



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन,” पहली मंजिल, पुरानेहाईकोटेक्सामने, नवरांगपुरा, अहमदाबाद – 380009.

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PREAMBLE

A	फाइल संख्या/File No.	:	ACC/ASST/BE/23/2025-ACC
B	कारण बताओ नोटिस संख्या और तारीख/ Show Cause Notice No. and date	:	CUS/SIIB/209/2024-DC/AC-I Dated 15.07.2024
C	मूल आदेश संख्या/ Order- in-Original No.	:	43/ADC/ACC/OIO/Ruby/2025-26
D	द्वारापारित/Passed by	:	ADDITIONAL COMMISSIONER
E	आदेशतिथि/ Date of Order	:	23.07.2025
F	जारी करने की तारीख/ Date of Issue	:	23.07.2025
G	आयातक का नाम और पता /Name and Address of Importer	:	<p>1. M/s Ruby India, Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot-360005.</p> <p>2. M/s Aashirvad Enterprise, Sub Plot No. 47/1, Shed, Plot No 47, Rev. Sur.472/480, Shreenathji Industrial Area, Lodhika, Rajkot</p> <p>3. Shri Milankumar Mansukhbhai Pansuriya, Prabhu Milan Block No-58, Govardhan Society Main Road, Sau Uni Area, Rajkot, Gujarat</p>
H	DIN NO.	:	20250771MN000000CFD2

- (1) This is granted free of charge for the use of person to whom it is issued.
- (2) Any person deeming himself aggrieved by this order may appeal against the order to the Commissioner of Custom (Appeals), 4th Floor, HUDCO Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380009 within sixty (60) days from the date of receipt of the order.
- (3) The appeal should bear a Court Fee stamp of Rupees Two only (Rs. 2.00), and it must be accompanied by :

- i. A copy of the appeal and,
- ii. This copy or any copy of this order will must bear a Court fee Stamp of Rupees Two only (Rs. 2.00/-).

(4) Any person desirous of appealing against this order shall deposit 7.5% (subject to maximum of Rs. 10 crores) of duty demanded, in case where duty or penalty levied, where such penalty is in dispute and produce proof of such payment along with the appeal, failing which the appeal is liable to reject for non-compliance of the provisions of Section 129 of the Customs Act, 1962.

Brief facts of the case

M/s. Ruby India, 187, Chandra Park, 150ft Ring Road, Rajkot - 360005 Gujarat, bearing IEC (BZFP7706P) (hereinafter referred as “the said exporter” or “M/s. Ruby India” for the sake of brevity) had filed 02 Shipping Bill No. 1633135 and 1633121 both dated 13.06.2024 at Air Cargo Complex, Ahmedabad for export of 12 Nos. of Auto Suspension Control Part X7 Premium Air Suspension Control to Dubai, by classifying the same under CTH 87088000 of the Customs Tariff Act, 1975, through CHA M/s. S. M. Enterprise CHA License No. ABKPJ5436ECH001. Similarly, M/s. Aashirvad Enterprise, Plot No 47, Sub Plot No. 47/1, Rev Shreenathji Ind. Area, Lodhika, Rajkot- 360035, Gujarat, bearing IEC (DWGPR5050A) (herein after referred as “M/s. Aashirvad Enterprise”) had filed Shipping Bill No. 1633196 and 1633172 both dated 13.06.2024 at Air Cargo Complex, Ahmedabad for export of 11 Nos. of Auto Suspension Control Part X7 Premium Air Suspension Control to Dubai, by classifying the same under CTH 87088000 of the Customs Tariff Act, 1975, through CHA M/s. S. M. Enterprise, CHA License No. ABKPJ5436ECH001. The details of the Shipping Bills are as under-

TABLE-1

Sr. No .	Shipping Bill/date	Name of Exporter & IEC	Declared description of goods as per S/B	Declared quantity	FOB Value (in Rs)	IGST Benefit claimed (in Rs)	Drawback Claimed (in Rs)	RODTE P claimed (in Rs)		
1	1633135 dated 13.06.2024	M/s Ruby India (BZFP7706P)	Auto Suspension Control Part X7 Premium Air Suspension Control	6	3294914	925448	65898	16475		
2	1633121 dated 13.06.2024			6	3292436	924754	65849	16462		
Total				12	6587350/-	1850202/-	131747/-	32937/-		
3	1633172 dated 13.06.2024	M/s Aashirvad Enterprise	Auto Suspension Control Part X7 Premium Air Suspension Control	5	2742320	770628	54846	13712		
4	1633196 dated 13.06.2024			6	3292436	924754	65849	16462		
Total				11	6034756	1695382	120695	30174		
Grand Total				23	12622106	3545584	252442	63111		

