2011-12 dtd 19.3.2012	0.48 USD	10.55

19.1 In order to confront the evidences received from GCCI and to record the statement of the duo, Summons were issued to Shri Rashid Kaladia to appear on 15.01.2015 & 4.3.2015, however Shri Rashid did not appear to give his statement and did not honour both the summons. It appeared that Shri Rashid choosed not to co-operate with the on going inquiry. Accordingly, a Complaint under section 174 & 175 of the IPC 1860 was filed before the Hon'ble Additional Chiel Metropolitan Court, Ahmedabad against Shri Rashid Kaladia. Similarly, summons were issued to Shri Riyaz Kaladia to appear on 30.12.2014, 16.1.2015 & 4.3.2015, however Shri Riyaz did not appear to give his statement and did not honour all the three summons. It appeared that Shri Riyaz chose not to co-operate with the ongoing inquiry. Accordingly, a Complaint under section 174 & 175 of the IPC 1860 was filed before the Hon'ble Additional Chief Metropolitan Court, Ahmedabad against Shri Riyaz Kaladia. The same is pending before the Hon'ble ACMM Court, Ahmedabad.

20. SCRUTINY OF THE BANK ACCOUNT OF THE FIRMS:

20.1 General scrutiny of the available bank accounts of these firms was done and it was found that only in some cases, the remittances were received by these firms whereas in majority of the cases the remittance have not been received in these accounts. Letters were made in their firms (RUD-24), however neither Shri Rashid Kaladia / Shri Riyaz Kaladia nor the partners/prop of the firms have provided the copies of the BRC evidencing that the remittances in respect of the exports made by them have been received.

20.2 Scrutiny of the account opening form & account statement of M/s Saffron Overseas Held in ICICI Bank (a/c no. 624405043804) (RUD-25) revealed that the Shri Riyaz Ahmed Kaladia and Shri mohamed Azim Kaladia are the partners and the internet banking access is given to Shri Riyaz Kaladia. The email ID given to the bank is yooza@yahoo.com which is the email ID of M/s Yooza Enterprise, a firm owned and controlled by Shri Riyaz Kaladia. Where the details of Shri Mohamed Azim are mentioned. From the said document, it appeared that Shri Riyaz Ahmed Kaladia was the only controlling person in M/s Saffron Overseas. A total amount of Rs 3830726/- has been received from overseas as remittances in this account, whereas the total amount of declared value in respect of the exports made in the name of M/s Saffron overseas is Rs 11,04,72,658/-. Further amounts from this accounts have been transferred to the account of M/s Pearl Exim, M/s Saffire International, M/s Super Trading (wherein Shri Riyaz or Rashid are the prop/ partners) & M/s Raza Enterprises,

whereas some amounts have also been transferred from some of these accounts to this account of M/s Saffron Overseas. This clearly indicated that the actual person controlling these firms and dealing with the financial transaction of these firms is Riyaz Ahmed Kaladia and not the proprietor/partners in whose name the firm has been opened. This is further corroborated by the statement of Shri Riyaz Kaladia wherein he has accepted that he was controlling all the aforesaid 11 firms and the statement of Shri Mohamed Azam Kaladia who has accepted that Shri Riyaz was only controlling the activities of M/s Saffron Overseas.

20.3 Scrutiny of the bank transaction statement of M/s Daffodil overseas held in Bank of India (a/c no 002620110000386) (RUD-26), reveals that no foreign remittances have been received in the said bank account of the firm, whereas the total amount of declared value in respect of the exports made in the name of M/s Daffodil Overseas is Rs 6,90,03,432/- All the drawback amounts received in the said account have been withdrawn in cash.

20.4 Scrutiny of the Bank transaction statement of M/s Mid-land Trading Co held in IndusInd Bank, a/c no 0175-GH1271-060 (RUD-27) reveals that no foreign remittances have been received in the said bank account of the firm, whereas the total amount of declared value in respect of the exports made in the name of M/s Mid-Land Trading Co is Rs 5,32,43,446/- Further amounts from this accounts have been transferred to the account of M/s Yooza Enterprise (wherein proprietor is Shri Riyaz Kaladia), M/s Ganesh Trading Co & M/s S.M Exports indicating that the account is operated by a person who is controlling these firms also. It has come on record that these companies are being owned and controlled by Shri Rashid and Shri Riyaz. Further at the time of opening of the account a rent agreement was produced to the bank wherein Shri Ashik Hussain Multani has rented the premise of 7, Shri Vinay Kunj Co-op Society, Nr Shah Alam Tolnaka, Ahmedabad, from Shri Musabhai Kaladia who is the father of Shri Riyaz Kaladia and Shri Riyaz Kaladia is also staying at the same place. All the above documents evidence that Shri Riyaz Kaladia was actually managing the whole operation and fabricating the documents in such a way that he could control the said firm and its activities without having any locus standi in the said firm. It is also noticed that the drawback amounts received in the said account have either been transferred to some other firm or has been withdrawn in cash.

20.5 Scrutiny of the Bank transaction statement of M/s Ganesh Trading Co held in IndusInd Bank, (a/c.no 0175-GH1264-060) (RUD-28) reveals that no foreign remittances have been received in the said bank account of the firm, whereas the total amount of declared value in respect of the exports made in the name of M/s Ganesh Trading Co is Rs. 5,76,00,785/- Further amounts from this accounts have been transferred / received to/from the accounts of M/s Yooza Enterprise, M/s Raza Enterprise, M/s Mid-Land Trading Co, M/s S.M Exports, indicating that the financial transactions are interconnected in between these firms and it further evidences that these firms are being controlled by Shri Riyaz Kaladia / Rashid Kaladia. It is also noticed that the drawback amounts received in the said account have either been transferred to some other firm or has been withdrawn in cash.

20.6 Scrutiny of the bank account statement / account opening form of M/s. Pearl Exim held in ICICI Bank Maninagar, Ahmedabad (a/c no 624405043813) (RUD-29) reveals that remittances of only Rs 510030/- were received in the said account, against their total declared value of Rs 12,42,70,582/- in their export documents. This account is being operated by Shri Riyaz and Shri Rashid. It is also observed that the drawback has been received in this account and most of the amounts were withdrawn from this account in cash. Transactions were also made from this account with the accounts of M/s Saffron Overseas, Shri Ashik Multani of M/s Mid-Land Trading Co, etc indicating that these firms are interlinked and finance is being controlled by the same persons.

20.7 Scrutiny of the bank account statement of M/s Yooza Enterprise, held in Yes Bank (A/c no 000783900001960) (RUD-30) reveals that no foreign remittances have been received in the said bank account. Most of the amount received as drawback was withdrawn from the account in cash. Transactions have been made with M/s RazaEnterprises. Scrutiny of the documents submitted by Yes bank in respect of the EEF account no 000780600000124 held by M/s Yooza Enterprises revealed that they have received remittances in respect of the following invoices:

1. Invoice no YE/EXP/075/ 2011-12 dated 30.12.2011 for USD 14880.00
2. Invoice no YE/EXP/076/ 2011-12 dated 30.12.2011 for USD 595.00
3. Invoice no YE/EXP/021/ 2009-10 dated 24.11.2009 for USD 18166.50
4. Invoice no YE/EXP/022/ 2009-10 dated 24.11.2009 part payment of USD 390.50
5. Invoice no YE/EXP/022/ 2009-10 dated 24.11.2009 for USD 18507.00

20.7.1 Scrutiny of the bank account statement of M/s Yooza Enterprises held in AxisBank (Customer no 842908986) (RUD-32) reveals that from this account transactions have taken place with M/s S M Exports, M/s Saffron Overseas , M/s Ganesh trading Co, M/s Pearl Exim, M/s Mid-land Trading Co, M/s Royal Enterprises, which are the firms involved in the case and it has the said transfer of fund from and to these firms which indicate that the person handling the activities of the other firms is none other than the duo i.e ShriRashid and Shri Riyaz who appeared to be operating the said accounts. Remittance of Rs 2,75,26,593/- have been received in this account.

20.7.2 Axis Bank, alongwith the account opening form and bank account statement, of M/s Yooza Enterprises, had also forwarded a list of BRC (Bank realization Certificate)(RUD-33) in respect of the following shipping bills:

Sr. No.	Shipping Bill No	Shipping Bill date
1	6585711	8/12/2011
2	6585683	8/12/2011
3	6585687	8/12/2011
4	6585682	8/12/2011
5	6585716	8/12/2011
6	7149574	17/01/2012
7	7149575	17/01/2012
8	7149578	17/01/2012
9	7149576	17/01/2012
10	7038046	09/01/2012
11	7038040	09/01/2012
12	7038345	09/01/2012
13	7038020	09/01/2012
14	7038027	09/01/2012
15	7038024	09/01/2012
16	7037996	09/01/2012
17	6918531	30/12/2011
18	6918467	30/12/2011
19	6918368	30/12/2011
20	6918295	30/12/2011
21	6833421	26/12/2011

22	6833422	26/12/2011
23	6833423	26/12/2011
24	6833437	26/12/2011
25	6833440	26/12/2011
26	6812577	23/12/2011
27	6812983	
28	6812594	23/12/2011
29	6812601	23/12/2011
30	6812569	23/12/2011
31	6812583	23/12/2011
32	6812602	23/12/2011
33	6812603	23/12/2011

The total export value declared by M/s Yooza Enterprises in their export documents is Rs 24,74,28,186/-.

20.8 Scrutiny of the bank account statement of M/s S M Exports held in Axis bank(a/c 912020026608082) and Central Bank of India (a/c no 1801220258) reveals that remittance of Rs 7323048/- have been received in the account held in Axis bank, whereas no remittances have been received in the account held in Central Bank of India, against their total declared value of Rs 11,31,41,433/- in their export documents. It is also found that there are also transactions with M/s Yooza Enterprises and most of the amounts credited in the Axis bank were withdrawn in cash. Further drawback has been received in the account held in Central Bank of India and transactions have also been made with M/s Raza Enterprises & M/s Yooza Enterprises. In this account also most of the amounts credited were withdrawn as cash.

20.9 Scrutiny of the bank account statement of M/s Royal Enterprise, held in IndusInd Bank (a/c no 0172-FY0798-050) reveals that no foreign remittances have been received in the said bank account against their total declared value of Rs 4,24,16,752/- in their export documents. Most of the amount received as drawback was transferred to the bank account of either M/s S M Exports or M/s Raza Enterprises and some amounts have also been withdrawn as cash.

20.10 Scrutiny of the Bank account statement of M/s Raza Enterprises held in IndusInd Bank (A/c no. 0017-B36777-050) reveals that no foreign remittances have been received in the said bank account against their total declared value of Rs 8,91,28,383/- in their export documents. Most of the amount received as drawback were transferred to the bank account of either M/s S M Exports or M/s Yooza Enterprises, and some amounts transferred to M/s Raza Enterprises or M/s Royal Enterprises and some amounts have also been withdrawn as cash.

21. From the above it appeared that these aforesaid 11 firms were interlinked in terms of the person controlling and it has come on record that these firms were being handled and controlled by Shri Rashid and Shri Riyaz Kaladia. Further the remittances in respect of most of the exports made by these 11 firms were not available on record and the exporters have also not provided the same. It therefore appeared that Shri Rashid, Shri Riyaz Kaladia in connivance with the exporters apart from overvaluing the export goods, had also not brought in the remittances in respects of the exports made in the name of the said firms. This further indicates that the sole intention of overvaluing the export goods by the duo was to defraud the Govt. by claiming higher drawback.

22. From the inquiry carried out in the case it appears that Shri Rashid Kaladia and ShriRiyaz Kaladia in connivance with their friends and relatives got opened / obtained IECs of the aforesaid 11 firms with sole intention to exports goods i.e readymade garments/leather goods under drawback scheme and by overvaluing the same with an intention to avail higher drawback. The duo have exported ready made garments like women's long dresses, womens blouses tops and skirts, makeup scarves, leather wallets, leather belts, menshirts and T-shirts, boys/girls/ladies T-shirts, etc in the name of the aforesaid 11 firms. The evidences collected during the course of the investigation in the form of emails retrieved during the course of the searches, invoices in respect of the actual value of the export goods submitted to Gujarat Chamber of Commerce, Ahmedabad corroborated with the statement of the IEC holders and Shri Rashid Kaladia / Riyaz Kaladia revealed that the actual market price of the goods exported by them was much less than the declared value of the export goods before the customs at the time of presenting the Shipping Bill. It therefore appeared that the goods exported in the name of these firms were grossly overvalued in terms of value by all the 11 exporting firm with a clear intention to avail excess export incentives in the form of duty Drawback. This fact was also admitted by Shri Riyaz Ahmed Moosabhai Kaladia and Shri Rashid Ahmed Kaladia in their statements. It also appeared that the said firms were controlled by Shri Rashid and Shri Riyaz as evident from the details mentioned in para 18 & 19 and as admitted by them in their statements.

23. The present notice is limited to the exports made by the 11 firms in the pastperiod only. From the inquiry carried out in the case and material evidences available onrecord and as discussed above, it is evident that:

23.1 Shri.Rashid Ahmed Kaladia hatched a conspiracy and the same was executed by him with the help of Shri.Riyaz Ahmed Moosabhai Kaladia, in which they floated some firmswith their relatives and friends as proprietors/partners/directors with an intent to export substandard goods at overvalued prices intentionally, to avail higher amount of duty drawback which was otherwise inadmissible to them. In the execution of their conspiracy they floated many firms as discussed above wherein in some firms they were the proprietor/partner etc and in some firms they had no locus standi. They had also used some of the firms opened in their name for exporting goods using the aforesaid modus. Inquiry also revealed that the financial as well as other sale/purchase transactions were also controlled by the duo. In case of export of scarves, the duo used to purchase the good from the local market and export the same by declaring the value many times higher than the actual valuein order to avail higher drawback. Further the supporting manufacturer was declared in the shipping bill as M/s Alright Impex, Mumbai which was found to be non-existent. This was done with intent to mis-lead the Customs Authorities. Shri Rashid used to order for the leather items from Mumbai and Shri Javed Akhtar, (who is purportedly shown as the supplier of the leather items would collect the same from the local market of Mumbai and send it to Shri Rashid through transport. The overseas buyer M/s Nhala Abdulla Trading co LLC Dubai was run by Shri Jalilbhai through Shri Javed's father in law and that he had introduced them to Shri Rashid and Shri Riyaz. The payments details were made/ sent through Shri Javed Akhtar. The actual value of the leather wallets purchased from Mumbai was in the range of Rs 175/- to Rs 280/- whereas the same were declared before the Customs as USD 8-9 per pc (i.e approx Rs 360/- to Rs 400/-). This was done with intent to avail higher drawback on the export goods.

23.2 The overvaluation in the export of readymade garments like womens long dresses, womens blouses tops and skirts, makeup scarves, leather wallets, leather belts, mens shirtsand T-shirts, boys/girls/ladies T-shirts, etc by the duo is evident from the following evidences on record:-

Statement of Shri Dharmesh Pandit (forwarding agent acting as a CHA), Prop of M/s Global Express dtd 13.7.2012 & 16.7.2012 wherein he admitted that he was interacting with Shri Rashid kaladia and Shri Riyaz Kaladia in respect of the exports

made in the name of the aforesaid 11 firms and that all documents were being forwarded through the duo and the payments were also made by Shri Riyazkaladia.

21.2.2 Statement of Shri Prakash Arjunbhai Jadhav, Prop of M/s Ganesh Trading Co, Ahmedabad dtd 18.9.2012 wherein he admitted that all the activities of his firm were controlled by Shri Rashid and Shri Riyaz and that he was only signing all documents and bank cheques etc as per the directions of Shri Riyaz and Shri Rashid. He also admitted that the duo had helped him with money whenever needed in lieu of the IEC that he had lent to them.

23.2.3 Statement of Shri Ashik Hussain Mohammad Multani, proprietor of M/s Midland Trading Co, Ahmedabad dtd 12.9.2012 wherein he admitted that he was unaware of the activities of his firm and that all the activities of his firm were controlled by Shri Rashid and Shri Riyaz and that he was only signing all documents and bank cheques etc as per the directions of Shri Riyaz and Shri Rashid. He also admitted that the duo had helped him with money whenever needed in lieu of the IEC that he had lent to them.

23.2.4 Statement of Shri Md Azim Moosabhai kaladia, Proprietor of M/s S M Exports, Ahmedabad and Partner of M/s Saffron Overseas dtd 26.7.2012, wherein he admitted that both the firms were being operated by Shri Riyaz Kaladia and Shri Rashid Kaladia and that he had facilitated them by giving them signed blank cheque books and also signed documents as directed by the duo. He was paid Rs 10,000/- for allowing the duo to use the name of his firm for the export activities. He had no knowledge of what drawback was.

