

		<p align="center"><b>OFFICE OF THE COMMISSIONER</b>  <b>CUSTOM HOUSE, KANDLA</b>  <b>NEAR BALAJI TEMPLE, NEW KANDLA</b>  <b>Phone : 02836-271468/469 Fax: 02836-271467</b>  <b>Email – commr-cuskandla@nic.in</b></p>
<b>DIN-20260171ML000033203C</b>		
A	File No.	GEN/ADJ/ADC/ 2014/2024-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ADJ/VS/07/2025-26
C	Passed by	Vishwajeet Singh, Commissioner (in-situ), Custom House, Kandla
D	Date of Order	29.01.2026
E	Date of Issue	29.01.2026
F	SCN NO. & Date	GEN/ADJ/ADC/2014/2024-Adjn-O/o Commr-Cus-Kandla date 04.10.2024
G	Noticee / Party / Importer / Exporter	<p>1. M/s. Brews Barron LLP. Phase-1. Plot No. 383. Sector-4, Kandla SEZ, Gandhidham. (E-mail ID: info.bbllp2020@gmail.com &amp; bbllp2020@gmail.com )</p> <p>2. Smt. Suchita Singh. Partner of M/s Brews Barton LLP, Phase-1. Plot No. 383, Sector-4, Kandla SEZ, Gandhidham. (E-mail ID: suchpall@yahoo.co.in )</p> <p>3. M/s. Faychem General Trading LLC, Office 308, AL-Zarooni Building., Near AL-Raffa Police Station, AL-Suq-AL-Akbeer, Bur, Dubai, PO BOX-15410 (UAE). (E-mail ID: Faychem.trd @gmail.com</p>

1. यह मूल आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्कअधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए- 1-में 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 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमाशुल्कआयुक्त (अपील),

**7 वीं मंजिल, मृदुलटावर, टाइम्सऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”**

**“THE COMMISSIONER OF CUSTOMS (APPEALS),**  
**Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,**  
**Ashram Road, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 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, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) 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:**

M/s Brews Barron LLP, having IEC No. ABMFM0547K and registered at Plot No. 308, Phase-I, Sector-4, Kandla Special Economic Zone, Gandhidham (**hereinafter also referred to as the Importer for the sake of brevity**), imported a consignment of alcoholic beverages under Bill of Lading No. ASLRJEAIXY163 dated 12.12.2023, covered under Container No. IALU4563344. The goods were imported through Kandla Port and were reported to be lying unclaimed at Kandla International Container Terminal for a considerable

period. In view of the prolonged non-clearance, the matter was taken up by SIIB, Custom House, Kandla for examination and verification.

2. During inquiry, the importer stated that they had placed a purchase order dated 23.08.2023 on M/s Truebell Marketing & Trading FZE, UAE, and that the goods were ultimately supplied by M/s Faychem General Trading LLC, Dubai. The importer claimed that the goods supplied were not in conformity with their purchase order and, therefore, they refused to take delivery of the consignment. However, it was noticed that the importer had already made payment of USD 34,422 towards the said consignment against Invoice No. FC-BB-001-2023 dated 31.08.2023, much prior to the arrival of the goods.

3. The container was examined on 09.04.2024 under panchnama in the presence of the representatives of the shipping line and Customs officers. During examination, it was found that the quantity and description of goods available in the container did not correspond with the declared particulars. Excess quantities of alcoholic beverages, including cases of beer and packaged drinking water, were found over and above the declared goods. The total value of the excess and undeclared goods was assessed at ₹11,51,459/-. The said goods were seized under Section 110 of the Customs Act, 1962 and handed over for safe custody.

4. During the course of investigation, statements of the partner of M/s Brews Barron LLP and the authorized representative of the shipping line were recorded under Section 108 of the Customs Act, 1962. It emerged that although the importer claimed that discrepancies had occurred due to the acts of an unidentified "third party", they had nevertheless made full payment for the goods and failed to disclose the identity of the said intermediary. It further emerged that the shipping line had filed the Import General Manifest based on documents received from the shipper and later sought amendment when discrepancies were noticed.

5. It was observed that the commercial invoice, packing list and Bill of Lading accompanying the consignment contained mis-declared particulars relating to quantity and description of goods. The importer continued to disclaim ownership only after initiation of investigation, despite having placed the purchase order and effected payment. The conduct of the importer indicated suppression of material facts and an attempt to evade lawful customs duty. It was further observed that M/s Faychem General Trading LLC, Dubai, being the overseas supplier, had issued inconsistent documents and was involved in the mis-declaration of the goods, thereby facilitating improper importation.

