		<p>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT& SPL ECONOMIC ZONE, MUNDRA-370421</p>
A. File No.	:	GEN/ADJ/COMM/123/2022-Adjn -O/o Pr Commr-Cus-Mundra
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-64-2025-26
C. Passed by	:	Nitin Saini Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue	:	11.03.2026 11.03.2026
E. SCN No. & Date	:	Gen/ADJ/ADC/152/2022-Adjn dated 14.02.2022
F. Noticee(s)/Co-noticee(s)	:	M/s. Pransh Enterprises, 2085/18, 2 nd Floor CHah Indara, Bhagirath Palace, Bajrang Bazar, Chandni Chowk , Delhi- 110006
G. DIN	:	20260371MO000000A8BA

- यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए-3में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:
**“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर,
बहुमालीभवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”
“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan,
Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”**
- उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
- उक्त अपील के साथ 1000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क , व्याज , दंड या शास्ति रुपये पाँच लाख या कम माँगा हो -/5000 रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क , व्याज , शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क , दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बैंच आहरित ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्ड पीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा। Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.
- उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत -/5 रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मद सं० 6-के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए। The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
- अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए। While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा। An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE-

An intelligence was developed by the Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad that a Delhi based company namely M/s. Zip Zap Exim Private Limited (IEC-0516944169)(hereinafter referred to as "M/s.ZZEPL") in connivance with its domestic buyers/actual importers had established a trading unit in Special Economic Zone, Kandla (Gujarat) (hereinafter referred to as "KASEZ" for the sake of brevity) with a sole intent to bypass the normal Customs Channels and clear the imported goods into domestic area by resorting to gross undervaluation and thereby defrauding the government exchequer by evading the payment of higher customs duty. As per SEZ Rules, 2006, if a SEZ (trading) unit clears the goods into Domestic Tariff Area (hereinafter referred to as "DTA" for the sake of brevity), the sale proceeds should be in Foreign Exchange only but intelligence indicated that M/s. ZZEPL was clearing the goods against payment of Indian rupees only and thus they were not earning any foreign exchange. Intelligence further suggested that all dealings with foreign suppliers were being done by the domestic buyers/actual importers only and M/ s. ZZEPL was facilitating the domestic buyers in getting the goods cleared through their SEZ Unit by resorting to gross undervaluation for which they were charging commission.

2. M/s. ZZEPL was importing Knitted Polyester Fabrics under Customs Tariff Heading 6006 and various other Electrical Goods such as Mosquito Bats, LED Rechargeable Search Lights, Fancy Mini Torches, Small Rechargeable Batteries, Decorative Disco LED Par Lights, Decorative Disco Focus Lights, Laser Lights, LED Rope Lights, Led Christmas Lights etc., of assorted sizes etc. under Chapter 94 and 85 of Customs Tariff Heading and subsequently, clearing the same into DTA to various DTA importers. While importing the goods M/s. ZZEPL filed Bills of Entry with KASEZ authority for clearance of the goods from Mundra Port to their unit in KASEZ. Subsequently, M/ s. ZZEPL also filed DTA Bills of Entry in the name of various domestic buyers 86 cleared the goods on payment of Customs Duty.

3. Accordingly, a Show Cause Notice No. GEN/ADJ/COMM/218/2021-Adjn- O/o Cummr-Cus-Kandla dated 08.09.2021 has been issued to Mis ZZEPL & others. Under the said SCN, M/s. Pransh Enterprises (IEC: 0516952030) is also one of the noticee as they are one of the domestic buyers of the goods imported by M/s ZZEPL.

4. Further, M/s. Pransh Enterprises has also imported and cleared similar goods i.e., "Fancy LED Strip Rope Light 50 Mtr." through Mundra Port. Details of such imports are as under:-

Table-A

Sl. No.	Bill of Entry No & Date	Item No.	Description of goods	Quantity (In Pieces)	Declared price per Piece (In USD)	Declared Assessable value (In Rs.)
1	8545528 dt. 14.02.2017	31	Fancy LED Strip Rope Light 50 Mtr	7844	7.10	3847453.76
2	9018443 dt. 24.03.2017	11	Fancy LED Strip Rope Light 50 Mtr	7500	7.18	3600518.70
Total						74,47,972/-

5. Consequent to the above modus operandi adopted by M/s ZZEPL and the concerned DTA importers, in connivance with Chinese suppliers, it appears that M/s Pransh Enterprises, importer of " Fancy LED Strip Rope Light 50 Mtr " has also mis-

declared/ undervalued the goods imported and cleared through Mundra port under the Bills of Entry as per above mentioned Table-A.

6. In continuation of the Show Cause Notice No. GEN/ADJ/COMM /218/2021-Adjn-O/o Cummr-Cus-Kandla dated 08.09.2021 issued to M/s. ZZEPL & others, the assessable value & Customs duty thereon of the items of Bills of Entry as per Table-A was also liable to be rejected and re-determined.

7. Therefore, the misdeclared/under-assessed value of Rs 74,47,972/- (Rs. Seventy Four Lakh Forty Seven Thousand Nine Hundred and Seventy two Only) declared by M/s. Pransh Enterprises at the time of clearance of goods i.e. " Fancy LED Strip Rope Light 50 Mtr ", was required to be rejected under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the same was required to be re-determined to Rs. 6,00,60,341/- (Rs. Six Crore Sixty Thousand three hundred and forty one only) as per ANNEXURE-A to the Show Cause Notice, under Section 14 of the Customs Act, 1962 read with Rule 3, Rule 9 and Rule 10 of the CVR, 2007.

8. Further, M/s. Pransh Enterprises allegedly had hatched the conspiracy to import " Fancy LED Strip Rope Light 50 Mtr ", by declaring lower values than the actual transaction values of the said goods to evade the Customs Duty, as indicated in ANNEXURE-A to the SCN, and discussed in the foregoing paras of this notice and also in the relied upon Show Cause Notice. The differential amount between the actual value of Electrical Goods and the value shown in the commercial invoice, imported from said Chinese supplier were paid by them through non-banking channels / the Bank accounts of third parties with the Banks outside India. They had full knowledge and were instrumental in mis-declaration of the value of the goods at the time of their import. Thus, they had knowingly, consciously and deliberately declared incorrect low values in the impugned Bills of Entry at the time of imports and backed them up with false and fabricated documents, with the sole intention to evade the customs duty. The firm had allegedly indulged in the activities relating to the said undervaluation and mis-declaration of actual price of said imports, which resulted in evasion of Customs duty as detailed in ANNEXURE-A to the SCN. All the aforesaid acts of omission and commission on the part of the importer have rendered the impugned imported goods liable for confiscation under Section 111(m) and 111(d) of the Customs Act, 1962. Further, the firm/person had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. Thus, as discussed at para above, M/s. Pransh Enterprises, has rendered themselves liable for penalty under the provisions of Section 112(a) & (b)/114A and 114AA of the Customs Act, 1962.

9. Therefore, vide SCN dated 14.02.2022, M/s. Pransh Enterprises (Proprietor: Prem Madaan), 2085/18, 2nd Floor Chah Indara, Bhagirath Palace, Bajarang Bazar, Chandni Chowk, Delhi- 110006 were called upon to show cause to the Commissioner of Customs, Custom House Mundra, as to why: -

(i) Total assessable value of Rs 74,47,972/- (Rs. Seventy Four Lakh Forty Seven Thousand Nine Hundred and Seventy two Only) declared by them/assessed at the time of clearance of goods i.e., "Fancy LED Strip Rope Light 50 Mtr", as mentioned in ANNEXURE-A to the show cause notice, should not be rejected under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined to Rs. 6,00,60,341/- (Rs. Six Crore Sixty Thousand three hundred and forty one only) as mentioned in ANNEXURE-A to the show cause notice, under sub-section (1) of Section 14 of the Customs Act, 1962 and Rule 3 and 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Rule 10 of the of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, as applicable, for Bills of Entry, as mentioned in ANNEXURE-A.

(ii) Differential Customs Duty amounting to Rs. 88,30,272/- (Rs. Eight Eighty Lakh Thirty Thousand Two Hundred and Seventy two Only) on the goods imported i.e., Various Electrical Goods', under the Bills of Entry, valued (re-determined value) as detailed in ANNEXURE-A should not be demanded and recovered from them, under Section 28(4) of

the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

(iii) The goods i.e. "Fancy LED Strip Rope Light 50 Mtr" imported by them under the said Bills of Entry and further valued (re-determined value) as mentioned in ANNEXURE-A, should not be held liable for confiscation under Section 111(m) and 111(d) of the Customs Act, 1962.

(iv) Penalty should not be imposed upon them under Section 112(a) & (b)/114A and 114AA of the Customs Act, 1962.

10. The said SCN dated 14.02.2022 was adjudicated vide OIO No. MUN-CUSTM-000-COM-13-23-24 dated 18.09.2023. The order portion is reproduced below:-

1. I reject the declared assessable value of Rs. 74,47,972/- (Rs. Seventy Four Lakh Forty Seven Thousand Nine Hundred and Seventy two Only) for the goods mentioned in Table-A under Rule 12 of CVR, 2007 and order to re-determine the same as Rs. 6,00,60,341/- (Rs. Six Crore Sixty Thousand three hundred and forty one only) in terms of Rule 9 of the CVR, 2007 read with section 14 of Customs Act, 1962.

2. I confirm the demand of Rs. 88,30,272/- (Rs. Eighty Eight Lakh Thirty Thousand Two Hundred and Seventy two Only) for the goods mentioned in Table-A under section 28(4) of Customs Act, 1962 along with applicable interest under section 28AA of Customs Act, 1962.

3. I order to confiscate the impugned goods mentioned in Table-A under Section 111(d) & 111(m) of the Customs Act 1962. Since, the subject goods are not physically available for confiscation, therefore, I refrain from imposing any redemption fine under Section 125 of the Customs Act, 1962.

4. I impose a Penalty of Rs. 88,30,272/- (Rs. Eighty Eight Lakh Thirty Thousand Two Hundred and Seventy two Only) on M/s. Pransh Enterprises, 2085/18, 2nd Floor Chah Indara, Bhagirath Palace, Bajrang Bazar, Chandni Chowk , Delhi-110006 under Section 114A of the Customs Act, 1962.

5. I impose a Penalty of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) on M/s. Pransh Enterprises, 2085/18, 2nd Floor Chah Indara, Bhagirath Palace, Bajrang Bazar, Chandni Chowk , Delhi-110006 under Section 114AA of the Customs Act, 1962.