23.2.5 Statement of Shri Yusuf Kaladia, Prop of M/s Universal Impex, Mumbai dtd 20.8.2014 wherein he admitted that the firm was opened as per the directions of the duo and that all the activities of the firm were being controlled by Shri Rashid and Shri Riyaz and that he had no knowledge of the activities in the said firm. He had only signed documents as and when required and directed by the duo.

23.2.6 Statement of Shri Riyaz Ahmed Kaladia, Partner of M/s Pearl Exim, Proprietor of M/s Yooza Enterprise & Partner of M/s Safron Overseas dtd 13.7.2012, 16.7.2012, 17.7.2012 & 10.1.2013 (RUD-10) wherein he admitted that all the 11 firms were controlled by him and Shri Rashid and that he was interacting with the overseas buyers through emails and the export goods were also procured by him and Shri Rashid and exported in the name of the said 11 firms. He also admitted the actual value of the scarves as around Rs 4/- per pc that they had overvalued the export goods exported in the name of the aforesaid 11 firms with intent to avail higher drawback from the Govt of India. He also admitted that the said modus/ business was started under the guidance of Shri Rashid Kaladia. He also admitted that the invoices submitted to the Gujarat Chamber of Commerce for obtaining the Country of Origin Certificate showed the actual value of the goods exported in the name of the said firms.

23.2.7 Statement of Shri Rashid Ahmed Kaladia, Partner of M/s Pearl Exim, Ahmedabad dtd 31.7.2012, wherein he admitted that he and Shri Riyaz Kaladia had exported scarves, wallets, leather items, readymade garments etc in the name of the aforesaid 11 firms by resorting to overvaluation with an intent to avail higher drawback. He also accepted the actual value of the scarves as and value mentioned in the invoices submitted to the Gujarat Chamber of Commerce as the actual value of the said goods.

23.2.8 Statement of Shri Ashraf A Gani, Partner of M/s Daffodil Overseas & Authorised Signatory of M/s Somebody Casuals, dtd 21.4.2014, wherein he has admitted that Shri Rashid and Shri Riyaz were handling all the transactions/activities of the said firms and all the exports made in the name of the said two firms were made

by Shri Rashid and Shri Riyaz. He was to receive some amount for the said purpose but had not received the same.

23.2.9 Statement of Shri Farhan Rafiquebhai Shaikh, proprietor of M/s Royal Enterprises, Vadodara dtd 5.8.2014, & Statement of Shri Irfan Rafique Shaikh, Proprietor of M/s Raza Enterprises, Vadodara dtd 5.8.2014, wherein they admitted that the exports made in the name of their respective firms were made by Shri Rashid and Shri Riyaz and that they had signed documents as and when required by the duo. They also admitted that the banking transactions were made as per the directions of the duo.

23.2.10 Statement of Shri Javed Akhtar, dtd 7.1.2013, wherein he admitted that the leather items were bought from the local market of Mumbai by Shri Rashid and the exports were made to M/s Nhalla Abdulla Trading LLC was run by one Jalilbhai through his father-in-law. He also admitted that the details of remittances were received through him. He also admitted that the price of leather wallets ranged from Rs 175/- to Rs 280/-.

23.2.11 Letter of the Assistant Director, "D" Cell, DRI, Mumbai dtd 19.7.2012 informing that one of the Address of M/s Alright Impex, Mumbai, which has been declared as a supporting manufacturer in the case of export of scarves and other items was found to be non-existing and the other address was found to be locked since last two years.

23.2.12 The actual value of the following goods as evident from the invoices submitted to the Gujarat Chamber of Commerce, Ahmedabad for obtaining the Country of Origin certificate. The actual value of the goods exported is summarized asunder:-

Sr. No.	Item Description	Actual Price per pc
Made up scarves		
1	Made Ups (chimki) Scarves of MMF	0.12 USD
2	Made Ups (fancy Scarves) of MMF	0.15-0.35 USD
3	Made Ups Scarves of MMF	0.20 USD
4	Madeups (Scarves of MMF Super fine High Twist Quality	0.25 USD
5	Made ups(stoles of MMF)	0.30 USD
Ready made garments		
1	Readymade garments of MMF (Girls Frock&3PcSuits)	0.40 USD
2	Readymade Garments (girls 2 pc leg top frocks)	0.45 USD
3	Readymade garments (Womens long dresses)of MMF	0.48 USD
Leather items		
1		0.55, 0.60, 0.6s, 0.80, 0.85, 0.90, 1.10, 1.15, 1.25 USD (0.55 to 1.25)

2	Leather Belts	0.55 , 0.75 USD
3	Leather Key Chains	0.10 USD
Misc. Items		
1	Mens Shirts	0.85 USD
2	Mens Shirts of cotton and MMF	1.45, 1.55, 1.75, 1.85 USD
3	Ties Made of Silk	0.30 USD

M/S GANESH TRADING CO:-

24. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Riyaz Ahmed Kaladia and Shri Rashid Ahmed Kaladia in connivance with Shri Prakash Arjunbhai Jadhav, Proprietor of M/s. Ganesh Trading Co, Ahmedabad had exported goods with description "Madeups (scarves/chimkiscarves/stoles) of MMF etc by resorting to overvaluation and declaring total value of Rs5,76,00,785/- and have availed higher drawback amount of Rs 52,41 ,671/- as detailed in Annexure "A" to the SCN. As discussed in the foregoing paras the actual value of the makeup scarves exported in the name of M/s Ganesh is Rs 04/- per piece, whereas they have mis-declared the value in the range of USD 4.3 to USD 5.00 (i.e ap prox Rs 160 to Rs225/-) per piece. This was done with intent to avail higher drawback. Further from the records available in the form of bank statements of M/s Ganesh, it is found that no remittances have been received in their account against the exports made in the name of the said firm and neither Shri Riyaz, Shri Rashid nor M/s Ganesh have provided any proof regarding the receipt of remittances in respect of the exports made in the name of M/s Ganesh, Shri Rashid, Shri Riyaz and M/s. Ganesh, Ahmedabad by their acts of omission and commission, i.e overvaluing the said consignment to avail inadmissible drawback have contravened the provisions of Section 50 of the Customs Act, 1962 and by these acts they have rendered the goods already exported valued at Rs.5,76,00,785/- (declared value) (as per Annexure "A" to the SCN) liable for confiscation in terms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s Ganesh Trading Co Shri Prakash Arjunbhai Jadhav, Shri Riyaz Kaladia and Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 52,41,671/- availed by them (as per Annexure "A" to the SCN) is liable to be demanded and recovered from M/s Ganesh Trading Co (Proprietor Shri Prakash Arjunbhai Jadhav), Shri Riyaz Kaladia and Shri Rashid Kaladia under Section 76(1)(b) of the Customs Act 1962 read with Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A(2) of the Customs Act, 1962.

M/S MID-LAND TRADING CO:-

25. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Riyaz Ahmed Kaladia and Shri Rashid Ahmed Kaladia in connivance with Shri Ashik Hussain Multani, Proprietor of M/s Mid-Land Trading Co, Ahmedabad had exported goods with description like "Leather wallets", "leather belts", "Readymade Garments of cotton & MMF Womens & Girls Top Skirts", "Madeups (scarves/chimki scarves/stoles) of MMF etc by resorting to overvaluation and declaring total value of Rs 5,32,43,446/- and have availed higher drawback amount of Rs 45,55,051. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s Mid-land is much less than the value declared before the Customs. This was done with intent to avail higher drawback. Further from the records available in the form of bank statements of M/s Mid-land, it is found that no remittances have been received in their account against the exports made in the name of the said firm and neither Shri Riyaz, Shri Rashid nor M/s Mid-land have

provided any proof regarding the receipt of remittances in respect of the exports made in the name of M/s Midland. Shri Rashid, Shri Riyaz and M/s Mid-land, Ahmedabad by their acts of omission and commission, i.e overvaluing the said consignments to avail inadmissible drawback have contravened the provisions of Section 50 of the Customs Act, 1962 and by these acts they have rendered the goods already exported valued at Rs. 5,32,43,446/- (declared value) (as per Annexure "B" to the SCN) liable for confiscation in terms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s Mid-Land Trading Co (Proprietor Shri Ashik Hussain Multani), Shri Riyaz Kaladia and Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 44,55,051/- availed by them (as per Annexure "B" to the SCN) is liable to be demanded and recovered from M/s Mid-Land Trading Co (Proprietor Shri Ashik Hussain Multani), Shri Riyaz Kaladia and Shri Rashid Kaladia under Section 76(1)(b) of the Customs Act, 1962 read with Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A (2) of the Customs Act, 1962.

M/S. S.M. EXPORTS :-

26. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Riyaz Ahmed Kaladia and Shri Rashid Ahmed Kaladia inconnivance with Shri Mohd Azim Kaladia, Proprietor of M/s S M Exports, Ahmedabad had exported goods with description like "ready made garments of Cotton and MMF (Womenslong Tops/ Girls Frocks & Shorts-Pants & tracks) ", "leather Key chains" "Leather wallets", "leather belts" , "Readymade Garments girls 2 pc Top/Leggins (of Cotton & MMF)", "Madeups (scarves/chimki scarves/stoles) of MMF , "Mens Shirts of Cotton & MMF", "GirlsFrock" etc by resorting to overvaluation and declaring total value of Rs 11,31,41,433/- and have availed higher drawback amount of Rs 93,40,825/- as detailed in Annexure "C" to the SCN. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s S M Exports is much less than the value declared before the Customs. This was done with intent to avail higher drawback. Further from the records available in the form of bank statements of M/s S M Exports, it is found that remittances of only Rs. 73,23,048/- have been received in their account against the total declared value of Rs. 11,31,41,433/- in respect of the exports made in the name of the said firm and neither Shri Riyaz, Shri Rashid nor M/s S M Exports have provided any proof regarding the receipt of remittances in respect of the exports made in the name of M/s S M Exports. Shri Rashid, Shri Riyaz and M/s S M Exports, Ahmedabad by their acts of omission and commission, i.e overvaluing the said consignments to avail in admissible drawback have contravened the provisions of Section 50 of the Customs Act, 1962 and by these acts they have rendered the goods already exported valued at Rs. 11,31,41,433/- (declared value) (as per Annexure "C" to the SCN) liable for confiscation in terms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s S M Exports (Proprietor Shri Mohd Azim Kaladia), Shri Riyaz Kaladia and Shri Rashid Kaladia liable to penalty under Section 114(iii)& Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 93,40,825/- availed by them (as per Annexure "C" to the SCN) is liable to be demanded and recovered from M/s S M Exports (Proprietor Shri Mohd Azim Kaladia), Shri Riyaz Kaladia and Shri Rashid Kaladia under Section 76(1)(b) of the Customs Act 1962 read with Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A (2) of the Customs Act, 1962.

M/S UNIVERSAL IMPEX, MUMBAI

27. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Riyaz Ahmed Kaladia and Shri Rashid Ahmed Kaladia inconnivance with Shri Yusuf Kaladia, Proprietor of M/s Universal Impex, Mumbai had exported goods with description "Madeups (chimki scarves/stoles) of MMF etc by resorting to overvaluation and declaring total value of Rs 2,81,16,632/- and have

availed higher drawback amount of Rs 25,58,614/- as detailed in Annexure "D" to the SCN. As discussed in the foregoing paras the actual value of the madeup scarves exported in the name of M/s Universal Impex is Rs 04/- per piece, whereas they have mis-declared the value in the range of USD 4.3 to USD 4.55 (i.e approx Rs 160/- to Rs 190/-) per piece. This was done with intent to avail higher drawback. There is no evidence available on records, to indicate that remittances have been received in their account against the exports made in the name of the said firm and neither Shri Riyaz, Shri Rashid nor M/s Universal have provided any proof regarding the receipt of remittances in respect of the exports made in the name of M/s Universal. Shri Rashid, Shri Riyaz and M/s Ganesh, Ahmedabad by their acts of omission and commission, i.e overvaluing the said consignment to avail admissible drawback have contravened the provisions of Section 50 of the Customs Act,1962 and by these acts they have rendered the goods already exported valued at Rs.2,81,16,632 (declared value) (as per Annexure "D" to the SCN) liable for confiscation in terms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s Universal Impex (Proprietor Shri Yusuf Kaldaia), Shri Riyaz Kaladia and Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 25,58,614/- availed by them (as per Annexure "D" to the SCN) is liable to be demanded and recovered from M/s Universal Impex (Proprietor Shri Yusuf Kaldaia) Shri Riyaz Kaladia and Shri Rashid Kaladia under Section 76(1)(b) of the Customs Act 1962 read with Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A(2)of the Customs Act, 1962.

M/S SAFFRON OVERSEAS, AHMEDABAD

28. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Rashid Ahmed Kaladia in connivance with Shri Riyaz kaladia and Shri MohdAzim Kaladia, both Partners of M/s Saffron Overseas, Ahmedabad had exported goods with description like "Madeups (fancy scarves/Mantillas/stoles) of MMF""Readymade garments of MMF Womens & Girls skirts/trousers/jackets, ladies Top","Leather wallets" etc by resorting to overvaluation and declaring total value of Rs11,04,72,658/- and have availed higher drawback amount of Rs 99,63,059/- as detailed in Annexure "E" to the SCN. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s Saffron Overseas is much less than the value declared before the Customs. This was done with intent to avail higher drawback. Further from the records available in the form of bank statements of M/s Saffron Overseas, it is found that remittances of only Rs 38,30,726/- have been received in their account against the total declared value of Rs 11,04,72,658/- in respect of the exports made in the name of the said firm and neither Shri Rashid nor M/s. Saffron Overseas have provided any proof regarding the receipt of remittances in respect of the exports made in the name of M/s Saffron Overseas. Shri Rashid and M/s Saffron Overseas, Ahmedabad (partners Shri Riyaz kaladia and Shri Mohd Azim Kaladia) by their acts of omission and commission, i.e overvaluing the said consignments to avail inadmissible drawback have contravened the provisions of Section 50 of the Customs Act, 1962 and by these acts they have rendered the goods already exported valued at Rs. 11,04,2,658/- (declared value) (as per Annexure "E" to the SCN) liable for confiscation in terms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s Saffron Overseas (partners Shri Riyaz kaladia and Shri Mohd Azim Kaladia) & Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 99,63,059/-availed by them (as per Annexure "E" to the SCN) is liable to be demanded and recoveredfrom M/s Saffron Overseas (partners Shri Riyaz kaladia and Shri Mohd Azim Kaladia), and Shri Rashid Kaladia under Section 76(1)(b) of the Customs Act, 1962 read with Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A(2) of the Customs Act, 1962.

M/S DAFFODIL OVERSEAS & M/S SOMEBODY CASUALS

29. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Riyaz Ahmed Kaladia and Shri Rashid Ahmed Kaladia in connivance with Shri M Ashraf A Gani, Partner of M/s Daffodil Overseas and Authorised Signatory of M/s Somebody Casuals had exported goods with description like "ready made garments of Cotton and MMF (Womens long Dress/Womens blouses top, skirts Girls top)," Madeups (Scarves) of MMF", "leather Key Holder/chains" "Leather wallets", "leather belts" , "Mens Shirts", "Girls Frock" etc by resorting to overvaluation and declaring total value of Rs 11,06,77,861/- and have availed higher drawback amount of Rs 52,39,394/- exported in the name of M/s Daffodil Overseas as detailed in Annexure "F" to the SCN and with a declared value of Rs 3,99,54,071/- and have availed higher drawback amount of Rs 35,78,634/- in respect of goods exported in the name of M/s Somebody Casuals as detailed in Annexure "G" to the SCN. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s Daffodil Overseas and M/s Somebody Casuals is much less than the value declared before the Customs. This was done with intent to avail higher drawback. Further from the records available, it is found that no remittances have been received in their account against the total declared value of Rs 11,06,77,861/- & Rs 3,99,54,071/- in respect of the exports made in the name of the said two firms and neither Shri Riyaz, Shri Rashid nor M/s Daffodil Overseas M/s Somebody Casuals have provided any proof regarding the receipt of remittances in respect of the exports made in the name of the said two firms. Shri Rashid, Shri Riyaz, M/s Daffodil Overseas (partner Shri M Ashraf A Gani) & M/s Somebody Casuals (Authorised Signatory Shri M Ashraf A Gani), Ahmedabad by their acts of omission and commission, i.e overvaluing the said consignments to avail inadmissible drawback have contravened the provisions of Section 50 of the Customs Act, 1962 and by these acts they have rendered the goods already exported valued at Rs. 11,06,77,861/- & Rs 3,99,54,071/- respectively (declared value) (as per Annexure 'F' & "G" to the SCN) liable for confiscation in terms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s Daffodil Overseas (partner Shri M Ashraf A Gani), M/s Somebody Casuals (Authorised Signatory Shri M Ashraf A Gani), Shri Riyaz Kaladia and Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 52,39,394/- availed by M/s Daffodil Overseas (as per Annexure "F" to the SCN) is liable to be demanded and recovered from M/s Daffodil Overseas (partner Shri M Ashraf A Gani), Shri Riyaz Kaladia and Shri Rashid Kaladia and the total drawback amount of Rs 35,78,634/- availed by M/s Somebody Casuals (as per Annexure "G" to the SCN) is liable to be demanded and recovered from M/s Somebody Casuals (Authorised Signatory Shri M Ashraf A Gani), Shri Riyaz Kaladia and Shri Rashid Kaladia under Section 76(1)(b) of the Customs Act 1962 read with Rule 16 and 164 of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A(2) of the Customs Act, 1962.