2. The Deputy Director of DRI, Regional Unit, Surat vide letter F. No. DRI/AZU/SRU/INT-05/2024 dated 14.06.2024 requested to hold the consignments of both the firms (M/s Ruby India & M/s Aashirvad Enterprise) and carry out 100 percent examination. The DRI vide the said letter informed that both the exporters (M/s Ruby India & M/s Aashirvad Enterprise) are exporting the mis-declared items on high value and availing drawback, RODTEP and IGST refund on the same.

3. As per the instructions received from DRI, Regional Unit, Surat, the goods covered under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 were examined by the officers of Customs, ACC, Ahmedabad in the presence of Shri Lokesh Kumar Dhaker (Appraiser), ACC, Ahmedabad Shri Naveen Puniya, SIO, DRI Ahmedabad and Govt. empaneled Chartered Engineer Shri Bhasker G. Bhatt, Shri Jay Shankar Tiwari (G card no. G/62/2016) and 02 independent Panchas under the Panchnama dated 18.06.2024. During the course of examination, it was noticed that the goods to be exported were packed in 04 corrugated boxes (one box for each Shipping Bill)

3.1 The Panchnama proceedings were carried out in the presence of independent panchas and details of examination of the said export consignments of M/s Ruby India and M/s Aashirvad Enterprise are mentioned as below:

Sr. No.	Exporter Name	Shipping Bill/date	Declared description of goods as per S/B	Description of goods found on examination & Quantity
1	M/s Ruby India	1633135 dated 13.06.2024	6 Auto Suspension Control Part X7 Premium Air Suspension Control	01 Lex pure (100 GPD) 01 Micro well booster (100 GPD) 01 Kemflo HF 1800 (100 GPD) 01 Water polo booster pump (100 GPD) 01 Kemflo HF 1800 (100 GPD) 01 BNQSX Diaphgram pump (100 GPD)
2	M/s Ruby India	1633121 dated 13.06.2024	6 Auto Suspension Control Part X7 Premium Air Suspension Control	01 Aqua Booster Pump LX-CRU (75 GPD) 01 Water Craft Diaphgram booster pump (100 GPD) 01 BNQSX Diaphgram pump (100 GPD) 01 BNQSX Diaphgram pump (100 GPD) 01 Ability diaphragm pump (100 GPD) 01 X Max Booster pump
3	M/s Aashirvad Enterprise	1633172 dated 13.06.2024	5 Auto Suspension Control Part X7 Premium Air	01 Kemflo HF 1800 (100 GPD) 01 Fil Max K-100 (100 GPD) 01 Fil Max K-100 (100 GPD) 01 Aqua Booster (100 GPD) 01 Kemflo HF 1800 (100 GPD)

		Suspension Control		
4	M/s Aashirvad Enterprise	1633196 dated 13.06.2024	6 Auto Suspension Control Part X7 Premium Air Suspension Control	01 Pressure Booster Pump EO36-IBP-1024 (100 GPD)
				01 Aqua Booster Pump EL-CRU (75 GPD)
				01 Kemflo HF 1800 (100 GPD)
				01 Fil Max K-100 (100 GPD)
				01 ECLU Rox EQLY-100 (100 GPD)
				01 Jed flow (100 GPD)

3.2 Shri Jay Shankar Tiwari (G card no. G/62/2016) from CHA firm M/s S. M. Enterprise having address 304, Sunrise Avenue, Opp Darshan Society, Stadium to Commerce Six road, Navrangpura was also present during the Panchnama proceeding and agreed to the mis-classification of the goods in the above-mentioned export consignments under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024. Shri Jay Shankar Tiwari said that his firm M/s S. M. Enterprise was assigned for the work of customs clearance of the said consignments by Shri Milankumar Mansukhbhai Pansuriya.