11. Being aggrieved with the OIO dated 14.02.2022, the noticee preferred an appeal before the Hon'ble CESTAT, which vide Order No. 10852-10854 dated 12.04.2024 remanded the matter to the Adjudicating Authority with a direction to decide the case after decision in the Show Cause Notice dated 08.09.2021 i.e. SCN dated 08.09.2021 acquires sufficient evidentiary value and after due observation of natural justice in the impugned SCNs and providing various relied upon materials to the appellant and after considering on submissions including made on the point of limitation vis-à-vis' of corrigendum by the appellant.

PERSONAL HEARING-

12. Shri Vikas Mehta, Consultant appeared for personal hearing on behalf of M/s. Pransh Enterprises on 08.07.2025 and reiterated the preliminary submission dated 07.07.2025 and final submission dated 26.07.2025.

WRITTEN SUBMISSIONS-

13. M/s. Pransh Enterprises vide submissions dated 26.07.2025, interalia, stated that-

a. The impugned notice is issued to the noticee for the following reason mentioned in para 6 ibid-

"6. In continuation of the Show Cause Notice No. GEN/ADJ/COMM/218/2021-Adjn-O/o-Commr-Cus-Kandla dated 08.09.2021 issued to M/s. ZZEPL & Others ("earlier notice"), the

assessable value & Customs duty thereon on the Bills of Entry as per Table-A are also liable to be rejected and re-determined.”

- b. However the aforesaid notice was never issued to M/s. Pransh Enterprises.
- c. Hence, there is no continuity between the earlier notice issued to others and impugned notice that is issued to M/s. Pransh only.
- d. The averment made in the impugned notice as “in continuation of the” earlier notice lacks jurisdiction for adjudication inasmuch as the earlier notice was issued in respect of clearances that were not made from Mundra and so none of the contents of the said notice can be taken up for adjudication by an authority at Mundra, unless notified by competent authority in this regard.
- e. Hon’ble Tribunal has observed in their order directing remand that there was no independent inquiry/investigation with respect to goods imported vide Bills of Entry filed at Mundra [para 12 ibid refers]. The order of Hon’ble Tribunal containing this observation has attained finality.
- f. Continuation is distinct from placing reliance. The impugned notice claiming itself to be in continuation of earlier notice doesn’t rely upon the earlier notice except for enclosing a copy thereof. There is no specific averment that it is relying on the earlier notice.
- g. Hon’ble Tribunal has already held that the only basis of issuing the impugned notice is the earlier notice (which deals with goods cleared from KASEZ), without any independent inquiry/investigation with respect to goods cleared from Mundra port. Consequently, the impugned notice is not left with any independent basis to support itself and to undergo adjudication by your Honour since it has already been adjudicated once by Ld. Commissioner of Customs, Kandla.
- h. The earlier notice is already adjudicated by Ld. Commissioner of Customs, Kandla. Hence, the impugned notice that is issued in continuation of earlier notice, can not be re-adjudicated. The current proceedings would amount to re-adjudication of one and same set of evidences qua goods cleared under kandla jurisdiction or would amount to part-adjudication of one and the same show cause notice by different adjudicating authorities again based on one and same of evidences qua goods cleared under Kandla jurisdiction, which is anathema to law.
- i. It is most respectfully submitted that in the facts and circumstances where the earlier notice is already adjudicated in an adverse manner by Ld. Commissioner of Customs, Kandla and the impugned notice having been issued without any independent inquiry/investigation as duly noted by the Hon’ble Tribunal, the current adjudication proceedings would either amount to re-appreciation and re-adjudication of one and the same set of evidences as contained in earlier notice (without any review by department of adjudication order already passed) or may amount to adjudication in vacuum, given the absence of any independent evidence to be appreciated & adjudicated upon other than those already covered by earlier order.
- j. The mechanism to initiate rejection of declared value is prescribed in Rule 12 of CVR, 2007. However, instead of delving into Rule 12, the impugned notice would cite earlier notice which dealt with goods that were cleared at some other port (KASEZ), at some other time and in totally different and distinguishable facts and circumstances.
- k. As per Rule 12(1) of CVR, “when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish information including documents or other evidence.” This basic requirement of law is not fulfilled in the impugned notice.
- l. They have relied upon the decision of Tribunal in the matter of Avis Electronics Pvt. Ltd. [2000 (117) E.L.T 571 (Tri.-LB)] wherein it is held

that when a particular thing is to be performed in a manner, statutorily, it should be performed in that manner itself and not otherwise. Similarly, in Commissioner of Central Excise v. Jellapore Tea Estate [2011 (268) ELT 14 (Gau.)], the Hon'ble High Court of Gauhati held that "what is required to be done in a manner prescribed by law, ought to be done in that manner only or not at all."

- m. Simultaneous invocation of Rule 9 and 10 of CVR is not tenable in the eyes of law inasmuch as these rules deals with different situations. As a matter of fact, as per Rule 3(4) *ibid*, if the value can not be determined under the provisions of sub-rule(1), the value shall be determined by proceeding sequentially through rule 4 to 9. There is no mention of Rule 10. In other words, determination of value under Rule 10 is not provided in law.
- n. As per Rule 10(4), no addition shall be made to the price actually paid or payable in determining the value of the imported goods except as provided for in this rule.
- o. As per proviso to Rule 9(1), the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration, for the sale or offer of sale.
- p. Since the proviso contains a caveat that price must be the sole consideration for the sale or offer for sale and assuming the worst that price was not the sole consideration for the sale or offer for sale, the onus lay squarely on department to quantify the addition as per the requirement of Rule 10(4).
- q. It may kindly be appreciated that the aforesaid proviso doesn't carve out any exception to the oral evidence that may or may not be retracted in due course of time.
- r. Thus, it is incumbent upon the notice to bring on record the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place for importation in the course of international trade.
- s. There is neither any addition in terms of Rule 10(4) nor there is any specific allegation that price is not the sole consideration for the sale or offer for sale for the goods under consideration, to deny application of proviso to Rule 9(1).
- t. In the event if any other proposition is to be believed, it is requested to allow Shri Manoj Madaan to cross examine Shri Harendra Kumar Bhalothia, IO, Shri Mahesh Kumar Gupta, Cyber Forensic Engineer, Shri Dhyaneswar Manohar Single and Shri Pavan Rajaram Karavande (the two Panchas).
- u. The Hon'ble Tribunal, in order no. 10852-10854/2024 dated 12.04.2024 has taken due note of the fact that Shri Manoj Madaan has retracted his statements tendered before DRI.
- v. Kind attention is invited towards Section 138(2) and 138(4) of Customs Act, 1962 inasmuch as there is no link between the mobile phone and the hard disc drive from which print out was taken, the conditions laid down in Section 138(2) can not be said to have been satisfied insofar as hard disc drive is concerned. The statutory requirement of a certificate in terms of Section 138B (4) qua print out from unconnected hard disc drive automatically stand unfulfilled.

DISCUSSION AND FINDINGS-

14. The present adjudication proceedings are being undertaken in compliance with the directions issued by the Hon'ble Tribunal vide Order Nos. 10852-10854 dated 12.04.2024, whereby the matter was remanded with a specific direction to decide the instant case after the Show Cause Notice dated 08.09.2021 attains requisite

evidentiary finality. It is observed from the records that the said Show Cause Notice dated 08.09.2021 has since been adjudicated by the Commissioner of Customs, Kandla, vide Order-in-Original No. KND-CUSTM-000-COM-07-2024-25 dated 17.07.2024. A copy of the said Order-in-Original is already available with Shri Manoj Madaan, being the proprietor of M/s. Daiwik Enterprises (one of the co-noticees in the SCN dated 08.09.2021). In view of the above, as the Show Cause Notice dated 08.09.2021 has since attained evidentiary finality upon its adjudication by the competent authority, the present Show Cause Notice is now taken up for adjudication on merits.

15. The issues before me, to be decided, are:-

- (i) Whether assessable value declared by importer/assessed at the time of clearance of goods is liable for rejection under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, if yes, re-determination of value.
- (ii) Whether duty is to be demanded and recovered from them, under Section 28(4) of the Customs Act, 1962.
- (iii) Whether the goods are liable for confiscation under Section 111(d) and/or 111 (m) of the Customs Act 1962 or not.
- (iv) Whether penalty is liable to be imposed on M/s. Pransh Enterprises, under Section 112(a)/(b), 114A and/or 114AA of the Customs Act, 1962 or not.

16. Intelligence was developed by the Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, indicating that M/s. Zip Zap Exim Pvt. Ltd. (ZZEPL), a Delhi-based entity operating a trading unit in Kandla Special Economic Zone (KASEZ), had, in concert with its domestic buyers/actual importers, devised a modus operandi to circumvent normal customs procedures and effect clearances of imported goods into the Domestic Tariff Area (DTA) through gross undervaluation, thereby evading substantial customs duty. The intelligence further suggested that dealings with overseas suppliers were primarily undertaken by the domestic buyers themselves, while ZZEPL acted merely as a conduit, enabling undervalued clearances into DTA for a commission. Investigation in respect of the said modus led to issuance of Show Cause Notice dated 08.09.2021 to ZZEPL and various co-noticees, wherein significant reliance was placed on the statements of Shri Manoj Madaan, who admitted to conducting procurement negotiations with the Chinese suppliers in the name of his proprietorship concern, M/s. Pransh Enterprise, even though the corresponding undervalued imports were channelled through ZZEPL and cleared into DTA in the name of his other firm, M/s. Daiwik Enterprises. Although, M/s. Pransh Enterprise was not a noticee in the SCN dated 08.09.2021—since the DTA clearances in that matter were made by M/s. Daiwik Enterprises—the materials gathered during that investigation, particularly the statements of Shri Manoj Madaan and documents retrieved from his mobile device, reveal that Pransh Enterprise played a direct role at the negotiation and commitment stage of the very transactions forming the basis of the undervaluation scheme. Accordingly, the evidences, statements and findings recorded in the SCN dated 08.09.2021 assume relevance in the present proceedings as they establish the involvement of Shri Manoj Madaan and his proprietorship concern, M/s. Pransh Enterprise, with the same overseas suppliers and similar goods. The present proceedings arise from the allegation that imports made by M/s. Pransh Enterprise through Mundra Port were similarly undervalued and that the declared transaction values are liable to rejection under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

17. In this context, it is noted that the instant Show Cause Notice arises in continuation of the investigation conducted by the Directorate of Revenue Intelligence into the operations of M/s. Zip Zap Exim Pvt. Ltd. and its domestic buyers, which culminated in the SCN dated 08.09.2021 and its adjudication vide Order-in-Original dated 17.07.2024. Although M/s. Pransh Enterprise was not a noticee to that SCN,

the investigation established that negotiations with overseas suppliers and issuance of Letters of Guarantee were undertaken by Shri Manoj Madaan in the name of M/s. Pransh Enterprise. Therefore, the evidentiary material and findings recorded in the earlier investigation bear direct relevance to the present proceedings and merit examination for determining the valuation issues at hand.