6. From the facts on record, it appeared that the subject goods were liable to confiscation under the provisions of Section 111 of the Customs Act, 1962, as the goods were mis-declared in terms of quantity and description and were attempted to be imported in contravention of the provisions of the Act. It further appeared that M/s Brews Barron LLP and its partner, Smt. Suchita Singh, were actively involved in the acts and omissions leading to improper importation, rendering them liable to penalty under Sections 112(a) and 112(b) of the Customs Act, 1962. It also appeared that false and incorrect documents were knowingly used in connection with the importation of the goods, attracting penal liability under Section 114AA of the Customs Act, 1962. Further, for acts of omission and commission not specifically covered elsewhere, penalty under Section 117 of the Customs Act, 1962 was also attracted.

7. It also appeared that M/s Faychem General Trading LLC, Dubai, by issuing false and misleading commercial documents and facilitating mis-declaration of goods, rendered itself liable to penalty under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

8. Accordingly, a Show Cause Notice was issued to M/s Brews Barron LLP, its partner Smt. Suchita Singh, and M/s Faychem General Trading LLC, Dubai, calling upon them to show cause as to why the goods valued at ₹11,51,459/- should not be confiscated under Sections 111(l) and 111(m) of the Customs Act, 1962 and why penalty should not be imposed upon them under Sections 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

#### **DEFENCE REPLY**

9. In response to the Show Cause Notice dated 04.10.2024, M/s Brews Barron LLP and its partner, Smt. Suchita Singh, submitted a written reply dated 06.02.2025, wherein they denied the allegations made in the notice and contended that the proposed confiscation and imposition of penalties are unsustainable in law and on facts.

10. The noticee submitted that they had fully cooperated with the investigation and furnished all documents available with them in respect of the consignment covered under Bill of Lading No. ASLRJEAIXY163 dated 12.12.2023. It was stated that they had placed a purchase order on M/s Truebell Marketing & Trading FZE, Fujairah, UAE, who in turn placed the order with M/s Faychem General Trading LLC, Dubai. According to the noticee, due to miscommunication between the overseas entities, incorrect goods were shipped, and upon coming to know of the discrepancy, they declined to accept the consignment and communicated the same to the overseas supplier.

11. The noticee further contended that they had not filed any Bill of Entry in respect of the impugned goods since the consignment did not conform to the purchase order. On this basis, it was claimed that they could not be held responsible for rendering the goods liable to confiscation under Section 111 of the Customs Act, 1962, nor could any penalty be imposed under Section 112(a) or 112(b) of the Act.

12. It was further submitted that there was no evidence to establish that they had any prior knowledge of the alleged misdeclaration in the Bill of Lading or invoice issued by the overseas supplier. The noticee contended that they had neither prepared nor authorised the preparation of any incorrect or false documents and, therefore, the provisions of Section 114AA of the Customs Act, 1962 were not applicable to them.

13. The noticee also argued that Section 117 of the Customs Act, being a residuary provision, could not be invoked when penalties under Sections 112(a), 112(b), and 114AA had already been proposed. It was contended that invocation of Section 117 in such circumstances was legally unsustainable.

14. It was further submitted that the unit is located within Kandla Special Economic Zone and operates under the physical control of Customs authorities. Therefore, according to the noticee, there was no possibility of clandestine removal, misuse, or unauthorised handling of the goods, and consequently, the allegation of deliberate misdeclaration was untenable.

15. The noticee also contended that payment made to M/s Faychem General Trading LLC against the disputed invoice was adjustable against future transactions and did not amount to acceptance of the consignment. It was reiterated that upon learning of the incorrect shipment, they immediately refused to accept delivery and did not file any Bill of Entry in respect of the impugned goods.

16. The noticee further submitted that penalties could not be simultaneously imposed on both the partnership firm and its partner for the same set of alleged acts, relying upon judicial precedents including the decisions in *Classic ITM v. Commissioner of Customs, New Delhi*, *Ritesh v. Commissioner of Central Excise, Kanpur*, and *Solly Perumal v. Commissioner of Customs, Kandla*. It was contended that separate penalties on the firm and partner would amount to double jeopardy.

