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-20250871MN000000B117

क	फ़ाइल संख्या FILE NO.	S/49-246/CUS/AHD/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)	AHD-CUSTM-000-APP-172-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	08.08.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original No. 01/SAANJH/ADC/ICD-SACHIN/SRT/2024-25, dated 23.09.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	08.08.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Saanjh Industries, Office No 2B, 205 M K Patel Estate, NH No 8, Ranoli, Vadodara

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 है.
	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)	वैगेज़ के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र) या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं**	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd 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 रुपए.**	
(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 रुपए**	
(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 रुपए.**	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	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 ।	
(d)	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 M/s. Saanjh Industries, Office No 2B, 205 M K Patel Estate, NH No 8, Ranoli, Vadodara (herein after referred as Appellant), in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original No. 01/Saanjh/ADC/ICD-Sachin/SRT/2024-25 dated 23.09.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Customs, Ahmedabad (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that on the basis of specific intelligence gathered by the officers of the Directorate of Revenue Intelligence, HQ, New Delhi (herein after referred to as 'DRI' investigation was initiated against the importers (i) M/s Saanjh Industries P Ltd. (IEC-ABGCS5174F), Shop No 2, Ground Floor, 13/11 Nine Plaza, Karol Bagh, New Delhi-110005 (herein after referred as M/s Saanjh Industries P Ltd) (ii) M/s Saanjh Industries (BXZPK1419A), Office No 2B, 205 M K Patel Estate, NH No 8, Ranoli, Vadodara (herein after referred as M/s Saanjh Industries) (iii) M/s Total Power Ind. P Ltd. (IEC-AAICT7681B), Basement, 12/3, Padam Singh Road, Karol Bagh, New Delhi110005 (herein after referred as M/s Total Power Ind. P Ltd) (iv) M/s Total Industries (IEC-AAICT7681B), 5/68, MPL-10582, First Floor, W.E.A, Karol Bagh, New Delhi110005 (herein after referred as M/s Total Industries) & {v) M/s Bluevenus Industries (IEC-AAKPA7637H), E-33, Industrial Area, Haridwar, Uttarakhand249401 (herein after referred as M/s Bluevenus Industries).

2.1 Searches were carried out at Delhi in respect of (i) M/s Saanjh Industries P Ltd. (ii) M/s Saanjh Industries (iii) M/s Total Power Ind. P Ltd. (iv) M/s Total Industries & (v) M/s Bluevenus Industries. The import consignments of M/s Saanjh Industries P Ltd., M/s Saanjh Industries and M/s Bluevenus Industries were put on hold by the DRI, HQ, New Delhi at ICD Varnama and the imported consignments under 33 BoEs were examined by the officers of DRI, DRI Ahmedabad (AZU), DRI Surat and Customs Ahmedabad under the various Panchnamas. The details as under:-

Table:1

S NO	Name of Importer	Bill of entry no. & date	Panchanama Drawn by	Panchanama Date	Seizure Memo Dt
(1)	(2)	(3)	(4)	(5)	(6)
1	M/s Saanjh Industries Private Limited	2196148 dtd 19.02.2024	DRI,AZU	01.03.2024	20.03.2024
2		2133691 dtd 14.02.2024	DRI,AZU	01.03.2024	20.03.2024
3		2095885 dtd 11.02.2024	DRI,AZU	08.03.2024	20.03.2024
4		2095697 dtd 11.02.2024	DRI,AZU	09.03.2024	20.03.2024
5		2215925 dtd 20.02.2024	DRI,HQ,NEW DELHI	09.03.2024	20.03.2024
6		2231121 dtd 21.02.2024	DRI,HQ,NEW DELHI	10.03.2024	20.03.2024
7		2181465 dtd 17.02.2024	DRI,AZU	11.03.2024	20.03.2024
8		2163088 dtd 16.02.2024	DRI,HQ,NEW DELHI	12.03.2024	20.03.2024
9		2161572 dtd 16.02.2024	DRI,AZU	12.03.2024	20.03.2024

10		2176260 dtd 17.02.2024	DRI,AZU	13.03.2024	20.03.2024
11		2245898 dtd 22.02.2024	DRI,HQ,NEW DELHI	13.03.2024	20.03.2024
12		2249677 dtd 22.02.2024	DRI,AZU	14.03.2024	20.03.2024
13		2177394 dtd 17.02.2024	DRI,HQ,NEW DELHI	15.03.2024	20.03.2024
14		2184010 dtd 17.02.2024	DRI,HQ,NEW DELHI	15.03.2024	20.03.2024
15		2179003 dtd 17.02.2024	DRI,AZU	16.03.2024	20.03.2024
16		2229754 dtd 21.02.2024	DRI,HQ,NEW DELHI	16.03.2024	20.03.2024
17		2353406 dtd 29.02.2024	DRI,HQ,NEW DELHI	17.03.2024	20.03.2024
18		2352324 dtd 29.02.2024	DRI,HQ,NEW DELHI	18.03.2024	20.03.2024
19		2117891 dtd 13.02.2024	DRI,AZU	08.04.2024	19.06.2024
20	M/s Saanjh Industries	2329524 dtd 27.02.2024	DRI,HQ,NEW DELHI	11.03.2024	20.03.2024
21		2327437 dtd 27.02.2024	DRI,HQ,NEW DELHI	11.03.2024	20.03.2024
22		2159886 dtd 16.02.2024	DRI,HQ,NEW DELHI	13.03.2024	20.03.2024
23		2193937 dtd 18.02.2024	DRI,AZU	15.03.2024	20.03.2024
24		2120941 dtd 13.02.2024	DRI,HQ,NEW DELHI	16.03.2024	20.03.2024
25		2159112 dtd 16.02.2024	DRI,HQ,NEW DELHI	17.03.2024	20.03.2024
26		2227274 dtd 21.02.2024	Customs Ahmedabad	16.05.2024	19.06.2024
27	M/s Bluevenus Industries	2193532 dtd 18.02.2024	DRI-Surat	03.04.2024	19.06.2024
28		2194252 dtd 18.02.2024	DRI-Surat	03.04.2024	19.06.2024
29		2164704 dtd 16.02.2024	DRI-Surat	04.04.2024	19.06.2024
30		2193688 dtd 18.02.2024	Customs Ahmedabad	17.05.2024	19.06.2024
31		2197324 dtd 19.02.2024	Customs Ahmedabad	16.05.2024	19.06.2024
32		2214295 dtd 20.02.2024	Customs Ahmedabad	17.05.2024	19.06.2024
33		2233328 dtd 21.02.2024	Customs Ahmedabad	17.05.2024	19.06.2024

2.2 The goods imported vide above mentioned 33 BoEs were seized under Section 110 of the Customs Act on a reasonable belief that impugned goods imported vide the above mentioned BoEs are liable for confiscation in terms of provision of Section 111 of the Customs Act, 1962 vide Seizure Memos mentioned in the above Table -1. The Deputy Director, DRI, HQ, New Delhi vide letter (i) F. No. HQ-CI-A-Cell/50D/Int-03/2024 dated 09.04.2024 & (ii) F. No. DRI/HQ-CI/A-Cell/50D/Int- 03/2024 dated 19.04.2024 transferred the said case booked against (i) M/s Saanjh Industries P Ltd. (ii) M/s Saanjh Industries (iii) M/s Total Power Ind. P Ltd. (iv) M/s Total Industries & (v) M/s Bluevenus Industries to the Customs, Ahmedabad for further investigation.

2.3 The consignments imported by M/s Saanjh industries P Ltd Karol Bagh New Delhi were examined by the officers of DRI and Customs Ahmedabad 'at ICD Varnama, Vadodara. The discrepancy was noticed with respect to misdeclaration. The details are as under:-

Table 2

M/S Saanjh Industries P Ltd, Shop No 2, Ground Floor, 13/11 Nine Plaza, Karol Ba h, New Delhi- 110005				
Sr. No	**Bill of Entry No. & Date**	**Container Number**	**Panchanama Date**	**Misdeclared / Undeclared/ Restricted & Prohibited items**
1	2	3	4	5
1	2196148 Dated 19.02.2024	OOLU9129721	01.03.2024	Screen Guard/Tempered Glass, Apple Pencil Connector, Carry bags etc
2	2133691 Dated 14.02.2024	TEMU6054020	01.03.2024	Screen Guard / Tempered Glass, Cosmetic Items, Branded Shoes etc.
3	2095885 Dated 11.02.2024	RFCU4092227	08.03.2024	Screen Guard / Tempered Glass
4	2095697 Dated 11.02.2024	CSNU7754147	09.03.2024	Screen Guard / Tempered Glass, etc
5	2215925 Dated 20.02.2024	BMOU5837368	09.03.2024	Cosmetics,Touch Camera, Hot Air Gun, Tempered Glass, T Shirts, Height Weight Machine, Game Box, Branded footwear's, Wrist Watches (Coach) etc.
6	2231121 Dated 21.02.2024	TCNU5439141	10.03.2024	Toys, Lamps with LED Lights, IC Plates, LED Lamp, Audio Mixer, Tempered lass etc.
7	2181465 Dated 17.02.2024	FSCU8768519	11.03.2024	Hand Tool Stand, Car LED Lights, Toys, Speakers etc.
8	2163088 Dated 16.02.2024	FFAU3532484	12.03.2024	Screen Guard / Tempered Glass, Wireless Controller Game ad etc.
9	2161572 Dated 16.02.2024	OOCU8257927	12.03.2024	Cosmetics, Branded Shoes, BMW/ Mercedes / Volkswagon filters, Magnetic LED Lamps, etc
10	2176260 Dated 17.02.2024	TCNU2051698	13.03.2024	Screen Guard / Tempered Glass, etc.

11	2245898 Dated 22.02.2024	OOLU9388595	13.03.2024	Screen Guard / Tempered Glass, etc.
12	2249677 Dated 22.02.2024	FFAU3493048	14.03.2024	Screen Guard / Tempered Glass, Lamp LED, LED Car Lights, Hot Air un, etc.
13	2177394 Dated 17.02.2024	CSNU6797041	15.03.2024	OpenCell 32/40/43/49, Populated Mounted/ Stuffed PCB, along with flexible flat able, Double sided foam tape for TV, Tempered Glass, Sunglasses, USB cable
14	2184010 Dated 17.02.2024	OOLU9527448	15.03.2024	Screen Guard /Tempered Glass, Power bank, Multibrand Footwears / Shoes, ceramic Ornaments, LED Micro Lam
15	2179003 Dated 17.02.2024	CSNU7235060	16.03.2024	Toys, selfie Sticks, etc.
16	2229754 Dated 21.02.2024	CSNU6998473	16.03.2024	Screen Guard / Tempered Glass, Sper Scanner Metal Detector, Alcohol Tester, Cell Phone etc.
17	2353406 Dated 29.02.2024	CSNU6542890	17.03.2024	Screen Guard / Tempered Glass, Cosmetics, Joysticks, Keyboard Mouse etc.
18	2353324 Dated 29.02.2024	OOCU8550302	18.03.2024	Brush Cleaner, Cosmetics, Shoes of various brand etc.
19	2117891 Dated 13.02.2024	OOLU6774906	08.04.2024	Screen Guard / Tempered Glass, Cosmetics, XBOX, Smart Watches

2.4 The consignments imported by M/s Saanjh Industries Vadodara were examined by the officers of DRI and Customs Ahmedabad at ICD Varnama, Vadodara, The details as under:-

Table 3

M/S Saanjh Industries , Office No 2B, 205 M K Patel Estate, NH No. 8 Ranoli, Vadodara at ICD Varnama				
Sr. No	**Bill of Entry No. Date**	**Container Number**	**Panchanama Date**	**Misdeclared/Undeclared/ Restricted prohibited items**
1	2	3	4	5
1	2329524 Dated 27.02.2024	UETU5387804	11.03.2024	Footwears (Shoes, Clogs, Slippers) of Different Brands)
2	2327437 Dated 27.02.2024	OOCU8364709	11.03.2024	Footwears (Shoes, Clogs, Slippers) of Different Brands)

3	2159886 Dated 16.02.2024	OOCU8445230	13.03.2024	Screen Guard/ Tempered Glass, 6 USB Digital Digital Display Charger, etc.
4	2193937 Dated 18.02.2024	FFAU3544119	15.03.2024	Rubber Toys, Toy (Dancing Challenge Party Mat), Tempered Glass, Face Plate, Spectacles Accessories, Misc Plastic and metallic accessories etc
5	2120941 Dated 13.02.2024	TGBU4881591	16.03.2024	Screen Guard/Tempered Glass, Children Digital Camera, LED Lighting Parts, Silicon Gasket. Assorted Sex Toys, Etc.
6	2159112 Dated 16.02.2024	FSCU8681168	17.03.2024	Toy (Puffer Ball, Black Snake d squeeze Ball), Tempered Glass, Garment Ta Batch etc.
7	2227274 Dated 21.02.2024	BEAU6177808	16.05.2024	POP Up Toys, Digital Toy Camera, Unbreakable Membrane (Screen Guard), Fitzet Spinner, Wrist Watch (Corseca Brand)

2.5 The consignments imported by M/s Bluevenus Industries were examined by the officers of DRI and Customs Ahmedabad at ICD Varnama, Vadodara. The details are as under:-

Table 4

M/S Bluevenus Industries E-33, Industrial Area, Haridwar-249401				
Sr. No	**Bill of Entry No. Date**	**Container Number**	**Panchnama Date**	**Misdeclared/ Undeclared/ Restricted Prohibited items**
1	2	3	4	5
1	2193532 Dated 18.02.2024	CSNU6691722	03.04.2024	Drone,Screen Guard/ Tempered Glass, Mobile casing etc
2	2194252 Dated 18.02.2024	OOCU6870816	03.04.2024	Drones, Mobile Casing, etc
3	2164704 Dated 16.02.2024	OOCU7504283	04.04.2024	Lap Top HP, Cosmetic Liquid, Drone, Tempered Glass etc.
4	2193688 Dated 18.02.2024	CSNU6579733	17.05.2024	Karaoke, Screen Guard/ Tempered Glass, Mobile Phone (SamsungB312 etc.