18. The noticee has contended that the present proceedings effectively amount to a re-adjudication or re-appreciation of the very same evidences that were already examined and decided in the OIO dated 17.07.2024 passed by the Commissioner of Customs, Kandla in respect of the earlier SCN dated 08.09.2021. I have carefully considered the above issue. It is noted that the present proceedings arise from the impugned SCN dated 14.02.2022, which pertains exclusively to the valuation of goods imported by the noticee through Mundra Port. The adjudication undertaken herein is therefore confined to the subject Bills of Entry filed at Mundra and the transaction value declared therein. The earlier OIO dated 17.07.2024 passed by the Commissioner of Customs, Kandla, pertained to a distinct SCN dated 08.09.2021, which concerned undervaluation of goods imported into the Kandla Special Economic Zone (KASEZ) and then cleared into Domestic Tariff Area (DTA) to various DTA buyers. While evidentiary materials may overlap on account of same suppliers, similar goods, and the contemporaneous time period, the cause of action, show cause notices, and import transactions themselves are separate and independent.

DISCUSSION ON EVIDENCES REFERRED AND RELIED UPON IN THE INVESTIGATION OF DRI, AHMEDABAD IN THE MATTER OF SCN DATED 08.09.2021 ISSUED TO M/S. ZIP ZAP EXIM PVT. LTD. & OTHERS-

19. Having examined the Order-in-Original dated 17.07.2024 passed by the Commissioner of Customs, Kandla in respect of the Show Cause Notice dated 08.09.2021, it is observed that the investigation conducted by the Directorate of Revenue Intelligence brought on record substantial evidence establishing the involvement of Shri Manoj Madaan in the undervaluation of electrical goods routed through M/s. Zip Zap Exim Pvt. Ltd. (KASEZ Unit). The investigation also revealed that negotiations with overseas suppliers and issuance of Letters of Guarantee were carried out by him in the name of M/s. Pransh Enterprise, thereby linking this proprietorship directly to the chain of transactions forming the basis of the undervaluation scheme.

20. Statements of Shri Manoj Madaan, Authorized person of M/s Daiwik Enterprises (IEC: 0516952030), 2085/18, Chah Indara, Bhagirath Palace, Chandni Chowk, Delhi (Proprietorship firm of his father Shri Prem Madaan) were recorded on dated 09.01.2018 and 26.02.2018 (RUD-30) under Section 108 of Customs Act, 1962. On 09.01.2018, Shri Manoj Madaan inter alia stated that they came in contact of Shri Gajraj Singh Baid of M/s ZZEPL, Delhi in 2017 and asked Shri Gajraj Singh Baid to do his imports (imports for Manoj Madaan) through M/s ZZEPL Delhi. He further admitted that instructions were issued to the overseas supplier to make two different set of invoices one showing the actual price and another showing lower price as informed by them and the invoice showing original price was signed and sent back to the supplier whereas the invoice with lower value was directly sent to M/s ZZEPL, by the overseas supplier for presenting it to customs for clearance purpose.

21. He also admitted that the value which was declared before the Customs at the time of Import was sent through the account of M/s ZZEPL and the differential amount was sent to the overseas supplier through channels other than banking channels; that he had imported the aforesaid electrical goods from China, through M/s ZZEPL (SEZ unit) by resorting to undervaluation and he was ready to pay the differential duty on account of such undervaluation.

22. Further statement of Shri Manoj Madaan, Authorised person of M/s Daiwik Enterprises, Delhi was recorded on 26.06.2019 (RUD-58) under Section 108 of Customs Act, 1962 in which he was shown his earlier statement recorded on 26.02.2018 and he agreed with the contents of the same. He further stated that Shri

Vaibhav Baid and Shri Gajraj Baid, Directors of M/s ZZEPL had approached him to do the import of electrical items from China through M/s Zip Zap Exim Pvt. Ltd, (SEZ unit) since the cost overhead for unit in SEZ was less as compared to direct import from regular ports; that he was also assured by Shri Vaibhav Baid and Shri Gajraj Baid, Directors of M/s. ZZEPL that they could arrange the import in the name of M/s ZZEPL by resorting to undervaluation and thereafter showing the DTA sales of the said imported goods in the name of M/s. Daiwik Enterprise, Delhi by showing the undervalued rates; that accordingly M/s. Daiwik Enterprise required to pay less duty as compared the duty payable on the goods imported directly from ports; that it was decided between him and Directors of M/s. ZZEPL that the electrical items would be imported in the name of M/s ZZEPL in the SEZ and cleared into DTA to M/s. Daiwik Enterprise at undervalued rate; that they paid 04 to 06 percent of the value of the goods to M/s. ZZEPL for the said arrangement which also included their profit margin/commission and other sundry expenses; that the Customs duty at the time of import from SEZ unit to DTA was borne by M/s. Daiwik Enterprise for their consignments.

23. During the course of recording of statement on 26.06.2019, Shri Manoj Madaan of M/s Daiwik Enterprises was also shown the Panchnama dated 24.1.2018 (RUD-27) drawn at Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai, wherein the data from his mobile phone "Iphone Model A1586, IMEI 355402078172953" submitted by him during his statement recorded on dated 09.01.2018, was retrieved. He went through the above said Panchnama dated 24.01.2018 and his said statement recorded on dated 09.01.2018 and agreed with both.

24. Shri Manoj Madaan was shown the printouts from the data (stored in the USB hard-disk) retrieved from his aforesaid phone retrieved under the above referred Panchnama dated 24.1.2018 drawn at Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai. The same were shown to him and he explained as under:-

By following path "Exported Data of Image of Apple IphoneManojMadaan>2018-01-24.12-57-41>AppleDevice_Advanced Logical> files >Document> 6beb8251-9e05-4c41-a235-b7a1459b6b28".

The contents of the aforesaid work file "6beb8251-9e05-4c41-a235-b7a1459b6b28" are reproduced below:

"A LETTER OF GUARANTEE
AS COMPANY NAME: PRANSH ENTERPRISES
Adress: ADDRESS-2085/18, 2ND FLOOR,CHAN INDARA,BHAGI RATH PALACE, CHANDNI CHOWK,DELHI-110006
We guarantee payment before AUG 31, 2017 payment mentioned below to WINSUN IMP.& EXP.GROUP CO.,LTD. NO 39 KAI XI ROAD,JIAXING,ZHEJIANG,CHINA
Invoice: 2017WSZ231096(PRA048)
Product name: LED ROPE LIGHT/LED ROPE LIGHT SPARE PARTS/LED STRIP LIGHT
Amount: USD240855
Shipment Date: JUN.02th,2017
Bill of lading number: SZXCB17006240

Invoice: 2017WSZ231108(PRA056)

Product name: LED ROPE LIGHT

Amount: USD142969

Shipment Date: JUN.08th,2017

Bill of lading number: HDMUYNIN1311005

AS COMPANY NAME: DAIWIK ENTERPRISES

Address: 2085/18 2ND FLOOR CHAH INDARA HHAGIRATH PALACE HAJRANG BAZAR

We guarantee payment before AUG 31, 2017 payment mentioned below to WINSUN IMP.& EXP.GROUP CO.,LTD. NO 39 KAI XI ROAD,JIAXING,ZHEJIANG,CHINA

Invoice: 2017WSZ231113A(PRA049A)

Product name: LED ROPE LIGHT

Amount: USD73751.75

Shipment Date: JUN.23th,2017

Bill of lading number: HDMUYNIN1320372

TOTAL ORDER AMOUNT FROM WINSUN

USD457575.75(NOT INCLUDE DEPOSIT)

Export Company : WINSUN IMP&EXP GROUP CO.,LTD.

Address: NO. 39 KAIXI ROAD,JIAXING,ZHEJIANG,CHINA

Bank of information:

A/C : 363658344007

BANK OF CHINA, JIAXING BRANCH

NO. 218 ZHONGSHAN EAST ROAD, JIAXING, ZHEJIANG, CHINA

TEL: 0086-573-82056188

Swift: BKCHCNBJ92F

Signature: _____ Commitment to company and

Date: _____

25. On being asked to explain the contents of the aforesaid word file, *Shri Manoj Madaan* stated that the above letter of guarantee was given by him for the purchase/import of goods viz. LED ROPE LIGHT, LED ROPE LIGHT SPARE PARTS & LED STRIP LIGHT from the Chinese supplier namely WINSUN IMP&EXP GROUP CO.,LTD.; that the said Guarantee was given by him as Proprietor of Pransh Enterprises as the negotiations with the said Chinese supplier were being done by him in the name of Pransh Enterprises; that however, at the time of import the same were imported in ZZEPL for onward DTA clearances of the same in their other firm namely M/s Daiwik Enterprises; **that he had imported the aforesaid three consignments**

of electrical goods in his firm M/s. Daiwik Enterprises through ZZEPL, KASEZ at the value mentioned in the aforesaid letter of guarantee. He further stated that however, while filing the Bills of entry in respect of aforesaid consignments, he had filed Bill of entry showing grossly undervalued price; that the Comparison of the actual transaction value vis-à-vis value shown before the Customs authority was tabulated as hereunder:

Sr. No.	Bill of lading No. & Date	Product Name	Actual Invoice No.	Actual amount in USD (FOB)	Invoice No. & Date presented to Customs	Amount shown in Custom Invoice in USD
1	SZXCBI7006240 / 02.06.2017	LED ROPE LIGHT/LED ROPE LIGHT SPARE PARTS/LED STRIP LIGHT	2017WSZ2310 96 (PRA048)	240855	20170531M/ 31.05.2017	16046.14
2	HDMUYNIN1311 005 / 08.06.2017	LED ROPE LIGHT	2017WSZ2311 08 (PRA056)	142969	20170606 / 06.06.2017	9720.00
3	HDMUYNIN1320 372/ 23.06.2017	LED ROPE LIGHT	2017WSZ2310 96 (PRA049A)	73751.75	20170621-M / 21.06.2017	9129.00
		Total		457575.75		34895.14