M/S ROYAL ENTERPRISES, VADODARA

30. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Riyaz Ahmed Kaladia and Shri Rashid Ahmed Kahdia in connivance with Shri Farhan R Shaikh , Proprietor of Royal Enterprises, Vadodara had exported goods with description like "Madeups (scarves/chimki scarves) of MMF "readymade garments of MMF(Womens Blouses, Tops & Skirts) ", "leather Key chains"etc by resorting to overvaluation and declaring total value of Rs 4,24,16,752/- and have availed higher drawback amount of Rs 37,47,700/- as detailed in Annexure "H" to the SCN. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s Royal Enterprises, Vadodara is much less than the value declared before the Customs. This was done with intent to avail higher drawback. Further from the records available in the form of bank statements of M/s Royal Enterprise, it is found that no remittances have been received in their account against

the total declared value of Rs 4,24,16,752/- in respect of the exports made in the name of the said firm and neither Shri Riyaz, Shri Rashid nor M/s Royal Enterprises have provided any proof regarding the receipt of remittances in respect of the exports made in the name of M/s Royal Enterprises. Shri Rashid, Shri Riyaz and M/s Royal Enterprises (proprietor Shri Farhan R Shaikh), Vadodara by their acts of omission and commission, i.e overvaluing the said consignments to avail inadmissible drawback have contravened the provisions of Section 50 of the Customs Act,1962 and by these acts they have rendered the goods already exported valued at Rs.4,24,16,752/- (declared value) (as per Annexure "H" to the SCN) liable for confiscation interms of Section 113(h) (i)& (ii) of the Customs Act, 1962. The said acts have rendered M/s Royal Enterprise (proprietor Shri Farhan R Shaikh), Shri Riyaz Kaladia and Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 37,47,700/- availed by them (as per Annexure "H" to the SCN) is liable to be demanded and recovered from M/s Royal Enterprise (proprietor Shri Farhan R Shaikh), Shri Riyaz Kaladia and Shri Rashid Kaladia under Section 76(1)(b)of the Customs Act 1962 read with Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A(2)of the Customs Act, 1962.

M/S RAZA ENTERPRISES, VADODARA: -

31. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that Shri Riyaz Ahmed Kaladia and Shri Rashid Ahmed Kaladia in connivance with Shri Irfan R Shaikh , Proprietor of M/s Raza Enterprise, Vadodara had exported goods with description like "Leather Wallets", Mens Shirts of Cotton & MMF", "Leather Belts" , "Ties Made of Silk", "Leather Key Chains", "Readymade garments of MMF(Womens Blouses, Tops & Skirts) " , "Ready Made Garments of MMF (Mens Shirts)", (as per Annexure "I" to the SCN") etc by resorting to overvaluation and declaring total value of Rs 8,91,28,383/- and have availed higher drawback amount of Rs 75,17,026/- as detailed in Annexure "I" to the SCN. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s Raza Enterprises, Vadodara is much less than the value declared before the Customs. This was done with an intent to avail higher drawback.Further from the records available in the form of bank statements of M/s Raza Enterprise, it is found that no remittances have been received in their account against the total declared value of Rs 8,91,28,383/- in respect of the exports made in the name of the said firm and neither Shri Riyaz, Shri Rashid nor M/s Raza Enterprises have provided any proof regarding the receipt of remittances in respect of the exports made in the name of M/s Raza Enterprises. Shri Rashid, Shri Riyaz and M/s Raza Enterprises (Proprietor Shri Irfan RShaikh) by their acts of omission and commission, i.e overvaluing the said consignments to avail inadmissible drawback have contravened the provisions of Section 50 of the Customs Act, 1962 and by these acts they have rendered the goods already exported valued at Rs.8,91,28,383/- (declared value) (as per Annexure "I" to the SCN) liable for confiscation interms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s Raza Enterprise (Proprietor Shri Irfan R Shaikh), Shri Riyaz Kaladia and Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 75,17,026/- availed by (as per Annexure "I" to the SCN) them is liable to be demanded and recovered from M/s Raza Enterprise (Proprietor Shri Irfan R Shaikh), Shri Riyaz Kaladia and Shri Rashid Kaladia under Section 76(1)(b) ofthe Customs Act 1962 read with Rule 16 and 16A of the Customs, Central Excise Dutiesand Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A (2)of the Customs Act, 1962.

M/S YOOZA ENTERPRISES, AHMEDABAD: -

32. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that shri Rashid Ahmed Kaladia in connivance with Shri Riyaz

kaladia Proprietor of M/s Yooza Enterprises, Ahmedabad had exported goods with description like "Readymade garments of MMF Womens & Girls skirts/trousers/jackets, ladies Top etc,"Madeups (fancy scarves/ scarves etc) of MMF" , "Leather walets" "Leather belts", "Readymade Garments (womens long dress/ womens blouse/ top)", "Mens Shirts ofcotton/MMF", "leather key chains" etc by resorting to overvaluation and declaring total value of Rs 24,74,28,186/- and have availed higher drawback amount of Rs 2,12,72,815/- as detailed in Annexure "J" to the SCN. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s Yooza Enterprises is much less than the value declared before the customs. This was done with an intent to avail higher drawback. Further from the records available in the form of bank statements of M/s Yooza Enterprises, it is found that remittances in respect of only some of the consignments have been received in their Account against the total declared value of Rs 24,74,28,186/- in respect of the exports made in the name of the said firm and neither Shri Rashid nor M/s yooza Enterprises have provided any proof regarding the receipt of full remittances in respect of the exports made in the name of M/s Yooza, Shri Rashid and M/s Yooza, Ahmedabad by their acts of omission and commission, i.e overvaluing the said consignments to availing admissible drawback have contravened the provisions of Section 50 of the Customs Act,1962 and by these acts they have rendered the goods already exported valued at Rs.24,74,28,186/- (declared value) (as per Annexure "J" to the SCN) liable for confiscation interms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/sYooza Enterprises (Proprietor Shri Riyaz kaladia) & Shri Rashid Kaladia liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence, the total drawback amount of Rs 2,12,72,815/- availed by them (as per Annexure "J" to the SCN) is liable to be demanded and recovered from M/s Yooza Overseas (Proprietor Shri Riyaz Kaladia), and Shri Rashid Kaladia under Section 76(1)(b) of the Customs Act 1962 read with Rule 16 and16A of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A (2) of the Customs Act, 1962.

33. From the facts discussed in the foregoing paras and material evidences available on record, it appeared that M/s Pearl Exim (partners Shri Rashid Kaladia and Shri RiyazKaladia), Ahmedabad had exported goods with description like "Readymade garments ofMMF Womens & Girls skirts/trousers/jackets, ladies Top etc" "Madeups (fancy scarves/scarves etc) of MMF/Silk" "Leather wallets", "Readymade Garments (womens long dress/womens blouse/ top/ girls 3 pc skirts etc)", etc by resorting to overvaluation and declaring total value of Rs 12,42,70,582/- and have availed higher drawback amount of Rs1,04,42,995/- as detailed in Annexure "K" to the SCN. As discussed in the foregoing paras the actual value of the goods exported in the name of M/s Pearl Exim is much less than the value declared before the Customs. This was done with intent to avail higher drawback. Further from the records available in the form of bank statements of M/s Pearl Exim, it is found that remittances of Rs 5,10,030/- have been received in their account against the total declared value of Rs 12,42,70,582/- in respect of the exports made in the name of the said firm and M/s Pearl Exim has provided any proof regarding the receipt of full remittances in respect of the exports made in the name of M/s Pearl Exim. M/s Pearl Exim, Ahmedabad by their acts of omission and commission, i.e overvaluing the said consignments to avail inadmissible drawback have contravened the provisions of Section 50 of the Customs Act, 1962 and by these acts they have rendered the goods already exported valued at Rs. 12,42,70,582/- (declared value) (as per Annexure "K" to the SCN)liable for confiscation in terms of Section 113(h) (i) & (ii) of the Customs Act, 1962. The said acts have rendered M/s Pearl Exim (partners Shri Rashid Kaladia and Shri Riyaz Kaladia) liable to penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. Hence the total drawback amount of Rs 1,07,42,995/- availed by them (as per Annexure "K" to the SCN) is liable to be demanded and recovered from M/s Pearl Exim (partners Shri Rashid Kaladia and Shri Riyaz Kaladia), under Section 76(1)(b) of the Customs Act 1962 read with Rule 16 and 16A of the Customs, Central Excise Duties

and Service Tax Drawback Rules 1995, alongwith applicable interest as per Section 75A (2) of the Customs Act, 1962.

34. From the facts and evidences as discussed in the foregoing paras, especially para no 18 wherein the actual value of the goods and the declared value of the export goods are mentioned, it appeared that the drawback amount is more than the value of the export goods, hence the total drawback availed by the aforesaid 11 firms needs to be rightly recovered from them under the provisions of Section 76(1)b of the Customs Act, 1962. Although the Drawback can be demanded from the notices on this ground along non receipt of remittances in many of the cases also shows the intention of the notices to defraud the Govt by availing higher drawback and not bringing in remittances and accordingly Rules 16 and 16(A) of the Customs, CentralExcise Duties and Service Tax Drawback Rules 1995 are also invokable.

35. It further appeared that (1) Shri Prakash Jadhav, Prop of M/s Ganesh Trading Co, Ahmedabad, (2) Md Azim Moosabhai Kaladia, Prop of M/s S M Export, Ahmedabad, (3) Shri Yusuf Kaladia, Proprietor of M/s Universal Impex, Mumbai, (4) Shri Farhan Shaikh, Proprietor of M/s Royal Enterprises, Vadodara, (5) Irfan Shaikh, Proprietor of M/s Raza Enterprises, Vadodara, have allowed Shri Rashid Kaladia and Shri Riyaz Kaladia to use their IEC to export the said goods and also signed export documents for their respective firms for a consideration. All the above persons in their respective statements as discussed in the foregoing paras have admitted to have allowed Shri Rashid and Shri Riyaz to use their IEC and have signed documents like export documents/bank cheques etc as per the directions of the duo. From the statements of Shri Rashid and Shri Riyaz it is evident that the duo were handling all the activities of the aforesaid firms and that the proprietors of the aforesaid firms were not involved in the purchase of the export goods and financing of the same, the payment to the CHA was also made by the duo, which further indicates that the aforesaid firms were controlled by the duo. It thus appeared that the aforesaid persons were acting as dummy persons for Shri Rashid and Shri Riyaz in order to hide the actual identity of the duo. All the aforesaid acts of omission and commission on the part of the aforesaid persons have rendered the exported goods exported in the name of (1) M/s Ganesh Trading Co, Ahmedabad, (2) M/s Mid-Land Trading Co, Ahmedabad, (3) M/s S M Export, Ahmedabad, (4) M/s Universal Impex, Mumbai (5) M/s Royal Enterprises, Vadodara, (6) M/s Raza Enterprises, Vadodara, liable for confiscation under Section 113(h), (i) & (ii) of the Customs Act, 1962. Thus in view of their acts of omission and commission the aforesaid persons have rendered themselves liable for penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962. However, since all the aforesaid firms are proprietary firms no separate penalty is proposed against them in the instant SCN.

36. It further appeared that Shri M Ashraf A Gani, Partner of M/s Daffodil overseas & Authorised Signatory of M/s Somebody Casuals, has allowed Shri Rashid Kaladia and Shri Riyaz Kaladia to use the IEC of the two firms to export the said goods and also signed export documents for both the firms for a consideration. Shri M Ashraf A Gani in his statement dtd 21.4.2014 has admitted to have allowed Shri Rashid and Shri Riyaz to use both the IECs and has signed documents like export documents/bank cheques etc as per the directions of the duo. From the statements of Shri Rashid and Shri Riyaz it is evident that the duo were handling all the activities of the aforesaid firms and that the proprietors of the aforesaid firms were not involved in the purchase of the export goods and financing of the same, the payment to the CHA was also made by the duo, which further indicates that the aforesaid two firms were controlled by the duo. It thus appears that Shri M Ashraf Gani was acting as dummy person for Shri Rashid and Shri Riyaz in order to hide the actual identity of the duo. All the aforesaid acts of omission and commission on the part of Shri Ashraf Gani have rendered the exported goods exported in the name of (1) M/s Daffodil Overseas, Mumbai and (2) M/s Somebody Casuals, Mumbai, liable for confiscation under Section 113(h), (i) & (ii) of the Customs Act, 1962. Thus in view of his acts of omission

and commission Shri M Ashraf A Gani has rendered himself liable for penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962.

37. It further appeared that Shri Rashid Kaladia, Partner of M/s Pearl Exim, Ahmedabad and Shri Riyaz Kaladia, proprietor of M/s Yooza Enterprises and partner of M/s SaffronOverseas & M/s Pearl Exim, have conspired with the other co-noticees to defraud the Govt by overvaluing the export goods many times under the Drawback scheme and have availed inadmissible drawback from the Govt. In order to hide behind the scene to escape the eyes of the department, the duo had opened many firms in the name of their friends and relatives wherein they had no locus standi. The export goods purchased by the duo were then exported by them in the name of these firms by resorting to overvaluation in order to obtain higher inadmissible credit. The drawback once received in the account of the IEC holder was then either transferred to the other accounts of the duo or withdrawn as cash as is evident from the bank statements of the said 11 firms. These facts have been accepted by the duo in their respective statements and also the statements of the respective IEC holders. From the evidences available on record it is evident that the duo was the persons who were controlling the activities like purchase of goods, finance, CHA handlingtransportation etc in respect of the aforesaid 11 firms. It also appeared that the ultimate beneficiary of the whole racket was Shri Rashid and Shri Riyaz and the whole conspiracy was made by them for their personal gains. All the aforesaid acts of omission and commission on the part of the duo have rendered the exported goods exported in the name of all the aforesaid 11 firms liable for confiscation under Section 113(h), (i) & (ii) of the Customs Act, 1962. Thus in view of his acts of omission and commission Shri Rashid and Shri Riyaz have rendered themselves liable for penalty under Section 114(iii) & Section 114AA of the Customs Act, 1962.

38. Shri Dharmesh Pandit, Proprietor of M/s Global Express, 102- Akashrath, Nr. National Handloom Law Garden, CG Road, Ahmedabad and utilizing the CHA license noAABCI0301CCH004 of M/s IOCC Shipping Pvt Ltd, had failed to carryout his duties and responsibilites as CHA as per Regulation 13(a) & 13(e) of the CHA Regulations, 2004 in as much as he had not obtained written authorization from the aforesaid 11 Exporters for acting as a CHA in respect of the export consignments as detailed in Annexure "A" to Annexure "K" to the SCN and had presented wrong and mis-leading documents before the Customs and without exercising his due diligence. He had also failed to produce any written agreement executed between the CHA license holders M/s IOCC Shipping P Ltd and M/s Global Express for carrying out the Custom Clearance work. These acts of omission and commission committed by Shri Dharmesh Pandit, Prop of M/s Global Express, had rendered the export goods exported in the name of the 11 firms in question, liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962. Shri Dharmensh Pandit has also rendered himself liable for penal action under Section 114 & 114AA of the Customs Act, 1962 read with Custom House Agents Licensing Regulations, 2004 (as amended).

39. In view of the aforesaid, Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri Riyaz Kaladia, Prop of M/s Yooza Enterprises, GF-11, Classic Sunny Complex, Nr Swaminarayan College Shah Alam Tol Naka, Ahmedabad & M/s Ganesh (Proprietor Shri PrakashArjunbhai Jadhav), 75, Ganeshnagar, Opp.Rabari Vasahat, Amraiwadi, Ahmedabad-380026 (IEC-0811030814) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i) The goods having declared FOB value of Rs. 5,76,00,785/- as detailed in Annexure'A' to this show cause notice and already exported by them, through ICD Sabarmati/Khodiyar & Air Cargo Complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.

ii) The disbursed duty drawback amount of Rs. 52,41,671/- in respect of the past clearances as detailed in Annexure "A" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A(2) of the Customs Act, 1962;

iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114AA of the Customs Act, 1962.

40. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri Riyaz Kaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr Swaminarayan college shah Alam Tol Naka, Ahmedabad & M/s Mid-Land trading co (proprietor Shri Ashik Hussain Multani), Gr Floor, 13, classic suny complex, Nr swaminarayan college, shah-e-alam Tol Naka, Ahmedabad (IEC-0811030822) were jointly and severally called upon to show cause to the commissioner of customs, custom House, Ahmedabad, as to why:

(i) The goods having declared FOB value of Rs. 5,32,43,446/- as detailed in Annexure 'B' to this show cause notice and already exported by them, through ICD sabarmati/Khodiyar & Air cargo complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.

(ii) The disbursed duty drawback amount of Rs. 45,55,051/- in respect of the past clearances as detailed in Annexure "B" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A(2) of the Customs Act, 1962;

(iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114AA of the Customs Act, 1962.

41. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri Riyaz Kaladia, Prop of M/s. Yooza Enterprises. GF-II, Classic Sunny Complex, Nr Swaminarayan College Shah Alam Tol Naka, Ahmedabad & M/s S M Exports (Proprietor Shri MohdAzim Kaladia), GF-11, Classic Suny Complex, Nr Swaminarayan College, Shahalam Tol Naka, Ahmedabad (IEC-0809019671) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

i) The goods having declared FOB value of Rs. 11,31,41,433/- as detailed in Annexure 'C' to this show cause notice and already exported by them, through ICD Sabarmati/khodiyar & Air Cargo Complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.

ii) The disbursed duty drawback amount of Rs. 93,40,825/- in respect of the past clearances as detailed in Annexure "C" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A (2) of the Customs Act, 1962;

iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114AA of the Customs Act, 1962.

42. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri Riyaz Kaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr

Swaminarayancollegem shah Alam Tol Naka, Ahmedabad & M/s universal Impex (proprietor Shri yusufKaladia), Gala No 6, Subash Nagar, N M Joshi Marg, Chinckpokli (W), Mumbai (IEC-0302025626) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i) The goods having declared FOB value of Rs.2,81,16,632/- as detailed in Annexure'D' to this show cause notice and already exported by them, through ICD Sabarmati/Khodiyar, should not be held liable for confiscation under section 113(h) (i) & (ii) of the Customs Act, 1962.
- ii) The disbursed duty drawback amount of Rs. 25,58,614/- in respect of the past clearances as detailed in Annexure "D" to the SCN should not be demanded /recovered from them under Rule 16 & 16A of the Customs and Central ExciseDrawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962alongwith applicable interest as applicable under Section 75A(2) of the Customs Act,1962;
- iii) Penalty should not be imposed on each of them under Section 114(iii) and Section114 AA of the Customs Act, 1962.

43. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri RiyazKaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr SwaminarayanCollege, Shah Alam Tol Naka, Ahmedabad & M/s Saffron Overseas (partners Shri Riyazkaladia and Shri Mohd Azim Kaladia),4, Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad (IEC-0811026779) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i) The goods having declared FOB value of Rs. 11,04,72,658/- as detailed in Annexure'E' to this show cause notice and already exported by them, through ICD Sabarmati/Khodiyar & Air Cargo Complex, Ahmedabad, should not be held liable forconfiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.
- ii) The disbursed duty drawback amount of Rs. 99,63,059/- in respect of the past clearances as detailed in Annexure "E" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A (2) of the Customs Act,1962;
- iii) Penalty should not be imposed on each of them under section 114(iii) and section114AA of the Customs Act, 1962.

44. Shri Rashid Kaladia, partner of M/s Pearl Exim, 58, Shop no 4,Sardar Patel Industriar Estate, Beside Gujarat petrol pump, Narol, Ahmedabad, shri RiyazKaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr Swaminarayan collegem shan Alam Tol Naka, Ahmedabad & M/s Daffodil overseas (partner shri MAshraf A Gani), Saraf Apartement, Shop No 1, 4thRoad, Khar(W), Mumbai-52 (IEC-0309060796) were hereby jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i) The goods having deccred FOB value of Rs. 1,89,77,857/- as detailed in Annexure 'F' to this show cause notice and already exported by them, through ICD sabarmati/Khodiyar & Air cargo complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.
- ii) The disbursed duty drawback amount of Rs. 17,26,985/- in respect of the past clearances as detaired in Annexure "F" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the customs and

central Excise Drawback Rules 1995 read with section 76(1)(b) of the customs Act, 1962 alongwith applicabte interest as applicable under Section 75A(2) of the Customs Act, 1962;

iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114 AA of the Customs Act, 1962.

45. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, shri Riyaz Kaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr Swaminarayan collegem shah Alam Tol Naka, Ahmedabad & M/s Daffodil overseas (Partner shri MAshraf A Gani), Saraf Apartment' Shop No 1, 4thRoad' Khar (W), Mumbai-52 (IEC-0309060796) were jointly and severally called upon to show cause to theCommissioner of Customs (Exports), Nhava Sheva, Dis-Raigard, as to why:

i) The goods having declared FOB value of Rs. 3,96,16,417/- as detailed in Annexure 'F' to this show cause notice and already exported by them, through Nhava Sheva port, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.

ii) The disbursed duty drawback amount of Rs. 27,83,909/- in respect of the past clearances as detailed in Annexure "F" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under section 75A (2) of the customs Act, 1962;

iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114 AA of the Customs Act, 1962.

46. Shri Rashid Kaladia, Partner of M/s. Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri RiyazKaladia, Prop of M/s. Yooza Enterprises, GF-II, Classic Sunny Complex, Nr Swaminarayan College Shah Alam Tol Naka, Ahmedabad & M/s Daffodil Overseas (partner Shri Mashraf A Gani), Saraf Apartment, Shop No 1, 4thRoad, Khar (W), Mumbai-52 (IEC-0309060796) were jointly and severally called upon to show cause to the Commissioner of Customs (Exports), Air Cargo Complex, Sahar, Andheri, Mumbai, as towhy:

i) The goods having declared FOB value of Rs. 1,04,09,157/- as detailed in Annexure 'F' to this show cause notice and already exported by them, through Nhava Sheva Port, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.

ii) The disbursed duty drawback amount of Rs. 7,28,500/- in respect of the past clearances as detailed in Annexure "F" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A (2) of the Customs Act, 1962;

iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114 AA of the Customs Act, 1962.

47. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri RiyazKaladia, Prop of M/s. Yooza Enterprises, GF-II, Classic Sunny Complex, Nr SwaminarayanCollege Shah Alam Tol Naka, Ahmedabad & M/s Somebody Casuals (AuthorisedSignatory Shri M Ashraf A Gani),Saraf Apartment, Shop No 1,4thRoad, Khar (W), Mumbai-52 (IEC-0308024729) were jointly and severally called upon to show cause to theCommissioner of Customs, Custom House, Ahmedabad, as to why:

- i) The goods having declared FOB value of Rs.91,81,123/- as detailed in Annexure 'G' to this show cause notice and already exported by them, through Air Cargo Complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i)& (ii) of the Customs Act, 1962.
- ii) The disbursed duty drawback amount of Rs. 8,35,482/- in respect of the pastclearances as detailed in Annexure "G" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central ExciseDrawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962alongwith applicable interest as applicable under Section 75A (2) of the Customs Act,1962;
- iii) Penalty should not be imposed on each of them under Section 114(iii) and Section114 AA of the Customs Act, 1962.

48.Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri RiyazKaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr Swaminarayan College Shah Alam Tol Naka, Ahmedabad & M/s Somebody Casuals (Authorised Signatory Shri M Ashraf A Gani), Saraf Apartement, Shop No 1,4thRoad, opp CorporationBank, Khar (W), Mumbai-52 (IEC-0308024729) were jointly and severally called upon to show cause to the Commissioner of Customs (Exports), Nhava Sheva, Dis-Raigad,Maharashtra, as to why:

- i) The goods having declared FOB value of Rs. 3,99,54,071/- as detailed in Annexure'G' to this show cause notice and already exported by them, through Nhava Sheva Port, should not be held liable for confiscation under Section 113(h) (i) & (ii) of theCustoms Act, 1962.
- ii) The disbursed duty drawback amount of Rs. 35,78,634/- in respect of the past clearances as detailed in Annexure "G" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central ExciseDrawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962alongwith applicable interest as applicable under Section 75A (2) of the Customs Act, 1962;
- iii) Penalty should not be imposed on each of them under Section 114(iii) and Section114 AA of the Customs Act, 1962.

49. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri Riyaz Kaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr SwaminarayanCollege Shah Alam Tol Naka, Ahmedabad & M/s Royal Enterprises (proprietor ShriFarhan R Shaikh), D/3 Momin Park-I, Nr Garib Nawaz Masjid, Randalja Road, Vadodara-12 (IEC-03411003430) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i) The goods having declared FOB value of Rs. 4,24,16,752/- as detailed in Annexure 'H' to this show cause notice and already exported by them, through ICD Sabarmati/Khodiyar & Air Cargo Complex, Ahmedabad, should not be held liable forconfiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.
- ii) The disbursed duty drawback amount of Rs. 37,47,700/- in respect of the past clearances as detailed in Annexure "H" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A (2) of the Customs Act, 1962;

iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114 AA of the Customs Act, 1962.

50. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, Shri Riyaz Kaladia, Prop of M/s Yooza Enterprises, GF-II, Classic Sunny Complex, Nr Swaminarayan College Shah Alam Tol Naka, Ahmedabad & M/s Raza Enterprises (Proprietor Shri Irfan R Shaikh), J-27, Haji Park, Nr Momin Park-II, Tandalja Road, Vadodara-15 (IEC-03409004190) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i. The goods having declared FOB value of Rs. 8,91,28,383/- as detailed in Annexure 'T' to this show cause notice and already exported by them, through ICD Sabarmati/Khodiyar & Air Cargo Complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.
- ii. The disbursed duty drawback amount of Rs. 75,17,026/- in respect of the past clearance as detailed in Annexure "I" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A (2) of the Customs Act, 1962;
- iii. Penalty should not be imposed on each of them under Section 114(iii) and Section 114 AA of the Customs Act, 1962.

51. Shri Rashid Kaladia, Partner of M/s Pearl Exim, 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad, & M/s Yooza Enterprises (Proprietor Shri Riyaz Kaladia), GF-II, Classic Sunny Complex, Nr Swaminarayan College Shah Alam Tol Naka, Ahmedabad (IEC-0809014211) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i. The goods having declared FOB value of Rs. 24,74,28,186/- as detailed in Annexure 'J' to this show cause notice and already exported by them, through ICD Sabarmati/Khodiyar & Air Cargo Complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.
- ii. The disbursed duty drawback amount of Rs. 2,12,72,815/- in respect of the past clearances as detailed in Annexure "J" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A (2) of the Customs Act, 1962;
- iii. Penalty should not be imposed on each of them under Section 114(iii) and Section 114 AA of the Customs Act, 1962.

52. Riyaz Kaladia Prop of M/s Yooza Enterprises, GF-II, Classic SunnyComplex, Nr Swaminarayan College Shah Alam Tol Naka. Ahmedabad, & M/s Pearl Exim(partners Shri Rashid Kaladia and Shri Riyaz Kaladia), 58, Shop no 4, Sardar Patel Industrial Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad & its partner Shri Rashid Kaladia (IEC-0811026817) were jointly and severally called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad, as to why:

- i) The goods having declared FOB value of Rs. 12,42,70,582/- as detailed in Annexure 'K' to this show cause notice and already exported by them, through ICD Sabarmati/Khodiyar & Air Cargo Complex, Ahmedabad, should not be held liable for confiscation under Section 113(h) (i) & (ii) of the Customs Act, 1962.

- ii) The disbursed duty drawback amount of Rs. 1,07,42,995/- in respect of the past clearances as detailed in Annexure "K" to the SCN should not be demanded/recovered from them under Rule 16 & 16A of the Customs and Central Excise Drawback Rules 1995 read with Section 76(1)(b) of the Customs Act, 1962 alongwith applicable interest as applicable under Section 75A (2) of the Customs Act, 1962;
- iii) Penalty should not be imposed on each of them under Section 114(iii) and Section 114 AA of the Customs Act, 1962.

53. Shri Dharmesh Pandit, Prop of M/s Global Express, 102-Akashrath National Handloom, Law Garden, CG Road, Ahmedabad and utilizing the CHA license noAABCI0301CCH004 of M/s IOCC Shipping Pvt Ltd, was called upon to show cause to the Commissioner of Customs, Custom House, Ahmedabad as to why penalty should not be imposed on him under Section 114 & 114AA of the Customs Act, 1962.

54. Shri M Ashraf A Gani, Partner of M/s Daffodil Overseas, SarafApartment, Shop No 1, 4thRoad, Khar (W), Mumbai-52 & Authorised Signatory of M/s Somebody Casuals, Saraf Apartment, Shop No 1, 4thRoad, opp Corporation Bank, Khar (W), Mumbai-52 was called upon to show cause to the Commissioner of Customs,Custom House, Ahmedabad as to why penalty should not be imposed on him under Section,114 & 114AA ofthe Customs Act,1962.

55. Shri M Ashraf A Gani, Partner of M/s Daffodil Overseas, SarafApartment, Shop No 1,4thRoad, Khar (W), Mumbai-52 & Authorised Signatory of M/s Somebody Casuals, Saraf Apartment, Shop No 1, 4thRoad, opp Corporation Bank,Khar (W), Mumbai-52 was called upon to show cause to the Commissioner of Customs(Exports), Nhava Sheva, Dis-Raigad, as to why penalty should not be imposed onhim under Section 114 & 114AA of the Customs Act, 1962.

56. Shri M Ashraf A Gani, Partner of M/s Daffodil Overseas, SarafApartment, Shop No 1, 4th Road, Khar (W), Mumbai-52 & Authorised Signatory of M/s Somebody Casuals, Saraf Apartment, Shop No 1, 4th Road, opp Corporation Bank,Khar(W), Mumbai-52 was called upon to show cause to the Commissioner of Customs(Export), Air cargo Complex, Sahar,Andheri, Mumbai as to why penalty should not be imposed on him under Section 114 & 114AA of the Customs Act, 1962.

57. DISCUSSION AND FINDINGS: I have carefully gone through the facts of the case and records available in the case file, and the Show Cause Notice and CESTAT' Final Order No. A/10513/2023 dated 16.03.2023.

57.1 Present denovo proceeding is initiated consequent to the Final Order No. A/10513/2023 dated 16.03.2023 passed by the Hon'ble CESTAT, Ahmedabad against the Customs Appeal No. 11236 of 2018 filed by the Revenue arising out of Order In Original No. AHM-CUSTM-000-COM-10-17-18 dated 30.01.2018 passed by the Commissioner of Customs Ahmedabad.

57.2 Revenue had filed Custom Appeal No. 11236/2018 against Order In Original No. AHM-CUSTM-000-COM-10-17-18 dated 30.01.2018 on the ground that Order in Original No. AHM-CUSTM-000- COM-10-17-18, dated 30-01-2018 passed by the Principal Commissioner of Customs, Ahmedabad in the case of M/s. Ganesh Trading Company & Others was not correct and proper to the extent of not imposing penalty under Sec 114(iii) and Sec 114AA of the Customs Act, 1962, upon Shri Rashid Kaladia and Shri Riyaz Kaladia, who were the masterminds in the case. The Hon'ble CESTAT vide Final Order No. A/10513/2023 dated 16.03.2023 remanded the matter. Contents of said final Order of CESTAT is reproduced under:

"This appeal has been filed by the revenue against failure of the adjudicating authority to imposed penalty under Section 114/114AA of the Customs Act, 1962.

2. Learned AR pointed out that no appeal has been filed by the respondent against the impugned order. The matter has been listed numerous times but no one has appeared. On 15.02.2023 notice was attempted to be served through the Authorized Representative/ Revenue. The revenue has also reported that the respondent is not traceable at the given address.

3. The revenue is in appeal as impugned order does not give findings an imposition of penalties under Section 114/114AA on the respondents. In these circumstances, since no one is appearing for respondent, we set aside the order in so far as it fails to give findings on imposition of penalty under Section 114/114AA and remand the matter back to the original adjudicating authority for fresh decision on this.