5	2197324 Dated 19.02.2024	TGBU8082042	16.05.2024	Cosmetic Liquid, Home Automation Board, LED Soft Ring Light, LED Wireless Charging Speaker, Mobile Touch Screen, Drones Tempered Glass etc.
6	2214295 Dated 20.02.2024	CCLU7478415	17.05.2024	Drones,Screen Guard/Tempered Glass, LED Soft Ring Light, Selfie Sticks Etc
7	2233328 Dated 21.02.2024	FCIU9644851	17.05.2024	Drones, LED Lights, Water Supply Motors, Memory Cards, Mobile (Iphone Flip), Smart Lock, Electric Bell, LED Panel Lights, Etc

2.6 During the course of investigation statement of Shri Ishpreet Singh was recorded under Section 108 of the Customs Act, 1962. In his statement recorded on 29.02.2024 under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that, he looked after all the sale import, sale purchase, dispatch and financial matters of M/s Saanjh Industries, M/s Saanjh Industries P Ltd., M/s Total Power Industry P Ltd., M/s Total Industries and M/s Total Trader; that he was duly assisted by Mr. Rajbir, Accountant and Sh. Sumit, Store Manager; that his father and wife were Prop./Directors for namesake. He was authorized signatory in M/s Saanjh Industries P Ltd. and M/s Total Trader; Smt Gagandeep Kaur was the authorized signatory in M/s Saanjh Industries and Shri Narinderpal Singh was authorized signatory in M/s Total Industries. Chinese suppliers of his ibid firms used to communicate with shipping lines; that person namely Mr. John was their contact point in China; that he used to place orders for mobile battery to Ms. Kelly and Ms. Liky in China in Guangzhou; that he also used to place orders from different Chinese suppliers and after that Mr. John. used to ship all the goods to India; that for placing the orders for mobile phone battery, he frequently visited China; that recently, he visited China in Apr' 2023, June/July'2023, August'2023 and in January 2024 for placing orders for Mobile phone battery.

2.7 In his statement recorded under Section 108 of Customs Act 1962 Shri Ishpreet Singh on 01.03.2024, he, inter-alia stated that he was not having the phone numbers and email details of Mr. John, Ms. Kelly and Ms. Licky; Mr. John, Ms. Kelly and Ms. Licky didn't have any agents in India to look after their work in India. He was not having the details of payments of commission made to the above mentioned Agents/Suppliers; that Mr. John used to arrange the transportation of all the imports from China to India and used to engage the shipping lines and freight forwarders and the payment of the same were made by "him as per his directions; that he was not in contact with any Shipping Line agent, but he would submit the desired payment details at the earliest. He had engaged Shri Sumit at ICD Varnama as a CHA for clearance of import consignments at ICD Varnama.

2.8 In his statement recorded under section 108 of Customs act 1962 on 05.06.2024 Shri Ishpreet Singh, he, inter-alia stated that he is agreed upon his earlier Statements dated 29.02.2024 & 01.03.2024 and 03 Statements all dated 29.05.2024 of Smt Gagandeep Kaur, Smt Kulbir Kaur & Shri Narinder Pal Singh Sarna respectively and appended his dated signature in token of having seen and agreed upon. He was director of M/s Saanjh Industries P Ltd & M/s Total Power Industries Pvt Ltd, his wife Smt Gagandeep Kaur was proprietor of M/s Saanjh Industries, his father Shri Narinder Pal Singh Sarna was Director in the firm M/s Total Power Industries Pvt. Ltd and Proprietor of the firm M/s Total Industries and his aunty Smt Kulbir Kaur was proprietor of M/s Bluevenus Industries and Director in M/s Saanjh Industries P Ltd; that he looked after all these above mentioned 05 firms and manage financial, sales/purchase, personal, administrative affairs of these above mentioned 05 firms and he De-Facto was owner of these companies. He agreed upon the Panchnamas drawn at ICD Varnama, Vadodara i.r.o. imports made by M/s Saanjh Industries P Ltd, M/s Bluevenus Industries & M/s Saanjh Industries after perusal; that he was agreed to the misdeclared, restricted items found in undeclared, prohibited and the imported consignments that he placed purchase order to 02 Chinese firms (i) Guangzhou Xinfang Trading Company ltd, 301,No 6, HAINAN Nanya, Liwan, Guangzhou, China & (ii) DDGN HK Limited, RM 705A, 7/F Tower A Hung Hom Comm, CTR No 39 MA TU WAI Rd Hung Hom, KLN, Hong Kong in respect of 33 consignments in January 2024. Further, he raised the issue of misdeclared and undeclared items found in the above consignments before both the suppliers and got informed that there was Chinese New Year in the Month of February and workers were on vacation before and after the Chinese New Year and new workers were hired to make the arrangement of delivery of goods; that these new workers, unintentionally stuffed the containers with wrong consignments; that the consignment dispatched from China was not as per his purchase order. His firms imported around 125 consignments in the Financial Year 2023-24 and all were prescribed for the examination at the ICD Varnama and misdeclaration / undeclaration was never noticed by the Customs Officers of Varnama during the examination. The firms, (i) Guangzhou Xinfang Trading Company ltd, 301,No 6, HAINAN Nanya, Liwan, Guangzhou, China & (ii) DDGN HK Limited, RM 705A, 7/F Tower A Hung Hom Comm, CTR No 39 MA TU WAI Rd Hung Hom, KLN, Hong Kong were his overseas suppliers; that he placed Purchase Order to the Overseas Suppliers through email (saanjhindustries21@gmail.com) and telephonically; emails IDs of the overseas supplier (i) Guangzhou Xinfang Trading Company Ltd., 301, No. 6, HAINAN Nanya, Liwan, Guangzhou, China & (ii) DDGN HK Limited, RM 705A, 7/F Tower A Hung Hom Comm, CTR No 39 MA TU WAI Rd Hung Hom, KLN, Hong Kong are xinfangtrading3216@qq.com and ddgnhkltd@gmail.com respectively; that Ms. Liky was the owner of the Guangzhou Xinfang Trading Company Ltd and Ms. Kelly was owner of DDGN HK Limited; that Mr. John was sales person cum agent of both the firms, who was in his contact on behalf of both the overseas suppliers. Mr. John was responsible for the quality control, paper work and dispatch of the consignments, the phone numbers of Ms.

Kelly, Ms. Liky and Mr John were in his mobile phones, which have been seized by DRI, HQ, Delhi. He always made payment to the overseas suppliers within 90 to 150 days after the delivery of the consignments; that he always made the payments through banks to the accounts of the overseas suppliers. He agreed that misdeclared/undeclared items like Pop Up Toys, Toy Camera, Fitzet Spinner, Branded Wrist Watches (Corseca), Toy Drones, Mobile Screen Guards, Selfie Sticks, LED Ring Light, Memory Cards, LED Panel Lights, LED Beam Moving Lights, Smart Locks, Water Supply Motor, Mobile Phone without batteries (Samsung- B312 Feature Phone), Branded Shoes, Cosmetics, Sex Toys etc. were found in the examination of the imported consignments of his firms. He agreed that Sex Toys were found concealed in the Container No TGBU4881591 and import of Sex Toys in India are prohibited as per Notification No. 1/1964-Cus dated 18.01.1964 of Ministry of Finance (DR). He agreed that Drones were found concealed in his imported consignments and the import of Drones are prohibited as per DGFT Notification No. 54/2015- 20 dated 09.02.2022. He agreed that LED Lights were found concealed in his imported consignments and the import of LED Lights are subject to compulsory BIS Certification vide the DGFT Notification No. 32/2015-2020 dated 17.09.2020. He agreed that toys were found concealed in his imported consignments and the import of toys are subject to BIS Certification vide the DGFT Notification No. 33/2015-2020 dated 02.12.2019. He agreed that his consignment had counterfeit products and had infringed the intellectual property rights of the brand owners. He had perused the Rules 129, 129G, 129H and 130 under the provisions of Drugs and Cosmetics Rules, 1945; 'that he agreed that the cosmetic products were found in imported consignments which is not incompliance with the provisions of Drugs and Cosmetics Rules, 1945. He used to transfer the amount in the Current Account of CHA Firm, Silver Wings, Navi Mumbai to pay the Customs duty, custodian charges and shipping line charges and the said CHA Firm made the payments in respect of his imports; CHA Firm, Silver Wings, Navi Mumbai filed BoEs for the imports of his firms, M/s Saanjh Industries, M/s Bluevenus Industries & M/s Saanjh Industries P Ltd. The Proforma invoices, extracted from his mobile phone by the officers of the DRI, HQ, New Delhi are the proforma invoices or quotations sent by the suppliers from China but he never imported from these suppliers; that he used to visit China to buy products and visited many shops to enquire about the prices of the different products and in this way they exchanged their phone numbers and Chinese sellers used to send quotation of different products; that Quotations/proforma invoices belong to the year 2021, when his firm had no import at all; that he never engaged in Hawala activities because he made all the payments to seller through Banks; that he explained the multiple images of notes of denomination 1,2,5 & 10 in his phone and stated that it was the method to ensure the safe delivery of the products in the local market because he run retail/wholesale business of selling mobile batteries and unknown workers from different buyers come to take the deliveries of batteries and they identify the right person by seeing the photo of the currency notes; that it is not connected with the payment.

2.9 Smt Gagandeep Kaur W/o Shri Ishpreet Singh appeared before the Superintendent, Customs, Ahmedabad on 29.05.2024 in response to the Summons dated 17.05.2024 and her statement was recorded on 29.05.2024 under Section 108 of the Customs Act, 1962 wherein she inter-alia stated that, she is Proprietor of M/s Saanjh Industries (BXZPK1419A); that her husband Shri Ishpreet Singh S/o Narinder Pal Singh Sarna started the firm M/s Saanjh Industries in the Year 2019. She agreed upon after perusal of the Panchnamas drawn at the Inland Container Depot, Varnama, Vadodara, Gujarat; that she agreed to the misdeclared, undeclared, prohibited and restricted items found in the imported consignments; that she does not look after the business of the firm and have no knowledge of imports made by M/s Saanjh Industries; that her husband Shri Ishpreet Singh S/o Narinder Pal Singh Sarna look after the business of M/s Saanjh Industries; she does not know the import and export of M/s Saanjh Industries as her husband Shri Ishpreet Singh look after the business of this firm; her husband Shri Ishpreet Singh handle sale/purchase, financial matters, personal matters of M/s Saanjh Industries; that the firm M/s Saanjh Industries was started with the investment of her husband Shri Ishpreet Singh and she never had any share in the profit. She perused and agreed upon the Statements dated 29.02.2024 & 01.03.2024 of Shri Ishpreet Singh.

2.10 During the examination of the imported consignments mentioned in the Table-1 misdeclared, undeclared, restricted and prohibited items were noticed. Shri Hardik A Modi, from M/s Ham & Engineers Inc. Gandhinagar, Customs Empaneled Chartered Engineer, appointed by the Additional Commissioner of Customs, Customs House, Ahmedabad, Gujarat vide Public Notice No. 11/2023 dated 13.04.2023 was contacted for the valuation of imported seized/detained goods under various Panchnamas mentioned in the Column 7 of Table-1 above. The representative samples of above detained/seized goods were analyzed / examined by Shri Hardik A Modi for the valuation under the Panchnama dated 14.06.2024. Shri Hardik A Modi, Customs Empaneled Chartered Engineer vide Valuation Reports mentioned below has submitted that the total value of seized goods stands to Rs. 6,99,35,976/-. The details of the Valuation reports are tabulated as under-

Table 5

- On next page -

The Valuation of imported goods given by Shri Hardik A Modi, Customs empaneled Chartered Engineer					
Sr. No	Name of Importer M/S	Bill of Entry no. & Date	Valuation Report No & Date	Value Given by Charter Engineer (in $	Value Given by Charter Engineer (in Rs) Ex. Rate 83.95
1	2	3	4	5	6
1	M/S Saanjh Industries P Ltd	2196148 Dated 19.02.2024	HAM/2024/25 DT.19.06.2024	16622	1395437
2		2133691 Dated 14.02.2024	HAM/2024/24 DT.19.06.2024	62021	5206670
3		2095885 Dated 11.02.2024	HAM/2024/16 DT.18.06.2024	14151	1188014
4		2095697 Dated 11.02.2024	HAM/2024/19 DT. 18.06.2024	9538	800707
5		2215925 Dated 20.02.2024	HAM / 2024 / 44 DT.24.06.2024	25630	2151655
6		2231121 Dated 21.02.2024	HAM/ 2024/40 DT.22.06.2024	16348	1372402
7		2181465 Dated 17.02.2024	HAM/2024/31 DT.20.06.2024	9047	759505
8		2163088 Dated 16.02.2024	HAM/ 2024/27 DT.19.06.2024	12014	1008559
9		2161572 Dated 16.02.2024	HAM/2024/17 DT.18.06.2024	35695	2996624
10		2176260 Dated 17.02.2024	HAM/2024/18 DT.18.06.2024	19233	1614615
11		2245898 Dated 22.02.2024	HAM/2024/26 DT.19.06.2024	13231	1110742