26. Shri Manoj Madaan was further shown the three dockets bearing Job No. 129 for SEZ Bill of Entry No. 1011446 dated 20.07.2017, Job No. 140 for SEZ Bill of Entry No. 1012174 dated 01.08.2017 & Job No. 141 for SEZ Bill of Entry No. 1012176 dated 01.08.2017. He further stated that the said dockets contained the copies of Bills of Entry and other import documents in respect of aforesaid three consignments. **He agreed and accepted that the invoices contained in the said dockets are showing the undervalued price as detailed in the aforesaid table. In this regard, on being asked further, he stated that he has already stated in his statement dated 26.02.2018 that the invoice showing the undervalued price were presented to Customs while the invoice showing the actual value were signed by him and sent back to the said Chinese supplier.**

27. Shri Manoj Madaan was further shown the document available at path-
 “Exported Data of Image of Apple **iPhoneManoj Madaan>2018-01-24.12-57-41>Apple Device AdvancedLogical>files>Document>772ce6cf-12a5-40f8-b0e8-6b2a85 37c835**” which is reproduced below:-

1

A LETTER OF GUARANTEE

AS COMPANY NAME: PRANSH ENTERPRISES
 Adress: ADDRESS-2085/18 . 2ND FLOOR,CHAN INDARA,BHAGI RATH PALACE, CHANDNI CHOWK,DELHI-110006
 We guarantee payment before AUG 31, 2017 payment mentioned below to WINSUN IMP.& EXP.GROUP CO.,LTD. NO 39 KAI XI ROAD,JIAXING,ZHEJIANG,CHINA

Invoice: 2017WSZ231096(PRA048)
 Product name: LED ROPE LIGHT/LED ROPE LIGHT SPARE PARTS/LED STRIP LIGHT
 Amount: USD240855
 Shipment Date: JUN.02th,2017
 Bill of lading number: SZXCB17006240

Invoice: 2017WSZ231108(PRA056)
 Product name: LED ROPE LIGHT
 Amount: USD142969
 Shipment Date: JUN.08th,2017
 Bill of lading number: HDMUYNIN1311005

AS COMPANY NAME: DAIWIK ENTERPRISES
 Adress: 2085/18 2ND FLOOR CHAH INDARA HHAGIRATH PALACE HAJRANG BAZAR
 We guarantee payment before AUG 31, 2017 payment mentioned below to WINSUN IMP.& EXP.GROUP CO.,LTD. NO 39 KAI XI ROAD,JIAXING,ZHEJIANG,CHINA

Invoice: 2017WSZ231113A(PRA049A)
 Product name: LED ROPE LIGHT
 Amount: USD73751.75
 Shipment Date: JUN.23th,2017
 Bill of lading number: HDMUYNIN1320372

TOTAL ORDER AMOUNT FROM WINSUN
 USD457575.75(NOT INCLUDE DEPOSIT)

Export Company : WINSUN IMP&EXP GROUP CO.,LTD.
 Address: NO. 39 KAIXI ROAD,JIAXING,ZHEJIANG,CHINA

Bank of information:
 A/C: 363658344007
 BANK OF CHINA, JIAXING BRANCH
 NO. 218 ZHONGSHAN EAST ROAD, JIAXING, ZHEJIANG, CHINA
 TEL: 0086-573-82056188
 Swift: BKCHCNBJ92F

Commitment to company and Signature:

Date: **For PRANSH ENTERPRISES**

Proprietor

28. On being asked, Shri Manoj Madaan stated that **the said pdf image was of the aforesaid letter of Guarantee given by him and signed by him as Proprietor of Pransh Enterprises, for the purchase/import of goods viz. LED ROPE LIGHT, LED ROPE LIGHT SPARE PARTS & LED STRIP LIGHT from the Chinese supplier namely WINSUN IMP&EXP GROUP CO.,LTD, as detailed above.**

29. Shri Manoj Madaan was further shown document available at path “**Exported Data of Image of Apple iPhone Manoj Madaan>2018-01-24.12-57-41>AppleDevice AdvancedLogical>files>Document>d45ffb44-c973-4adb-a6 18-fe90aa1b8914**” which is reproduced below:-

DAIWIK ENTERPRISES

DEALS IN - Led Lights, Dj Lights & Other Types of Electrical Goods

CONFIRMATION LETTER

TO,

WINSUN IMP.& EXP.GROUP CO.,LTD

ADD-NO 39 KAI XI ROAD,JIAXING,ZHEJIANG,
CHINA

AS We Have made payment against the invoices mentioned below to the A/C :
363658344007

BANK OF CHINA, JIAXING BRANCH

Invoice: 2017WSZ231113A(PRA049A)
Product name: LED ROPE LIGHT
Amount: USD73751.75
Shipment Date: JUN.23th,2017
Bill of lading number: HDMUYNIN1320372

This amount have been paid till date
We request you to kindly confirm the payment by affixing stamp and signature on this letter.

Thanks and obliged.
Daiwik Enterprises

Add- 2085/18, 2nd Floor Bajrang Bazar Chah Indara, Bhagirath Palace, Chandni Chowk, Delhi-110006
011-23874745,+91-9999784200

30. Shri Manoj Madaan stated that the said pdf image was the confirmation letter sent by him for payment of USD 73751.75 in lieu of import of LED Rope Light vide invoice 2017WSZ231096 (PRA049A), Bill of Lading number HDMUYNIN1320372/23.06.2017. **He further stated that as stated by him for the aforesaid letter of Guarantee, the said goods were imported by him through Zip Zap Exim Pvt Ltd, KASEZ vide undervalued invoice no. 20170621-M dtd 21.06.2017 (SEZ BE No. 1012176 dtd 01.08.2017 & DTA BE NO. 2007653 dtd 03.08.17) by declaring its price/value as USD 9129 instead of its actual value of USD 73751.75.**

31. He was further shown the document available at path "Exported Data of Image of Apple IphoneManoj Madaan>2018-01-24.12-57-41>AppleDevice_AdvancedLogical>files>Images> 2ed4ad94-e854-4d2d-8381-9c30af047f42" – The same is reproduced as below:-

08/17/2017

International High Value (Wire)

Payment Category: Urgent / Wire
 Status: Processed by Bank
 Transaction ID: XXXX

Debit Account Information
 Dealer: Oliver Taylor
 Ordering Customer:
 Sender Bank Name:
 Issuing Bank SWIFT/BIC:
 Issuing Bank Routing number:
 Debit Account:
 Debit Account Name:
 Debit Currency:

Beneficiary Details

Beneficiary Name: WINSUN IMP&EXP GROUP CO LTD	Beneficiary Account: 363658344007
Beneficiary Address: 39 KAIKI ROAD	Beneficiary Bank ID: BKCHCNBJ92F
Beneficiary City: JIAXING ZHEJIANG	BANK OF CHINA
Beneficiary Postal Code:	JIAXING BRANCH
Beneficiary Country: CN-CHINA	CN-CHINA
	Beneficiary Email:
	Beneficiary Phone:

Payment Details

Currency: USD	Value Date: 08/17/2017
Credit Amount: 55,000.00	
Debit Amount: 55,000.00	
Purpose of Payment:	

This transaction is subject to bank rules and regulations governing such electronic transactions as described in our services agreement. Please keep these numbers handy in case you have any questions regarding this transaction. If any portion of the above is incorrect, or you have further questions, please contact customer service.

Thank you.

32. On being asked regarding above, Shri Manoj Madaan stated that the said pdf image was about the transfer of USD 50,000/- to the aforesaid Chinese supplier namely WINSUN IMP&EXP GROUP CO. LTD through wire transfer as differential amount over and above the value of the goods shown in the invoices presented before Indian Customs at the time of import in Zip Zap Exim Pvt Ltd, KASEZ and the actual price. He further stated that the said transfer of money were other than normal banking channel used for transferring the said differential amount, which usually not comes under scrutiny for any Government agency.

33. Other such transfer of differential amount to said Chinese supplier by them are accessed by following path “Exported Data of Image of Apple IphoneManoj Madaan>2018-01-24.12-57-41>AppleDevice_Advanced Logical>files>Images>5003_600” and by following path “Exported Data of Image of Apple IphoneManoj Madaan>2018-01-24.12-57-41>AppleDevice_AdvancedLogical>files>Images>5003_659”, “Exported Data of Image of Apple IphoneManojMadaan>2018-01-24.12-57-41>AppleDevice_ AdvancedLogical>files>Images> f77a57e4-aa12-4064-b6d9-978d73d649eb”

34. The said pdf images are attached to his said statement as page no. 5 and 6 &6A . The said documents are reproduced as below :

08/24/2017

International High Value (Wire)

Payment Category: Urgent/Wire
 Status: Processed by Bank
 Transaction ID: XXXX

Debit account information
 Dealer: Oliver Taylor
 Ordering Customer:
 Sender Bank Name:
 Issuing Bank SWIFT/BIC:
 Issuing Bank Routing number:
 Debit Account:
 Debit Account Name:
 Debit Currency:

Beneficiary details

Beneficiary Name: WINSUN IMP & EXPORT CO.
 LTD
 Beneficiary Address: 39 KAZI ROAD
 Beneficiary City: JIAXING ZHEJIANG
 Beneficiary Postal Code:
 Beneficiary Country: CN-CHINA

Beneficiary Account: 363658344007
 Beneficiary Bank ID: BKCHCNBJ92F
 BANK OF CHINA
 JIAXING BRANCH
 CN-CHINA
 Beneficiary Email:
 Beneficiary Phone:

Payment Details

Currency: USD
 Credit Amount: 50,000.00
 Debit Amount: 50,000.00
 Purpose of Payment:

Value Date: 08/24/2017

Name and address of beneficiary (if applicable): WINSUN IMPORT AND EXPORT GROUP CO., LTD

Beneficiary Account No.: 363658344007

Country/region of beneficiary bank: China (CN)