17. On the above grounds, the noticee prayed that the Show Cause Notice issued to M/s Brews Barron LLP and its partner be dropped in entirety and that no confiscation or penalty be imposed.

18. Further, in written submissions dated 16.12.2025 the noticee denied all allegations made in the Show Cause Notice again a time and submitted that the proceedings were based on presumptions, conjectures, and surmises, without any cogent or admissible evidence to establish their involvement in any act of misdeclaration or contravention of the Customs Act, 1962.

19. The noticee submitted that they had fully cooperated with the investigation and had furnished all documents available with them in relation to the consignment covered under Bill of Lading No. ASLRJEAIXY163 dated 12.12.2023. It was stated that they had placed a purchase order on M/s Truebell Marketing & Trading FZE, Fujairah, UAE, who in turn sourced the goods from M/s Faychem General Trading LLC, Dubai. According to the noticee, due to miscommunication between the overseas entities, incorrect goods were shipped. Upon learning of the discrepancy, the noticee immediately refused to accept the consignment and communicated the same to the overseas supplier.

20. The noticee submitted that they had not filed any Bill of Entry in respect of the said consignment since the goods were not in conformity with their purchase order. It was contended that since no Bill of Entry was filed and the goods were never cleared for home consumption, they could not be held liable for confiscation under Section 111 of the Customs Act, 1962. Consequently, the question of imposing penalty under Sections 112(a) or 112(b) of the Act, according to the noticee, did not arise.

21. The noticee further submitted that the Show Cause Notice failed to bring on record any evidence to demonstrate that they had prior knowledge of any incorrect or false declaration made in the Bill of Lading or commercial invoice issued by the overseas supplier. It was contended that the impugned documents were neither prepared nor authorised by the noticee and that there was no evidence to establish any intent on their part to misdeclare goods or evade customs duty. On this basis, it was argued that the provisions of Section 114AA of the Customs Act, 1962 were not attracted.

22. It was further contended that Section 117 of the Customs Act, being a residuary provision, could not be invoked when penalties under Sections 112 and 114AA had already been proposed. The noticee asserted that invocation of Section 117 in the present facts was legally unsustainable.

23. The noticee also submitted that their unit is located within the Kandla Special Economic Zone, which remains under physical supervision and control of Customs authorities, and therefore, there could be no question of clandestine removal, manipulation, or unauthorised handling of goods. It was contended that the allegation of deliberate misdeclaration was without factual basis.

24. With regard to payment made to M/s Faychem General Trading LLC, the noticee stated that the said payment was made against an invoice raised by the supplier but, upon discovering that the goods were not in conformity with the purchase order, the noticee refused to accept delivery. It was further stated that such payment was adjustable against future transactions and could not be treated as evidence of acceptance of the consignment.

25. Further, in their additional submission dated 16.12.2025, the noticee contended that the entire case of the Department was founded on assumptions and presumptions without any direct or circumstantial evidence to establish knowledge or involvement of the noticee in any alleged misdeclaration. It was argued that mere suspicion, howsoever strong, cannot substitute proof. Reliance was placed on several judicial pronouncements, including decisions of the Hon'ble CESTAT and the Hon'ble Supreme Court, to contend that penalties under Sections 112 and 114AA require clear proof of knowledge, intention, and conscious involvement.

26. The noticee further argued that no evidence had been brought on record to establish that they had knowledge of multiple sets of import documents or that they had instructed the overseas supplier to prepare incorrect documents. It was emphasized that the Department had failed to discharge the burden of proving mens rea, which is a mandatory requirement for imposition of penalty under Sections 112 and 114AA of the Customs Act.

27. It was also submitted that the Department could not rely upon alleged non-disclosure of the identity of a "third party" to fasten liability, in the absence of independent corroborative evidence showing the noticee's conscious involvement. The noticee argued that the law does not permit drawing adverse inferences solely on the basis of non-disclosure or suspicion.

28. The noticee further placed reliance on various judicial precedents, including decisions of the Hon'ble CESTAT and Hon'ble Supreme Court, to submit that confiscation and penalty cannot be sustained on assumptions or presumptions, and that the burden of proof always lies on the Department to establish conscious knowledge and intent beyond reasonable doubt.

29. It was also contended that penalty cannot simultaneously be imposed on both the partnership firm and its partner for the same alleged acts, relying upon settled judicial precedents. Accordingly, the noticee submitted that imposition of penalty on both M/s Brews Barron LLP and its partner would be legally untenable.