4. Appeal is allowed by way of remand solely for giving findings on penalties under Section 114/114AA."

57.3 Accordingly, Personal Hearing was fixed on 02.07.2024, 18.07.2024, 05.08.2024 and 13.09.2024 for Shri Rashid Kaladia and Shri Riyaz Kaladia for denovo proceeding, however neither they appeared for personal hearing nor filed any reply. Further, all the Personal Hearing letter sent to available address are returned by the postal authority with remarks "Not Known". Also, the letters of Personal Hearing were pasted on the Notice Board of the Office of the Principal Commissioner, Customs Ahmedabad. Further, on verification of the records available in file, it is observed that both of the said noticee have not filed any appeal before the CESTAT, Ahmedabad against the said Order In Original.

57.4 I find that as per Section 122A of the Customs Act, 1962, the Adjudicating Authority shall give an opportunity of being heard to a party in a proceeding, if the party so desires. Accordingly, ample opportunities were granted to Rashid Kaladia and Riyaz Kaladia but they did not participate in the adjudication proceedings inspite of the fact that service of letters for personal hearings were done in terms of Section 153 of Customs Act, 1962.

Section 153 of the Customs Act reads as under -

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

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

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

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

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

57.5 I find that Shri Rashid Kaladia and Shri Riyaz Kaladia have failed to appear for Personal Hearing, inspite of being given opportunity to appear in person several times as detailed in foregoing para for defending their case. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte in terms of merit of the case.

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

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

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

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

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

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

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

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional

DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. - Admittedly, the appellant herein did not respond to the show cause notice. Thereafter, the appellant was called for personal hearing on six subsequent dates. According to the Additional DGFT nobody appeared on behalf of the appellant inspite of various dates fixed for personal appearance of the appellant and in these circumstances, the Additional DGFT proceeded with the matter ex parte and passed the impugned order. The appellant had the knowledge of the proceedings but neither any reply to the show cause notice was given nor it chose to appear before the Additional DGFT to make oral submissions. Thus it is a clear case where proper opportunity was given to the appellant to reply to show cause notice and to make oral submissions, if any. However, fault lies with the appellant in not availing of these opportunities. The appellant cannot now turn around and blame the respondents by alleging that the Additional DGFT violated principles of natural justice or did not give sufficient opportunity to the appellant to present its case."

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

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

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

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

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

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

58. In view of the discussion held in Para 57.3 to 57.6.6 above, I proceed for denovo proceeding as per the Final Order No.A/10513/2023 dated 16.03.2023 of Hon'ble CESTAT, Ahmedabad. I have carefully gone through the facts of the case and records available in the case file, and the Show Cause Notice. Limited issue to be decided in the present case is whether Shri Rashid Kaladia and Shri Riyaz Kaladia are liable for penalty under Section 114/11AA of the Customs Act, 1962 or otherwise.

58.1 I find from the show cause notice and records available on file, that Shri Rashid Kaladiy hatched a conspiracy and same was executed by him with the help of Shri Riyaz Kaladia in which they floated following firms with their relatives and friends as proprietors/partners/directors with intent to export substandard goods at overvalued price intentionally, to avail higher amount of duty drawback, which was otherwise inadmissible to them.

Sr No	Name & Address of the Firm	IEC No.	Referred name for the sake of brevity
1	M/s Ganesh Trading Co, 75, Ganesh Nagar, Opp Rabari Vasahat, Amraiwadi, Ahmedabad-380026	0811030814	"M/s Ganesh"
2	M/s Midland Trading Co, Floor, 13, Classic Sunny Complex, Nr Swaminarayan College, Shah-e-Alam Tolnaka, Ahmedabad	081 1030822	"M/s Mid-Land"
3	M/s S M Exports, GF-11, Classic Sunny Compex, Nr Swaminarayan College, Shahalam Tolnaka, Ahmedabad	0809019671	"M/s S.M.Export"
4	M/s. Universal Impex, Gala no. 6, Subash Nagar, NM Joshi Marg, Chinckpokli (w), Mumbai- Maharashtra-11	0302025626	"M/s. Universal"
5	M/s Saffron Overseas, 4 Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad	0811026779	"M/s Saffron"
6	M/s Somebody Casuals, Sharaf Apt, Shop No 1, Gr Floor, 4th Rd, Opp to Corporation Bank, Khar (W), Mumbai-400052	0308024729	"M/s Somebody"
7	M/s Daffodil Overseas, Saraf Apartment, Shop No 1, 4th Rd, Khar), Mumbai- 400052	0309060796	"M/s Daffodil"
8	M/s Royal Enterprise, D/3, Momin Park-1, Nr Garib Nawaz, Masjid, Randalja Road, Vadodara 390012	03411003430	"M/s Royal"
9	M/s. Raza Enterprise, J-27, Haji Park, Nr Momin Park-II, Tandalja Road, Vadodara - 390015	3409004190	"M/s. Raza"
10	M/s Yooza Enterprise, GF-11, Classic Sunny Complex, Nr Swaminarayan College, Shah Alalm Tolnaka Ahmedabad	0809014211	"M/s Yooza"
11	M/s Pearl Exim, 4, Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad- 382405	0811026817	"M/s Pearl"

59. I find that it would be worth to discuss in brief the investigation carried out by the DRI which established the role of Shri Rasid Kaladia and Shri Raza Kaladia:

59.1 Based on intelligence that certain exporters were indulging in export of poor quality made up articles of MMF, by declaring higher value to avail undue benefit of higher drawback, the officers of DRI examined some export consignments of M/s.Ganesh Trading Co., M/s Midland Trading Co, & M/s.Pearl Exim at ICD, Khodiyar, Ahmedabad.

59.2 On examination of the consignments by the officers of DRI, it was noticed that the export goods were found to contain pieces of fabrics of various sizes, colours, designs and quality. Some of these fabrics were found to be of a length of 80-90cms

approximately, while some of them were of a length of about 1 to 1.5 meters approximately. All the said pieces of fabrics were of varying width. Many of the said pieces of fabrics were loosely stitched / interlocked at two sides in some cases and in other cases on four sides. It was also found that the pieces of fabrics, though loosely stitched/interlocked did not have even edges or shapes. Some of these pieces of fabrics were still bearing the marks and numbers written on them when they were in the form of fabrics. These marks were with indelible ink impressed at the time of processing of the fabrics. Duty drawback on scarves is 9.1 % subject to a cap of Rs.24 per piece.

59.3 Statement of Shri Dharmesh Pandit, Proprietor of CHA firm, M/s. Global Express,, Ahmedabad was recorded on 13.07.2012 and 16.07.2012 under Section 108 of the Customs Act, 1962 wherein he interalia stated that he had an understanding with M/s IOCC Shipping P Ltd, CHA based in Mumbai who was registered with Customs Kandla, Ahmedabad & Nhava Sheva port; No authority letter was issued by M/s IOCC Shipping P Ltd to him or his firm for carrying out Custom clearance work. He also admitted that for all the works related to the exports made by the aforesaid 11 firms, he was dealing and interacting with Shri Riyaz AhmedMoosabhai Kaladia of Ahmedabad; initially Shri Rashid Kaladia, Partner of M/s Pearl Exim interacted with him regarding the clearance of the export cargo from these 11 firms. Thereafter, Shri Rashid introduced him to Shri Riyaz Kaladia who was his nephew and also partner of M/s Saffron Overseas and Proprietor of M/s. Yooza Enterprise and the bills relating to the CHA charges were raised in the name of the respective firms whereas payments of these bills were made by Shri Riyaz Kaladia. Shri Riyaz Ahmed Kaladia used to forward the soft copies of the invoice, packing list, etc., by e-mail to his office e-mail id 'dharmesh.pandit@globalexpress.co.in' and on the basis of these documents he was filing documents for customs clearance online through ICEGATE with the customs department; after customs clearance of export goods, they handed over all the original documents to Shri Riyaz Ahmed at his office at Shah Alam, Ahmedabad, Shri Riyaz Ahmed had not given any authority in respect of the aforesaid firms to him till date.

59.4 Statement of Shri Prakash Arjunbhai Jadhav, Proprietor of M/s Ganesh Trading Co, Ahmedabad was recorded on 18.9.2012 wherein he interalia stated that M/s. Ganesh Trading Co. was under his proprietorship but was created and operated by Shri Rashid Ahmed Kaladia and Shri Riyaz Ahmed Kaladia; he had signed documents, bank cheques, pay-in slips etc as directed by Shri Riyaz Kaladia; he was not aware about the activities of the said firm as the entire business was handled by Shri Riyaz Ahmed Kaladia, and they were only using his name; he also admitted that he has not received any money separately for lending his name, but got it whenever required in case of any emergency, medical needs, family functions etc.

59.5 Statement of Shri Ashik Hussain Mohammad Multani, Proprietor of M/s. Mid-Land Trading Co, Ahmedabad was recorded on 12.9.2012 wherein he interalia stated that his maternal uncle Shri Rashid and his cousin Shri Riyaz Kaladia wanted to start exports and for that purpose they created a new firm in the name of M/s Mid-land Trading Co, wherein he was the proprietor; that had signed some documents, Bank cheques, pay in slips etc as and when directed by Shri Riyaz Kaladia and Shri Rashid Kaladia; that he was not aware about the details of the exports made in the name of his firm except that some fabrics and scarves were being exported; that the IEC was obtained by Shri Rashid and Shri Riyaz after obtaining signatures on various documents; that entire activities of the firm were handled and controlled by his uncle Shri Rashid and his cousin brother Shri Riyaz Kaladia and he was only signing the required export documents as per their directions.

59.6 Statement of Shri Md Azim Moosabhai Kaladia, Prop of M/s. S.M. Exports, Ahmedabad was recorded on 26.7.2012 wherein he interalia stated that he was not aware about the income Tax returns filed in the name of his firm; that his uncle Shri Rashid Kaladia and brother Shri Riyaz Kaladia created a firm in the name of M/s S M Exports, with him as a Proprietor; that he had signed some documents, bank cheques, paying slips etc as directed by Shri Rashid and Shri Riyaz; that he was not aware of the items exported in the name of M/s S M Exports but knew that some garments and

scarves were being exported; that M/s Saffron Overseas was opened about 6 months back with himself as a partner in both the firms; that he did not know about the activities undertaken in the said firms as the same were controlled by Shri Rashid and Shri Riyaz Kaladia; that as per the directions of Shri Rashid and Shri Riyaz he had signed some bank and other documents required for obtaining an IEC code; that the entire export activities of all the firms were handled and controlled by Shri Rashid and Shri Riyaz and he was only signing the export documents as per their directions and in turn he was getting Rs. 10,000/- per month from Shri Rashid and Shri Riyaz for said work.

59.7 Statement of Shri Yusuf A Kaladia, Prop of M/s Universal, Chinchpokli(W), Mumbai was recorded on 20.8.2014 wherein he interalia stated that he was the proprietor of M/s Universal Impex; that the said firm was opened as per the directions of Shri Rashid Kaladia; that Shri Rashid had offered him to open firm and an IEC, with him as the proprietor wherein Shri Rashid would be operating the said firm and he would be paid a reasonable amount; that he had signed all the documents as and when directed by Shri Rashid in respect of the said firm; that he was not aware of the activities undertaken in the said firm; that it was Shri Rashid who had undertaken all the activities and the financial transactions in the said firm; that the cheque books and the internet password of the banks were given to Shri Rashid who was operating the bank account of the firm; that he was not aware of the filing of Income tax returns of the said firm since all the activities related to the said firm were handled by Shri Rashid; that he had not received any money separately for lending his name but as and when required Shri Rashid used to help him with money in case of emergency and medical needs, etc.

59.8 Statements of Shri Riyaz Ahmed Moosabhai Kaladia, Yooza Enterprises, Ahmedabad was recorded on 13.07.2012, 16.07.2012, 17.07.2012 & 10.1.2013 wherein he interalia stated that in 2009, he established a Proprietary firm in the name and style of Yooza Enterprises, (IEC No. 0809014211) Ahmedabad and started export business of scarves, women's tops, leather wallet, leather belts etc. and import of mobile accessories etc; that in the year of 2011-2012, he had also established the partnership firms M/s Pearl Exim (IEC No. 0811026817), Ahmedabad and M/s Saffron Overseas (IEC- 0811026779) wherein he was partner; that all the above firms were engaged in the export business of scarves, women's tops, leather wallet, leather belts etc. and import of mobile accessories etc.; that in addition to aforesaid firms he also established the following firms in the name of his family members/ known friends/employees and the business activities of these firms were fully handled / controlled by him since their inception:

- (a) M/s Ganesh Trading Co. (IEC No. 0811030814), 75, Ganesh Nagar, Opp. Rabari Vasahat, Amaraiwadi, Ahmedabad - established under the proprietorship of Shri Prakashbhai Arjunbhai Jadhav who was his employee since long.
- (b) M/s S M Exports (IEC- 0809019671) GF-11, Classic Sunny Complex, Nr Swaminarayan College, Shah Alam Tolnaka, Ahmedabad established under the proprietorship of his brother Shri Mohammed Azim Moosabhai Kaladia.
- (c) M/s Mid-Land Trading Co., (IEC No.0811030822), GF-13, Classic Sunny Complex, Near Swaminarayan College, Shahalam Tolnaka, Ahmedabad - established under the proprietorship of Ashik Hussain Mansur Multani his cousin and living with him.
- (d) M/s Raza Enterprises, J-27, Hali park, Nera Momin Park-II, Tandalja Road, Vadodara established under the proprietorship of Shri Irfanbhai Rafiq Shaikh who was his cousin.
- (e) M/s Royal Enterprises (IEC-3411003430) D/3, Momin Park-I, Nr Garib Nawaz Masjid, Tandalja Road, Vadodara who was his cousin.

- (f) M/s Universal Impex (IEC- 032025626), Gala No 6, Subash Nagar, N M Joshi Marg, Chinchpokli(W), Mumbai established under the proprietorship of Shri Yusuf Kaladia who is his uncle at Mumbai.
- (g) M/s Daffodil Overseas (IEC- 0309060796) Saraf Apartment, Shop No 1, 4th Khar West, Mumbai established under the partnership of M Shafi A Gani Tai and Asraf A Gani Tai who are his friends.
- (h) M/s Somebody Casuals (IEC- 0308024729) Sharaf Apartment, Shop No 1, Ground floor, 4th Road to Corp Bank, Khar (W), Mumbai established under the proprietorship of Shri Mohammed Safi A Gani Tai who was his friend.

All these firms were also engaged in export of scarves, women's tops, leather wallet, leather belts etc. and import of mobile accessories etc; that for the Export-Import activity of the aforesaid firms, he interacted with Shri Dharmesh pandit at the Ahmedabad branch of M/s IOCC Shipping Pvt Ltd; that he had forwarded the export-import documents to the CHA on their e-mail id.dharmesh.pandit@globalexpress.co.in from his e-mail id. vooza@yahoo.com and original documents were sent alongwith the consignments; that he procured the goods for export from Shri Maheshbhai of M/s. V S. Textiles, Barabanki, Lucknow, Uttar Pradesh; Shri Mukhtarbhai of M/s Izhar Handloom, Barabanki, Lucknow, Uttar Pradesh & Shri Javedbhai of Mumbai; that in addition to the above procurement his uncle Shri Rashid Kaladia was running a firm M/s Alright Impex at Mumbai and his uncle also procured goods for export from local Mumbai market and forwarded them to him for further export.

