



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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

DIN - 20260371MN000000F80F

क	फ़ाइल संख्या FILE NO.	S/49-418/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-934-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	31.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/209/2024-25 dated 02.12.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	31.03.2026
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch



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

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



ORDER-IN-APPEAL

Appeal has been filed by Shri Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AKM/209/2024-25 dated 02.12.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the present matter originated from specific, actionable intelligence gathered by the Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit. The intelligence indicated the operation of a high-level, organized smuggling cartel involving a common set of individuals who utilized multiple dummy entities and front firms to facilitate the illegal importation of restricted and prohibited goods. Initial enforcement actions were triggered on September 1, 2022, by the interception of vehicle No. GJ12BV0610 near Palsana Chokdi, Surat. This vehicle was found to be carrying a consignment of 823 cartons cleared from Mundra Port (Container No. TLLU4615592). Upon detailed inspection at ICD Sachin, officers discovered a massive concealment of foreign-brand E-cigarettes of the "Yuotto" brand, totaling 85,600 pieces in various flavors such as Strawberry Watermelon and Blueberry Ice. These items were hidden behind a "cover" of declared household goods to deceive visual inspections.

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

2.2 The specific focus of this proceeding pertains to a high-value consignment imported in the name of M/s. J.H. Enterprises (IEC: AQIPH7863E) via Container No. TGBU5160748 under Bill of Lading No. YMLUS226013593. The investigation into this specific container highlighted

the syndicate's agility in attempting to evade detection once an enforcement action was initiated. As the DRI began intercepting related shipments, the importers, in connivance with the overseas shipper (M/s. Yiwu Surui Imp and Exp Co. Ltd.) and the shipping line (M/s. Huan Ming/Yang Ming Line), attempted a desperate "Change of Destination" (COD) while the vessel was still in transit to Mundra. They sought to divert the container to Jebel Ali, UAE, by manipulating the manifest and preparing two parallel sets of Bills of Lading—one declaring "Floor Clean MOP" for Mundra and another declaring "Household Items" for Jebel Ali. This fraudulent maneuver was intended to erase the shipment's connection to the Indian port and escape the jurisdiction of Indian Customs. Despite these elaborate attempts to divert the cargo, the DRI successfully placed the container on hold, and it was examined at Mundra Port under Panchnama dated September 16/17, 2022.

2.3 The physical examination of Container No. TGBU5160748 yielded an inventory of highly offending and prohibited goods that vastly differed from the manifest. While the documents declared 754 cartons of "Floor Clean MOP," the search actually recovered 200,400 pieces of foreign-brand E-cigarettes and 80,000 pieces of silicon "pop-up" toys. Additionally, the consignment contained 14,000 LCD writing pads and 2,500 head massagers that were used as structural concealment. The E-cigarettes, falling under HS Code 8543, are strictly prohibited for import into India under DGFT Notification No. 20/2015-2020 dated September 26, 2019, and the Prohibition of Electronic Cigarettes Act, 2019. The 80,000 toys were also classified as offending goods due to a total lack of mandatory Bureau of Indian Standards (BIS) compliance as required under Policy Condition 2 of Chapter 95 of the Customs Tariff (specifically IS: 9873 parts 1, 2, 3, 4, 7, and 9). The syndicate's failure to provide safety certifications and the deliberate concealment behind "Floor Clean MOPs" underscored a clear intent to bypass public health regulations and safety standards, posing a significant risk to the domestic market.

2.4 The investigation into the culpability of the parties involved established Shri Mohammad Asif Sathi as the central mastermind and "beneficial owner" of the cartel. He orchestrated the racket by acquiring IECs from dummy firms; in this specific instance, he utilized the services of Shri Tahir Menn to create the firm M/s. J.H. Enterprises by fraudulently using the identity documents of Shri Juma Hamir Halepotra, a caretaker of Asif's bungalow in Bhuj who had no knowledge of the business. The cartel's modus operandi involved a professional division of labor: Shri Baldevsinh Vala of M/s.