30. In view of the above submissions, the noticee prayed that the Show Cause Notice issued against M/s Brews Barron LLP and Smt. Suchita Singh be dropped in toto. The noticee further stated that they waived the requirement of personal hearing and requested disposal of the matter based on written submissions.

#### **PERSONAL HEARING**

31. Whereas, opportunities for personal hearing in the matter was granted to all the three Noticees on 02.01.2025, 21.07.2025 and 26.11.2025 to remain present and produce all such documents which they intend to rely in support of their defence, in the case of Show Cause Notice dated 04.10.2024 issued to M/s Brews Barron LLP, Smt. Suchita Singh, Partner of M/s Brews Barron LLP and M/s Faychem General Trading LLC, Dubai, under F. No. GEN/ADJ/ADC/2014/2024-Adjn-O/o Commr-Cus-Kandla, served to them through mail on 04.10.2024.

32. On 26.11.2025 through virtual mode, Shri Vikas Mehta, Consultant, appeared on behalf of M/s Brews Barron LLP, Smt. Suchita Singh and M/s Faychem General Trading LLC, Dubai. He reiterated the submissions already made in the written replies dated 06.02.2025 and 16.12.2025, and requested that the same be treated as part of the record. He submitted that the allegations in the Show Cause Notice were based on presumptions and conjectures and reiterated the request for dropping of proceedings against the noticees.

### **DISCUSSION AND FINDINGS**

33. I have carefully gone through the contents of the Show Cause Notice F. No. GEN/ADJ/ADC/2014/2024-Adjn-O/o Commr-Cus-Kandla dated 04.10.2024 along with the Relied upon Documents and the documents/evidences available on record and the submissions made vide letter dated 06.02.2025 and 16.12.2025.

In view of the facts of the case, the allegations made in the Show Cause Notice, the replies and additional submissions filed by the noticees, and the submissions made during personal hearing, the following points arise for determination in the present proceedings:

- (i) Whether the goods covered under Bill of Lading No. ASLRJEAIXY163 dated 12.12.2023, found to be in excess and mis-declared during examination, are liable to confiscation under the provisions of Section 111(l) and 111(m) of the Customs Act, 1962.
- (ii) Whether M/s Brews Barron LLP can relinquish ownership and responsibility of the imported goods after having placed the purchase order, made payment against the commercial invoice, and allowed the goods to be shipped in their name, merely on the ground that the goods were allegedly at a variance from the purchase order.
- (iii) Whether the plea of refusal to accept delivery of the goods, raised after initiation of investigation, is tenable under Section 23(2) of the Customs Act, 1962, in view of the factual circumstances of the case.
- (iv) Whether the discrepancies in quantity and description of goods, as noticed during examination, establish mis-declaration attributable to the importer and the overseas supplier, rendering the goods liable to confiscation under Section 111 of the Customs Act, 1962.
- (v) Whether M/s Brews Barron LLP and its partner, Smt. Suchita Singh, had knowledge of or were complicit in the mis-declaration of goods, thereby attracting penal liability under Sections 112(a) and 112(b) of the Customs Act, 1962.
- (vi) Whether the acts and omissions attributed to the noticees, including use of allegedly incorrect and misleading commercial documents, attract penalty under Section 114AA of the Customs Act, 1962.
- (vii) Whether penalty under Section 117 of the Customs Act, 1962 is invocable for the acts and omissions not specifically covered under other penal provisions of the Act.
- (viii) Whether M/s Faychem General Trading LLC, Dubai, as the overseas supplier and notified party, is liable for penal action under Sections 112(a), 112(b), and 114AA of the Customs Act, 1962, for its role in issuance of allegedly incorrect commercial documents and facilitation of mis-declaration.
- (ix) Whether the goods in question are liable to confiscation and whether penalties are imposable on the noticees under the provisions of the Customs Act, 1962, and if so, to what extent.

Now, I proceed to examine all the issues on the basis of available facts on record, proof available, written submission of the noticee/s and record of the personal hearing.