59.8.1 Shri Riyaz was using the e-mails id's - riyaz7861977@yahoo.com, yooza@yahoo.com, yooza@hotmail.com - for carrying out the business transactions with his overseas buyers and he voluntarily accessed all the above three e-mails from a laptop computer in DRI office at Ahmedabad and allowed the officers of DRI to examine through his emails stored in all the folders of the above e-mail id's; that the e-mail print outs contained an pages 01 to page-17 and all these e-mails were derived from their e-mail account yooza@yahoo.com which was being used by him; on being shown to said E mail printouts he admitted that that the price mentioned in the e-mail i.e Rate: 3.25 SAR per dozen, showing a total amount: 5144.75 SAR for 19000 scarves is the actual price of the scarves exported by the firms M/s Ganesh Trading Co., M/s Pearl Exim, M/s Midland Trading Co., M/s Raza Enterprise, M/s Royal Enterprise, M/s Yooza Enterprise, M/s S. M. Exports, M/s Satfron Overseas, M/s Universal Impex during the period 2011-12 and that all these firms were managed and handled by him with the connivance of his uncle Shri Rashid M Kaladia; **Shri Riyaz further clarified that as per the said e-mail the actual price of each scarf works out to Rs.4.00 per piece**; He confirmed that the prices declared in the export shipping bills and Invoices of all the exports made by M/s Ganesh Trading Co., M/s Pearl Exim, M/s Midland Trading Co., M/s Raza Enterprise, M/s Royal Enterprise, M/s Yooza Enterprise, M/s S.M. Exports, M/s Saffron Overseas, M/s Universal Impex during the period 2011-12 were grossly overvalued by them in order to avail the excess amount of duty drawback from the Govt. of India; He also admitted that for all the exports made by all the above units mentioned above they have availed the excess amount of duty drawback in their bank accounts of the respective firms; that as a responsible person on behalf of all the above exporting firms/companies i.e M/s Ganesh Trading Co., M/s Pearl Exim, M/s Midland Trading Co., M/s Raza Enterprise, M/s Royal Enterprise, M/s Yooza Enterprise, M/s S.M. Exports, M/s Saffron Overseas, M/s Universal Impex, he admitted their offence of overvaluation in the export consignments during the period 2011-12 and he agreed to repay the excess amount of drawback availed by all the above firms to the Government of India alongwith interest as per the prescribed norms of the government; that his entire business of export of scarves, ladies tops, leather belts, leather purses etc. **was started by him under the guidance and directions of his uncle Shri Rashid Ahmed Kaladia who was residing at Mumbai and was associated with the textile business since. In 2009 Shri Rashid Ahmed Kaladia informed him that he was**

having export orders for readymade Made up articles like ladies tops, Scarves and men's accessories like wallets and belts etc from buyers based in Dubai and Saudi Arabia. Shri Rashid bhai also explained that exports would be made under duty drawback scheme and the exporters would get the benefit of drawback directly from Customs. Thereafter, as per the guidance and proposal of Shri Rashidbhai Kaladia, he opened a firm in the name of M/s Yooza Enterprise, with himself as a proprietor and procured the IEC number 0809014211. That as per the directions of Shri Rashid Kaladia he had procured many IEC's and distributed the exports in all of them; since they were exporting sub-standard goods with overvalued rates, in order to avail high duty drawback benefits, they were apprehensive that if all the exports were done in one IEC the name of the exporter would be highlighted and they will be caught easily by the Customs. Therefore, they procured so many IEC numbers and did not use one IEC for a long time. **Shri Riyaz once again reiterated that although all the IEC numbers were in the name of different persons, the firms/companies holding the IEC numbers were actually controlled by him and his uncle Shri Rashid Kaladia; that the overseas receivers based in Dubai were known to his uncle Shri Rashidbhai Kaladia, and exporters based in Jeddah were directly communicating with him through his e-mail i.e yooza@yahoo.com which was exclusively used by him only; that the overseas buyers based in Dubai did not communicate with him directly, they were communicating with his uncle Shri.Rashidbhai Kaladia; that the Custom House Agent (CHA) for their exports and imports were M/s IOCC Shipping Pvt Ltd, Ahmedabad and he interacted with Shri Dharmesh Pandit of the said CHA firm; that he directly did not come in touch with the CHA since the CHA was appointed by his uncle Shri Rashid Kaladia; that they had issued authority letter to the CHA for their two or three firms while for the rest, the authority letters were not been issued by them; that the goods procured by them were received in loose condition and packed at their Narol Godown; that he or his uncle Shri Rashid Kaladia did not have any manufacturing unit in Ahmedabad; that M/s. Alright Impex is manufacturing unit of Shri Rashid Kaladia in Mumbai located in Madanpura, Mumbai and that M/s Alright Impex has been declared as the supporting manufacturer in respect of the exports made by M/s Pearl Exim, M/s SaffronOverseas, M/s Ganesh Trading Co., M/s S M Exports, M/s Mid-Land Trading Co, M/sSaffire International, M/s Raza Enterprises, M/s Royal Enterprises, M/s Universal Impex, M/s Daffodil Overseas, M/s Somebody Casuals; that **on being shown the corresponding export documents of M/s Pearl Exim and M/s Midland Trading Co submitted to Customs in respect of the three shipping bills as mentioned above and asked to explain the difference in price declared before GCCI and Customs, he admitted that the price declared before Customs was 17 to 26 times higher than the actual cost which was declared to Gujarat Chamber of Commerce & Industry, (GCCI) for procuring the Country of Origin Certificate.****

59.9 Statement of Shri.Rashid Abdulbhai Kaladia, Proprietor of M/s Alright Impex at Mumbai (Partner of M/s Pearl Exim,, Ahmedabad) was recorded on 31.07.2012 wherein he interalia stated that in the year-2002, he started a firm under the name of M/s Alright Impex at Mumbai in which he was doing trading business; that in 2008, he developed the idea of exporting fabrics, garments, scarf, leather wallets, leather belts etc. to buyers based in Saudi Arabia and after enquiry found that the same can be exported under duty drawback scheme; that he along with his nephew Shri.Riyaz Ahmed Kaladia started a firm under the name and style of Yooza Enterprises with Shri. Riyaz Ahmed Kaladia as the proprietor and obtained IEC No. 0809014211 with the address as GF-11,Classic Sunny.Complex, Near Swaminarayan College, Shah-Alam Tolnaka, Ahmedabad; that subsequently the following IEC codes were obtained by way of floating firms in the names of family members, friends, long time trusted employees, as detailed below:

- (a) M/s Pearl Exim (IEC No. 0811026817), 4, Sardar Patel Estate, B/s. Gujarat Petrol Pump, Naril, Ahmedabad, with himself and Shri.Riyaz Ahmed Kaladia as partnets;

- (b) M/s Raza Enterprises, J-27, Haji park, Near Momin Park-II, Tandalja Road, Vadodara under the proprietorship of his nephew Shri Irfanbhai Rafique Shaikh living in Vadodara.
- (c) M/s S M Exports, (IEC No 0809019671), GF-11, Classic Sunny Complex, Nr Swaminarayan College, Shahalam Tol Naka, Ahmedabad under the proprietorship of his Nephew Shri Mohammed Azim Moosabhai Kaladia.
- (d) M/s Mid-Land Trading Co., (IEC No. 0811030822), GF-13, Classic Sunny Complex, Near Swaminarayan College, Shahalam Tolnaka, Ahmedabad - established under the proprietorship of Ashik Hussain Mansur Multani who is his nephew (sister's son);
- (e) M/s Ganesh Trading Co. (IEC No.0811030814), 75, Ganesh Nagar, Opp. Rabari - Vasahat, Amaraiwadi, Ahmedabad - established under the proprietorship of Shri Prakashbhai Arjunbhai Jadhav who is an old time employee of his elder brother;
- (f) M/s Saffire International (IEC- 0811026787) Sardar Patel Estate B/s Gujarat Petrol Pump Narol, Ahmedabad as a partnership firm with himself and Shri Mohammed Azim Kaladia as the partners.
- (g) M/s Royal Enterprise, (IEC- 3411003430), D/3 Momin Park -I Nr Garib Nawaz Masjid, Tandalja Road, Vadodara under the proprietorship of his nephew, Shri Farhan Rafik Shaikh living in Vadodara.
- (h) M/s Universal Impex, (IEC- 032025626), Gala No 6, Subash Nagar, N M Joshi Marg, Chinchpokli(W), Mumbai under the proprietorship of Shri Yusuf Kaladia. This IEC was taken by him in 2002 but was used for exports only recently.
- (i) M/s Daffodil Overseas (IEC- 0309060796), Saraf Apartment, Shop No. 1, 4th Road, Khar (W), Mumbai, established under the partnership of M Shafi A Gani Tai and Asraf A Gani Tai who are his friends in Mumbai.
- (j) M/s Somebody Casuals (IEC-0308024729) Saraf Apartment, Shop No 1, Ground Floor,4th Road, Opp to Corporation Bank, Khar (W), Mumbai established under the proprietorship of Shri Mohmmmed Safi A Gani Tai.
- (k) M/s Saffron Overseas (IEC-0811026779), 4, Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad with Shri Riyaz Kaladia and Shri Mohmmmed Azim Kaladia as the partners.
- (l) M/s Super Trading (IEC- 0811027023) 4, Sardar Patel Estate, B/s Gujarat Petrol Pump, Narol, Ahmedabad, with Shri Riyaz Kaladia and Shri Prakash Jhadav as partners.

He further stated that day to day work of export was handled by Shri. Riyaz Ahmed Kaladia and he was handling the work of procurement of fabrics and other export items and also contacting the overseas receivers; that however, once contacted the overseas buyers/ receivers were also interacting with Shri.Riyaz Ahmed Kaladia directly through e-mail; that through aforesaid firms, he had exported various items like scarves, women's tops, leather wallet,leather belts, shirts etc. and also imported some consignment of mobile accessories,crockeries, child bike etc; **that he himself alongwith Shri Riyaz Ahmed Kaladia was controlling the entire export activities undertaken by all the above firms and apart from both of them are only dummy persons who were not aware about the procurement or export of any of the items; he also stated that only two of them are the actual beneficiaries of the excess amount of drawback availed by them by way of overvaluation of the exports and the remaining IEC holders**, whose names were utilized by them were only given token amounts for allowing to use their name and identities; that in respect of the export-import activities of the above firms, he engaged M/s IOCCShipping Pvt. Ltd., since last two years and the day to day interaction was done with Shri Dharmesh Pandit from the CHA firm, however, major day to day work was lookedafter by Shri.Riyaz Ahmed Kaladia at Ahmedabad;On being shown the shipping bills filed by them which were attempted to be exported in the name of M/s Pearl Exim , M/s Midland Trading Co and M/s Ganesh Trading Co, he admitted that the value of the export goods mentioned in the said shipping bills were highly overvalued and the said

overvaluation was done with an intention to avail higher amount of drawback from the government; that he also admitted that the ladies top dress attempted to be exported in the name of M/s Midland Trading Co was actually valued at Rs 50/- per pc whereas they have declared the same as USD 9.25 per pc in the shipping bill; that on being shown the statements of Shri.Riyaz Ahmed Kaladia dated 13.07.2012,16.07.2012 and 17.07.2012 and after reading and understanding the contents of the facts stated by Shri Riyaz Ahmed Kaladia, he admitted the facts stated therein as true.; that on being shown Annexure-II i.e. the Supporting Manufacturer's job workers declarations of M/s.Alright Impex, Mumbai submitted by M/s.Pearl Exim at the time of filing shipping bills for export, he admitted that presently there was no activity in the said firm and the said Annexure - II were issued to show credible procurement of the goods by the exporting firms, on which they were claiming duty drawback. In all the shipping bills the details of supporting manufacturer was deliberately misdeclared as M/s.Alright Impex,Mumbai whereas no goods were manufactured or supplied by M/s.Alright Impex,Mumbai to M/s. Pearl Exim; that he also admitted that they had availed excess duty drawback on the highly overvalued goods exported by them during the period 2011 and 2012 and undertook to pay back the drawback availed by them in excess of the actual entitlement.

59.10 Statement of Shri M Ashraf A Gani, partner of M/s Daffodil Overseas & Authorised Signatory of M/s Somebody Casuals, was recorded on 21.4.2014, wherein he stated that as per the directions of Shri Rashid Kaladia, he formed two firms i.e M/s Daffodil Overseas , with himself as the partner and his brother Shri Mohd Safi A Gani Tai as another partner and M/s Somebody Casuals with his brother Shri Mohammed Shafi as the proprietor. He had signed documents, bank cheques etc as and when directed by Shri Rashid in respect of the said firms. He was only signing the document related to M/s Daffodil Overseas and M/s Somebody Casuals and that his brother Mohd Safi A Gani Tai was not involved in the said activity. He also confirmed that though he was the owner of both the firms, the activities undertaken in the said firms were handled by Shri Rashid and Riyaz Kaladia. As regards the Income tax returns, he stated that he was totally unaware about the activities in the said firms as the same were not handled by him and that Shri Rashid was only using his and his brother's name. He had not received any money separately for lending his name but as and when required Shri Rashid used to help him with money. He did not have any knowledge about the purchase of the goods exported by both the firms. Purchase of goods, preparation of invoices and other documents etc for both the firms were looked after by Shri Rashid Kaladia. As regards the amount of drawback received towards exports made in the name of both the firms, he stated that he had signed blank cheques and handed over the same to Shri Rashid or Riyaz Kaladia, who encashed the same from his bank account. He again admitted that the exports made in the name of M/s Daffodil Overseas and M/s Somebody Casuals were being done by Shri Rashid and Riyaz Kaladia and that he was in no way involved in the said activity.

59.11 Statement of Shri Farhan Rafiqbhai Shaikh, Proprietor of M/s Royal Enterprise, Vadodara was recorded on 05.8.2014 wherein he stated that the said firm was opened as per the directions of his uncle Shri Rashid Kaladia; that he had signed documents as and when directed by Shri Rashid in respect of the said firm; that he did not know about the activities undertaken in the said firm and it was Shri Rashid who had undertaken all the activities and the financial transactions in his firm; that the bank cheques and the password of the banks were given to his uncle Rashid who was operating the bank accounts held in the name of his firm; that as regards to the Income tax returns, he stated that he was totally unaware about the activities in the said firms as the same were not handled by him and that Shri Rashid was only using his and his brothers name; that he had not received any money separately for lending his name but as and when required Shri Rashid used to help him with money; that he was only doing the business of repairing of computer hardware and did not have any knowledge about the purchase of the goods exported in the name of his firm.

59.12 Statement of Shri Irfan Rafiqbhai Shaikh proprietor of M/s Raza Enterprise, Vadodara was recorded on 5.8.2014 wherein he stated that he is in the business of trading of non woven carry-bags and limited to only local sale and not for exports and he is only involved in this activity and not in any other activity made in the name of the said firm; that he has not made any export of fabrics or any other material in the name of M/s Raza Enterprise; that he had opened an IEC in the name of his firm, wherein activities related to all exports/imports would be handled by Shri Rashid and he was assured of a reasonable amount for letting Shri Rashid use his IEC; that his uncle had owned many such firms and his firm was one of such firm; that he has signed documents as and when required in respect of his firm; that it was Shri Rashid who had undertaken all the activities and the financial transactions in his firm; that he had only signed documents which were given to him by Shri Rashid; that the bank cheques and the password of the banks were given to his uncle Rashid who was operating the bank accounts held in the name of his firm; that financial transactions related to his local sale of non-woven carry bags were being done by him whereas those related to exports were being handled by Shri Rashid.

59.13 Statement of Shri Javeed Akhtar indulged in Trading of leather wallets and other leather goods was recorded on 7.1.2013, wherein he stated that the goods supplied to Shri Rashid and Shri Riyaz were purchased by him from Dharavi, Mumbai and booked in local transport in the name of ShriRashidbhai and the cost of transportation was also borne by him; that till date he has not received any bills for these supplies and the entire money was received by him from Shri Rashidbhai in Cash. M/s Nahla Abdulla Trading LLC, Dubai was a firm run by one Shri Jalilbhai of Mumbai through his father-in-law and he had introduced them to Shri Rashid and Shri Riyaz; that he was aware that Shri Rashid was also engaged in the export business of leather accessories; that he was interacting with Shri Riyaz Kaladia through his emailjaveed_df@yahoo.com; that he was shown the statement of Shri Riyaz Kaladia dtd 17.7.2012 and the emails attached therein which confirmed that all the emails were forwarded by him from his email ID and also accepted that the scanned copies of the payment receipts of M/s Aziz Exchange Co LLC, Dubai were received by him from Shri Jalilbhai of M/s Nahla Abdulla Trading Co LLC, Dubai, who were indentors of various items imported into UAE from various countries; that as Shri Rashid and Shri Riyaz were introduced by him the receipts of remittances forwarded to Shri Rashid and Shri Riyaz were first forwarded to him and he was forwarding these copies to Shri Riyazbhai at email ID yooza@yahoo.com; that the price of the leather wallets purchased by him from Mumbai and Supplied to Shri Rashidbhai for export were varying from a minimum of Rs 175/- to a Max of Rs 280/- and as there were no bills raised by him, he cannot recollect regarding co-relation of each consignment.

59.14 A detailed investigation was carried out in respect of M/s. Alright Impex of Shri.Rashid Abdulbhai Kaladia, at Mumbai, by the DRI, Mumbai who vide letter F.No.DRI/MZU/D/Enq-09/2012-13/11538 dated 19.07.2012 informed that a detailed inquiry was carried out at both the declared addresses of M/s Alright Impex. The premises declared at the address – 52/54, Khandia Street. Motiwala Chawl. First Floor, Room No.2, Mumbai-400008, did not exist as there was no Motiwala Chawl but there was a Matiwala Chawl and the same has been demolished to construct a residential complex. At the other address at 242/244, Maulana Azad Road, Madanpura, Opp. Urdu Times, Gala No.8, Mumbai-400008, although the premises existed, but was found locked since last two years and whereabouts of the owner of the said premises was not known to the neighbours. Therefore, the declared addresses of M/s Alright Impex were found to be false and misleading.