12		2249677 Dated 22.02.2024	HAM/2024/37 DT.21.06.2024	10317	866074
13		2177394 Dated 17.02.2024	HAM/2024/35 DT.20.06.2024	35601	2988696
14	M/S Saanjh Industries P Ltd	2184010 Dated 17.02.2024	HAM/2024/36 DT.21.06.2024	33106	2779225
15		2179003 Dated 17.02.2024	HAM/2024/39 DT.21.06.2024	11771	988149
16		2229754 Dated 21.02.2024	HAM/2024/41 DT.22.06.2024	20139	1690682
17		2353406 Dated 29.02.2024	HAM/2024/43 DT.23.06.2024	44777	3759016
18		2353324 Dated 29.02.2024	HAM/2024/42 DT.23.06.2024	31002	2602653
19		2117891 Dated 13.02.2024	HAM/2024/47 DT.25.06.2024	22494	1888378
		Total		**442737**	**3,71,67,803/-**
20	M/S Saanjh Industries	2329524 dtd. 27.02.2024	HAM/2024/21 DT.19.06.2024	51840	4351926
21		2327437 dtd 27.02.2024	HAM/2024/22 DT.19.06.2024	52151	4378076
22		2159886 dtd 16.02.2024	HAM/2024/29 DT.19.06.2024	14079	1181936
23		2193937 dtd 18.02.2024	HAM/2024/45 DT.24.06.2024	20317	1705591
24		2120941 dtd 13.02.2024	HAM/2024/38 DT.21.06.2024	15659	1314794
25		2159112 dtd 16.02.2024	HAM/2024/30 DT.20.06.2024	20930	1757040
26		2227274 dtd 21.02.2024	HAM/2024/32 DT.20.06.2024	18490	1552198

		Total		**193466**	**1,62,41,561.00**
27	M/S Bluevenus Industries	2193532 dtd 18.02.2024	HAM/2024/20 DT.19.06.2024	26029	2185145
28		2194252 dtd 18.02.2024	HAM/2024/23 DT.19.06.2024	33888	2844902
29		2164704 dtd 16.02.2024	HAM/2024/15 DT.18.06.2024	39233	3293596
30		2193688 dtd 18.02.2024	HAM/2024/28 DT.20.06.2024	12136	4690908
31		2197324 dtd 19.02.2024	HAM/2024/34 DT.20.06.2024	14375	1206780
32		2214295 dtd 20.02.2024	HAM/2024/33 DT.20.06.2024	14375	1206780
33		2233328 dtd 21.02.2024 Total	HAM/2024/46 DT.25.06.2024	15327	1286694
				196865	**1,65,26,813.00**
Grand Total				**833068**	**6,99,36,177.00**

2.11 The value declared by the importers in the import documents of said 33 bills of Entry are as under: -

TABLE 6

Sr. No	Name of Importer M/s	Bill of Entry no. & Date	Container No	The declared value of goods (in $)	The declared value of goods (in Rs.) (Ex.Rate @8 3.95)
1	M/s Saanjh Industries P Ltd	2196148 Dated 19.02.2024	OOLU9129721	15281	1282042
2		2133691 Dated 14.02.2024	TEMU6054020	13472	1130970
3		2095885 Dated 11.02.2024	RFCU4092227	16806	1410851
4		2095697 Dated 11.02.2024	CSNU7754147	15127	1269920
5		2215925 Dated 20.02.2024	BMOU5837368	14748	1237345
6		2231121 Dated 21.02.2024	TCNU5439141	7523	631171

7		2181465 Dated 17.02.2024	FSCU8768519	10278	1011427
8		2163088 Dated 16.02.2024	FFAU3532484	16217	1360611
9		2161572 Dated 16.02.2024	OOCU8257927	10199	855654
10		2176260 Dated 17.02.2024	TCNU2051968	16248	1502926
11		2245898 Dated 22.02.2024	OOLU9388595	11638	976407
12		2249677 Dated 22.02.2024	FFAU3493048	12775	1071848
13		2177394 Dated 17.02.2024	CSNU6797041	15411	1292954
14		2184010 Dated 17.02.2024	OOLU9527448	12577	1148500
15		2179003 Dated 17.02.2024	CSNU7235060	13879	1234308
16		2229754 Dated 21.02.2024	CSNU6998473	13852	1162200
17		2353406 Dated 29.02.2024	CSNU6542890	18402	1544844
18		2353324 Dated 29.02.2024	OOCU8550302	9873	828813
19		2117891 Dated 13.02.2024	OOLU6774906	13131	1102354
		Total		**257437**	**2,20,55,145.00**
20	Saanjh Industries	2329524 dtd 27.02.2024	UETU5387804	9587	804383
21		2327437 dtd 27.02.2024	OOCU8364709	7608	638311
22		2159886 dtd 16.02.2024	OOCU8445230	15967	1339652
23		2193937 dtd 18.02.2024	FFAU3544119	10741	998674
24		2120941 dtd 13.02.2024	TOBU4881591	16546	1389028
25		2159112 dtd 16.02.2024	FSCU8681168	14359	1204678
26		2227274 dtd 21.02.2024	BEAU6177808	12975	1088585
		Total		**87783**	**74,63,311.00**
27	M/s. Bluevenues Industries	2193532 dtd 18.02.2024	CSNU6691722	16669	1457622
28		2194252 dtd 18.02.2024	OOLU6870816	14577	1260749
29		2164704 dtd 16.02.2024	OOCU7504283	17183	1441616

30		2193688 dtd 18.02.2024	CSNU6579733	16591	1558265
31		2197324 dtd 19.02.2024	TGBU8082042	14801	1241839
32		2214295 dtd 20.02.2024	CCLU7478415	16120	1352482
33		2233328 dtd 21.02.2024	FCIU9644581	14344	1203436
		Total		**110285**	**95,16,009.00**
				455505	**3,90,34,463.00**

2.12 During the examination of the imported consignments mentioned in the Table-1 above, it was noticed that goods of various foreign brands were concealed 'with the other declared goods in the said imported consignments of M/s Saanjh Industries P Ltd., M/s Saanjh Industries and M/s Bluevenus Industries. To confirm the genuineness of the seized goods, the respective brand owners/ right holders / legal representatives of various brands were contacted. Representatives of the various brand owners turned up for examination of the seized branded goods. The examination of the representative samples of the seized goods were carried out under Panchnama dated 14.06.2024 drawn at office premises of ICD Varnama and Panchnama dated 10.07.2024 drawn at Customs, Ahmedabad by the representatives of brand owners and they physically inspected, took photographs and also took some samples for analysis of the same to find out whether the seized goods were genuine or counterfeit.

2.13 Shri Parekh Darshak, authorized person and the representative from M/s United & United (Patent & Trade Mark Attorneys), authorized by the brands Balenciaga, Crocs, Hugo Boss, D&G (M/s Dolce & Gabbana), Jordan (M/s Nike Innovate CV), ASICS, Armani (M/s Giorgio Armani SPA Italy), Nike, Under Armour, Ray-Ban (M/s Luxottica SPA, Italy), Vans reached at ICD Varnama on 14.06.2024 and examined, analyzed and took the photographs of the representative samples drawn under Panchnamas mentioned in the Table-1. He informed that the technical report of the products examined by him will be submitted at the earliest.

2.14 In reference to physical examination/verification and photographs taken by the representatives of brands under Panchnama dated 14.06.2024 as discussed in the above paras the right holders submitted their verification reports dated 27.06.2024 confirming the goods bearing the brand names of various brands to be counterfeit. The details of report are tabulated as below:

Table:7

Sr No	Name of Attorneys	Name of client	Name of Brand	Product	Remark
1	United & United, Patent and Trademark Attorneys	M/s Balenciaga	BALENCIAGA	Shoes	Counterfeit
2		M/s Crocs	CROCS	Footwear	Counterfeit
3		M/s Hugo Boss	GMBH & Co.	Apparel	Counterfeit
4		M/s Dolce & Gabbana	D&G	Apparel	Counterfeit
5		M/s Nike Innovate CV	JORDAN	Shoes	Counterfeit
6		M/s Asics Corporation	ASICS	Shoes	Counterfeit
7		M/s Giorgio Armani	ARMANI	Shoes	Counterfeit
8		M/s Nike Innovate CV	NIKE	Shoes	Counterfeit
9		M/s Under Armour	UNDER ARMOUR	Shoes	Counterfeit
10		M/s Luxottica SPA	RAY BAN	Goggles	Counterfeit
11		M/s Vans	VANS	Apparel	Counterfeit

2.15 Shri Parekh Darshak, Authorized person and the representative of the brand M/s Hindustan Unilever Limited examined, analyzed and took the photographs of the representative samples and informed that the quality of the cosmetics products Lakme is very poor. He also informed that the technical report of the products examined by them will be submitted at the earliest.

2.16 In reference to physical examination/verification and photographs taken by the representative of M/s Hindustan Unilever Limited brand under Panchnama dated 14.06.2024 as discussed in the above para M/s Hindustan Unilever Limited submitted their verification report dated 11.07.2024 confirming the goods (Lakme) bearing the 'brand names to be Spurious/Counterfeit. The details of verification report is as under: -

Table 8

Mf.s Hindustan Unilever Limited				
Sr. No	Name of the Product	Qty	Sample No	CQA Remarks
1	LAKME 9 TO 5 BB FOUNDATION 60ML	1	B1	Spurious/ Counterfeit
2	LAKME 9 TO 5 PRIME+ MATTE POWDER COMPACT FOUNDATION 9GMS	1	B2	Spurious/ Counterfeit
3	LAKME BB PERFECT RADIANCE INTENSE WHITENING CREAM (FLAWLESS MAKEUP) 60 ml	1	B3	Spurious/ Counterfeit
4	LAKME 9 TO 5 2 IN 1 MATTE WATERPROOF LIPGLOSS 10ml	1	B4	Spurious/ Counterfeit
5	LAKME 9 TO 5 CC CREAM 30gms	1	B5	Spurious/ Counterfeit
6	LAKME ENRICH MATTE LIPSTICK 3.06 GMS	1	B6	Spurious/ Counterfeit
7	LAKME BB PERFECT RADIANCE INTENSE WHITENING CREAM (FLAWLESS MAKEUP) 20 gms	1	B7	Spurious/ Counterfeit
8	LAKME SUPER HEALTH FACE CC COLOR CONTROL POWDER 18gms	1	B8	Spurious/ Counterfeit

2.17 Ms. Anshul Ghorpade (Advocate), an Authorized person and the representative of the M/s Legist, E-32, LGF, Lajpat Nagar-III, New Delhi examined, analyzed and took the photographs of the representative samples under the Panchnama dated 10.07.2024 drawn at Customs, Ahmedabad on behalf of the brands, M/s Adidas & M/s Reebok and informed that the quality of the footwear is very poor. She also informed that the technical report of the products examined by them will be submitted at the earliest. In reference to physical examination/verification and photographs taken by the representative of M/s Legist for the footwear brands (M/s Adidas & M/s Reebok) under Panchnama dated 10.07.2024 as discussed in the above para. M/s Legist submitted their 02 verification reports both dated 13.07.2024 confirming the footwears bearing the brand name Adidas & Reebok are Counterfeit. The details as under:-

Table 9

Sr No	Name of Attorneys	Name of Brand	Product	Remark
1	M/S Legist, E-32, LGF, Lajpat Nagar-III, New Delhi	Adidas	Shoes	Counterfeit
2		Reebok	Shoes	Counterfeit

2.18 In respect of some goods of other brands such examination by the brand owners could not be carried out as the brand owners or their representatives did not appear for the examination/analysis. During the examination of imported consignment and analysis of the representative samples of seized/detained goods it was found that the Toys were concealed with the declared goods in the imported consignments. The undeclared Toys were without BIS certificate, which is the noncompliance of the DGFT Notification No.33/2015-2020 dated 02.12.2019.

2.19 During the examination of imported consignment and analysis of the representative samples of seized / detained goods it was found that the LED lights were concealed with the declared goods in the imported consignments. The undeclared LED lights were without BIS certificate, which is the non-compliance of the DGFT Notification No. 32/2015-2020 dated 17.09.2020.

2.20 During the examination of consignment imported under Bill of Entries, it was found that the Refurbished / old / used laptops were concealed with the declared goods in the imported consignments. The imports of Refurbished / old / used laptops is prohibited unless they are registered with the Bureau of India Standards (BIS) and comply to the 'Labeling Requirements' published by BIS, as amended from time to time, or on specific exemption letter from Ministry of Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 3022 dated 11.09.2013.

2.21 During the examination of consignment imported under Bill of Entries it was found that the DRONES were concealed with the declared goods in the imported consignments. The import of DRONES is prohibited vide as per DGFT Notification No. 54/2015-20 dated 09.02.2022.

2.22 During the examination of consignment imported under Bill of Entries it was found that the SEX TOYS were concealed with the declared goods in the imported consignments. The imports of the SEX TOYS are prohibited as per Notification No. 1/1964-Cus dated 18.01.1964 of Ministry of Finance (DR).