34. I find that the details of goods as declared by M/s Brews Barron LLP covered under Bill of Lading No. IALU4563344 dated 12-12-2023 are as follows:-

BL No.	Consignee	Goods Description & Quantity	Container No.
ASLRJEA IXY163 dated 12- 12-2023	M/s Brews Barron LLP, Plot No. 308, Phase-I, Sector-4, Kandla Special Economic Zone, Gandhidham (Kutch)	Kingston Dry Gin 76 cases Teachers 75 Cl 50 cases Danoff Vodka 70Cl 63 cases Clan Royal 75 Cl 40 cases Whyte & Mackay 75 Cl 10 cases Vat 69 75 Cl 50 cases Old Smuggler 70Cl 50 cases Royal Horse 75 Cl 50 cases Goldmeister Beer 500 ml; 111 cases	IALU4563344; Seal No. 956226

Further, during the course of examination of the cargo, the following goods were found which were recorded under Panchnama dated 09.04.2024 carried out at M/s A V Joshi & Co., CFS, Mithi Rohar, Gandhidham.

Sr. No.	Description of Goods	Unit of Measurement (Case/Cans/Bottles)	Qty declared in Commercial Invoice	Qty found during examination	Quantity found undeclared/excess	Value (in Rs.)
1	Kingston Dry Gin 100 Cl	Case	76	76	-	2,88,306/- (3420*84.30)
2	Teachers 75 Cl	Case	50	50	-	1,34,880/- (1600*84.30)
3	Danoff Vodka 70Cl	Case	63	63	-	1,43,394/- (1701*84.30)
4	Clan Royal 75 Cl	Case	40	40	-	1,01,160/- (1200*84.30)
5	Whyte & Mackay 75 Cl	Case	10	10	-	25,290/- (300*84.30)
6	Vat 69 75 Cl	Case	50	50	-	1,26,450/- (1500*84.30)
7	Old Smuggler 70Cl	Case	50	50	-	1,26,450/- (1500*84.30)
8	Royal Horse 75 Cl	Case	50	50	-	1,43,310/- (1700*84.30)
9	Cases of Goldmeister Beer 500 ml	Case	111	111	-	28,072/- (333*84.30)
	Cases of Goldmeister Beer 500 ml	Case	-	21	21 Cases (504 cans =21*24 cans)	5,311/- (21*3*84.30)
10	Loose cans of Cases of Goldmeister Beer 500 ml	Cans	-	550	550 Cans	*5,796/- {(550/24)*3*84.3}
11	1 Litre "GORAS	Bottle	-	1,152	1152 Bottles	**23,040/-

	YES"packaged drinking water bottles					(1152*20)
<b>TOTAL</b>						<b>11,51,459/-</b>

34.1 Thus, on careful examination of records, it is observed that the goods covered under the said Bill of Lading No. ASLRJEAIXY163 dated 12.12.2023 were found, upon physical examination, to be in excess and at variance with the declared description and quantity. The discrepancies were duly recorded during panchnama proceedings carried out on 09.04.2024 at M/s A V Joshi & Co., CFS, Mithi Rohar, Gandhidham and included excess quantities of alcoholic beverages and packaged drinking water not reflected in the accompanying commercial documents.

34.2 The noticee has not disputed the factual findings regarding excess and undeclared goods but has contended that the discrepancy arose due to mistakes committed by the overseas supplier and that they had refused to accept the consignment. However, the fact remains that the goods were shipped in the name of the noticee, against a purchase order placed by them, and payment had already been made against the commercial invoice. The responsibility for correctness of import documents rests with the importer, irrespective of any alleged internal arrangements with overseas suppliers.

34.3 Section 111(l) and 111(m) of the Customs Act provide for confiscation of improperly imported goods where goods are misdeclared in respect of quantity, description or other material particulars. From the examination of goods conducted by SIIB and outcome of examination thereof i.e. recovery of 21 excess cases of Goldmeister Beer, 550 loose Canes of Goldmeister Beer and 1152 bottles of GORAS drinking water, it is evident that the said importer under sole supervision and guidance of its active Partner Smt. Suchita Singh were indulging in importing of goods by way of mis-declaring the imported goods with respect to quantity and other particulars. Thus, they deliberately mis-declared the import consignment on all the import documents such as invoice, packing list, Bill of Lading, etc. Thus, in the present case, the excess and undeclared goods were physically found during the examination, and therefore, the ingredients of mis-declaration stand established.

34.3 Accordingly, I find that the goods are held liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962.

35.1 The noticee has contended that they refused to accept delivery of the goods and therefore cannot be held liable under the Customs Act.