3.3 As the goods covered under the said Shipping Bills were mis-declared by the exporters. The goods appeared liable to be confiscated under Section 113 of the Customs Act, 1962. The mis-declared goods under Shipping Bill No. 1633135, 1633121 both dated 13.06.2024 were placed under seizure vide the Seizure Memo dated 22.06.2024 & mis-declared goods under Shipping Bill No 1633196, 1633172 both dated 13.06.2024 were placed under seizure vide the Seizure Memo dated 22.06.2024 under the reasonable belief that the said goods were liable for confiscation under Section 113 of the Customs Act, 1962 due to the reason that the Export of the said items was attempted in violation of provisions of the Customs Act, 1962.

3.4 Shri Bhasker G. Bhatt, 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 examined the goods covered under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 to ascertain its value. He vide report BB/F18/24/RI/AIRCARGO/ ABAD dated 24.06.2024 stated that the exporters (M/s Ruby India & M/s Aashirvad Enterprise) tried to export "**23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM**" under the Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 and estimated original price of the items under export is around **Rs.23,599/-**. **Since, the good are used and old, accordingly, depreciated value of the said goods is Rs.11,510.10.** Therefore, the said consignments attempted to be exported does not match the items mentioned in the export documents.

4. Statement recorded under Section 108 of the Customs Act, 1962:-

4.1. The proprietor of M/s Ruby India (IEC- BZFPP7706P) was summoned and statement dated 27.06.2024 of Smt. Monalisa Milankumar Pansuriya W/o Shri Milankumar Pansuriya, residing at Prabhu Milan Block No. 58, Govardhan Society Main Road, Kalawad Road, Near Narmada Park, Rajkot, Gujarat-360005 was recorded under Section 108 of the Customs Act, 1962 wherein she inter-alia stated that-

- She is proprietor of M/s Ruby India (IEC- BZPPP7706P). On being asked, she stated that her husband Shri Milankumar Pansuriya started the firm M/s Ruby India in the Year 2017.
- she was shown panchnama dated 18. 06.2024 drawn at the premises of · warehouse of ACC, Ahmedabad and she agreed with the contents of the said panchnama.
- she agreed with the mis-declared items found in the export consignments under Shipping Bill No. 1633135 1633121 both dated 13.06.2024; that she does not look after the business of the firm and has no knowledge of exports made by the firm; that her husband Shri Milankumar Pansuriya looks after the business of her firm.
- that she does not know the business of the firm as her husband Shri Milankumar Pansuriya looks after the business of the firm; that the sale/purchase, financial matters, personal matters of M/s Ruby India are looked after by her husband Shri Milankumar Pansuriya.

4.2 The proprietor of M/s. Aashirvad Enterprise (IEC- DWGPR5050A) was summoned to record the statement under Section 108 of the Customs Act, 1962. Shri Milankumar Mansukhbhai Pansuriya S/o Mansukhbhai Pansuriya, residing at Prabhu Milan Block No- 58, Govardhan Society Main Road, Rajkot, Sau Uni Area, Rajkot, Gujarat appeared before the statement recording officer with the authority letter for appearing and giving statement on behalf of Smt Rangani Sangitaben Gautambhai. Shri Milankumar Mansukhbhai Pansuriya was also summoned because he was the main person who handled the business of M/s Ruby India & M/s. Aashirvad Enterprise. The statement dated 27.06.2024 of Shri Milankumar Mansukhbhai Pansuriya was recorded under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that-

- M/s Ruby India is a proprietorship firm in the name of his wife Smt. Monalisa Pansuriya although he handles the affairs of this firm; that he is the de-facto owner of this firm.
- M/s Aashirvad Enterprise is a proprietorship firm in the name of Smt Rangani Sangitaben Gautambhai; Smt Sangitaben is wife of his friend Shri Gautambhai; Smt Sangitaben is a house maker and he handles the affairs of this firm; the profit and investment in this firm is shared between him and

Shri Gautambhai H/o Smt Sangitaben equally; he has been given authority letter for appearing and giving statement on behalf of Smt Rangani Sangitaben Gautambhai.