2.23 Therefore, investigation indicated that Shri Ishpreet Singh S/o Narinder Pal Singh Sarna is the mastermind of the entire modus of importing goods other than the declared goods to evade payment of Customs duty and smuggling of the contraband goods eventually to supply them in the local market to earn profit. In his statement dated 05.06.2024, Shri Ishpreet Singh has agreed upon that the misdeclared / mis-classified and smuggled goods were found during the examination of the imported consignments of M/s Saanjh Industries Pvt Ltd, M/s Bluevenus Industries & M/s Saanjh Industries. He is the key person, who controls and manages the financial, sales/purchase, personal, administrative affairs of M/s Saanjh Industries P Ltd, M/s Bluevenus Industries & M/s Saanjh Industries. The same facts have also been stated by his father Shri Narinderpal Singh, wife Gagandeep Kaur, Aunt Smt Kulbir Kaur & Shri Sumit Jaywant Surve, an authorized representative of CHA Silver Wings C & F Services, Navi Mumbai in their respective statements. In view of the above it appeared that Shri Ishpreet Singh S/o Narinder Pal Singh Sarna was the mastermind behind the entire modus of smuggling of the different goods in contravention to the provisions of Customs Act, 1962 and in contravention of the Intellectual Property Rights and non-compliance of BIS standard to evade payment of customs duty and to import the prohibited goods in India. The importer had concealed the smuggled items behind the declared items. Thus, he was found involved in the commission of an act, which has made goods liable to confiscation under Section 111 of the Customs Act, 1962.

2.24 In the present case the importer has not complied with the requirement as envisaged under the provisions of relevant Rule 6 and 27 of the Legal Metrology (Packaged Commodities) Rules, 2011 as they have neither registered themselves as per the provision of Rule 27 nor any declaration was made by the importer as per the provisions of Rule 6.

2.25 Further, the Rule 6 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, "Prohibition or import of goods infringing intellectual property rights. - After the grant of the registration of the notice by the Principal Commissioner or Commissioner on due examination, the import of allegedly infringing goods into India shall

be deemed as prohibited within the meaning of Section 11 of the Customs Act, 1962". In view of the report from the authorized persons of the Brand owners of various brands, whose cosmetic products were found during the course of examination of the imported goods, it was established that these products are counterfeit cosmetic products and are not the original products from these brands. Hence the report from the brand owners signifies that the importer has violated the provisions of Rule 6 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 as they had imported counterfeit products and has infringed the intellectual property rights of the brand owners.

2.26 Standards of Weights and Measures (Packaged Commodities) Rules, 1997: The DGFT Notification No. 44(RE-2000)/1997-2002 dated 24.11.2000 require compliance of all the provisions of Standards of Weights and Measures (Packaged Commodities) Rules, 1997 in respect of all packaged products when imported into India. Thus the importer has not complied with the requirements of provisions contained under the DGFT Notification No. 44(RE-2000)/1997-2002 dated 24.11.2000.

2.27 The Appellant has not complied with the requirements of provisions contained under Section 11 of The Foreign Trade (Development and Regulation) Act, 1992. They have also violated the Rule 11 and 14 of the Foreign Trade (Regulations) Rules, 1993 as they could not comply with the requirements of Rule 11 and 14 of the Foreign Trade (Regulations) Rules, 1993. The Appellant have to comply with the DGFT Notification No.33/2015 2020 dated 02.12.2019, for the Import policy in respect of Toys / Dolls specified in the Policy Conditions 2 of Chapter 95, which has to conform to BIS standards. The Ministry of Finance (DR) Notification No. 1/1964-Cus dated 18.01.1964 issued under Section 11 of the Customs Act, 1962, prohibits import of any obscene book, pamphlet, paper, drawing, painting, representation, figure or article. Hence, import of the above goods is prohibited under the Customs Act, 1962. Further the Notification No. 5/2015-2020 dated 07.05.2019 issued by the DGFT, New Delhi in which General Note No. 2 (c) provides for Import policy for Electronics and IT Goods stating that such import is prohibited unless they are registered with the Bureau of India Standards (BIS) and comply to the 'Labeling Requirements' published by BIS, as amended from time to time', or on specific exemption letter from Ministry of Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 3022 dated 11.09.2013. The importer shall re-export such prohibited Goods reaching Customs Ports else the Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to Meity.

2.28 From the facts discussed in the foregoing para and material evidences in the form of seizure of Cosmetic items, Branded foot wears, Sex Toys, LED Lights & Lamps, Pop Up Toy, Screen Guard / Tempered Glass, Watches, Refurbished Laptops, Drones, Branded Goggles, Branded Garments etc. from the containerized cargos of M/s

Saanjh Industries P Ltd., M/s Saanjh Industries and M/s Bluevenus Industries, and the documents available on record, it appeared that:

2.28.1 M/s Saanjh Industries P Ltd (IEC-ABGCS5174F):- Shri Ishpreet Singh S/o Narinder Pal Singh Sarna, Director of M/s Saanjh Industries Pvt Ltd (IECABGCS5174F) is mastermind of the entire modus of importing goods other than the declared goods to evade payment of customs duty and smuggling of the goods eventually to supply them in the local market to earn profit. He is the key person, who controls and manages the financial, sales/purchase, personal, administrative affairs of M/s Saanjh Industries Pvt Ltd. The same facts have also been stated by his father Shri Narinderpal Singh, wife Gagandeep Kaur, Aunt Smt Kulbir Kaur & Shri Sumit Jaywant Surve, an authorized representative of CHA Silver Wings C & F Services, Navi Mumbai in their respective statements. In view of the above, it appeared that Shri Ishpreet Singh S/o Narinder Pal Singh Sarna is the mastermind behind the entire modus of smuggling of the different goods in contravention to the provisions of Customs Act, 1962 and in contravention of the Intellectual Property Rights and non - compliance of BIS standard to evade payment of customs duty and to import the prohibited goods in India. The importer had concealed the smuggled items behind the declared items. Thus, he was found involved in the commission of an act, which has made goods mentioned in the Table-1 liable to confiscation under Section 111 of the Customs Act, 1962.

2.28.2 Import of prohibited and restricted items by M/s Saanjh Industries P Ltd:- M/s Saanjh Industries Pvt. Ltd imported counterfeit Cosmetic products vide BoEs 2117891 dated 13.02.2024, 2133691 dated 14.02.2024, 2161572 dated 16.02.2024, 2215925 dated 20.02.2024, 2352324 dated 29.02.2024 & 2353406 dated 29.02.2024. M/s Saanjh Industries P Ltd imported counterfeit foot wears vide BoEs 2133691 dated 14.02.2024, 2161572 dated 16.02.2024, 2184010 dated 17.02.2024, 2215925 dated 20.02.2024 & 2352324 dated 29.02.2024. M/s Saanjh Industries Pvt Ltd imported LED lamps & LED lights vide BoEs 2161572 dated 16.02.2024, 2184010 dated 17.02.2024, 2181465 dated 17.02.2024, 2231121 dated 21.02.2024 & 2352324 dated 29.02.2024. M/s Saanjh Industries P Ltd imported counterfeit sunglasses of brands vide BoE 2177394 dated 17.02.2024. M/s Saanjh Industries P Ltd imported Toys vide BoEs 2163088 dated 16.02.2024, 2181465 dated 17.02.2024, 2179003 dated 17.02.2024 & 2231121 dated 21.02.2024.

2.28.3 Import of mis declared or undeclared items by M/s Saanjh Industries P Ltd:- M/s Saanjh Industries P Ltd imported screen guard/tempered glass, smart watches, ceramic ornaments, cell phones, selfie sticks, Apple Pencil etc. vide the BoEs 2095885 dated 11.02.2024, 2095697 dated 11.02.2024, 2184010 dated 17.02.2024, 2176260 dated 17.02.2024, 2196148 dated 2196148 dated 19.02.2024, 2229754 dated 21.02.2024 & 2245898 dated 22.02.2024.

2.28.4 M/s Saanjh Industries (IEC-BXZPK1419A):- M/s Saanjh (IEC-BXZPK1419A) is a proprietorship firm and Smt Gagandeep Kaur is its proprietor. Smt Gagandeep Kaur in her statement dated 29.05.2024 stated that her husband, Shri Ishpreet Singh run the business of M/s Saanjh Industries. Further, Shri Ishpreet Singh in his voluntary statement dated 05.06.2024 accepted that he manages financial, sales / purchase, personal, administrative affairs of M/s Saanjh Industries. In view of the above it appeared that Shri Ishpreet Singh S/o Narinder Pal Singh Sarna was the mastermind behind the entire modus of smuggling of the different goods in contravention to the provisions of Customs Act, 1962 and in contravention of the Intellectual Property Rights and non-compliance of BIS standard to evade payment of customs duty and to import the prohibited goods in India. The importer had concealed the smuggled items behind the declared items. Thus, he was found involved in the commission of an act, which has made goods mentioned in the Table-1 liable to confiscation under Section 111 of the Customs Act, 1962.

2.28.5 Import of prohibited and restricted items by M/s Saanjh Industries:- M/s Saanjh Industries imported LED Light parts and assorted Sex Toys vide BoE 2120941 dated 13.02.2024. M/s Saanjh Industries imported counterfeit foot wears of various Brands vide BoEs 2327437 & 2329524 both dated 27.02.2024. Further, M/s Saanjh Industries imported toys vide BoE 2227274 dated 21.02.2024, 2159112 dated 16.02.2024 & 2193937 dated 18.02.2024.

2.28.6 Import of mis declared or undeclared items by M/s Saanjh Industries:- M/s Saanjh Industries imported screen guard/tempered glass, garment Tag/Batch, Digital Display Charger vide BoEs 2159112 dated 16.02.2024 & 2159886 dated 16.02.2024.

2.29 M/s Bluevenus Industries (IEC- AAKPA7637H): M/s Bluevenus Industries (IEC- AAKPA7637H) is a proprietorship firm and Smt Kulbir Kaur is its proprietor. Smt Kulbir Kaur in her statement dated 29.05.2024 stated that her nephew, Shri Ishpreet Singh run the business of M/s Bluevenus Industries. Further, Shri Ishpreet Singh in his voluntary statement dated 05.06.2024 accepted that he manages financial, sales/purchase, personal, administrative affairs of M/s Bluevenus Industries. In view of the above, it appeared that Shri Ishpreet Singh S/o Narinder Pal Singh Sarna was the mastermind behind the entire modus of smuggling of the different goods in contravention to the provisions of Customs Act, 1962 and in contravention of the Intellectual Property Rights and non-compliance of BIS standard to evade payment of customs duty and to import the prohibited goods in India. The importer had concealed the smuggled items behind the declared items. Thus, he was found involved in the commission of an act, which has made goods mentioned in the Table-1 liable to confiscation under Section 111 of the Customs Act, 1962.

2.29.1 Import of prohibited and restricted items by M/s Bluevenus Industries:- M/s Bluevenus Industries imported refurbished Laptops vide BoE 2164704 dated 16.02.2024. M/s Bluevenus Industries imported prohibited DRONES vide BoEs 2164704 dated 16.02.2024, 2193532 dated 18.02.2024, 2184252 dated 18.02.2024, 2197324 'dated 18.02.2024, 2214295 dated 18.02.2024 & 2233328 dated 18.02.2024, Further, M/s Bluevenus Industries imported LED lights vide BoE 2197324 dated 18.02.2024, 2214295 dated 18.02.2024.

2.29.2 Import of misdeclared or undeclared items by M/s Bluevenus Industries:- M/s Bluevenus Industries imported Karaoke, Mobile Phone (SAMSUNG), Screen Guards/Tempered Glass, etc vide BoE 2193688 dated 18.02.2024.

2.30 The goods smuggled under BoEs mentioned in the Table 1 of the notice includes the goods with foreign global brands. Thus, the counterfeit branded goods smuggled under the guise of declared items. M/s Saanjh Industries Pvt Ltd, M/s Saanjh Industries and M/s Bluevenus Industries have infringed the brand owners Intellectual Property hence these goods are smuggled in violation of the provisions of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. It also appeared that Cosmetics smuggled attract the provisions of Rule 129 of the Drugs and Cosmetics Rules, 1945 according to which no cosmetic shall be imported into India unless the product is registered, complies with the specifications prescribed and packed and labelled in conformity with the Rules and shall bear the registration certificate number of the product and the name and address of the registration certificate holder for marketing the said product in India and Rule 130 of the Drugs and Cosmetics Rules, 1945 according to which before any cosmetics are imported, a declaration signed by or on behalf of the manufacturer or by on behalf of the importer that the cosmetics comply with the provisions of Chapter III of the Act and the Rules made there under has to be supplied to the Commissioner of Customs. Also the cosmetic products imported into India are also required to comply with the provisions of Rule 6 and 27 of The Legal Metrology (Packaged Commodities) Rules, 2011.

2.31 All the smuggled goods mentioned in paras above were seized vide various Seizure Memos mentioned in the Table-1 are also to be treated as "prohibited goods" as defined under Section 2 (33) of the Customs Act, 1962, also because they have been smuggled in contravention of the provisions of Customs Act, 1962, Section 11 of the Foreign Trade (Development and Regulation) Act, 1992and Rule 11 & 14 of the Foreign Trade (Regulation) Rules, 1993 and therefore are liable to be confiscated under Section 111 of the of the Customs Act, 1962.

2.32 All these acts of commission and omission on the part of M/s Saanjh Industries P Ltd, M/s Saanjh Industries and M/s Bluevenus Industries appeared to have rendered the total smuggled goods viz. cosmetic items, LED Lights, branded footwears, appareals, Sunglasses, Sex Toys, Refurbished Laptops, Drones and Toy (Latex /Rubber) liable to absolute confiscation under the provisions of Customs Act, 1962. This contravention of above-mentioned provisions of Customs Act, 1962, on the part of M/s Saanjh Industries P Ltd, M/s Saanjh Industries and M/s Bluevenus Industries constitute an offence of the nature as described under Section 112 (a) & 112 (b) of the Customs Act, 1952 and hence rendered themselves liable to penal action under the said Sections the of Act. Further, Shri Ishpreet Singh S/o Narinder Pal Singh Sarna (beneficial/defacto owner of M/s Saanjh Industries Pvt Ltd, M/s Saanjh Industries and M/s Bluevenus Industries) intentionally and knowingly arranged / caused to import smuggled goods viz. cosmetic items, LED Lights, branded footwears, appareals, Sunglasses, Sex Toys, Refurbished Laptops, Drones and Toy (Latex /Rubber) and thereby, rendered himself liable for penal action under Section 114AA of the Customs Act, 1962.