35.2 I find that the importer's refusal is only after initiation of investigation in this matter. The importer refused to accept delivery vide letter dated 16.02.2024 while the inquiry was initiated by the Department on 14.02.2024. The importer is the sole owner of the goods imported vide BL No ASLRJEAIXY163 dated 12-12-2023 and supplier Invoice No. Invoice No. FC-BB-001-2023 dated 31-08-2023 as they have placed the order for the same and also made payment for the same. Before the investigation was started, the importer never told the department that he did not accept the goods. The records clearly indicate that the noticee had placed the purchase order, made payment against the commercial invoice, and permitted shipment of the goods in their name.

36.1 The plea of abandonment or relinquishment under Section 23(2) of the Customs Act is not unconditional. The proviso to Section 23(2) specifically bars relinquishment where an offence appears to have been committed under the Act. In the present case, the mis-declaration came to light during examination and investigation, and the refusal to accept delivery was communicated on 16.02.2024 i.e. only after initiation of inquiry by the department i.e. 14.02.2024.

Provisions of Section 23 are reproduced hereunder -

**“Section 23. Remission of duty on lost, destroyed or abandoned goods -**

*(1) Without prejudice.....shall remit the duty on such goods.*

*(2) The owner of any imported goods may, at any time before an order for clearance of goods for home consumption under section 47 or an order for permitting the deposit of goods in a warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon;]*

***[Provided that the owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.]”***

36.2 Therefore, the plea of relinquishment is not acceptable, and the noticee cannot escape liability by claiming refusal of delivery after the commencement of investigation.

37.1 The noticee has contended that the commercial invoice, packing list, and Bill of Lading were prepared by the overseas supplier and that they had no knowledge of incorrect declarations. However, it is undisputed that the import was undertaken in the name of the noticee and that payment was made by the noticee against the said documents.

37.2 The importer cannot disown responsibility for mis-declared documents merely by attributing errors to the overseas supplier. The law casts an obligation upon the importer to ensure correctness of declarations made for importation. The conduct of the noticee in making payment despite discrepancies and thereafter seeking to disassociate itself from the transaction demonstrates conscious acquiescence rather than absence of knowledge.

37.3 Accordingly, I find that the contention that the noticee had no knowledge or involvement in the mis-declaration is not acceptable.

38.1 It is an admitted fact that all import related activities in the firm M/s Brews Barron LLP were looked after by Smt. Sucheta Singh who herself used to place orders with overseas suppliers and finalized the deal for import of subject goods with the supplier, notify party and other associates. Thus, Smt. Sucheta Singh was knowingly concerned in purchasing, importing subject goods which were liable to confiscation under Section 111 of Customs Act, 1962. Thus, the evidence on record establishes that the noticee was directly concerned with the importation of the goods and had knowledge of the transaction. The mis-declared goods were imported under their name and for their commercial benefit. Therefore, the acts and omissions of the noticee squarely fall within the ambit of Sections 112(a) and 112(b) of the Customs Act. Thus, Smt. Sucheta Singh is liable to separate penalties under Section 112 (a) and 112(b) of the Customs Act, 1962.

38.2 The argument that penalty cannot be imposed in the absence of filing of a Bill of Entry is untenable, as liability under Section 112 is attracted by acts or omissions rendering goods liable to confiscation, irrespective of the stage at which such acts occur.

38.3 Hence, penalty under Sections 112(a) and 112(b) is clearly attracted.

39.1 Section 114AA applies where a person knowingly or intentionally makes, signs, or uses false or incorrect documents in connection with any transaction under the Customs Act. In the present case, multiple commercial documents containing incorrect particulars were used for importation. The noticee, having made payment against such documents and allowed the import to proceed, cannot be absolved of responsibility. The plea of lack of knowledge is not supported by evidence and is contradicted by the surrounding circumstances.

39.2 Since, M/s Brews Barron LLP and Smt. Suchita Singh knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in terms of Quantity, Value and other particulars, with intend to not clear the goods by way of non-filing of Bill of Entry, therefore they shall also be separately liable to penalty under Section 114AA of the Customs Act, 1962.

39.3 Therefore, I find that the ingredients of Section 114AA stand satisfied and hence liable to penalty under Section 114AA of the Customs Act, 1962.

40.1 Section 117 is a residuary provision applicable where contraventions occur that are not specifically covered under other penal provisions. In the instant case, for their various acts of non-cooperation, non-disclosure of the details of the said third party and mis-leading in the investigation by Smt. Sucheta Singh as discussed supra, the importer and Smt. Suchita Singh have made themselves separately liable to penalty under Section 117 of Customs Act, 1962.