- he was shown panchnama dated 18.06.2024 drawn at the premises of warehouse of ACC, Ahmedabad and he agreed with the contents of the said panchnama.
- He also agreed with the discrepancies/ mis-match in declared items in the Shipping Bills and items found in the examination of the export consignments of M/s Ruby India & M/s Aashirvad Enterprise; he placed purchase order to the firm M/s Bholenaath Enterprises, House No 135, Old No A-57 Block C S Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi GSTIN: 07CDIPK1276K2Z9) for the delivery of 23 number of Auto Suspension Control Part X7 Part X7 Premium Air Suspension Control for the export of the same to Dubai; he placed this order telephonically to Shri Sanjay Singh, a person from M/s Bholenaath Enterprises in May-2024; Shri Sanjay Singh dispatched the 04 boxes at the office premises of M/S Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 through courier on 11.06.2024; Shri Manav Maru, an employee of M/s Ruby India received the said 04 boxes (02 boxes were for M/s Ruby India and other 02 boxes for M/s Aashirvad Enterprise); these 04 boxes were not verified/checked by them and dispatched the same for the export from ACC, Ahmedabad on the same day.
- Shri Sanjay Singh (Mob-8401365386) visited at the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 on 29.04.2024 and introduced himself as a representative of M/s Bholenaath Enterprises, New Delhi and said that they deal in the business of Auto Suspension Control Part (ECU); Further, he asked to buy Auto Suspension Control Part (ECU) from his firm M/s Bholenaath Enterprises, New Delhi; Shri Sanjay Singh arranged sample of Auto Suspension Control Part (ECU) on 01.05.2024; Shri Sanjay Singh again visited the office premises of M/s Ruby India on 02.05.2024 and he gave him order of 23 number of Auto Suspension Control Part X7 Premium Air Suspension Control at the price of Rs 5,23,854.13 plus IGST per piece; he does not know why Shri Sanjay Singh sent wrong items to him.
- He has not made any advance payment in this regard to M/s Bholenaath Enterprises, New Delhi as the payment had to be made 60 days after the delivery.
- He has been informed by the CHA Shri Mahesh Jasani on 14.06.2024 that his consignments mentioned in Table I were put on hold by the Customs Officers for the examination; he has been informed on 18.06.2024 by Shri Chirag (an employee of Shri Mahesh Jasani) that mis-declared items were found in their said examined consignments; he immediately contacted Shri Sanjay Singh (Mob-8401365386) on his mobile number which was found

switched off; Finally, he filed a police complaint before police on 22.06.2024 at Rajkot Taluka Police Station against M/s Bholenaath Enterprises; he was in Dubai from 16.06.2024 to 20.06.2024.

- He engaged M/s S. M. Enterprise for the clearance of the present consignment mentioned in table 1 from ACC, Ahmedabad; the past consignments of M/s Ruby India & M/s Aashirvad Enterprise were cleared with the help of CHA firm M/s Cargo Channels Pvt Ltd; M/s Cargo Channels Pvt Ltd informed that their firm has decided to give CHA service to limited companies only and could not give CHA related service to their proprietorship firms from May 2024 onwards; thereafter, he asked M/s S. M. Enterprise for the clearance of said consignment at ACC, Ahmedabad and sent documents for the KYC
- M/s Ruby India & M/s Aashirvad Enterprise had not imported any consignment in past and M/s Ruby India & M/s Aashirvad Enterprise only exported Auto Suspension Control Part (ECU) to Dubai; M/s Ruby India & M/s Aashirvad Enterprise exported the declared items in the Shipping Bills and no mis-declaration was noticed during the examination.
- he perused the Statement dated 27.06.2024 of Smt Monalisa Pansuriya and after going through the statements, he appended dated signature in token of having seen and agreed upon.
- he perused the Inspection and valuation report dated 24.06.2024 issued by the Charter Engineer, Shri B G Bhatt & Co. in respect of Shipping Bills mentioned in the Table -1 and after going through the same, he appended his dated signature in token of having seen and agreed upon.