City of the beneficiary bank: JIAXING

Beneficiary bank: BKCHCNBJ92F BANK OF CHINA (JIAXING BRANCH) JIAXING 314001

Beneficiary Bank Code: BKCHCNBJ92F

Address of receiving bank: (JIAXING BRANCH) JIAXING 314001

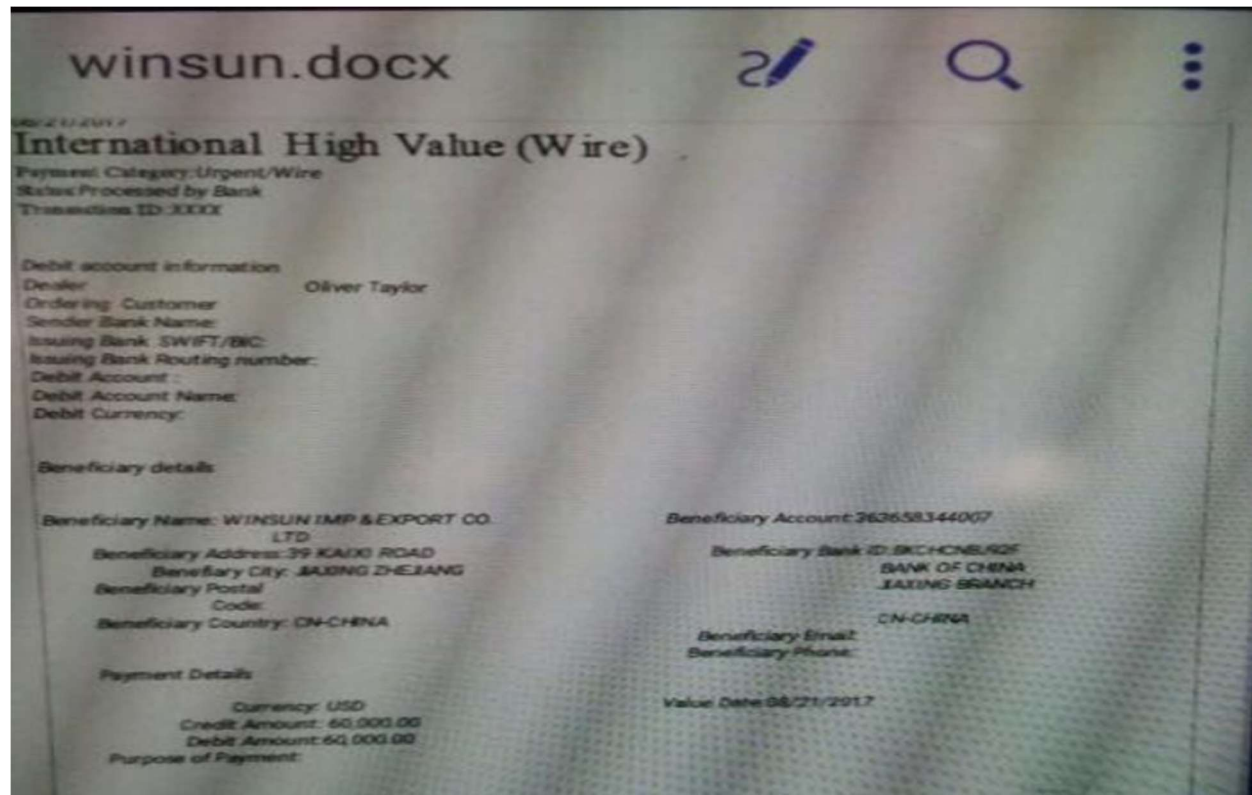
Beneficiary Bank Account (if applicable):

Amount Details

Remittance currency: USD
 Remittance Amount: 20,000.00
 GOODS SERVICES: HKD 140.00
 Fee payment account: USD 17.94 (For reference only)

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35. On having been explained the aforesaid evidences retrieved from his aforesaid Mobile Phone to him, Shri Manoj Madaan admitted that for the imports made by him in his firm M/s Daiwik Enterprises through Zip Zap Exim Pvt Ltd, KASEZ by declaring lower values than the actual transaction values of the said goods was to evade the payment of appropriate Customs Duty; that as per the understanding between him and the overseas suppliers as stated by him in his earlier statement dated 26.02.2018, the overseas suppliers used to issue two sets of invoices, one for full negotiated value and one invoice for lower value, in the name of Zip Zap Exim Pvt Ltd. (ZZEPL), KASEZ, to be presented before the Customs authority at the time of import. He further stated that thereafter the said goods were imported in ZZEPL, KASEZ. In KASEZ, the said goods were assessed at the price/rate declared in the said invoices; that thereafter, the said goods were cleared to them in M/s. Daiwik Enterprises by adding 4 to 6 % of the value the said goods assessed at the time of import in ZZEPL, KASEZ from China; that the value declared before the Customs were being paid by them to ZZEPL who used to remit the said amount to said overseas supplier through normal banking channel and the payments of the remaining/balance amount were being paid by them either in cash to the persons sent by the overseas suppliers or through Telegraphic Transfers being done through third party accounts, as advised by the said overseas suppliers. Shri Manoj Madaan further disclosed that the actual transaction price of the goods imported/purchased by them in their aforesaid firm from M/s Zip Zap Exim Pvt Ltd, KASEZ was as per the Annexure-A attached to his statement. Shri Manoj Madaan further stated that the value disclosed in his earlier statement dated 26.02.2018 may be corrected as per the actual / transaction value disclosed by him in Annexure-A attached to this statement i.e. recorded on 26.06.2019.

36. The noticee has argued that there is no link between the mobile phone and the hard disc drive from which print out was taken, the conditions laid down in Section 138(2) can not be said to have been satisfied insofar as hard disc drive is concerned. The statutory requirement of a certificate in terms of Section 138(4) qua print out from unconnected hard disc drive automatically stand unfulfilled.

36.1 During the course of statement dated 09.01.20218 (RUD-30 to the SCN dated 08.09.2021), Shri Manoj Madaan submitted his cell-phone "I-phone Model A1586,

IMEI 355402078172953" in an envelope sealed with Paper seal bearing the relevant description and my signature on the same as if it could not be opened without tempering the seal.

36.2 It is observed that the data from the aforesaid mobile phone was retrieved at the Cyber Forensic Laboratory of the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit vide Panchnama dated 24.01.2018 (RUD-27), in the presence of two independent panchas and the cyber forensic engineer Shri Mahesh Kumar Gupta. The Panchnama records that a letter dated 19.01.2018 was issued to Shri Manoj Madaan requesting him to remain present during the forensic examination of his device; however, neither he nor any authorised representative appeared to witness the proceedings. The sealed envelope containing the seized mobile phone was opened in the presence of the panchas, the device was connected to the forensic data-retrieval equipment, and a workable image of the data stored therein was created and saved onto a hard disk provided by the officer. Upon completion of the forensic exercise, an extraction report dated 24.01.2018 was generated by Shri Mahesh Kumar Gupta and handed over to the DRI officer. Thereafter, during the course of voluntary statement dated 26.06.2019, Shri Manoj Madaan was shown the Panchnama dated 24.01.2018 to which he agreed. In token of the same, he put his dated signature on the Panchnama. Thereafter, during his voluntary statement dated 26.06.2019, Shri Manoj Madaan was shown the Panchnama dated 24.01.2018, and he acknowledged the same by placing his dated signature on it. He was also shown certain materials stated to have been retrieved from his mobile phone, such as Letters of Guarantee, confirmation letters, and wire transfer documents. Upon being shown these materials, he elaborated on the manner in which the undervaluation was undertaken by him in coordination with the SEZ unit, namely M/s. Zip Zap Exim Pvt. Ltd.

36.3 From the above, it is evident that Shri Manoj Madaan not only acknowledged the Panchnama dated 24.01.2018 but also accepted the materials shown to him as contents of his own mobile phone during his voluntary statement dated 26.06.2019. He proceeded to explain in detail the modus of undervaluation undertaken in coordination with the SEZ unit, namely M/s. Zip Zap Exim Pvt. Ltd., which explanation was subsequently found to be true and corroborated by other co-noticees, as discussed in detail in the OIO dated 17.07.2024. Although he later sought to retract his statement, the said retraction was duly rebutted by the investigating agency for reasons already recorded earlier in this order. In these circumstances, when the noticee himself did not dispute the contents shown from the device and, in fact, elaborated upon them in a manner consistent with other evidentiary material, the allegation that the hard disk may have been tampered with does not hold merit and is without factual foundation.

37. Further, I find that during the course of recording of statement on 26.06.2019, regarding local sales of the electrical items imported in M/s. Daiwik Enterprises, Shri Manoj Madaan stated that **he had shown the lower value in respect of the electrical goods imported by him and sold in local market in cash;** that since the import price of these items were undervalued, the local sale price was also shown undervalued; that the amount over and above the price shown in the Tax invoice was collected by them in cash from their local customers.

RETRACTION OF STATEMENT AND ITS REBUTTAL-

38. During the initial phase of investigation proceedings, statements of Shri Manoj Madaan, Authorized person of M/s Daiwik Enterprises were recorded on dated 09.01.2018 and 26.02.2018 under Section 108 of the Customs Act, 1962 wherein he categorically admitted that he had imported the aforesaid electrical goods from China, through M/s ZZEPL (SEZ unit) by resorting to undervaluation and he was ready to pay the differential duty on account of such undervaluation. Shri Manoj Madaan further stated in his statement recorded on 26.02.2018 item wise list of electrical goods and S.T.L. 142 (Mad.)). Para 23 of thend actual price. Another statement dtd 26.06.2019, i.e. almost 01 year and 04 months after the statement dtd 26.02.2018 was recorded, wherein Shri Manoj Madaan further elaborated the facts of the aforesaid

undervaluation in the said imports stated in his earlier statements dtd 09.01.2018 and 26.02.2018 and he was confronted with various evidences on records. He again admitted the aforesaid under valuation of electrical goods imported through M/s ZZEPL, KASEZ by his firm M/s. Daiwik Enterprise. However, he vide his letter dated 28.06.2019 retracted the aforesaid statement dtd 26.06.2019. Since the facts narrated in the said letter were baseless, devoid of any truth, made to mis-lead the inquiry, the said retraction was rebutted vide letter dtd. 09.07.2019 (RUD-107 to the SCN dated 08.09.2021).

39. Further summons dated 09.08.2019 was issued to Shri Manoj Madaan to appear on 27.08.2019 but he did not appear for the same. Instead, he sent the letter dated 23.08.2019 (RUD-109 to the SCN dated 08.09.2021) showing his inability to appear mentioning ill health of his maternal grand-father. Another summons dated 11.09.2019 was issued to Shri Manoj Madaan again for appearing on 24.09.2019 but he again did not appear for the same again and vide his letter dated 24.09.2019 (RUD-110 to the SCN dated 08.09.2021) showed his inability again mentioning sudden ill health of his maternal grand father.

40. Retraction of the statement was made by Shri Manoj Madaan without giving any substantial reason. When the retraction was rebutted and he was requested to appear before the investigating officers he tried to evade the appearance by citing cyclostyled reasons of ill health.