Kalpna Exim managed the logistics of "crossing" containers—a process where cleared goods were moved between vehicles or containers at secret locations to evade e-way bill tracking and enforcement checkpoints between Mundra and Bhiwandi. Meanwhile, Shri Samir Sharma, a G-Card holder of a Customs Broker firm, was implicated in submitting manipulated documents to the authorities, often on the instructions of the forwarders rather than the actual IEC holders, whom he had never met.

2.5 Granular details of the coordination were recovered from the "Mm" WhatsApp group, where members discussed the "stuffing" of prohibited items in the containers. Chat logs showed Baldevsinh Vala advising other members to stack E-cigarettes away from the container doors to avoid detection during partial Customs examinations and suggesting that "crossing" was necessary to prevent the DRI from tracking the containers via electronic surveillance. Shri Asif Sathi admitted in his statement that he paid hefty sums—up to ₹17 Lakh per container—for the successful clearance of these prohibited consignments. The investigation also unearthed a financial circuit where cash was collected from domestic buyers like "Raju Bhai" or "Sohail Bhai" and deposited into the bank accounts of the dummy firms to facilitate formal remittances to the foreign suppliers in China, thereby giving the illicit trade a veneer of legitimate commerce.

2.6 The legal and financial implications of the seizure are substantial. Under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the transaction values declared in the documents were rejected due to gross mis-declaration and the absence of any credible price data. Consequently, the value was re-determined sequentially through Rules 4 to 9. Given the absence of identical or similar goods in the valuation database, the value was arrived at using Rule 9 (the residual method) based on a comprehensive market survey and a report from a Government-approved Chartered Engineer. The market price of the seized E-cigarettes alone was estimated at approximately ₹2,400 per piece, totaling ₹48,09,60,000. Combined with the mis-declared toys and electronics, the total value of the offending goods in this single container approached ₹50 Crore.

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

- Section 111(d), (f), and (m): For importing goods contrary to prohibitions and for filing entries that did not correspond to the actual value or description of the goods.
- Section 112(a) and (b): For acts of omission and commission—including the failure to examine goods and the facilitation of fraudulent clearances—that rendered the goods liable for confiscation.
- Section 114AA: For the deliberate use of false and fraudulent documents, including forged invoices and manipulated packing lists, in the transaction of business with Customs.

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

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

(A) In respect of offending goods i.e E-Cigarettes and toys :-

He imposed penalty of Rs. 8,00,000/- upon the appellant under Section 112(a)(i) of the Customs Act, 1962.

(B) In respect of dutiable goods where bills of Entry not filed :-

- (I) He imposed penalty of Rs. 5,000/- upon the appellant under Section 112(a)(ii) of the Customs Act, 1962.



SUBMISSIONS OF THE APPELLANT:

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

3.1 The Appellant contends that the Adjudicating Authority erred by imposing penalties without any record of his involvement in the alleged mis-declaration or undervaluation of goods. The Appellant states that while he was the proprietor of M/s. Exemplar Trading, he was not involved in the imports made by M/s. Skyblue International Trading Company. Furthermore, he argues that the Department failed to produce any evidence that he placed orders, contacted suppliers, negotiated payments, or filed the Bills of Entry for the disputed consignments. He maintains that he was unaware of the actual description, quantity, or value of the goods, as these details were withheld from him by other associates.

3.2 The appeal asserts that lending an IEC is not a prohibited act under the Customs Act, 1962. Citing judicial precedents such as Hamid Fahim Ansari vs. CC and Proprietor, Carmel Exports & Imports v. CC, the Appellant argues that there is no legal provision preventing a valid IEC holder from allowing another person to import goods in their name. He emphasizes that an importer is not legally required to be the ultimate consumer or buyer of the goods, and since the Department cannot point to a specific law violated by the act of name lending, the resulting penalties are unjustified.

3.3 The Appellant highlights that the Department has no evidence of him receiving any consideration beyond a one-time commission of ₹1.5 lakh for the use of his IEC. He argues that the absence of additional financial gain demonstrates he had no "partner in crime" status or specific knowledge regarding the smuggling or mis-declaration of the items. Drawing on the case of Vakil Dodhai Thakur vs. CC, the Appellant notes that without proof of extra remuneration or direct knowledge of the "smuggled nature" of the goods, liability for confiscation or penalty cannot be legally sustained.