2.33 The imports have taken place at ICD Varnama (INVRM6), which falls under the jurisdiction of Principal Commissioner of Customs, Custom House, Ahmedabad, Gujarat. Therefore, in terms of Section 110AA read with notification no. 28/2022 customs (NT) dated 31.03.2022, the proper officer in the instant case is the Additional / Joint Commissioner of Customs, ICD Varnama, Vadodara.

2.34 Hence, a Show Cause Notice vide F. No. CUS/SIIB/INT/238/2024-DC/AC-I-O/O/O PR COMMR-CUS-AHMEDABAD dated 19.07.2024 was issued to M/s Saanjh Industries P. Ltd (IEC-ABGCS5174F), M/s Saanjh Industries (BXZPK1419A), M/s Bluevenus Industries (IEC- AAKPA7637H), Shri Ishpreet Singh S/o Narinder Pal Singh Sarna (beneficial/defacto owner of M/s Saanjh Industries Pvt Ltd, M/s Saanjh Industries and M/s Bluevenus Industries) as per below:-

2.34.1 M/s Saanjh Industries P Ltd (IEC-ABGCS5174F), Shop No 2, Ground Floor, 13/11 Nine Plaza, Karol Bagh, New Delhi-110005 was called upon to Show Cause to the Additional Commissioner of Customs, ICD Varnama, having his office at 4th Floor, Customs House, Near Metro Mall, Vesu VIP Road, Althan, Surat 395017, within 30 days from the date of receipt of this Show Cause Notice, as to why:-

(i) The value declared by the M/s Saanjh Industries P Ltd in the BoEs to the tune of Rs. 2,20,55,144/- should not be rejected in terms of provisions of Section 14 of the Customs Act read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(ii) The value worked out by the Government Empaneled Chartered Engineer amounting to Rs. 3,71,67,802/- in respect of BoEs mentioned in Table 1, should

not be accepted for the purpose of the valuation of imported goods, in terms of the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation {Determination of Value of Imparted Goods) Rules, 2007;

(iii) The imported consignments having declared FOB value Rs. 2,20,55,144/- and market value of Rs. 3,71,67,802/- should not be held liable for confiscation under Section 111 (d), 111 (f) & 111 (i) of the Customs Act, 1962;

(iv) Penalty should not be imposed upon M/s Saanjh Industries P Ltd under Section 112 of the Customs Act, 1962;

(v) Penalty should not be imposed upon Shri Ishpreet Singh S/o Narinder Pal Singh Sarna, Director of M/s Saanjh Industries P Ltd under Section 112 of the Customs Act, 1962.

2.34.2 M/s Saanjh Industries (BXZPK1419A), Office No 2B, 205 M K Patel Estate, NH No 8, Ranoli, Vadodara was called upon to Show Cause to the Additional Commissioner of Customs, ICD Varnama, having his office at 4th Floor, Customs House, Near Metro Mall, Vesu VIP Road, Althan, Surat-395017, within 30 days from the date of receipt of this Show Cause Notice, as to why:-

(i) the value declared by the importer in the BoEs to the tune of Rs. 74,63,311/- should not be rejected in terms of provisions of Section 14 of the Customs Act read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(ii) the value worked out by the Government Empaneled Chartered Engineer amounting to Rs.1,62,41,362/- in respect of BoEs mentioned in Table 1, should not be accepted for the purpose of the valuation of imported goods, in terms of the provisions of Section 14 of the Customs Act 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(iii) The imported consignments having declared FOB value Rs.74,63,311/- and market value of Rs. 1,62,41,362/ should not be held liable for confiscation under Section 111 (d) 111 (f) & 111(i) of the Customs Act 1962;

(iv) Penalty should not be imposed upon M/s Saanjh Industries under Section 112 of the Customs Act. 1962.

2.34.3 M/s Bluevenus Industries (IEC- AAKPA7637H), E-33, Industrial Area, Haridwar, Uttarakhand-249401, was called upon to Show Cause to the Additional Commissioner of Customs, ICD Varnama, having his office at 4th Floor, Customs House, Near Metro Mall, Vesu VIP Road, Althan, Surat-395017, within 30 days from the date of receipt of this Show Cause Notice, as to why:-

(i) the value declared by the importer in the BoEs to the tune of Rs.95,16,008/- should not be rejected in terms of provisions of Section 14 of the Customs Act

read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(ii) the value worked out by the Government Empaneled Chartered Engineer amounting to Rs.1,65,26,812/-, in respect of BoEs mentioned in Table I, should not be accepted for the purpose of the valuation of imported goods, in terms of the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(iii) the imported consignments having declared FOB value Rs. 95,16,008/- and market value of Rs.1,65,26,812/-, should not be held liable for confiscation under Section 111 (d), 111 (f) & 111 (i) of the Customs Act, 1962;

(iv) penalty should not be imposed upon M/s Bluevenus Industries under Section 112 of the Customs Act, 1962.

2.34.4 Shri Ishpreet Singh S/o Narinder Pal Singh Sarna (beneficial/defacto owner of M/s Saanjh Industries Pvt Ltd, M/s Saanjh Industries and M/s Bluevenus Industries), residing at C-67, Ground Floor, Block-C, Rajouri Garden, New Delhi110027 was called upon to show cause in writing to the Additional Commissioner of Customs, ICD Varnama, having his office at 4th Floor, Customs House, Near Metro Mall, Vesu VIP Road, Althan, Surat-395017, within 30 (thirty) days from the date of receipt of the notice, as to why:-

(i) Penalty should not be imposed upon Shri Ishpreet Singh S/o Narinder Pal Singh Sarna, residing at residing at C-67, Ground Floor, Block-C, Rajouri Garden, New Delhi-110027 under section 114AA of the Customs Act, 1962.

2.35 The adjudicating authority vide the impugned order has passed the impugned order as detailed below:

In case of M/s Saanjh Industries Pvt. Ltd (IEC-ABGCS5174F):-

(i) He has rejected the value declared by the importer in the BoEs to the tune of Rs. 2,20,55,145/- (Table 6) in terms of provisions of Section 14 of the Customs Act 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the value worked out by the Government Empaneled Chartered Engineer amounting to Rs. 3,71,67,802/- Table 5) in respect of BoEs mentioned in Table 1 of the show cause notice for the purpose of the valuation of imported goods, in terms of the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(ii) He, out of goods, as mentioned in (i) order to absolute confiscation of prohibited goods, as described in para 17.2.1 of the impugned order, having assessable value, as per Table 10 (A), of Rs. 92,03,020/-, in terms of Section 111(d) of the

Customs Act, 1962;

(iii) He, out of goods, as mentioned in (i) order to absolute confiscation of restricted goods, as described in para 17.2.1 of the impugned order, having assessable value, as per Table 10 (B), of Rs. 7,09,128/-, in terms of Section 111(d) of the Customs Act, 1962. However, I give an option to importer to re-export the goods on payment of redemption fine of Rs. 2,00,000/- (Rupees Two Lakh Only) in terms of Section 125 of the Customs Act, 1962;

(iv) He, out of goods, as mentioned in (i), order to confiscation of undeclared/undervalued goods, as described in para 17.2.2 of the impugned order, having assessable value, as per Table 11, of Rs. 2,72,55,655/- in terms of Section 111 (d) & (i) of the Customs Act, 1962. However, he gave an option to the importer to release the goods on payment of redemption fine of Rs. 30,00,000/- (Rupees Thirty Lakh Only) in terms of Section 125 of the Customs Act, 1962, subject to the payment of requisite duties and compliance to the mandatory obligations for import of such goods;

(v) He has imposed a Penalty of Rs. 10,00,000/- (Rupees Ten Lakh Only) on M/s Saanjh Industries P Ltd under Section 112 (a) of the Customs Act, 1962;

(vi) He has imposed a Personal Penalty of Rs. 10,00,000/- (Rupees Ten Lakh Only) on Shri Ishpreet Singh S/o Narinder Pal Singh Sarna, Director of M/s Saanjh Industries P Ltd under Section 112(a) of the Customs Act, 1962;

In case of M/s Saanjh Industries (BXZPK1419A):-

(i) He has rejected the value declared by the importer in the BoEs to the tune of Rs. 74,63,311/- (Table 6) in terms of provisions of Section 14 of the Customs Act read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the redetermined the value worked out by the Government Empanelled Chartered Engineer amounting to Rs.1,62,41,362/- (Table 5) in respect of BoEs mentioned in Table 1 of the show cause notice for the purpose of the valuation of imported goods, in terms of the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(ii) He, out of goods, as mentioned in (i), order to absolute confiscation of prohibited goods, as described in para 17.3.1 of the impugned order, having assessable value, as per Table 10(A), of Rs. 47,43,385/- (Rupees forty-Seven Lakh forty-three thousand three hundred eighty-five only), in terms of Section 111(d) & 111(i) of the Customs Act, 1962;

(iii) He, out of goods, as mentioned in (i), order to confiscation of restricted goods, as described in para 17.3.1 of the impugned order, having assessable value, as per Table 10 (B), of Rs. 20,09,261/-, in terms of Section 111(d) & (i) of the Customs Act, 1962. However, he gave an option to importer to re-export the goods on

payment of redemption fine of Rs. 5,00,000/- (Rupees Five Lakh Only) in terms of Section 125 of the Customs Act, 1962;

(iv) He, out of goods, as mentioned in (i), order to confiscation of undeclared / undervalued goods, as described in para 17.3.2 of the impugned order, having assessable value, as per Table 11, of Rs. 94,88,915/ in terms of Section 111 (d) & (i) of the Customs Act, 1962. However, he gave an option to importer to release the goods on payment of redemption file of Rs. 10,00,000/- (Rupees Ten Lakh Only) in terms of Section 125 of the Customs Act, 1962, subject to the payment of requisite duties and compliance to the mandatory obligations for import of such goods;

(v) He has imposed a penalty of Rs. 10,00,000/- (Rupees Ten Lakh Only) on M/s Saanjh Industries (BXZPK1419A) under Section 112 (a) of the Customs Act, 1962;

In case of M/s Bluevenus Industries (IEC- AAKPA7637H):-

(i) He has rejected the value declared by the importer in the BoEs to the tune of Rs.95,16,009/- (Table 6) in terms of provisions of Section 14 of the Customs Act read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and redetermined the value worked out by the Government Empaneled Chartered Engineer amounting to Rs.1,65,26,812/-(Table5), in respect of BoEs mentioned in Table 1 of the show cause notice for the purpose of the valuation of imported goods, in terms of the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(ii) He, out of goods, as mentioned in (i), order to absolute confiscation of prohibited goods having assessable value, as per Table 10 (A), of Rs. 48,53,150/-, as described in para 17.4.1 of the impugned order, in terms of Section 111(d) and (i) of the Customs Act, 1962;

(iii) He has ordered to absolute confiscation of goods having assessable value, as per Table 10, of Rs. 2,38,711/-, as described in para 17.4.1 of the impugned order, in terms of Section 111(d) and of the Customs Act, 1962. However, he gave an option to importer to re-export the goods on payment of redemption fine of Rs. 1,00,000/- (Rupees One Lakh Only) in terms of Section 125 of the Customs Act, 1962;

(iv) He, out of goods, as mentioned in (i), order to confiscation of undeclared / undervalued goods, as described in para 17.4.2 of the impugned order, having assessable value, as per Table 11, of Rs. 1,14,34,952/- in terms of Section 111 (d) (i) and (f) of the Customs Act, 1962. However, he gave an option to importer to release the goods on payment of redemption fine of Rs 10,00,000/- (Rupees Ten lakh Only) in terms of Section 125 of the Customs Act, 1962, subject to the

payment of requisite duties and compliance to the mandatory obligations for import of such goods;

(v) He has imposed a penalty of Rs 10,00,000/- (Rupees Ten lakh Only) on M/s Bluevenus Industries under Section 112 (a) of the Customs Act, 1962;

He has imposed a penalty of Rs. 20,00,000/- (Rupees Twenty lakh Only) under Section 114AA of the Customs Act, 1962 on **Shri Ishpreet Singh** for reasons discussed at para 27.2 of the impugned order.

3. Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 It is submitted by the Appellant that the rejection and redetermination of value is invalid. The Adjudication Authority rejected the value declared by the importer in the BoEs to the tune of Rs. 2,20,55,145 in terms of provisions of Section 14 of the Customs Act 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the value worked out by the Government Empanelled Chartered Engineer amounting to Rs. 3,71,67,802/- (Table 5 of the Adjudication Order), in terms of the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

3.2 The Adjudication Order says that because the Appellant was involved in open proceedings, there was no requirement to provide specific notice regarding the rejection of the original valuation. Furthermore, the Appellant's acceptance of the valuation redetermined by the chartered engineer validates this revised assessment. The Appellant contends that the adjudicating authority is obligated to expressly reject the transaction value before proceeding with a valuation redetermination. Rule 12 of the CVR 2007(Customs Valuation Determination of Value of Imported Goods) Rules, 2007) provides a comprehensive framework for the formal rejection process. Rule 12 of.(CVR 2007) reads as ;

Rejection of declared value. –

(1) 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 further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

(2) At the request of an importer, the proper officer, shall intimate the importer

in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation.-(1) For the removal of doubts, it is hereby declared that:-

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.
(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.
(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include -
(a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;
(c) the sale involves special discounts limited to exclusive agents;
(d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
(e) the non declaration of parameters such as brand, grade, specifications that have relevance to value;
(f) the fraudulent or manipulated documents.