CERTIFICATE OF CHARTERED ENGINEER-

41. Shri B.G. Bhatt & Co. Chartered Engineer vide his report dated 06.07.2018 provided the approximate FOB value of the imported goods. In order to arrive at the FOB value, the Chartered Engineer, having examined and inspected the imported goods, visited actual user places and cross checked the values by verbal information of their purchases from India suppliers of such imported goods. He has considered MOC (Materials of Construction) of items imported, application in local market and prices available of similar goods of various manufacturer FOB rate of such imported goods/items, as available through internet/electronic media for sale in international market were also viewed and considered to arrive at estimated FOB value of Imported goods/items listed in Annexure-A to the report. While calculating the FOB value of imported goods/items, factors like material cost, manufacturing process cost and arms length profit of the traders, taxes and incidental charges have been duly accounted for.

42. In view of the above, it emerges from the Order-in-Original dated 17.07.2024 that Shri Manoj Madaan admitted in his statements dated 09.01.2018 and 26.02.2018 that he was procuring LED lights, batteries and other electrical goods from China through M/s. Zip Zap Exim Pvt. Ltd. (ZZEPL), KASEZ by declaring values substantially lower than the actual transaction prices. He explained that the genuine negotiated prices were finalised by him directly with the overseas suppliers and communicated to Shri Gajraj Singh Baid or Shri Vaibhav Baid of ZZEPL, while ZZEPL issued invoices reflecting only the undervalued portion, which he paid through regular banking channels. The remaining portion of the price—representing the true value of the goods—was discharged in cash through non-banking channels, thereby keeping the differential consideration outside official records and facilitating undervaluation. This modus was further corroborated when, during the statement dated 26.06.2019, he was confronted with the mobile data retrieved by the DRI, including price lists, communications and documents relating to the negotiated values. At that stage also, he acknowledged that imports routed through ZZEPL were undervalued and stated that he was willing to pay the differential duty, thereby affirming that a portion of the consideration stood concealed from Customs.

Whether duty demanded under the impugned SCN dated 14.02.2022 issued to M/s. Pransh Enterprises can be determined on the basis of investigation carried out by DRI in respect of imports made through SEZ which resulted into issuance of SCN dated 08.09.2021 and OIO dated 17.07.2024.

43. It is observed that the impugned Show Cause Notice dated 14.02.2022 has been issued in continuation of the investigation undertaken by the Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, which culminated in the comprehensive Show Cause Notice dated 08.09.2021 issued to M/s. Zip Zap Exim Pvt. Ltd. and other co-noticees. The said investigation pertained to the import of fabrics and electrical goods into the Kandla Special Economic Zone (KASEZ) through gross undervaluation and their subsequent clearance into the Domestic Tariff Area (DTA). Although M/s. Pransh Enterprise was not a noticee to the SCN dated 08.09.2021, the investigation established that Shri Manoj Madaan had negotiated prices and issued Letters of Guarantee to the overseas suppliers in the name of M/s. Pransh Enterprise, while the same consignments were routed through ZZEPL and cleared into DTA in the name of his other firm, M/s. Daiwik Enterprises. In this background, the independent imports of similar electrical goods made directly by M/s. Pransh Enterprise through Mundra Port were examined for valuation scrutiny, leading to issuance of the present SCN dated 14.02.2022 to determine the correctness of the declared values and consequential duty liability.

44. It is further noted that the investigation culminating in SCN dated 08.09.2021 was a water-tight inquiry conducted by the Directorate of Revenue Intelligence, bringing out in detail the modus operandi adopted for undervaluation of imports into the Kandla Special Economic Zone (KASEZ) and their subsequent clearances into the Domestic Tariff Area (DTA). As recorded in the OIO dated 17.07.2024, the foreign suppliers were issuing two parallel sets of invoices—one showing suppressed values declared before Customs and another reflecting the actual transaction price, which was recovered during the investigation. The DRI also brought on record WeChat communications exchanged between the Chinese suppliers and the SEZ unit/DTA buyers, wherein the prices to be declared before Customs, the higher actual prices, and the modalities for routing the differential payments were discussed in detail. Further, the investigation recovered Letters of Guarantee, differential payment records, and other financial documents establishing that amounts over and above the declared invoice values were remitted abroad through informal, non-banking channels. These findings were supported by voluntary statements of the persons connected with the SEZ unit as well as various DTA buyers whose Bills of Entry were incorporated in the SCN dated 08.09.2021. The adjudicating authority, in the OIO dated 17.07.2024, observed that the investigation was backed by extensive documentary, digital, financial, and oral evidence clearly establishing the practice of undervaluation.

45. In quasi-judicial proceedings under the Customs Act, 1962, it is well settled that the Department is not required to establish its case with the standard of proof applicable to criminal trials. The applicable test is that of preponderance of probability, under which the adjudicating authority is required to assess whether the totality of evidence on record tilts the balance towards a conclusion that the facts asserted by the Department are more probable than not. This position has been authoritatively affirmed by the Hon'ble Supreme Court of India in Collector of Customs, Madras v. D. Bhoormull, 1983 (13) E.L.T. 1546 (S.C.), wherein it was held that while the initial burden lies on the Department, such burden is not required to be discharged with "mathematical precision", rather, it stands satisfied where the Department establishes a degree of probability on which a prudent person may reasonably rely in drawing the inference sought to be proved. The same principle was reiterated in the matter of DEVI DASS GARG Versus COMMISSIONER OF CENTRAL EXCISE, DELHI -I2010 (257) E.L.T. 289 (Tri. -Del.), emphasising that the standard of proof required in the Departmental proceedings under the provisions of the Customs Act, 1962 or Central Excise Act, 1944 or of the Rules made thereunder, for confiscation of goods, confirmation of demand for duty evaded, and imposition of

penalty is the preponderance of probability. For establishing to be preponderance of probability, the adjudicating authority has to evaluate the evidence of both the sides and decide what is most probable.

46. The noticee has contended that the adjudicating authority at Mundra Port cannot rely upon or draw support from the evidences and findings emerging from the investigation conducted in respect of imports routed through the Kandla Special Economic Zone (KASEZ), which formed the basis of the earlier Show Cause Notice dated 08.09.2021. According to the noticee, such reliance would be impermissible particularly in view of the observation of the Hon'ble CESTAT that no independent investigation had been carried out in respect of the impugned goods imported through Mundra Port. In this regard, it is noted that it is an undisputed position that no separate or independent investigation was undertaken in relation to the goods imported by M/s. Pransh Enterprise through Mundra Port. The impugned Show Cause Notice dated 14.02.2022 has been issued entirely on the basis of the investigation conducted in relation to imports made into the Kandla Special Economic Zone (KASEZ), which formed the foundation of the earlier SCN dated 08.09.2021. It is relevant to note that the Hon'ble CESTAT Ahmedabad, while observing that no separate investigation had been carried out in respect of the Mundra imports, did not set aside the proceedings initiated under the impugned SCN. Instead, the Tribunal held that adjudication of the present notice may proceed only if the first SCN dated 08.09.2021, upon adjudication, acquires sufficient evidentiary value to support the allegations. Accordingly, it becomes necessary to examine whether material gathered during the SEZ investigation—such as statements, communications, or documents referred to in the SCN dated 08.09.2021—can legitimately validate issuance of the present SCN dated 14.02.2022. This requires evaluating whether such material, when assessed on the touchstone of the preponderance-of-probability standard, can reasonably be applied to the independent imports made by M/s. Pransh Enterprise through Mundra Port.

47. It is on record that Shri Manoj Madaan, proprietor of M/s. Pransh Enterprise, admitted in his statements dated 09.01.2018 and 26.02.2018 (tendered in respect of M/s. Daiwik Enterprises) that he had been importing LED lights, strips, rope lights, par lights, and similar electrical goods from China, primarily from Shenzhen Xinyoutong Import & Export (H.K.) Ltd. and Winsun Import & Export Group Co. Ltd., Yiwu. He further stated that, after coming into contact with Shri Gajraj Singh Baid of M/s. Zip Zap Exim Pvt. Ltd. (the KASEZ unit), he started routing these imports through the SEZ unit. He negotiated the nature, quantity and actual prices of goods directly with the overseas suppliers—interacting with “Mr. Jimmy” of Shenzhen Xinyoutong and “Ms. Fish” of Winsun—and communicated these details to Shri Gajraj Singh Baid or Shri Vaibhav Baid. He also admitted that instructions were given to the foreign suppliers to prepare two sets of invoices: one reflecting the actual price, and another reflecting a substantially lower value for customs clearance. The latter was sent directly to ZZEPL for presentation before Customs, while the original higher-value invoice was retained as the true record of the commercial transaction.

48. Significantly, during his statement dated 26.06.2019, Shri Manoj Madaan was shown a Letter of Guarantee issued by him to Winsun Import & Export Group Co. Ltd. for the purchase of LED rope lights, spare parts and strip lights. This Letter of Guarantee was issued in the name of M/s. Pransh Enterprise, whereas the corresponding DTA clearances for the same consignments were subsequently made in the name of M/s. Daiwik Enterprises. This document, along with the admissions in his statements, establishes that negotiations and commercial commitments were undertaken in the name of M/s. Pransh Enterprise, while undervalued clearances were routed through the SEZ unit and reflected in the name of his other firm.

48.1 In the instant case, I find that the subject Bills of Entry indicate that the foreign suppliers of the goods imported through Mundra were the very same suppliers from whom the Shri Manoj Madaan, being the proprietor of M/s. Daiwik Enterprises, had procured similar goods routed through the SEZ, as detailed below:-

Sl. No.	Bill of Entry No & Date	Item No.	Description of goods	Name of the foreign supplier	Quantity (In Pieces)	Declared price per Piece (In USD)	Declared Assessable value (In Rs.)
1	8545528 dt. 14.02.2017	31	Fancy LED Strip Rope Light 50 Mtr	Winsun Import & Export Group Co. Ltd	7844	7.10	3847453.76
2	9018443 dt. 24.03.2017	11	Fancy LED Strip Rope Light 50 Mtr	Winsun Import & Export Group Co. Ltd	7500	7.18	3600518.70
Total							74,47,972/-

48.2 From the above factual matrix, particularly the admissions of Shri Manoj Madaan and the documentary material examined during the investigation culminating in the SCN dated 08.09.2021, a relevant inference emerges for the purpose of applying the test of preponderance of probability in the present proceedings. The subject Bills of Entry filed at Mundra Port reveal that M/s. Pransh Enterprises procured similar electrical goods from the same overseas supplier—namely Winsun Import & Export Group Co. Ltd.—with whom the proprietor, Shri Manoj Madaan, of the noticee admittedly had commercial arrangements during the period when undervalued imports were routed through the Kandla Special Economic Zone (KASEZ). This continuity in suppliers, similarity of goods, and the procurement pattern indicates that the nature of commercial dealings between Shri Manoj Madaan and the foreign exporters remained materially unchanged, even though the modus of import shifted from direct imports through Mundra Port to the SEZ route. In the context of the standard of proof applicable to quasi-judicial proceedings under the Customs Act, 1962—which requires assessing whether, on a balance of probabilities, the facts asserted by the Department appear more likely than not—these circumstances become relevant and are capable of lending support to the Department’s case.