3.4 The appeal strongly argues that penalties under Section 112(a) and (b) require "mens rea" or a guilty mind, which the Revenue has failed to establish. Since the Appellant did not act as an abettor or conspirator and had no reason to believe the goods were liable for confiscation, the statutory requirements for such penalties are not met. Crucially, the Appellant points out that the Hon'ble CESTAT, Ahmedabad, has already set aside penalties against him in a related case involving the same common investigation, arguing that this precedent should be applied to quash the current impugned order.

PERSONAL HEARING:

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

DISCUSSION AND FINDINGS:

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

5.1 The Appellant's primary defense is that he is a mere "name-lender" for the Import-Export Code (IEC) and that such an act is not prohibited under the Customs Act, 1962. However, the facts of the present case demand a much more rigorous scrutiny of the term "lending" in the context of organized smuggling. This "facility" cannot be extended to provide a legal facade for the importation of prohibited goods such as E-cigarettes. Section 7 of the Foreign Trade (Development and Regulation) Act, 1992, mandates that no person shall make any import except under an IEC. By "lending" his IEC to Shri Asif Sathi, the Appellant allowed the mastermind to operate behind a "dummy" corporate veil, thereby willfully obstructing the ability of the Customs Department to identify the actual "beneficial owner" at the time of entry.

5.2 The most damning evidence against the Appellant's plea of "innocent ignorance" is his physical supervision of the "Crossing" process. The investigation, corroborated by the statements of the transporter Shri Chhaju Ram and associate Baldevsinh Vala, revealed the following technical steps of the "Crossing" operation supervised by the Appellant. Once a container cleared the



Mundra SEZ/Port, it was not taken directly to the destination. Instead, it was moved to a secluded area near Palsana Chokdi or similar transit points. The container was shifted from the "Customs-cleared" trailer to a different, "non-tracked" trailer. This is done specifically to render the E-way bills and GPS tracking data of the original vehicle useless for enforcement agencies. The Appellant was physically present at these locations to ensure the "switch" happened swiftly and without detection.

5.3 A legitimate importer of "slippers" or "massagers" has absolutely no commercial or legal requirement to switch trailers in the middle of a highway to evade tracking. This activity is a classic hallmark of smuggling logistics intended to "launder" the movement of the container. The act of "Crossing" is not a trade practice; it is a clandestine operation. Consequently, the Appellant's role as a "Supervisor of Crossing" elevates his status from a mere name-lender to a Co-conspirator and Abettor. His presence during these illegal transshipments proves beyond a reasonable doubt that he had full knowledge of the offending nature of the cargo.

5.4 The evidence gathered during the investigation points to a level of involvement that far exceeds that of a casual "name-lender." Under Section 108 of the Customs Act, 1962, any statement made before a Customs officer is considered a substantive piece of evidence, unlike statements made before the police. The Hon'ble Supreme Court in Naresh J. Sukhawani vs. Union of India 1996 (83) E.L.T. 258 (S.C.) held that the statement made before the Customs officers under Section 108 is a material piece of evidence collected by the Customs officials. The statement of a co-accused can be used to corroborate the involvement of another person in the smuggling cartel.

5.5 In this case, the statements of Shri Baldevsinh Vala and Shri Asif Sathi clearly identify the Appellant as a key member of the "inner circle." Baldevsinh Vala explicitly stated that the Appellant was not just lending his IEC for a firm (Exemplar Trading) but was also physically supervising the clandestine "crossing" of containers. Furthermore, the Appellant himself, in his statement dated 22.11.2022, admitted to receiving a 3% commission on the invoice value—a rate significantly higher than standard "handling fees" for legitimate imports, which indicates his awareness of the high-risk nature of the business.