Thus, as per Rule 12 of CVR 2007, when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may reject the transaction value after following the due procedure as stipulated in rule. The Appellant has submitted that before the redetermination of the value, it is mandatory to reject the value. The adjudicating authority has failed to give any reasons as to why and how the transaction value is rejected there is nothing mentioned in the show cause notice as to how, why and under which Rule of CVR 2007 the transaction value should be rejected.

3.3 Before proceeding for redetermination of declared value under rule 4 to 10 of CVR 2007 the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, no such exercise has been done by the adjudicating authority's in the present case while rejecting the transactional value and therefore such rejection is void. In case of - 2019 (367) E.L.T. 3 (S.C.) Century Metal Recycling Pvt. Ltd. Vs. Union of India, the Hon'ble Supreme Court held :

As per sub-rule (2) of Rule 12, the proper officer when required must intimate

to the importer in writing the grounds for doubting the truth or accuracy of the value declared. The said mandate of sub-rule (2) of Rule 12 cannot be ignored or waived. Formation of opinion regarding reasonable doubt as to the truth or accuracy of the valuation and communication of the said grounds to the importer is mandatory, subterfuge to by-pass and circumvent the statutory mandate is unacceptable. Formation of belief and recording of reasons as to reasonable doubt and communication of the reasons when required is the only way and manner in which the proper officer in terms of Rule 12 can proceed to make assessment under Rules 4 to 9 after rejecting the transaction value as declared."

3.4 The Appellant further relies upon following decisions

-2013 (296) E.L.T. 443 (Bom.)
Forbo Siegling Movement Systems India Pvt. Ltd. Versus Union of India

-2021 (377) E.L.T. 33 (Bom.)
Syska Led Lights Pvt. Ltd. Versus Union of India

A prerequisite for a lawful redetermination is a valid and proper rejection of the transaction value. Any defect or irregularity in the rejection process renders the entire redetermination process invalid and without legal effect.

3.5 The adjudicating authority in his order held that the Appellant accepted the valuation by the chartered engineer and therefore the redetermination is valid. The Appellant submits that the averment made by the learned adjudicating authority is factually incorrect. The statement of the Appellant was recorded on 29.02.2024, 01.03.2024 and 05.06.2024. The Chartered Engineer gave the Valuation Reports vide his reports which are dated 18.06.2024. 19.06.2024, 20.06.2024, 21.06.2024, 22.06.2024. 23.06.2024, 24.06.2024 and 25.06.2024 (Table 5 of the Adjudication Order). The documentation reveals critical procedural discrepancies that fundamentally challenge the Adjudicating Authority's assertion. The recorded statements predate the Chartered Engineer's valuation, creating a temporal disconnect in the evidentiary chain. Critically, the available records contain no statement from the Appellant beyond those previously mentioned, and conspicuously absent is any form of acknowledgement by the Appellant regarding the chartered engineer's certificate. These substantive omissions directly contradict the adjudicating authority's claim that the Appellant accepted the redetermined value. Consequently, the authority's assertion appears to be unsupported by the documentary evidence, rendering their conclusion factually unsustainable.

3.6 The Customs Act, 1962, specifically Section 14, in conjunction with the Customs Valuation Rules, 2007, provides the exclusive statutory framework for the redetermination of the transaction value of imported goods. No other legislative provision or procedural mechanism exists to alter the declared value of such goods. It is pertinent to note that the show cause notice issued in this matter is completely devoid of any

reference to the Customs Valuation Rules. This fundamental omission is a critical procedural lapse. The notice has inexplicably relied upon a chartered engineer's certificate to justify the redetermination of the goods' value. However, the show cause notice fails to provide any cogent explanation or legal basis for accepting such a certificate as a substitute for the rigorous valuation procedures outlined in the Customs Valuation Rules. The adjudicating authority failed to justify their decision to directly appoint a chartered engineer for redetermination. It is a well-established legal principle that any redetermination of the transaction value of imported goods that bypasses the mandates of the Customs Valuation Rules is fundamentally flawed and legally unsustainable. Such an action is deemed to be void from its inception, as it constitutes a direct contravention of the statutory scheme governing customs valuation.

3.7 Rule 3(4) of the Custom Valuation Rules (CVR) 2007 mandates a sequential, Rule-based approach to value determination when the initial valuation method fails. In the present case, the Adjudicating Authority critically failed to specify the exact Rule under which the value was redetermined. This procedural omission represents a fundamental breach of the CVR 2007's systematic valuation framework. By undertaking a redetermination without anchoring it to a specific Rule as prescribed in Rules 4 to 9 of CVR 2007 the Adjudicating Authority have rendered the entire valuation process legally deficient. Consequently, such an arbitrarily conducted redetermination lacks legal validity and must be summarily dismissed for its fundamental non-compliance with established valuation protocols.

3.8 The goods were subjected to the opinion of Chartered Engineer, the Chartered Engineer Hardik A Modi has done the valuation of the goods. The valuation report given by Chartered Engineer is tabulated in para table 5 annexed to para 5.1 of the notice. Goods covered under serial no 1 to 19 of the table pertains the Appellant. The goods are mainly mobile accessories. The method adopted for valuation by chartered engineer is based on hypothetical calculation, collected information from web portals, documents submitted by the parties concerned and experience based analytical calculation with assumptions. Such valuation cannot be accepted. The relevant part of para 5.1 of the SCN reads as

> *Shri Hardik A Modi from M/s Ham & Engineers Inc. Gandhinagar, Customs Empanelled Chartered Engineer, appointed by the Additional Commissioner of Customs, Customs House, Ahmedabad, Gujarat vide Public Notice No. 11/2023 dated 13.04.2023 (RUD-15) was contacted for the valuation of imported seized/detained goods under various Panchnamas mentioned in the Column 7 of Table-1 above. The representative samples of above detained/seized goods were analysed/examined by Shri Hardik A Modi for the valuation under the Panchnama dated 14.06.2024. Shri Hardik A Modi, Customs Empanelled Chartered Engineer vide Valuation Reports mentioned below has submitted that the total value of seized goods stands to*

Rs.6,99,35,976/-. The details of the Valuation reports are tabulated as under-

3.8 A Chartered Engineer is not competent to value the goods, other than machinery. The goods enlisted in Sr. No 1 to 19 of table 5 annexed to the SCN are out purview of C.E qua recommended value. These goods are different from machinery and not covered by Public Notice No. 11/2023 dated 13.04.2023 issued by Additional Commissioner of Customs Ahmedabad, Circular No. 25/2015 and Circular No. 07/2020-Customs. The relevant portions of these Circulars and Public notice reads as :

Public Notice No. 11/2023 dated 13.04.2023
Subject: Empanelment of Chartered Engineers for Examination/Valuation of second-hand /old & used machinery/all other types of machinery items/ Goods etc. m/reg.

Attention of all Importers, Exporters, Customs Brokers, members of Trade and all other stakeholders is invited to the Public Notice No.10/2017 dated 05.06.2017, issued in light of the CBIC circular No.25/2015 dated 15.10.2015. In this regard, the following Chartered Engineers have been empanelled for the inspection/examination of secondhand/old & used machinery/all other types of machinery items/goods etc. for their technical opinion, within the jurisdiction of Ahmedabad Customs Commissionerate.

(Underline supplied)

The Form A and Form B annexed to the above public notice which are the format for the inspection and certification for second hand machinery referring to circular 07/2020 Cus CBIC.

The relevant para of circular 07/2020 reads as
To.
All Principal Chief Commissioners/Chief Commissioners of Customs,

Principal Directors General/Directors General of Customs, Principal Commissioners/Commissioner of Customs.

Madam/Sir,

Subject: Valuation of second hand machinery -regarding

Representations have been received from the trade regarding Circular No. 25/2015 - Customs dated 15th October, 2015 on valuation of second hand machinery. For this purpose, the circular requires customs to rely upon inspection report either issued at the port of loading by overseas Chartered Engineer or issued upon import by a pre-shipment inspection agency (PSIA) notified by DGFT, or by a chartered engineer empanelled by the Custom House where the DGFT approved PSIAS are not available.

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4. After due consideration of clarification from DGFT and representations made by trade, Board has decided that henceforth for inspection/appraisement of second hand machinery, the following procedure shall be followed:

4.8 For this purpose, the Board has decided that Inspection/Appraisement Reports issued by Chartered Engineers, or their equivalent, based in the country of sale of the second hand machinery shall be accepted by all Custom Houses. For the purposes of uniformity, the format in which inspection/appraisement reports shall be prepared by the Chartered Engineer is annexed to this circular. In the event that an importer does not produce an inspection/appraisement report in the prescribed format from the country of sale, he shall be free to engage the services of any Chartered Engineer from those empanelled by the Custom House of the port of import.

(Bold Underline supplied)

3.9 An analysis of Public Notice No. 11/2023 unequivocally reveals its specific application to the valuation of machinery, with a particular emphasis on second-hand machinery. Consequently, the Customs Empanelled Chartered Engineer A Modi from M/s Ham & Engineers Inc. Gandhinagar appointed pursuant to this notice by the Additional Commissioner of Customs, Ahmedabad, on April 13, 2023, is vested with authority solely for the valuation of machinery as defined within the scope of the public notice. As the impugned goods do not fall within the category of machinery, they are not classified under chapter 84, as contemplated by the public notice, the valuation conducted by the chartered engineer is beyond the purview of their authorized duties. The Appellant relies on Decision of Principal Bench of Tribunal in case of Commissioner of Customs New Delhi Vs Pasupati Industrial Inc reported in 2017(358)ELT(Tri. - Delhi), the Hon'ble Tribunal held

". Admittedly the Mechanical Chartered Engineer is not an expert to value the readymade garments. The report of the Chartered Engineer is merely on the basis of eyestimation and who had not conducted any analysis with regard to raw material used in manufacture of readymade garments and quality and quantity of readymade garments. The mechanical engineer can examine the machinery, but not the readymade garments. Therefore, the learned Commissioner (Appeals) has rightly rejected the value adopted by the Chartered Engineer. In that circumstances, we do not find any infirmity in the impugned order. As we have decided the issue of merit in favour of the Adjudicating Authority, therefore, we are not dealing with the preliminary objections raised by the Adjudicating Authority during the course of argument. In result, impugned order is upheld. Appeal filed by the Revenue is dismissed."

(underline supplied)

The entire revaluation process being predicated exclusively on the Chartered Engineer's Certificate, which lacks legal foundation, is inherently null and void.

3.10 The proceeds as per the invoice was send to the buyer by regular banking channel, the Appellant in his statement recorded under section 108 of Customs act 1962 categorically submitted that all the payments done through banking channels. Adjudicating Authority at no point of time disputed this neither there is any remark in the show cause notice which contradicts the statement of the Appellant qua the payments to the overseas suppliers. In case of Divine International Versus Commissioner of Customs, New Delhi as reported in 2016 (338) E.L.T. 142 (Tri. - Del.) the Hon'ble Tribunal held;

> *"6. It stands strongly contested before us that once the transaction value of the goods is available, it is not open to the Revenue to adopt the other measures of valuation, without first rejecting the transaction value by producing sufficient and cogent evidence. In the entire order of the Commissioner, he has not even alleged that the appellant had paid more than the payment as reflected in the invoice. We note that it is settled law that in terms of provisions of Rule 3 of the Customs Valuation Rules, the transaction value has to be accepted as the correct assessable value unless contrary evidence is available to show that the payments made by the importer to the exporter stand influenced by the other compelling circumstances. Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 clearly lay down that the value of imported goods shall be the transaction value and shall be accepted subject to examination and circumstances of sale of the imported goods enumerated therein; that is there are no restriction as to dispensation or use of the goods by the buyers; that the sale or price are not subject to some condition or consideration for which the value cannot be determined; no part of the proceeds by any subsequent sale will accrue directly or indirectly to the seller; that the buyer and seller are not related. Even in terms of sub-rule (3) of Rule 3, where the buyer and seller are related, the transaction value was to be accepted provided that examination and circumstances of sale of the imported goods indicated that relationship did not influence the price. As such, it is clear from the reading of the said rule that transaction value is required to be accepted as correct assessable value unless the circumstances mentioned therein are available. Even in the case of related parties, the transaction value has been given importance provided the relationship has not influenced the said transaction value. As such, we are of the view that there being no evidence, much less an allegation to the effect that transaction value stand influenced by any circumstances mentioned in said Rule and in the absence of any allegation of flow back of money to the seller of goods, the transaction value has to be adopted as the correct assessable value "*

The Appellant further relies upon following decisions

2020 (374) E.L.T. 810 (Tri. - Mumbai)

Mangalam Alloys Ltd. Versus Comm. of Cus. (Import), Nhava Sheva

Therefore, the rejection as well as the redetermination of value are contrary to the Law and thus not valid. The redetermination being invalid, the declared transaction value should be restored.