59.15 Statement of Shri Zuber Ahmed Sattar Panja Ahmedabad was recorded on 13.7.2012 wherein he stated that he was managing the business of M/s Asian Mini

Transport premise was taken on rent by Shri Mohamed Azam Musabha Kaladia and the actual address of said place is shed no 58, Shop No 4, Sardar Patel Industrial Estate, Narol, Ahmedabad. He was carrying out the business of transport booking on commission basis. He was not paying any rent to Shri Mohamed Ajam Musabhai Kaladia for using the said premises. He was not aware of the contents of the goods contained in the Boxes and HDPE bags lying at the said godown, however on verification he found it to be containing fancy imitation bangles made of plastic/lac. The packing material and garments lying in the godown pertained to shri Mohamed Ajaz Musabhai Kaladia and their family members who are engaged in the business of readymadegarments.

59.16 Documents submitted by Shri Riyaz Kaladia and Rashid Kaladia to the Gujarat Chamber of Commerce and Industry (GCCI) for obtaining the certificate of origin and depicting the actual prices of the goods exported by the duo in the name of various firms were received which are tabulated as under:-

Sr No	Name of the firm	COO No.	Item Description	Invoice no & date	Price declared per pc before GCCI for Certificate of Origin	Value Declared in the Shipping biil (usD)
1	Midland trading	7390	Made UPS (chimki) Scarves MMF	MTC/EXP/022/20 12- 13 dt 6.6.2012	0.12 USD	4.5
2	Midland trading	4498	Readymade garments of MMF (Girls frock & 3 Pc Suits)	MTC/EXP/017/20 12- 13 dt 14.5.2012	0.40 USD	9.9
2a	-do-	4498	Mens Shirts	-do-	0.85 USD	--
3	-do-	6319	Made Ups(stoles of MMF)	MTC/EXP/013/20 12- 13 dt 9.5.2012	0.30 USD	4.8
4	-do-	1220	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (WALLETS)	MTC/EXP/010/20 12- 13 dt 11.4.2012	0.90 USD & 0.65 USD	10.3
5	Ganesh Trading Co.	2812 to 16	Madeups(Scarves of MMF Super fine High Twist Quality	GTC/EXP/011 to 15/2012-13 all dt 24.4.2012	0.25 USD	4.86-4.90
6	Raza Enterprise	18233	Articles of a kind normally carried in the pocket or in handbag, with outer surface of	RE/EXP/29/2011 -12 dt 30.10.2011	0.55 USD, 1.10 USD & 0.85 USD	4.9 GBP

			leather, of composition leather or of patent leather (WALLETS)			
7	--do--	17836	Mens Shirts (of Cotton & MMF)	RE/EXP/27/2011-12 dt 24.10.2011	1.45 USD, 1.55 USD 1.75 USD & 1.85 USD	5.75 GBP
8	--do--	12610	Leather Wallets	RE/EXP/012/2011-12 dt 23.08.2011	1.25 USD	7.5 GBP
8a	--do--	12610	Leather Belts	--do--	0.55 USD	5.25 GBP
9	--do--	14846	Ties (made of silk)	RE/EXP/016/2011-12 dt 12.09.2011	0.30 USD	8.2 GBP
10	--do--	20694	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (LEATHER KEY CHAINS)	RE/EXP/039/2011-12 dt 19.11.2011	0.10 USD	7.89
11	Saffron Overseas	31929	Made ups (fancy Scarves) of MMF	SO/EXP/01/2011-12 Dt 26.3.2012	0.15 USD, 0.20 USD, 0.30 USD & 0.35 USD	5.25
12	Royal Enterprise	2662	Made up (Scarves) of MMF	RE/EXP/01/2012-13 dt 25.04.2012	0.20 USD	4.95
13	Yooza Enterprises	10261	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition leather or of patent leather (GENTS WALLETS)	YE/EXP/23/2011-12 dt 27.07.2011	1.15 USD & 0.90 USD	6 GBP
14	-do--	13389	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition Leather or of patent leather (WALLETS)	YE/EXP/29/2011-12 dt 16.08.2011	1.25 USD	7.5 GBP
14a	Yooza Enterteprise	--do--	LEATHER BELTS	--do--	0.75 USD	5.25

15	--do--	27603	Articles of a kind normally carried in the pocket or in handbag, with outer surface of leather, of composition	YE/EXP/092/201 1-12 dt 9.02.2012	0.90 USD, 0.60 USD, 0.80 USD	10.5
15a	--do--	--do--	Leather Belts	--do--	0.55 USD	7
16	--do--	8219	Readymade Garments (girls 2 pc leg top frocks)	YE/EXP/015/201 1-12 dt 27.06.2011	0.45 USD	10.85
17	Daffodil Overseas	30940	Readymade garments of MMF (Womens long dresses)	Do/Exp/007/2011 -12 dtd 19.3.2012	0.48 USD	10.55

The actual value of the goods exported is summarized as under to demonstrate how the actual value of goods is **exorbitantly** overvalued.

Sr. No.	Item Description	Actual Price per pc
Made up scarves		
1	Made Ups (chimki) Scarves of MMF	0.12 USD
2	Made Ups (fancy Scarves) of MMF	0.15-0.35 USD
3	Made Ups Scarves of MMF	0.20 USD
4	Madeups (Scarves of MMF Super fine High Twist Quality	0.25 USD
5	Made ups(stoles of MMF)	0.30 USD
Ready made garments		
1	Readymade garments of MMF (Girls frock&3PcSuits)	0.40 USD
2	Readymade Garments (girls 2 pc leg top frocks)	0.45 USD
3	Readymade garments(Womens long dresses) of MMF	0.48 USD
Leather items		
1		0.55, 0.60, 0.6s, 0.80, 0.85, 0.90, 1.10, 1.15, 1.25 USD (0.55 to 1.25)
2	Leather Belts	0.55 , 0.75 USD
3	Leather Key Chains	0.10 USD
Misc. Items		
1	Mens Shirts	0.85 USD
2	Mens Shirts of cotton and MMF	1.45, 1.55, 1.75, 1.85 USD
3	Ties Made of Silk	0.30 USD

60. SCRUTINY OF THE BANK ACCOUNT OF THE FIRMS:

60.1 General scrutiny of the available bank accounts of aforesaid firms was done and it was found that only in some cases, the remittances were received by these firms whereas in majority of the cases, the remittance have not been received in these accounts. Letters were issued to the concerned firms, however neither Shri Rashid Kaladia / Shri Riyaz Kaladia nor the partners/proprietor of the firms have provided the copies of the BRC evidencing that the remittances in respect of the exports made by them.

60.2 Scrutiny of the account opening form & account statement of M/s Saffron Overseas Held in ICICI Bank (a/c no. 624405043804) reveals that the Shri Riyaz Ahmed Kaladia and Shri mohamed Azim Kaladia are the partners and the internet banking access is given to Shri Rlyaz Kaladia. The email ID given to the bank is yooza@yahoo.com which is the email ID of M/s Yooza Enterprise, a firm owned and controlled by Shri Riyaz Kaladia where the details of Shri Mohamed Azim are mentioned. From the said document it is revealed that Shri Riyaz Ahmed Kaladia was the only controlling person in M/s SaffronOverseas. A total amount of Rs 38,30,726/- has been received from overseas as remittances in this account, whereas the total amount of declared value in respect of the exports made in the name of M/s Saffron overseas is Rs 11,04,72,658/-. Further amounts from this accounts have been transferred to the account of M/s Pearl Exim, M/s Saffire International, M/s Super Trading (wherein Shri Riyaz or Rashid are the prop/ partners) & M/s RazaEnterprises, whereas some amounts have also been transferred from some of these accounts to this account of M/s Saffron Overseas. This clearly indicates that the actual person controlling these firms and dealing with the financial transaction of these firms is Riyaz Ahmed Kaladia and not the proprietor/partners in whose name the firm has been opened. This is further corroborated by the statement of Shri Riyaz Kaladia wherein he has accepted that he was controlling all the aforesaid 11 firms and the statement of Shri Mohamed Azam Kaladia who has accepted that Shri Riyaz was only controlling the activities of M/s Saffron Overseas.

60.3 Scrutiny of the bank transaction statement of M/s Daffodil overseas held in Bank of India (a/c no 002620110000386), revealed that no foreign remittances have been received in the said bank account of the firm, whereas the total amount of declared value in respect of the exports made in the name of M/s Daffodil Overseas is Rs 6,90,03,432/-. All the drawback amounts received in the said account have been withdrawn in cash.

60.4 Scrutiny of the Bank transaction statement of M/s Mid-land Trading Co held in IndusInd Bank, (a/c no 0175-GH1271-060) revealed that no foreign remittances have been received in the said bank account of the firm, whereas the total amount of declared value in respect of the exports made in the name of M/s Mid-Land Trading Co is Rs 5,32,43,446/-. Further amounts from this accounts has been transferred to the account of M/s Yooza Enterprise (wherein proprietor is Shri Riyaz Kaladia), M/s Ganesh Trading Co & M/s S.M Exports indicating that the account is operated by a person who is controlling these firms also. It has come on record that these companies are being owned and **controlled by Shri Rashid and Shri Riyaz. Further at the time of opening of the account, a rent agreement was produced to the bank wherein Shri Ashik Hussain Multanihas rented the premise of 7, Shri Vinay Kunj Co-op Society, Nr Shah Alam Tolnaka, Ahmedabad, from Shri Musabhai Kaladia who is the father of Shri Riyaz Kaladia and Shri Riyaz Kaladia is also staying at the same place.** All the above documents points that Shri Riyaz Kaladia was actually managing the whole operation and fabricating the documents insuch a way that he could control the said firm and its activities without having his name on paper in the said firms. **It is also noticed that the drawback amounts received in the said account have either been transferred to some other firm or has been withdrawn in cash.**

60.5 Scrutiny of the Bank transaction statement of M/s Ganesh Trading Co held in IndusInd Bank, (a/c.no 0175-GH1264-060) reveals that no foreign remittances have been received in the said bank account of the firm, whereas the total amount of declared value in respect of the exports made in the name of M/s Ganesh Trading Co is Rs. 5,76,00,785/- . Further amounts from these accounts have been transferred / received to/fromthe accounts of M/s Yooza Enterprise, M/s Raza Enterprise, M/s Mid-Land Trading Co, M/s S M Exports, indicating that the financial transactions are interconnected in between these firms and it further evidences that these firms are being controlled by Shri Riyaz Kaladia /Rashid Kaladia. It is also noticed that the drawback amounts received in the said account have either been transferred to some other firm or has been withdrawn in cash.

60.6 Scrutiny of the bank account statement / account opening form of M/s. Pearl Exim held in ICICI Bank Maninagar, Ahmedabad (a/c no 624405043813) reveals thatremittances of only Rs 5,10,030/- were received in the said account, against their total declared value of Rs 12,42,70,582/- in their export documents. This account is being operated by Shri Riyaz and Shri Rashid. It is also observed that the drawback has been received in this account and most of the amounts were withdrawn from this account in cash.Transactions were also made from this account with the accounts of M/s Saffron Overseas, Shri Ashik Multani of M/s Mid-Land Trading Co, etc. indicating that these firms are interlinked and finance is being controlled by Shri Riyaz and Shri Rashid.

60.7 Scrutiny of the bank account statement of M/s Yooza Enterprise, held in Yes Bank (A/c no 000783900001960) reveals that no foreign remittances have been received in the said bank account. Most of the amount received as drawback was withdrawn from the account in cash. Transactions have been made with M/s RazaEnterprises. Further, Scrutiny of the bank account statement of M/s Yooza Enterprises held in AxisBank (A/C No.842908986) reveals that from this account transactions are with M/s S M Exports, M/s Saffron Overseas , M/s Ganesh trading Co, M/s Pearl Exim, M/s Mid-land Trading Co, M/s Royal Enterprises, which indicate that the person handling the activities of all the said firms are none other than the duo i.e Shri Rashid Kaladia and Shri Riyaz Kaladia who were operating the said accounts. Remittance of Rs 2,75,26,593/- have been received in this account.

60.8 Scrutiny of the bank account statement of M/s S M Exports held in Axis bank(a/c 912020026608082) and Central Bank of India (a/c no 1801220258) (RUD-34) reveals that remittance of Rs 7323048/- have been received in the account held in Axis bank, whereas no remittances have been received in the account held in Central Bank of India, against their total declared value of Rs 11,31,41,433/- in their export documents. It is also found that there are also transactions with M/s Yooza Enterprises and most of the amounts credited in the Axis bank were withdrawn in cash. Further drawback has been received in the account held in Central Bank of India and transactions have also been made with M/sRaza Enterprises & M/s Yooza Enterprises. In this account also, most of the amounts credited were withdrawn as cash.

60.9 Scrutiny of the bank account statement of M/s Royal Enterprise, held in IndusInd Bank (a/c no 0172-FY0798-050) reveals that no foreign remittances have been received in the said bank account against their total declared value of Rs 4,24,16,752/- in their export documents. Most of the amount received as drawback was transferred to the bank account of either M/s S M Exports or M/s Raza Enterprises and some amounts have also been withdrawn as cash.

60.10 Scrutiny of the Bank account statement of M/s Raza Enterprises held in IndusInd Bank (A/c no. 0017-B36777-050) (RUD-36) reveals that no foreign remittances have been received in the said bank account against their total declared

value of Rs 8,91,28,383/- in their export documents. Most of the amount received as drawback was transferred to the bank account of either M/s S M Exports or M/s Yooza Enterprises, and some amounts transferred to M/s Raza Enterprises or M/s Royal Enterprises and some amounts have also been withdrawn as cash.

61. From the foregoing paras, I find that that these aforesaid 11 firms were interlinked in terms of the person controlling its affairs and it has come on record that these firms were being handled and controlled by Shri Rashid Kaladia and Shri Riyaz Kaladia. It was found that Shri Riyaz Ahmed Kaladia was the partner / proprietor in three of the above mentioned 11 firms i.e (1) M/s Saffron Overseas, Ahmedabad with Shri Azim Kaladia, Prop of M/s S M Exports as another partner (2) M/s Yooza Enterprise,Ahmedabad (Prop) & (3) M/s Pearl Exim, Ahmedabad with Shri Rashid Kaladia as another partner. Further the remittances in respect of most of the exports made by these 11 firms were not available on record and the exporters have also not provided the same. Thus, I find that Shri Rashid Kaladia, Shri Riyaz Kaladia in connivance with the exporters apart from overvaluing the export goods, had also not brought in the remittances in respects of the exports made in the name of the said firms. This indicates that the sole intention of overvaluing the export goods by the duo was to defraud the Govt. by claiming higher drawback. The duo have exported ready made garments like women's long dresses, womens blouses tops and skirts, makeup scarves, leather wallets, leather belts, menshirts and T-shirts, boys/girls/ladies T-shirts, etc in the name of the aforesaid 11 firms. The evidences collected during the course of the investigation in the form of emails retrieved during the course of the searches, invoices in respect of the actual value of the exportgoods submitted to Guiarat Chamber of Commerce, Ahmedabad corroborated with the statement of the IEC holders and Shri Rashid Kaladia and Riyaz Kaladia revealed that the actual market price of the goods exported by them was much less than the declared value of the export goods before the customs at the time of presenting the Shipping Bill. Therefore it proves that the goods exported in the name of these firms were grossly overvalued in terms of value by all the aforesaid 11 exporting firms with a clear intention to avail excess export incentives in the form of duty Drawback.