40.2 Therefore, I find that in the present case, various acts of omission and commission, including failure to ensure compliance with statutory obligations and lack of due diligence, attract penalty under Section 117 in addition to other penal provisions.

41.1 M/s. Faychem General Trading LLC, Dubai (UAE) was declared notify party in respect of live consignment covered under Bill of Lading No. ASLRJEAIXY163 dated 12.12.2023 imported by M/s Brews Barron LLP. As discussed above on examination of the consignment by SIIB section, 21 cases of Goldmeister Beer, 550 loose Canes of Goldmeister Beer and 1152 bottles of GORAS drinking water were found in excess in the said consignment. Thus, the said notify party had knowingly issued double import documents showing lesser quantity in connivance with importer as apparent from the invoices i.e. Inv. No. FC-BB-001-2023 dated 31.08.2023 and Inv. No. FG/BB/001/2023 dated 10.12.2023. These facts and evidences clearly indicate that the importer connived with M/s. Faychem General Trading LLC, Dubai (UAE) and as per their mutual collusion, the invoice/packing list, Bill of Lading etc. were prepared by deliberately showing lesser quantity of the subject goods.

41.2 Thus, I find that by way of abetting the mis-declaration of the quantity and value of goods in the import consignment covered under above mentioned Bill of Lading, M/s. Faychem General Trading LLC, Dubai (UAE) rendered the subject goods liable for confiscation under Section 111 of Indian Customs Act, 1962. They were knowingly concerned in selling and dealing with of subject goods which were liable to confiscation under Section 111 of Indian Customs Act, 1962. Thus, M/s. Faychem General Trading LLC,

Dubai (UAE) are liable to separate penalties under Section 112 (a) and 112(b) of the Indian Customs Act, 1962.

41.3 Further, I find that M/s Faychem General Trading LLC, Dubai (UAE) knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, etc.) which was false or incorrect in material particular Quantity, Value etc., with intend to abet the clearance of the excess quantity without payment of Duty/taxes, therefore M/s Faychem General Trading LLC, Dubai (UAE) shall also be liable to penalty under Section 114AA of the Indian Customs Act, 1962.

41.4 Thus, the records reveal that M/s Faychem General Trading LLC issued commercial documents containing incorrect and inconsistent particulars, which facilitated the mis-declaration of goods. Their role in preparing and issuing such documents establishes their involvement in the improper importation of goods. Consequently, they are liable for penal action under Sections 112(a), 112(b), and 114AA of the Customs Act.

42. The judgments cited by the noticee relate to cases where the Department failed to establish knowledge or intent. However, in the present case, the factual matrix demonstrates active participation, knowledge, and conduct inconsistent with bona fide import. Therefore, the cited decisions are distinguishable on facts and do not assist the noticee.

43. In view of the foregoing discussion, it is held that the impugned goods are liable to confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962, and that M/s Brews Barron LLP, its partner Smt. Suchita Singh, and M/s Faychem General Trading LLC are liable to penalties under Sections 112(a), 112(b), 114AA, and 117 of the Customs Act, 1962.

44. In this regard, it is pertinent to mention that the Disposal Section, Custom House, Kandla vide e-mail dated 31.12.2025 informed that they had requested the SIIB, Custom House, Kandla for issuance of NOC for disposal of the aforementioned seized goods of M/s Brews Barron LLP, however, no response received from SIIB and hence no action could be initiated regarding the disposal of the seized goods.

45. In view of the above, in exercise of the powers conferred under the Customs Act, 1962, and after careful consideration of the records of the case, submissions made by the noticees, and findings recorded hereinabove, I pass the following order:

**::ORDER::**

- (i) I order to confiscate the goods found during the examination as per Table-2 of the impugned SCN covered under Bill of Lading No. ASLRJEAIXY163 dated 12.12.2023, found to be mis-declared in terms of quantity and description and valued at ₹11,51,459/- by M/s Brews Barron LLP, (IEC No. ABMFM0547K), under Section 111(l) and 111(m) of the Customs Act, 1962.
- (ii) However, M/s Brews Barron LLP are hereby given an option for redemption of goods on payment of ₹5,00,000/- (Rupees Five Lakhs only) under the provisions of Section 125 of the Customs Act, 1962.
- (iii) I impose penalty of ₹2,00,000/- (Rupees Two Lakhs only) on M/s Brews Barron LLP, under Section 112(a) of the Customs Act, 1962, for their acts and omissions which rendered the goods liable to confiscation.