3.11 The Adjudicating Authority ordered the absolute confiscation of goods valued at Rs. 92,03,020/- under Section 111(d) of the Customs Act, 1962, as detailed in Table 10(A). The order's findings regarding the confiscation of cosmetic items and footwear are outlined in Para 24.1. The specific findings related to the footwear are reproduced below:

24.1.5 The investigation found that M/s Saanjh Industries Pvt Ltd imported counterfeit foot wears vide BoEs 2133691 dated 14.02.2024, 2161572 dated 16.02.2024, 2184010 dated 17.02.2024, 2215925 dated 20.02.2024 & 2352324 dated 29.02.2024.and sunglasses of brands vide BoE 2177394 dated 17.02.2024.

24.1.6 Shri Parekh Darshak, authorized person and the representative from M/s United & United (Patent & Trade Mark Attorneys), authorized by the brands Balenciaga, Crocs, Hugo Boss, D&G (M/s Dolce & Gabbana), Jordan (M/s Nike Innovate CV), ASICS, Armani (M/s Giorgio Armani SPA Italy), Nike, Under Armour, Ray-Ban (M/s Luxottica SPA, Italy), Vans reached at ICD Varnama on 14.06.2024 and examined, analyzed and took the photographs of the representative samples drawn under Panchnamas The rights holders submitted their verification reports dated 27.06.2024 confirming the goods bearing the brand names of various brands to be Counterfeit. Therefore, they attract violation of since these goods confirmed the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 and liable for confiscation under 111(d).

24.1.7 The brand owners of other goods did not appear in examination / analysis. However, it is pertinent that they were not identified as counterfeit goods and hence they are being identified as misdeclared and undervalued, the goods are liable for confiscation under section 111(d).

Thus the findings by the adjudicating authority is limited to Brands Balenciaga, Crocs, Hugo Boss, D&G (M/s Dolce & Gabbana), Jordan Nike, Under Armour, Ray-Ban. brands Balenciaga,), ASICS, Armani, Nike and Vans which he held as counterfeit.

3.12 Goods listed at serial numbers 1 to 6 of Table 10A are attributed to the Appellant. This table (serial numbers 1 to 6) details the brand of footwear and shoes, which are:

GUCCHI
DIOR
COACH
FENDI ROMA

NIKE
ADIDAS
NEW BALANCE
UNDER ARMOUR
REEBOK
PUMA
BALENCIAGA
ASICS

3.13 While the adjudicating authority's findings were confined to specific brands of footwear and shoes, namely Balenciaga, Nike, Under Armour, and ASICS, the authority proceeded to order the confiscation of all brands of footwear without providing any specific findings or rationale for the confiscation of the remaining brands. Such a broad and unsupported confiscation order lacks any legal foundation and is consequently invalid

3.14 Sr. No. 3 of the Table 10A shows branded shoes under Bill of Entry number 2231121 dated 21.02.2024 having quantity of 2700 pairs are imported. As per Panchnama and its annexure listing the goods found on examination do not show any footwear or shoes being imported under such bill of Entry. As there are no shoes pertaining to this Bill of Entry the question of misdeclaration or counterfeit goods do not arise at all.

3.15 The Adjudicating Authority declared the goods listed in Table 10A as contravening the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, thereby justifying their confiscation under Section 111(d) of the Customs Act, 1962. However, the Authority critically failed to specify the exact rule within the Enforcement Rules that was allegedly breached. This fundamental omission undermines the legal legitimacy of the confiscation order, rendering the entire proceeding procedurally defective and legally unsustainable.

3.16 The Right holder as per Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 is: "right holder" means a natural person or a legal entity, which according to the laws in force is to be regarded as the owner of protected intellectual property right, its successors in title, or its duly authorized exclusive licensee as well as an individual, a corporation or an association authorized by any of the aforesaid persons to protect its rights.

3.17 According to Rule 6 of the Intellectual Property Rights Enforcement Rules, the importation of goods suspected of infringing intellectual property rights is prohibited under Section 11 of the Customs Act, 1962. However, this prohibition only takes effect after the Commissioner, upon thorough examination, registers the notice submitted by

the Right Holder. The specific procedures for registration are detailed in Rules 3 to 5 of the Intellectual Property Rights Enforcement Rules they are reproduced as under:

3. Notice by the right holder. –

(1) A right holder may give notice in writing to the Commissioner of Customs or any Customs officer authorised in this behalf by the Commissioner, at the port of import of goods infringing intellectual property rights in accordance with the procedures and under the conditions as set out in these Rules, requesting for suspension of clearance of goods suspected to be infringing intellectual property right.

(2) The notice in respect of goods infringing intellectual property rights shall be given in the format prescribed in the Annexure to these Rules.

(3) Every such notice shall be accompanied by a document as specified by the Commissioner, evidencing payment of application fee of Rs. 2000 (two thousand rupees only).

(4) If any of the information as required in the format under sub-rule (2) is not provided, the Deputy Commissioner of Customs or Assistant Commissioner of Customs may, as the case may be, ask the right holder or his authorised representative to provide the same within 15 days, which may be extended on sufficient reasons being shown.

(5) The right holder shall inform customs authority when his intellectual property ceases to be valid or if he ceases to be the owner of such intellectual property right

4. Registration of notice by the Commissioner. –

(1) Within 30 working days from the date of receipt of the notice under sub-rule(1) of Rule 3, or from the date of expiry of the extended time as contemplated in sub-rule (4) of Rule3, as the case may be, the Commissioner shall notify the applicant whether the notice has been registered or rejected.

(2) In a case where the notice has been registered, the Commissioner shall indicate the validity period of the registration during which assistance by Customs shall be rendered. The minimum validity period shall be one year unless the noticee or right holder requests for a shorter period for customs assistance or action.

(3) The Commissioner granting the registration of the notice under sub-rule (2) shall inform, immediately through a letter by speed post or through electronic mode, all Custom offices covered by the notice of the details of the notice.

5. Conditions for registration. - The grant of registration under rule 4 shall be subject to following conditions, namely:

(a) the right holder or his authorised representative shall execute a bond with the Commissioner of Customs for such amount with such surety and security as deemed appropriate by the Commissioner, undertaking to protect the importer, consignee and the owner of the goods and the competent authorities against all liabilities and to bear the costs towards destruction, demurrage and detention charges incurred till the time of destruction or disposal, as the case may be;

(b) the right holder shall execute an indemnity bond with the Commissioner of Customs indemnifying the Customs authorities against all liabilities and expenses on account of suspension of the release of allegedly infringing goods.

(underline provided)

Accordingly, prior to the initiation of any proceedings to prohibit the import of goods pursuant to this Rule, two indispensable prerequisites must be fulfilled: (1) the submission of a notice by the Right Holder, and (2) the subsequent registration of such notice by the Commissioner.

3.18 The entire adjudication proceedings do not speak a word on grant of registration with due process as mandated in the Intellectual Property Rights Enforcement Rules. Any confiscation alleging the infringement of the Intellectual Property Rights without the grant of registration and following the due procedure under Rule 3 to 5 is invalid under the Intellectual Property Rights Enforcement Rules, 2007. Same view is taken by Hon'ble Bombay High Court in UPS Sales vs Union of India as reported in 2023(386)ELT393(Bom.). The Hon'ble Court observed:

.....This more particularly as 'right holder' has been defined in Rule 2(d) to mean a natural person or a legal entity, which according to the laws in force is to be regarded as the owner of protected intellectual property right or its duly authorized exclusive licensee as defined. As noted above, Rule 3 provides for "Notice by the right holder" to the Customs Authorities in relation to goods infringing Intellectual property rights and requesting for suspension of clearance of goods suspected to be infringing intellectual property rights. Rule 4 provides for registration of such notice and Rule 6 provides for prohibition for import of goods infringing intellectual property rights. Thus, the 2007 Rules provide for a complete scheme in relation to the goods infringing Intellectual property rights falling under the definition of Intellectual Property as defined in Rule 2(a). It is only after the registration of notice by the Commissioner, the import of infringing goods into India is deemed to be prohibited within the meaning of Section 11 of the C.E. Act as ordained by Rule 6.

15. Having noted the statutory scheme as contained in the Rules, in the

present case, the official Adjudicating Authority have not brought to our notice any steps taken by the official Adjudicating Authority under the 2007 Rules so as to register Adjudicating Authority no. 8's complaint and notify the same as per the specific requirement of the Rules. It is thus clear that without any of the conditions in the Rule being satisfied, the Customs department has withheld clearance of the goods of the petitioner. For such reason, action on the part of the Customs officials to withhold clearance of the petitioner's goods would be required to be held to be ex-facie illegal.

3.19 The Appellant further relies upon following decision:

-Raj Traders vs. Commissioner of Customs, Ahmedabad 2019(370) ELT 66 (Tri-Ahmd.).
-Commissioner of Customs Chennai vs. Himachal Exim 2017(352) ELT 34 (Tri-Chennai.).

3.20 The findings for confiscation of the goods which are termed as undeclared/undervalued goods and described in para 17.2.2 of the Adjudication order, are mentioned in para 25 of the said order. Though adjudicating authority in his findings held that goods are liable for confiscation under 111(d) of Customs Act 1962, in the final Order he held that they are liable for confiscation under 111(d) and 111(i) of Customs act 1962.Since the Adjudicating Authority in his findings limits himself to the extent of confirming the violation under 111(d) of Customs act 1962 any order of confiscation under section 111 (i) is invalid. Further, the Appellant submits that they have categorically submitted that it was the mistake of their supplier that goods are mismatched and the goods found on examination are not as per the declared goods. Once the Appellant himself not aware of such goods there appears no need to conceal such goods. The investigation never came out as to the manner of such concealment. Any goods mixed with other goods cannot be said to concealed. The investigation has to bring out clearly as to how and the manner in which the goods been concealed. Therefore, the charge of concealment and the confiscation under section 111(i) will not hold good and.

3.21 The Appellant from the very beginning submitted that the goods were shipped due to mistake of his overseas supplier. The confiscation is fastened on the Appellant due to undeclared and undervalued goods. Despite the implementation of a comprehensive investigative process by the Directorate of Revenue Intelligence (DRI) and Customs authorities, which encompassed extensive searches of multiple residential and commercial properties linked to the Appellant, no evidence was unearthed to corroborate the allegations of misdeclaration. Regarding valuation the Appellant already submitted that there is no evidence of any under valuation and the redetermination of the value is incorrect. Therefore, the goods covered within the scope of Para 28.1 (iv) of the Adjudication Order are not liable for confiscation under section 111(d)&(i) of Customs act 1962.

3.22 Confiscation of the goods is sine qua non for imposing any penalty under section 112 of Customs Act, 1962. As submitted in earlier para the goods are not liable for confiscation no penalty can be imposed.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 11.06.2025, following the principles of natural justice wherein Shri Rajkumar Maji, Advocate, attended Personal Hearing on behalf of four appellants and he re-iterated the submission 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, Custom, Surat, and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that following issues required to be decided in the present appeals which are as follows:

(i) That condonation of delay application so filed by the appellant is to be allowed or otherwise i.e. whether the appeal is time barred or not.
(ii) Whether the re-determination of the assessable value of the imported goods by the Chartered Engineer is legally sustainable.
(iii) Whether the finding of IPR violation for all alleged brands is legally sustainable, particularly in light of the specific procedures under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.
(iv) Whether the goods found to be in violation of BIS Standards or classified as restricted/prohibited (Toys, LED, Sex Toys) are liable for confiscation.
(v) Whether the redemption fine and penalties imposed on the Appellant is justified and require modification or otherwise.

5.2 Section 128 of the Customs Act, 1962, provides for a period of sixty days for filing an appeal, with a further grace period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of twenty eight days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has attributed the delay to the confusion, along with complexity of issues involved, which prevented them from filing the appeal. While parties are expected to exercise due diligence, minor delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the

explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, the miscellaneous application for condonation of delay is allowed in the interest of natural justice.

5.3 The Appellant has contended that the re-determination of value by the Chartered Engineer is flawed and does not conform to the Customs Valuation Rules, 2007. However, the very basis for rejecting the declared transaction value stems from substantial evidence of mis-declaration and import of prohibited/restricted goods. When the declared description of goods is found to be false or manipulated, and the goods are of a nature different from what is declared, this fundamentally casts doubt on the "truth and accuracy" of the transaction value itself, allowing its rejection under Rule 3(1) read with Rule 12 of the CVR, 2007.

5.4 Once the transaction value is rightly rejected, the Customs authorities are permitted to determine the value sequentially using Rules 4 to 9. Given the nature of the goods and the findings of mis-declaration, resorting to Rule 9 (the residual method) which allows for valuation based on reasonable means consistent with the principles and general provisions of the Rules, becomes justifiable. A report from a Government Empaneled Chartered Engineer, as relied upon by the adjudicating authority, provides an expert opinion on the value of the goods, which can be a valid basis under Rule 9, especially when supported by information gathered from market sources, including web portals. The Public Notice No. 11/2023 empowers such engineers to provide valuation reports. The burden then shifts to the Appellant to provide clear and cogent evidence demonstrating that the re-determined value is, in fact, incorrect. Their general assertion of "hypothetical calculation" is insufficient to discredit an expert's report without specific counter-evidence.

5.5 Therefore, given the inherent mis-declaration and the resulting unreliability of the transaction value, the rejection of the declared value and its re-determination by the adjudicating authority, utilizing an empaneled Chartered Engineer's report as a basis under Rule 9 of CVR, 2007, is found to be sustainable. The appeal on valuation grounds is hereby REJECTED.

5.6 The Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 (hereinafter, "IPR Rules, 2007"), prescribe a specific legal framework for addressing IPR infringement. Rule 6 of these Rules explicitly states that the "prohibition for import of infringing intellectual property rights" under Section 11 of the Customs Act, 1962, takes effect "only after the registration of notice by the Commissioner." This procedural requirement is paramount.