62. Thus, I find that Shri Rashid Ahmed Kaladia has hatched a conspiracy and the same was executed by him with the help of Shri Riyaz Kaladia, in which they floated some firms with their relatives and friends as proprietors/partners/directors with an intent to export sub-standard goods at grossly overvalued prices intentionally, to avail higher amount of duty drawback which was otherwise inadmissible to them. In the execution of their conspiracy, they floated many firms wherein in some firms they were the proprietor/partner etc. They had also used some of the firms opened in their name for exporting goods using the aforesaid modus. Investigation clearly reveals that the financial as well as other sale/purchase transactions were also controlled by the duo. In case of export of scarves, the duo used to purchase the good from the local market and export the same by declaring the value many times higher than the actual value in order to avail higher drawback. Further the supporting manufacturer was declared in the Shipping Bill as M/s Alright Impex, Mumbai which was found to be non-existent. Shri Rashid Kaladia used to order for the leather items from Mumbai and Shri Javed Akhtar, who is purportedly shown as the supplier of the leather items would collect the same from the local market of Mumbai and send it to Shri Rashid through transport. The overseas buyer M/s Nhala Abdulla Trading Co., LLC Dubai was run by Shri Jalilbhai through Shri Javed's father in law and that he had introduced them to Shri Rashid Kaladia and Shri Riyaz Kaladia. The payments details were made/ sentthrough Shri Javed Akhtar. The actual value of the leather wallets purchased from Mumbai was in the range of Rs 175/- to Rs 280/- whereas the same were declared before the Customs as USD 8-9 per pc (i.e approx Rs 360/- to Rs 400/). This was done with intent to avail higher drawback on the export goods. Further, the overvaluation in the export of readymade garments like womens long dresses, womens blouses tops and skirts, makeup scarves, leather wallets, leather belts, mens shirts and T-shirts, boys/girls/ladies T-shirts, etc by the duo is evident from the various

statements, E mails, invoices submitted to Gujarat Chamber of Commerce for Certificate of Origin wherein actual price was shown. The overvalued price was declared in Shipping Bills and Bank Statement of exporting firms. Further, Shri Dharmesh Pandit (forwarding agent acting as a CHA), Prop of M/s Global Express has admitted that he was interacting with Shri Rashid Kaladia and Shri Riyaz Kaladia in respect of the exports made in the name of the aforesaid 11 firms and that all documents were being forwarded through the duo and the payments were also made by Shri Riyaz Kaladia.

63. I find that in the present denovo proceeding, as per the direction of Hon'ble CESTAT Ahmedabad in final Order No. A/10513/2023 dated 16.03.2023, issue to be decided in the present case is *solely for giving findings on penalties under Section 114/114AA on Shri Rashid Kaladia and Shri Riyaz Kaladia*. Section 114 and 114AA of the Customs Act, 1962 reads as under:

SECTION 114. Penalty for attempt to export goods improperly, etc. — Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act], whichever is the greater;

[(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

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

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

63.1 I find that investigation conducted by DRI has clearly brought out the involvement of Shri Rashid Kaladia and Shri Riyaz Kaladia, and the modus operandi adopted by them to get undue drawback from the Government by exorbitantly enhancing the value of export goods. The role played by the duo has been clearly narrated in detail in the show cause notice by the investigating agency. I find that all the exporting firms whose IEC were used by Shri Rashid Kaladia and Shri Riyaz Kaladia have in their statement admitted that the said two persons viz. Shri Rashid Kaladia and Shri Riyaz Kaladia were operating and controlling the firms and they had merely given their IEC to use and they were not aware about the procurement as well as export of goods and even the Bank Accounts were also controlled by the said two persons only. Further, the statements of IEC holders corroborates with the statement dated 31.07.2012 of Rashid Kaladia wherein he has categorically admitted that he alongwith Shri Riyaz Kaladia was controlling the entire eport activities undertaken by

all the firms detailed in his statements and the IEC holder apart from both of them (Rashid Kaladia and Shri Riyaz Kaladia) were dummy persons who were not aware about the procurement/ export of any items. Further, Shri Javed Akhtar in his statement dated 07.01.2023 (seller of leather items) have also admitted that leather items were brought from the local market of Mumbai by Shri Rasik Kaladia and further it was also established M/s Izhaar Handlooms, Barabanki and M/s Bhagwati Handlooms, Barabanki have supplied specific type of scarves to M/s Yooza Enterprises, Ahmedabad. None of the IEC Holder including Shri Rashid Kaladia and Shri Riyaz Kaladia have retraced their statement and I find that it is settled principle that "*What is admitted need not be proved*" as held by the Hon'ble Supreme Court in the case of *Commissioner v. Systems and Components Pvt. Ltd.* — 2004 (165) E.L.T. 136 (S.C.). Thus, I find that Shri Rashid Kaladia and Shri Riyaz Kaladia with clear intent to avail higher drawback than the admissible, have hatched the entire plan and created aforesaid 11 firms which act has rendered the export goods liable for confiscation under Section 113 of the Customs Act, 1962 and therefore, Shri Rashid Kaladia and Shri Riyaz Kaladia are liable for penalty under Section 114(iii) of the Customs Act, 1962.

63.2 Further, I find that apart from the oral statements of IEC Holders (Exporting firms) and statements of Shri Rashid Kaladia and Shri Riyaz Kaladia, documentary evidences recovered in the form of E mails and Bank Statements and the Invoices submitted to the Gujarat Chamber of Commerce for procurement of Certificate of Origin, clearly reveals that said Shri Rashid Kaladia and Shri Riyaz Kaladia have overvalued the goods and have availed higher drawback. The Bank statements reveals that very little or no foreign remittance are received and all the drawback amount credited in the corresponding Bank Accounts were withdrawn mostly by cash. Further all bank transactions revealed that all the firms were interconnected which corroborates that said Shri Rashid Kaladia and Shri Riyaz Kaladia were operating and controlling the said firms. Further, existence of supporting manufacturing unit mentioned as M/s. Alright Impex, Mumbai in Shipping Bills were found non-existent. Further, the invoices submitted to Gujarat Chamber of Commerce and Industry (GCCI) wherein the price of goods to be exported were shown actual than the overvalued price declared in the Shipping Bills. Thus, I find that Shri Rashid Kaladia and Shri Riyaz Kaladia were operating and controlling the said firms and were the actual beneficial owner. They have been benefitted by the modus, they operated to de-fraud the Govt. Exchequer by overvaluing the exporting goods at exorbitantly higher price and availed undue drawback which was otherwise not admissible to them. 'Exporter' and 'Beneficial owner' is defined under Customs Act, 1962. As per the Section 2 (3A) of the Customs Act, 1962 "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;] and as per Section 2 (20) of the Customs Act, 1962 "exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes [any owner, beneficial owner] or any person holding himself out to be the exporter;. Thus, I find that Shri Rashid Kaladia and Shri Riyaz Kaladia have controlled and operated the entire episode of fraudulent export which act has rendered the goods liable for confiscation under Section 113 and therefore, said duo is liable for penalty under Section 114(iii) of the Customs Act, 1962. I place the reliance on the ratio of decision of Hon'ble Delhi Tribunal rendered in the case of *SRG International v. Commissioner* — reported in 2011 (269) E.L.T. 497 (Tribunal) wherein interalia, it has been held as under:

"4.1 In view of the above, we concur with the Commissioner's finding that the goods, in question, had been grossly misdeclared in terms description, quality and value with intention to claim drawback and since their actual value was much less than the amount of drawback claimed, no drawback was admissible and the penalty has been rightly imposed on M/s. SRG, M/s. Garg Forging, M/s. Ragini, M/s. Garg concast, M/s. Goodwill and M/s. SRG Forging, Shri Vinod Kumar Garg. Shri N.D. Garg and Shri Sanjeev Kumar, Shri Shambhu Kumar, Shri Vineet Kumar, Shri P.N. Pandey and Shri Kumar Gupta and Shri Manjit Singh. **Looking to the nature of the fraud, we do not interfere with the quantum of penalties imposed on the Appellants as drawback frauds of this type are more serious than the cases of customs**

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duty evasion by misdeclaration of value or description the drawback frauds are more like plunder of the Government treasury. Therefore deterrent penalty is warranted on every person also has committed or abetted such fraud."

Further, I find that ratio of the decision of Hon'ble Chennai Tribunal rendered in the case of A.V. Thomas & Co. Ltd. Vs. Commissioner of Customs, Coimbatore reported in 2010 (256) ELT 412 (Tri. Chennai) has interalia held as under:

"4. Shri Uday Patravali was the main brain behind the entire episode of obtaining of ineligible drawback as he was actively involved in all the activities connected to the fraudulent export and obtaining of ineligible drawback. He had also received Rs. 5 lakhs from the drawback amount which clearly proves that he was the major beneficiary in the fraudulent export. His role is clearly brought out by Shri N. Gowrisankar who stated that he was not aware of any of the procedures for export of goods and that all the arrangements for the export under the relevant shipping bills were made by Shri Uday Patravali as per the advise of Mr. Murthy that Shri Uday Patravali had attended to the documentation for export and for opening of bank accounts and that the entire drawback amount of over Rs. 17 lakhs was distributed by Shri Uday Patravali. Shri V. Dechinamoorthy also confirmed that Shri Uday Patravali had done all the work relating to export for Shri Gowrisankar of M/s. Shivam Textiles. Statements of manufacturers and suppliers of the exported goods namely, Shri Velusamy of Amerdy Garments, Shri C. Selvaraj of M/s. Sumotex and Shri R.C. Chandrasekaran of M/s. Shobika Exports, further established the major role played by Shri Uday Patravali in the fraudulent export, the CHA also confirmed that documentation work was given to them by Shri Uday Patravali; that they were under the impression that Shri Uday Patravali was the person in-charge of M/s. Shivam Textiles and that the drawback was also received by Shri Uday Patravali. Therefore, penalty imposed upon him is sustained.

5. As regards Shri C. Selvaraj, against whom the charge is that he had created false documents namely, 'Release Deed', in order to get drawback benefits by misusing the name and IE code of M/s. Shivam Textiles, I note that the 'Release Deed' releasing him and Shri S.P. Subramaniam from the partnership was not registered and was not brought to the notice of various authorities, such as Commercial Tax authorities, Income Tax authorities and the DGFT. The Partnership Deed continued to show S/Shri C. Selvaraj and S.P. Subramaniam as partners. It is, therefore, clear that Shri C. Selvaraj abetted in the commission of the offence of fraudulent export and obtaining ineligible drawback by S/Shri Gowrisankar and S. Sivagurunathan. Penalty imposed upon him also requires to be sustained."

63.3 I find that it is needless to re-produce the contents as mentioned at Para 24 to 34 of the SCN wherein it has been clearly established that act of Shri Rashid Kaladia and Shri Riyaz Kaladia have rendered the goods liable for confiscation under Section 113 of the Customs Act, 1962 and therefore, duo Shri Rashid Kaladia and Shri Riyaz Kaladia are liable for penalty under Section 114(iii) of the Customs Act, 1962. Further, I find that Original Adjudicating Authority in his Order In Original No. AHM-CUSTM-000-COM-10-17-18 dated 30.01.2018 has already held goods exported by exporter-wise liable for confiscation Section 113 of the Customs Act, 1962. The Value of Export goods held liable for confiscation is as under:

Sr. No.	Name of the Exporter	Value of Export Goods held liable for confiscation (Rs.)
1	Ganesh Trading Co.	76700785.00
2	Midland Trading Co.	53243446.00
3	S.M. Exports	113141433.00
4	Universal Impex	28116632.00
5	Saffron Overseas	110472658.00
6	Daffodil Overseas	69003431.00
7	Somebody Casuals	39954071.00
8	Royal Enterprise	42416752.00
9	Raza Enterprise	89128383.00
10	Yooza Enterprise	247428186.00
11	Pearl Exim	124270582.00
Total		993876359.00

I have already discussed above that Shri Rashid Kaladia and Shri Riyaz Kaladia both the partner of M/s. Pearl Exim were operating and controlling all the above eleven (11) firms with clear intent to avail higher drawback and thereby they overvalued the export goods exorbitantly and availed higher drawback which was not admissible and thereby their act has rendered the goods having declared export value of Rs. 99,38,76,359/- liable for confiscation under Section 113 of the Customs Act, 1962 and such act has rendered Shri Rashid Kaladia and Shri Riyaz Kaladia liable for penalty under Section 114 (iii) of the Customs Act, 1962.

64. Further, as discussed above, since Rashid Kaladia and Shri Riyaz Kaladia was operating and controlling all the above eleven (11) firms with clear intent to avail higher drawback, have created fabricated documents and as it is established from the invoices submitted to the Gujarat Chamber of Commerce and Industry (GCCI) for Certificate of Origin wherein the actual value of export goods were shown whereas in their export invoice and Shipping Bills overvalued price of export goods were declared. Further, Shri Dharmesh Pandit (forwarding agent acting as a CHA), Prop of M/s Global Express in his statement dtd 13.7.2012 & 16.7.2012 has admitted that he was interacting with Shri Rashid kaladia and Shri Riyaz Kaladia in respect of the exports made in the name of the aforesaid 11 firms and that all documents were being forwarded through the duo and the payments were also made by Shri Riyaz kaladia. Thus, I find that said Shri Rashid Kaladia and Shri Riyaz Kaladia have knowingly and intentionally made, signed and made false declaration, and document to defraud Govt Exchequer and such act and omission has rendered both Shri Rashid Kaladia and Shri Riyaz Kaladia liable for penalty under Section 114 AA of the Customs Act, 1962. I find that the ratio of decision of Hon'ble Mumbai Tribunal rendered in case of M/s. Almas Impex Vs. Commissioner of Customs (EP), Mumbai reported in 2016 (332) ELT 180 (Tri. Mumbai) is squarely applicable to the present case, wherein it has been interalia held as under:

“6. Section 112 and Section 114 of the Customs Act, specifically deals with penalty in respect of movements of goods into or out of the country. Section 114AA deals with a 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. It can be seen that in cases where movement of goods into and outside the country is involved there are separate sections dealing with the legal provisions. Section 114AA specifically deals with cases where documentation, which is incorrect or false. There may be cases where documents are made and there is no movement of goods either way and benefits are claimed. Section 114AA is intended to cover those cases. In this respect, the term of “penalty not exceeding five times of the value of the goods” needs to be read as “penalty not exceeding five times of the value of the goods declared in the said declaration or statements or documents”. The appellants relies on the case law with reference to the Section 114 is not relevant that insofar as Section 114 deals with violation in respect of actual movement of goods outside the country. Thus for invocation of Section 114 the actual movement of goods is necessary, however for the purpose of Section 114AA movement or existence of goods is not necessary. In view of the above, I am of the opinion that penalty under Section 114AA can be legally imposed in the present circumstances.”

Further, I rely on the decision of Principal Bench, New Delhi in case of Principal Commissioner of Customs, New Delhi (import) Vs. Global Technologies & Research (2023)4 Centax 123 (Tri. Delhi) wherein it is held that “Since the importer had made false declarations in the Bill of Entry, penalty was also correctly imposed under section 114AA by the original authority”.

In view of the above, I find that Shri Rashid Kaladia and Shri Riyaz Kaladia are liable for penalty under Section 114 AA of the Customs Act, 1962.

65. In view of the above findings and disuccsion, I pass the following order:

::ORDER::

65.1 I order to impose penalty amounting to Rs.5,00,00,000 /- (Rupees Five Crore only) on Shri Rashid Kaladia, Partner of M/s. Pearl Exim, 4 Sardar Patel Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad under Section 114 (iii) of the Customs Act, 1962.

65.2 I order to impose penalty amounting to Rs.2,00,00,000/- (Rupees Two Crore only) on Shri Rashid Kaladia, Partner of M/s. Pearl Exim, 4 Sardar Patel Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad under Section 114 AA of the Customs Act, 1962.

65.3 I order to impose penalty amounting to Rs.5,00,00,000 /- (Rupees Five Crore only) on Shri Riyaz Kaladia, Partner of M/s. Pearl Exim, 4 Sardar Patel Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad under Section 114(iii) of the Customs Act, 1962.

65.4 I order to impose penalty amounting to Rs.2,00,00,000/- (Rupees Two Crore only) on Shri Riyaz Kaladia, Partner of M/s. Pearl Exim, 4 Sardar Patel Estate, Beside Gujarat Petrol Pump, Narol, Ahmedabad under Section 114AA of the Customs Act, 1962.

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

67. The Show Cause Notice No. DRI/AZU/INV-23/2012 dated 22.06.2015 is disposed off in above terms.



4.10.2024

(Shiv Kumar Sharma)
Principal Commissioner

DIN-20241071MN000000CCOA

F.No. VIII/10-09/Commr/O&A/2015

Date: 04.10.2024

To

1. Shri Rashid Kaladia, Partner of M/s. Pearl Exim,
4 Sardar Patel Estate, Beside Gujarat Petrol Pump,
Narol, Ahmedabad
2. Shri Riyaz Kaladia, Partner of M/s. Pearl Exim,
4 Sardar Patel Estate, Beside Gujarat Petrol Pump,
Narol, Ahmedabad

Copy to:-

1. The Chief Commissioner of Customs, Gujarat Zone, Ahmedabad for information please.
2. The Additional Director General, DRI, AZU, Ahmedabad for information.
3. The Additional Commissioner, Customs, Prosecution Cell, Ahmedabad.
4. The Additional Commissioner of Customs (TRC), Ahmedabad for information.
5. The Superintendent of Customs (Systems), Ahmedabad in PDF format for uploading on the Website of Customs Commissionerate, Ahmedabad.
6. Notice Board.
7. The Guard File.