- (iv) I impose penalty of ₹2,00,000/- (Rupees Two Lakhs only) on M/s Brews Barron LLP, under Section 112(b) of the Customs Act, 1962, for their acts and omissions which rendered the goods liable to confiscation.
- (v) I impose penalty of ₹12,00,000/- (Rupees Twelve Lakhs) only on M/s Brews Barron LLP under Section 114AA of the Customs Act, 1962, for knowingly using and relying upon incorrect and misleading import documents.
- (vi) I impose penalty of ₹1,00,000/- (Rupees One Lakh) only on M/s Brews Barron LLP under Section 117 of the Customs Act, 1962, for contraventions not specifically covered elsewhere under the Act.
- (vii) I impose penalty of ₹2,00,000/- (Rupees Two Lakhs only) on Smt. Suchita Singh, Partner of M/s Brews Barron LLP under Section 112(a) of the Customs Act, 1962, for their acts and omissions which rendered the goods liable to confiscation.
- (viii) I impose penalty of ₹2,00,000/- (Rupees Two Lakhs only) on Smt. Suchita Singh, Partner of M/s Brews Barron LLP under Section 112(b) of the Customs Act, 1962, for their acts and omissions which rendered the goods liable to confiscation.
- (ix) I impose penalty of ₹12,00,000/- (Rupees Twelve Lakhs) only on Smt. Suchita Singh, Partner of M/s Brews Barron LLP under Section 114AA of the Customs Act, 1962, for knowingly using and relying upon incorrect and misleading import documents.
- (x) I impose penalty of ₹1,00,000/- (Rupees One Lakh) only on Smt. Suchita Singh, Partner of M/s Brews Barron LLP under Section 117 of the Customs Act, 1962, for contraventions not specifically covered elsewhere under the Act.
- (xi) I impose penalty of ₹2,00,000/- (Rupees Two Lakhs only) on M/s Faychem General Trading LLC, Dubai, under Section 112(a) of the Customs Act, 1962, for their acts and omissions which rendered the goods liable to confiscation.
- (xii) I impose penalty of ₹2,00,000/- (Rupees Two Lakhs only) on M/s Faychem General Trading LLC, Dubai, under Section 112(b) of the Customs Act, 1962, for their acts and omissions which rendered the goods liable to confiscation.
- (xiii) I impose penalty of ₹12,00,000/- (Rupees Twelve Lakhs) only on M/s Faychem General Trading LLC, Dubai, under Section 114AA of the Customs Act, 1962, for knowingly using and relying upon incorrect and misleading import documents.
- (xiv) I impose penalty of ₹1,00,000/- (Rupees One Lakh) only on M/s Faychem General Trading LLC, Dubai, under Section 117 of the Customs Act, 1962, for contraventions not specifically covered elsewhere under the Act.

The proceedings initiated vide Show Cause Notice F. No. GEN/ADJ/ADC/2014/2024-Adjn dated 04.10.2024 stand disposed of accordingly.

47. This order is issued without prejudice to any other action that may be taken against the SEZ warehouse unit/importer firms or any other person under the Customs Act, 1962, SEZ Act or any other law for the time being in force.

Commissioner (In-Situ),  
Custom House, Kandla

To,

- (i) M/s Brews Barron LLP,  
Plot No. 308, Phase-I, Sector-4,

- Kandla Special Economic Zone,  
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E-mail: [info.bbllp2020@gmail.com](mailto:info.bbllp2020@gmail.com), [bbllp2020@gmail.com](mailto:bbllp2020@gmail.com)
- (ii) Smt. Sucheta Singh,  
Partner of M/s Brews Barron LLP,  
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- (iii) M/s Faychem General Trading LLC,  
Office 308, AL-Zaroori Building,  
Near Al-Raffa Police Station, Al-Suq-Al-Akbeer,  
Bur, Dubai, PO Box-15410 (UAE),  
E-mail: [Faychem.trd@gmail.com](mailto:Faychem.trd@gmail.com)

**Copy to:**

- (i) The Additional Commissioner (SIIB), Custom House, Kandla.  
(ii) The Deputy/Assistant Commissioner (RRA/TRC) for necessary action.  
(iii) The Superintendent (EDI) for uploading on the website.  
(iv) Guard File.