5.7 The Appellant has correctly argued that the adjudication proceedings did not adequately establish or demonstrate compliance with the mandatory procedures for registration of notice by the right holders as per Rules 3, 4, and 5 of the IPR Rules, 2007. The impugned order, while noting the brand owners' verification reports confirming goods as counterfeit, fails to explicitly record the necessary steps taken by the Customs authorities regarding the registration of the IPR notices.

5.8 This position is strongly supported by various judicial pronouncements:

a) **UPS Sales and Suzhou Dake Machinery Company Ltd. vs. Union of India, Commissioner of Customs [2023 (386) E.L.T. 393 (Bom.)]:**

The Hon'ble Bombay High Court in this case extensively analyzed the IPR Rules, 2007. It held that "the 2007 Rules provide for a complete scheme in relation to the goods infringing intellectual property rights... It is only after the registration of notice by the Commissioner, the import of infringing goods into India is deemed to be prohibited within the meaning of Section 11 of the C.E. Act as ordained by Rule 6." The Court further noted that "without any of the conditions in the Rule being satisfied, the Customs department has withheld clearance of the goods... For such reason, action on the part of the Customs officials to withhold clearance of the petitioners goods would be required to be held to be ex-facie illegal." This judgment directly supports the Appellant's contention that mere suspicion or a brand owner's report is insufficient without strict adherence to the IPR Rules.

b) **Commissioner of Customs, Chennai vs. Himachal Exim [2017 (352) E.L.T. 34 (Tri. - Chennai)]:**

In this case, similar to the present one, shoes bearing "Adidas" and "Nike" brands were imported, and IPR violation was alleged. The Tribunal observed that "the adjudication proceedings have not fulfilled the requirements of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. Confiscation and penalties were vacated by Commissioner (Appeals) and the goods were allowed to be released." The CESTAT upheld the Commissioner (Appeals)'s decision to set aside confiscation and penalties because the IPR Rules, 2007, were not fulfilled, especially concerning Adidas and Nike not joining the proceedings or fulfilling registration conditions under Rule 5. This case clearly establishes that non-compliance with the procedural aspects of IPR Rules is fatal to the department's case for confiscation.

c) **M/s. Indulge Sign and Graphics vs. Commissioner of Customs (Appeals), NCH, IGI Airport, New Delhi [2022-VIL-846-CESTAT-DEL-CU]:**

The CESTAT (Principal Bench, New Delhi) in this case found that Customs violated the prescribed timelines under the IPR Rules, 2007. Specifically, it noted that Customs intimated the right holder (Samsung) after about 20 days, violating the "immediately

inform" timeline. It also found a breach of the 5-day time limit for the right holder to furnish a bond. The Tribunal held that "the impugned order for confiscation and penalty is bad and against the provisions of the law. Further, the impugned order is bad for violation of the prescribed conditions and limitation prescribed under the Intellectual Property Rights...". This ruling further strengthens the requirement of strict adherence to the timelines and conditions stipulated in the IPR Rules.

d) Divya Novelty vs. Commissioner of Customs, Mundra [F.O. No. 12968-12971/2024 dated 03.12.2024 (CESTAT, Ahmedabad)]:

This recent decision from the CESTAT, Ahmedabad, also involved the absolute confiscation of counterfeit shoes (Nike, Adidas, Puma, Reebok, ASICS, Vans). The Tribunal specifically reproduced and analyzed Notification No. 51/2010-Cus (NT) dated 30.06.2010 and the IPR Rules, 2007. The CESTAT held that "to hold the goods as prohibited, particularly with reference to false brand names, he referred to Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007... as per Rule 7 (3) of the Rules, it is provided that if the right holder or his authorised representative does not join the proceedings within a period of ten working days... the goods shall be released provided that all the other conditions of import... have been complied with. In the present case, admittedly none of the condition of above Rules was followed such as giving notice, execution of bond etc. Thus, the right holder has not participated in the proceeding as prescribed in the Rules. In absence of compliance of the above Rules, the goods cannot be held prohibited goods and consequently the same cannot be absolutely confiscated." This judgment provides a clear and direct precedent from the jurisdictional Tribunal, reinforcing the procedural mandatory nature of the IPR Rules.

e) SRK Enterprises vs. Commr. of Cus. (Import), Nhava Sheva [2011-VIL-214-CESTAT-MUM-CU / 2012 (280) ELT 264 (Tri. - Mumbai)]:

In this case, certain items branded 'Dove' were absolutely confiscated on IPR violation grounds. The CESTAT, Mumbai, found that "the provisions of IPR Act and Rules were not followed." It specifically noted that "neither the time prescribed in the IPR Rules have been followed nor the conditions laid down in Rule 3 has been complied with." Consequently, the Tribunal held that "provisions of IPR Act or Rules are not applicable in this case," and set aside the absolute confiscation. This further solidifies the position that non-adherence to IPR Rules invalidates confiscation under IPR provisions.

5.9 The impugned order, while mentioning verification reports, fails to explicitly detail or demonstrate compliance with these fundamental procedural aspects of the IPR Rules, 2007. The absence of specific findings on the registration of notice, execution of bonds, adherence to timelines, or the participation of brand owners in the adjudication process, as required by the IPR Rules and affirmed by the plethora of judgments above, renders the confiscation of goods specifically on IPR grounds unsustainable.

Furthermore, the OIO's broad confiscation of "all brands of footwear" without specific findings for each is unsupported.

5.10 Therefore, while the goods may appear to be counterfeit, the failure of the adjudicating authority to explicitly record and demonstrate compliance with the mandatory procedural requirements of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, renders the finding of IPR violation legally unsustainable for the purpose of confiscation under Section 111(d) on IPR grounds. The appeal on IPR violation is hereby ALLOWED on procedural grounds, in line with the established judicial precedents.

5.11 The SCN and impugned order also allege violations related to BIS Standards and the import of prohibited/restricted goods.

BIS Standards (Toys & LED): DGFT Notifications mandate BIS certification for specific Toys (No. 33/2015-2020) and LED products (No. 32/2015-2020). The Appellants' contention that LED goods were "parts" and not finished goods requires specific evidence from their side. However, if the goods are indeed identifiable as finished products covered by the BIS quality control orders, their import without the required certification renders them liable for confiscation under Section 111(d) of the Customs Act, 1962, as being imported contrary to prohibition. The Appellants' general denial without providing specific evidence (e.g., valid licenses, proof of compliance with conditions) or successfully rebutting the classification of these goods as prohibited/restricted is insufficient. The physical examination reports would hold substantial weight here.

Restricted/Prohibited Goods (Sex Toys): Customs Circular No. 1/1964-Cus dated 18.01.1964 prohibits the import of "obscene matter." If the imported "sex toys" fall under this category, their import is clearly prohibited.

5.12 The Appellants' general denial without providing specific evidence (e.g., valid licenses, proof of compliance with conditions) or successfully rebutting the classification of these goods as prohibited/restricted is insufficient. The physical examination reports would hold substantial weight here. Therefore, the confiscation of goods found to be mis-declared as to their true nature, and those proven to be prohibited or restricted (Sex Toys and BIS-violating Toys/LED where applicable) is legally sustainable under Section 111(d) and 111(m) of the Customs Act, 1962. The appeal on these grounds is REJECTED.

5.13 Given the findings of sustained undervaluation (due to mis-declaration) and import of prohibited/restricted goods, while granting relief on IPR procedural grounds, the redemption fine and penalties need to be re-assessed.

5.14 The impugned order imposed a redemption fine of ₹5,00,000/- for restricted goods and ₹10,00,000/- for undervalued/mis-declared goods. Section 125 of the Customs Act, 1962, allowing re-export. Section 125 allows for redemption fine in lieu of confiscation. However, a consistent view has been taken by various appellate forums that when re-export is permitted, especially for goods that were always intended for re-export, the imposition of a redemption fine may not be justified or should be nominal. In this regard, I rely upon the following judgements:

- Opus Asia Technologies Pvt. Ltd. v/s Commissioner of Cus. (Sea), Chennai, 2004 (168) ELT 72 (Tri.-Chennai), which held that if the margin of profit is wiped out, the question of imposing redemption fine may not arise. In this case, the goods are being re-exported, implying no domestic sale and thus no profit from the alleged undervaluation for domestic consumption.
- The judgments in M/s. Selvam Industries Ltd. [2021 (377) E.L.T. 458 (Tri. - Chennai)], M/s. SDS Ramcides Crop Science Pvt. Ltd. [2018 (359) E.L.T. 239 (Tri. - Chennai)], and M/s. Kenda Farben India Pvt. Ltd. [2019 (369) E.L.T. 1225 (Tri. - All.)] consistently support the view that redemption fine is not justified when re-export is permitted.

In the instant case, the intent for re-export and the judicial precedents would strongly influence against the imposition of a substantial redemption fine. Therefore, the redemption fine of ₹5,00,000/- for restricted goods, allowed to be re-exported, is set aside.

5.15 However, the significant undervaluation and mis-declaration, along with the import of prohibited/restricted goods, still warrant a substantial redemption fine. Section 125 allows for a fine up to the market value of the goods. Given that the re-determined value of the goods is ₹ 1,62,41,362/-, the fine of ₹10,00,000/- for undervaluation/mis-declaration is proportionate and legally justifiable. Therefore, the redemption fine of ₹10,00,000/- (Rupees Thirty Lakh Only) is upheld.

5.16 Regarding penalties the Section 112(a), applies to any person who does or omits to do any act which would render goods liable to confiscation. Since goods are liable for confiscation due to mis-declaration, undervaluation, and import of prohibited/restricted items, the Appellant, by their acts or omissions, have rendered the goods liable for confiscation. Penalties are thus justified. The significant quantum of undervaluation and the variety of mis-declared/prohibited goods strongly indicate mens rea and deliberate actions. The appellant, as the importer, is responsible for ensuring compliance with all prevailing laws and notifications at the time of import. However, the purpose of penalty is not merely to punish but also to deter and ensure compliance. The Adjudicating Authority imposed a penalty of ₹10,00,000/- on the appellant. Given that the re-determined value of the goods found liable for confiscation (excluding absolutely confiscated ones) is substantial, the penalty imposed is well within the statutory limits.

5.17 However, the principle of proportionality in penalty imposition is consistently emphasized by higher courts. While the Appellant is indeed culpable, they have faced substantial consequences, including confiscation of goods (some absolute) and significant redemption fines/penalties. The purpose of the penalty, in this context, should be to ensure compliance rather than impose excessive hardship. Therefore, a reduction in the penalty amount is deemed appropriate.

6. As discussed in the findings above, the rejection of the declared transaction value due to mis-declaration, the confirmed import of prohibited/restricted goods, and the mis-declaration of description all constitute false or incorrect declarations in material particulars. Considering the confirmed re-determined value and the gravity of the deliberate mis-declaration and import of prohibited/restricted goods, the penalties imposed on the Importers are warranted. However, a slight adjustment downwards from the original OIO penalty, while still keeping them robust, seems appropriate given the procedural relief granted on IPR grounds.

7. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

(i) The Miscellaneous Application for Condonation of Delay is hereby allowed, and the delay of 28 days in filing the appeal is condoned.

(ii) The rejection of the declared transaction value of ₹ 74,63,311/- and the re-determination of the assessable value to ₹ 1,62,41,362/- by the adjudicating authority is hereby upheld, as sufficient evidence of misdeclaration and concealed prohibited/restricted goods exists to cast reasonable doubt on the declared value, justifying re-determination under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(iii) The order for absolute confiscation of prohibited goods alleged to have violated IPR rules having assessable value of ₹ 47,43,385/-, as described in the impugned order, under Section 111(d) and 111(i) of the Customs Act, 1962, is hereby set aside.

(iv) The order for confiscation of restricted goods having assessable value of ₹ 20,09,261/- and the option to re-export the goods with payment of redemption fine of ₹5,00,000/- under Section 125 of the Customs Act, 1962, is modified to the extent that the redemption fine is set aside.

(v) The order for confiscation of undeclared/undervalued goods having assessable value of ₹ 94,88,915/- and the option to release the goods on payment of a redemption fine of ₹10,00,000/- under Section 125 of the Customs Act, 1962, is hereby modified to the extent that option to redeem the goods is available on redemption fine of ₹ 6,00,000/- (Rupees Six Lakh only).

(vi) The imposition of penalty on M/s Saanjh Industries under Section 112(a) of the Customs Act, 1962, is hereby upheld. However, exercising the discretion vested, the quantum of penalty is hereby reduced from ₹10,00,000/- (Rupees Ten Lakh Only) to ₹ 6,00,000/- (Rupees Six Lakh only) to ensure proportionality.

The appeal filed by M/s. Saanjh Industries is hereby partially REJECTED and partially ALLOWED.

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

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

F. No. S/49-246/CUS/AHD/2024-25 Date: 08.08.2025

By Registered post A.D/E-Mail [As per Section 153(1)(b)&(c) of the Customs Act, 1962]

To,

M/s. Saanjh Industries,
Office No 2B, 205 M K Patel Estate,
NH No 8, Ranoli, Vadodara.

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahd-guj@nic.in)
2. The Principal Commissioner of Customs, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Additional Commissioner of Customs, Custom, Ahmedabad. (email: cus-ahmd-adj@gov.in icd-sachin@gov.in)
4. The Deputy/Assistant Commissioner of Customs, ICD-Varnama (email: icd-varnama@gov.in indvarnama@gmail.com)
5. Shri. Raj Kumar Maji, Advocate, Elysian Tax Advisors & Associates, Navi Mumbai (email: majirk@yahoo.co.in)
6. Guard File.