49. In light of the above observations, the continuity in foreign suppliers, the similarity of goods, and the procurement pattern admitted by the noticee furnish sufficient grounds to entertain a reasonable doubt regarding the correctness of the transaction value declared in the subject Bills of Entry. Under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, such reasonable doubt is adequate for rejection of the declared value.

49.1 The noticee has argued that the mandatory pre-conditions prescribed under Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 were not satisfied prior to rejection of the declared transaction value. It is argued that (i) no valid “reasonable doubt” was formed on the correctness of the declared value, and (ii) the proper officer did not call upon the importer to submit further documents or explanations to remove such doubt. The noticee therefore submits that the rejection of the declared value is contrary to Rule 12 and unsustainable in law.

49.2 Rule 12(1) mandates that where the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence. In the present case, as already recorded above, the continuity in foreign suppliers, similarity in goods, and the procurement pattern admitted by the noticee—when read with the material forming part of the investigation culminating in the SCN dated 08.09.2021—provided objective grounds for formation of such reasonable doubt. The basis for this doubt has been clearly spelt out in the impugned SCN dated

14.02.2022. Further, the SCN itself placed the noticee on notice regarding the grounds of doubt and specifically called upon the noticee to show cause and produce any evidence to substantiate the correctness of the declared value. The noticee was thus afforded a full and adequate opportunity to furnish supporting documents or explanations, which satisfies the requirement under Rule 12(1) of calling upon the importer to provide further information. The noticee, however, did not produce any contemporaneous evidence—such as supplier quotations, catalogue prices, remittance details, procurement contracts or negotiated price records—that could dispel the reasonable doubt raised in the SCN. In these circumstances, the requirements of Rule 12(1) stand duly fulfilled. I, therefore, hold that the transaction value declared by the noticee is not acceptable under Rule 12 of the CVR, 2007.

REDETERMINATION OF VALUE-

50. Rule 3, inter-alia, of the CVR, 2007 provides the method of valuation. Rule 3(1) of the CVR, 2007 provides that “Subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10”. Rule 3(4) ibid states that “if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9 of CVR, 2007”.

50.1 In the instant case, it is noted that since there are no direct evidences with regard to the actual transaction, the value is required to be re-determined by proceeding sequentially through Rule 4 to 9 of CVR, 2007.

DETERMINATION OF VALUE IN TERMS OF PROCEEDING SEQUENTIALLY FROM RULE 4 TO 9 OF CVR, 2007 IN RESPECT OF REMAINING ELECTRICAL GOODS:-

50.2 Therefore, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9 of CVR, 2007 (in terms of Rule 3(4) of CVR, 2007).

50.3 Rules 4 and 5 of CVR, 2007 are reproduced a under:-

4. Transaction value of identical goods. –

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

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

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

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

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

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

5. Transaction value of similar goods.-

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

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

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

50.4 The above rule position is examined w.r.t the facts of the case, and it is seen that the following aspects are relevant to state that re-determining the values in terms of Rules 4 and 5 is not possible:-

(i) "Fancy LED Strip Rope Light 50 Mtr" have been imported by M/s. Pransh Enterprises and their identical nature in all respects cannot be compared with other goods imported in India by neutral importers.

(ii) The value of "Fancy LED Strip Rope Light 50 Mtr" supplied by the foreign suppliers to other neutral importers in India or abroad cannot be applied in the instant case with reference to rule 4 and 5 keeping in mind the significant variations in terms of physical characteristics, quality, brand, model, reputation etc. Likeness in characteristics/ quality/ usability and interchangeability cannot be established.

(iii) All the goods as mentioned in Table-A do not fulfill the criteria for determining value under rule 4 and 5 of Customs Valuation (Determination of Value of imported goods) Rules, 2007 read with its interpretative notes as there have not been demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments to be made under these rules. It appears that in the absence of proper objective measure, recourse of re-determining value under rule 4 and 5 of the said rules is not appropriate.

50.5 VALUATION IN TERMS OF RULE 7 AND 8:-

Rule 7 and 8 are reproduced as under:-

"7. Deductive value.-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest

aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made **for profits and general expenses in connection with sales in India of imported goods of the same class or kind;**

(ii) the usual costs of transport and insurance and associated costs incurred within India; (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India. (b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

8. Computed value.-

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

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

(c) the cost or value of all other expenses under sub-rule (2) of rule 10.

50.6 Further the value in respect of the above goods cannot be re-determined as per Rules 7 and 8 of CVR, 2007 for the following reasons:-

(i) It is noted that deductive or computed value as discussed in Rule 7 and 8 respectively of the said Rules respectively cannot be determined in instant case for the reason that deduction like profits and general expenses as prescribed under rule 7 are not ascertainable in instant case. It also appears that as per the requirement of rule 8, cost or value of materials in producing the imported goods along with profit and general expenses are also not ascertainable in instant case.

(ii) Fabrication/manipulation of import documents from origination stage i.e. at foreign suppliers' end is also indicated in some cases. Hence, it appears that application of deductive and computed value method in absence of all relevant details would not be possible.

50.7 RESIDUARY METHOD UNDER RULE 9 OF CVR, 2007:-

Residual method for determining transaction value is adopted where the value of imported goods cannot be determined under the provisions of rule 4 to 8 and then value has to be derived under rule 9 using reasonable means consistent with the principles and general provisions of CVR, 2007 and on the basis of data available in India. In the instant case since Rules 4

to 8 are not applicable for re-determination of value, hence, Rule 9 of CVR, 2007 has to be resorted to.

50.8 Factors considered for Redetermination of Assessable value under Rule 9 of CVR, 2007:

(i) Since goods were not physically available, value of the same has been determined using reasonable means consistent with the principles and general provisions of CVR, 2007.

(ii) As the goods with same specification had been imported by the DTA importers in case of M/s ZZEPL and the value of the goods stand corroborated with secondary evidences and the same have also been admitted by concerned DTA importers, therefore, said value should be considered for the import of similar goods imported at Mundra port under Rule 9 of CVR, 2007.

50.9 In the instant imports, I find that "Interpretative Notes" as specified under Rule 13 of the said rules is relevant here. Interpretative Note to Rule 9 specifies that the methods of valuation to be employed under rule 9 may be those laid down in rule 3 to 8, inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of rule. The OIO dated 17.07.2024 has affirmed the values as proposed in the SCN dated 08.09.2021 in respect of the goods imported and cleared by M/s. Daiwik Enterprises as follows:-

TABLE-B

Import B/E No/ Date	Buyer name & IECCode- by zip zap	Item Description	Goods Measurement Unit	Corresponding Rate (in USD/given unit) as finalised in Investigation in respect of M/s Zip Zap by DRI	Currency	Basis of Re-determined Unit value of Goods (ST stands for Statement)
1010630 / 10.07.17 --wrong inv. Inside	DAIWIK ENTERPRISES-0516952030	50 MTR LED ROPE LIGHT (CHAIN LIGHT)	PCS	58.14	USD	ST of Manoj Madaan dtd 26.06.19 (as per Letter of Guarantee mentioned in ST)
1012181 / 01.08.17	DAIWIK ENTERPRISES-0516952030	50 MTR. LED ROPE LIGHT (CHAIN light)	PCS	58.14	USD	ST of Manoj Madaan dtd 26.06.19 (as per Letter of Guarantee mentioned in ST)
1010515 / 07.07.17	DAIWIK ENTERPRISES-0516952030	50 MTR LED ROPE LIGHT (CHAIN LIGHT)	PCS	58.14	USD	ST of Manoj Madaan dtd 26.06.19 (as per Letter of Guarantee mentioned in ST)

50.10 I find that considering the reasonable flexibility as provided under Rule 9, LED Light Products imported at KASEZ under Bill of entry mentioned in Table-B above are similar to the various LED Light Products imported at Mundra Port under Bill of Entry mentioned in Table-A above.

50.11 Therefore, I find that the declared value is liable to be re-determined under Rule 9 of CVR, 2007 and the re-determined value of "Fancy LED Strip Rope Light 50 Mtr" is as per annexure-A to the current SCN.

51. From the discussion above, it is apparent that M/s. Pransh Enterprises has suppressed the actual transaction value and the mis-declaration of value has been done wilfully with sole purpose of executing this modus of undervaluation to evade duty. Accordingly, I find that it is appropriate to invoke Section 28(4) of the Customs Act, 1962 in the instant case.

CROSS- EXAMINATION-

52. The noticee has requested that an opportunity be granted to cross-examine the following individuals whose roles are referred to in the investigation: Shri Harendra Kumar Bhalothia (Investigating Officer), Shri Mahesh Kumar Gupta (Cyber Forensic Engineer), and the two panch witnesses viz. Shri Dhyaneswar Manohar Single and Shri Pavan Rajaram Karavande.

52.1 With respect to the request for cross-examination of the Investigating Officer, Shri Harendra Kumar Bhalothia, it is noted that the noticee has not produced any material to indicate that the said officer committed any error or impropriety in the course of the investigation. In this context, reference is made to the recent judgment of the Hon'ble Delhi High Court in Sanjeev Maggu vs. Additional Commissioner of Customs (2026-TIOL-101-HC-DEL-CUS), wherein the Court held that departmental officers who discharge their functions in an official capacity cannot, as a matter of right, be subjected to cross-examination. The Hon'ble Court reiterated the settled legal position, as previously held in M/s Vallabh Textiles vs. Additional Commissioner, Central Tax GST, Delhi East (2025-TIOL-680-HC-DEL-GST), that the right to cross-examination is not absolute and must be granted only where the party seeking it is able to demonstrate prejudice such that the absence of cross-examination would impede the course of substantial justice. The excerpt of the decision is reproduced below:-

"15. Insofar as the remaining individuals are concerned, some of them are officials in the Customs Department, including, Mr. Pankaj Verma, Inspector Bond Section, Mr. Devender Singh, Tax Assistant Customs Department, Mr. Kishan Lal, Senior Tax Assistant Bond Section, Mr. Pramod Kumar, Superintendent, Audit Branch, Mr. Puneet Sethi, Air Customs Officer, Ms. Geeta Juneja, Superintendent, Mr. Mahindra Kapoor, Superintendent, Mr. Kulwendra Singh, Assistant Commissioner.