5.6 The investigation unearthed that the Appellant traveled to Dubai with the mastermind Shri Asif Sathi and Shri Hanif Kapadia. While the Appellant claims these trips were for "exploring business opportunities," the timing and

company suggest otherwise. In the context of the larger investigation, these trips were used to coordinate with overseas suppliers and to inspect the prohibited goods before they were stuffed into containers. The act of traveling internationally with known smugglers to discuss logistics provides a clear link to the conspiracy and establishes a shared common intention to defraud the exchequer and bypass national prohibitions.

5.7 The recovery of WhatsApp chat logs from the mobile phones of co-conspirators shows routine discussions about loading "restricted" and "offending" goods. Messages from Shri Baldevsinh Vala assuring the group demonstrate a calculated effort to conceal contraband. The Appellant's participation in a cartel that used such sophisticated digital coordination to manage mis-declarations proves that he was a "partner in crime" as alleged in the Show Cause Notice.

5.8 The Appellant relies on the case of Vakil Dodhai Thakur vs. CC, arguing he had no knowledge of the smuggled contents. However, that case is easily distinguished; it involved a carrier who loaded goods in broad daylight from a regular warehouse. In the instant case, the Appellant was involved in clandestine nighttime vehicle switching and international coordination. The Adjudicating Authority correctly relied on the principle of Preponderance of Probability. In cases of organized smuggling, direct evidence of every conversation is rarely available, but the cumulative facts—the high commission, the Dubai trips, the supervision of crossing, and the use of dummy firms—collectively point to the Appellant's guilty knowledge. In Collector of Customs vs. D. Bhoormull 1983 (13) E.L.T. 1546 (S.C.), the Apex Court held that the Department is not required to prove its case with "mathematical precision," but rather that the facts and circumstances must lead to a logical inference of guilt.

5 The E-cigarettes found (over 2 lakh pieces) are prohibited under the Prohibition of Electronic Cigarettes Act, 2019 and DGFT Notification No. 20/2015-2020. Given the massive quantity and the grave public health risk associated with prohibited nicotine delivery systems, the Adjudicating Authority correctly exercised the discretion for Absolute Confiscation. There is no "right" to redeem prohibited goods. Reliance is placed on Om Prakash Bhatia vs. Commissioner of Customs, Delhi [2003 (155) E.L.T. 423 (S.C.)], where it was held that if the goods are imported in violation of a prohibition, they are "smuggled goods" and absolute confiscation is the standard legal recourse.



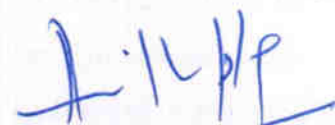
5.9 The Appellant cited Hamid Fahim Ansari vs. CC and Carmel Exports to argue that lending IEC is not prohibited. Those cases dealt with the import of legal, duty-paid goods where the only dispute was the name on the IEC. The present case involves Prohibited E-Cigarettes and Restricted Toys. The moment the cargo involves contraband, the "name-lending" becomes a tool for smuggling. However, the present case involves Seized Prohibited Goods where the role of the Appellant in "Crossing" and "Syndicate Participation" is documented through independent evidence and statements. Each OIO stands on its own factual matrix.

5.10 Section 114AA was introduced specifically to penalize the use of "false or incorrect material" in any transaction with Customs. By allowing his IEC and KYC to be used for a cargo of Floor Mops that actually contained E-cigarettes, the Appellant caused a false declaration to be made to the department.

5.11 The investigation has established a clear chain of evidence. The Appellant's claim of being a "small-time commission agent" is a convenient facade. A person who travels to Dubai with smugglers and supervises the clandestine movement of containers cannot plead ignorance of the contents. The penalties imposed are not only legally sound but necessary to deter such organized smuggling activities that threaten public health and national security. The Adjudicating Authority has correctly applied the law, and the cases cited by the Adjudicating Authority in the OIO are fully applicable to the facts of the case. The defenses raised by the Appellant are found to be without merit and are an attempt to escape the legal consequences of his participation in a smuggling cartel.

6. In light of the detailed discussion and findings above, and in exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- a. The Appeal filed by Shri Dirgesh Dedhia is hereby rejected.



(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-418/CUS/MUN/2024-25

274 10 275

Date: 31.03.2026

By Speed post A.D/E-Mail

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



Copy to:

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