16. The aforesaid persons being Customs Officials, this Court is of the considered view that they were discharging their duties in an official capacity. Consequently, they cannot, as a matter of right, be subjected to cross-examination, particularly in view of the settled position of law laid down by this Court in W.P.(C) 4576/2026 titled M/s Vallabh Textiles vs. Additional Commissioner Central Tax GST, Delhi East and Ors. = [2025-TIOL-680-HC-DEL-GST](#), wherein the Court has held that the right to cross examination is not an unfettered and absolute right. Prejudice has to be shown which would lead to a conclusion that without cross examination substantial justice cannot be done. The relevant portion of the said decision in M/s Vallabh Textiles (Supra) reads as under:

"18. A perusal of the above decisions reveals that while cross-examination would be required in certain cases, it need not be given as a matter of right in all cases. The provision of the opportunity to cross-examine depends on the facts and circumstances of each case and is warranted only when the party seeking such an opportunity is able to demonstrate that prejudice would be caused in the absence thereof.

52.2 In this regard, I also rely upon the decision of FORTUNE IMPEX Versus COMMISSIONER OF CUSTOMS, CALCUTTA, 2001 (138) E.L.T. 556 (Tri.-Cal) [03-07-2001] wherein the Hon'ble Tribunal has held that-

"Natural justice - Cross-examination not to be allowed of all witnesses - No specific reasons given for cross-examination of 26 witnesses including co-noticees as well as Director/Partner/employee of clients - Principles of natural justice not violated. - The cross-examination of the witness, wherever necessary, has to be allowed in Departmental proceedings. But it is not required that in each and every case cross-examination should necessarily be allowed. There is no absolute right of cross-examination provided in the Customs Act. The Advocate had given a list of 26 persons for cross-examination without indicating the specific reasons for cross-examining them. Some of the persons mentioned therein are co-noticees and some of them are Director/Partner/employees of his clients. If the appellants are accused persons the question of calling them for cross-examination does not arise. Again he had mentioned a number of officers by designation without indicating their names and role played by them in the investigation of the matter against his

client. In view of these facts and circumstances it cannot be said that there was violation of principles of natural justice by not allowing the cross-examination of the persons sought by him."

52.3 It is further observed that the noticee has not placed any material on record to demonstrate that any prejudice has been caused to him by the actions of the Cyber Forensic Engineer Shri Mahesh Kumar Gupta or the independent panch witnesses Shri Dhyaneshwar Manohar Single and Shri Pavan Rajaram Karavande. On the contrary, during his voluntary statement dated 26.06.2019, the noticee accepted the Panchnama dated 24.01.2018 as well as the materials shown to him from the device and proceeded to explain the modus operandi in detail. Once the noticee himself acknowledged the contents attributed to his mobile phone and responded to them without objection, no allegation of prejudice survives, nor is cross-examination warranted. In this regard, I rely upon the decision of Hon'ble Supreme Court of India in the matter of SURJEET SINGH CHHABRA Versus UNION OF INDIA, 1997 (89) E.L.T. 646 (S.C.), wherein the Hon'ble Apex court held that-

"2. It is contended by learned counsel for the petitioner that the petitioner is entitled to cross-examine the Panch witnesses and the Seizing Officer for the goods seized in contravention of the FERA & Customs Duty Act and that the opportunity has not been given. Therefore, it is violative of natural justice.

3. It is true that the petitioner had confessed that he purchased the gold and had brought it. He admitted that he purchased the gold and converted it as a Kara. In this situation, bringing the gold without permission of the authority is in contravention of the Customs Duty Act and also FERA. When the petitioner seeks for cross-examination of the witnesses who have said that the recovery was made from the petitioner, necessarily an opportunity requires to be given for the cross-examination of the witnesses as regards the place at which recovery was made. Since the dispute concerns the confiscation of the jewellery, whether at conveyor belt or at the green channel, perhaps the witnesses were required to be called. But in view of confession made by him, it binds him and, therefore, in the facts and circumstances of this case the failure to give him the opportunity to cross-examine the witnesses is not violative of principle of natural justice. It is contended that the petitioner had retracted within six days from the confession. Therefore, he is entitled to cross-examine the panch witnesses before the authority takes a decision on proof of the offence. We find no force in this contention. The Customs officials are not police officers. The confession, though retracted, is an admission and binds the petitioner. So there is no need to call Panch witnesses for examination and cross-examination by the petitioner."

52.4 From the discussion above, it is apparent that M/s. Pransh Enterprises has suppressed the actual transaction value and the mis-declaration of value has been done wilfully with sole purpose of executing this modus of undervaluation to evade duty. Accordingly, I find that it is appropriate to invoke Section 28(4) of the Customs Act, 1962 in the instant case.

CONFISCATION OF GOODS-

53. I find that the noticee has mis-declared the goods in terms of its value while importing the goods through Mundra port as elaborated in earlier paras. The gross undervaluation has been established by carefully examining the evidences placed on record. It is a settled law that once mis-declaration is established, goods become liable for confiscation. Such acts on their part have rendered the subject goods liable for confiscation under the provisions of Section 111(d) and 111(m) of the Customs Act, 1962. In this regard, I rely on the judgement of CC Mumbai Vs Multimetal Ltd-2002(Tri-Mumbai) wherein the Hon'ble Tribunal held that when mis-declaration is established, goods are liable for confiscation. This judgement of Hon'ble Tribunal has been upheld in Apex court in 2003 (ELT A309 (SC)).

54. As the impugned goods are liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962, it becomes necessary to examine whether redemption fine under Section 125 of the Act is imposable in lieu of such confiscation. In this regard, it is noted that the subject goods are no longer physically available for confiscation, as they were cleared in the past and are not presently within the custody

or control of Customs. However, I note that the Hon'ble CESTAT, Ahmedabad, in the case of M/s. Van Oord India Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this points were already settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)]. Para 23 of the said Judgment is as follows:

"The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."

55. I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same has not been challenged by any of the parties concerned. Hence, from the above discussion and relying on the above judgements. I find that goods are liable for confiscation and redemption fine can be imposed. I note that the case involves undervaluation of imported goods with the sole intent to evade/short payment of Customs Duty. However, in as much as goods have already been cleared and perhaps already consumed, I believe that the ends of justice would be met if the redemption fine is restricted to approx. 50% of the differential duty.

56. With regard to penalty under Section 114A of the Customs Act, 1962, I find that since the duty is determined under Section 28(4) of the Customs Act, 1962, penalty under Section 114A is attracted. However, as per fifth proviso to Section 114A of the Customs Act, 1962, once penalty is imposed under Section 114A, no penalty is imposable under Section 112 of the Act.

57. With regard to penalty under Section 114AA of the Customs Act, 1962, I find that the noticee has engaged in undervaluation of goods by suppressing their actual transaction value and declaring figures that do not reflect the true consideration paid or payable to the overseas suppliers. The material examined in this order emanating from the SEZ-based investigation establishes that the undervaluation was undertaken with full knowledge and intent, resulting in the submission of false and misleading documents and declarations before Customs. In the present case, the undervaluation has been found to be deliberate, and the noticee's declarations in the Bills of Entry have been proven incorrect in material particulars relating to value. Therefore, the ingredients of Section 114AA stand satisfied, and the noticee is liable for penalty under the said provision.

58. In view of the above discussion and findings, I hereby pass the following order:-

ORDER

1. I reject the declared assessable value of Rs. 74,47,972/- (Rs. Seventy Four Lakh Forty Seven Thousand Nine Hundred and Seventy two Only) for the goods mentioned in Table-A under Rule 12 of CVR, 2007 and order to re-determine the same as Rs. 6,00,60,341/- (Rs. Six Crore Sixty Thousand three hundred and forty one only) as mentioned in Annexure-A to the Show Cause Notice in terms of Rule 9 of the CVR, 2007 read with section 14 of Customs Act, 1962.
2. I determine and confirm the demand of Rs. 88,30,272/- (Rs. Eighty Eight Lakh Thirty Thousand Two Hundred and Seventy two Only) for the goods mentioned in Table-A/Annexure-A under section 28(8) of the Customs Act, 1962 and order to recover the same from M/s. Pransh Enterprises, 2085/18, 2nd Floor Chah Indara, Bhagirath Palace, Bajrang Bazar, Chandni Chowk , Delhi-110006 under Section 28(4) of Customs Act, 1962 along with applicable interest under section 28AA of Customs Act, 1962.
3. I hold that the impugned goods mentioned in Table-A are liable for confiscation under Section 111(d) & 111(m) of the Customs Act 1962. Since the goods are not physically available for confiscation, I impose redemption fine of Rs. 50,00,000/- (Rupees Fifty lakhs only) under Section 125(1) of the Customs Act, 1962 in lieu of confiscation as discussed above.
4. I impose a Penalty of Rs. 88,30,272/- (Rs. Eighty Eight Lakh Thirty Thousand Two Hundred and Seventy two Only) on M/s. Pransh Enterprises, 2085/18, 2nd Floor Chah Indara, Bhagirath Palace, Bajrang Bazar, Chandni Chowk , Delhi-110006 under Section 114A of the Customs Act, 1962. However, in terms of fifth proviso to Section 114A, I refrain from imposing any penalty under Section 112(a)/112(b) of the Customs Act, 1962.
5. I impose a Penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) on M/s. Pransh Enterprises, 2085/18, 2nd Floor Chah Indara, Bhagirath Palace, Bajrang Bazar, Chandni Chowk , Delhi-110006 under Section 114AA of the Customs Act, 1962.

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

(Nitin Saini)
Commissioner of Customs
Custom House Mundra

DIN- 20260371MO000000A8BA

F.No. GEN/ADJ/COMM/123/2022-Adjn

To,

M/s. Pransh Enterprises,
2085/18, 2nd Floor Chah Indara,
Bhagirath Palace, Bajrang Bazar,
Chandni Chowk , Delhi-110006

Copy for information and further necessary action / information/ record to:

- a.** The Chief Commissioner of Customs, CCO, Ahmedabad.
- b.** The Deputy/Assistant Commissioner (Recovery/EDI), Customs House, Mundra