4.3. Shri Mahesh V Jasani, S/o Shri Vallabhdas Girdharlal Jasani, Proprietor of the CHA firm M/s S. M. Enterprise, Residing at A-5, Moonvihar apartment, Near Ishwer Bhavan, Navrangpura was summoned and his statement dated 28. 06. 2024 was recorded under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that-

- he was shown panchnama dated 18.06.2024 drawn at the premises of warehouse of ACC, Ahmedabad and he agreed with the contents of the said panchnama
- He also agreed with the discrepancies/ mismatch in declared items in the Shipping Bills and items found in the examination of the export consignments of M/s Ruby India & M/s Aashirvad Enterprise; he informed to Shri Milankumar Mansukhbhai Pansuriya and Shri Milankumar Mansukhbhai Pansuriya told him that he placed the order for Auto Suspension Control Part X7 Premium Air Suspension Control to M/s Bholenaath Enterprises, House No 135, Old No A-57 Block CS Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi; Shri Milankumar told that he would make an inquiry with M/s Bholenaath Enterprises for the delivery of wrong items; Shri Milankumar also informed that he got these consignments (04 boxes) delivered at the premises

i.e M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 through courier on 11.06.2024 and these 04 boxes were not verified/ checked by him and dispatched the same for the export from ACC, Ahmedabad on the same day.

- he knows Shri Milankumar from the year 2023, as his firm provided CHA services to his firm M/s KMP Export in clearance of goods for the export in the year 2023; M/s KMP Export exported 08 consignments in the year 2023; Shri Milankumar contacted him in beginning of the June month 2024 for the export from his two firms M/s Ruby India & M/s Aashirvad Enterprise to Dubai and sent KYC documents to him on email; he got the KYC documents verified from the GST Portal & DGFT Portal and agreed to provide clearance service to the export of M/s Ruby India & M/s Aashirvad Enterprise after the verification of KYC documents.
- It was his first work for the firms M/s Ruby India & M/s Aashirvad Enterprise and had no knowledge of the export done by these firms in the past; he and his firm was in contact with Shri Milankumar Mansukhbhai Pansuriya only in respect of the firms M/s Ruby India & M/s Aashirvad Enterprise.
- M/s S. M. Enterprise filed the 02 Shipping Bills 1633121 & 1633135 both dated 13.06.2024 on behalf of M/s Ruby India and 02 Shipping Bills 1633172 & 1633196 both dated 13.06.2024 on behalf of M/s Aashirvad Enterprise; Shri Chirag Patel (H Card Holder), an employee of his firm S. M. Enterprise received the above said 04 parcels of M/s Ruby India & M/s Aashirvad Enterprise from M/s Nandan Courier company on 14.06.2024 in the premises of GSEC and carried the same in the GSEC Godown; Shri Manav, an employee from M/s Ruby India informed telephonically to Shri Chirag Patel (H Card Holder) that the export consignment of M/s Ruby India & M/s Aashirvad Enterprise were reaching in the premises of GSEC on 14.06.2024.
- He does not know about the imports of the both firms as M/s S. M. Enterprise never provided any services related to CHA for the imports of M/s Ruby India & M/s Aashirvad Enterprise.
- he perused the Statement dated 27.06.2024 of Smt Monalisa Pansuriya and after going through the statements, he appended dated signature in token of having seen and agreed upon.
- He perused the Statement dated 27.06.2024 of Shri Milankumar Mansukhbhai Pansuriya and after going through the statements, he appended dated signature in token of having seen and agreed upon.

4.4. Shri Tushar Chunilal Chauhan S/o Shri Chunilal Chauhan, Assistant Manager (Account) in the firm M/s Cargo Channel Pvt Ltd Residing at B 101 A3 Royal Jantanagar, Parswanathnagar, Ahmedabad was summoned and his statement dated 28.06.2024 was recorded under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that –

- He was shown panchnama dated 18.06.2024 drawn at the premises of warehouse of ACC, Ahmedabad and he agreed with the contents of the said panchnama.
- His firm, M/s Cargo Channel Pvt Ltd provided CHA service i.e. export clearance to the firms M/s Ruby India & M/s Aashirvad Enterprise in the past; his firm is providing CHA service to M/s Ruby India & M/s Aashirvad Enterprise since the year 2022; Shri Milankumar contacted his firm for the export clearance on behalf of M/s Ruby India & M/s Aashirvad Enterprise; in the year 2022 & 2023, M/s UPS Express Pvt Ltd, Ranip, Ahmedabad was forwarder/courier company in the export consignments of M/s Ruby India & M/s Aashirvad Enterprise and from September- 2023 his firm is providing services of both forwarder and export clearance to M/s Ruby India & M/s Aashirvad Enterprise.
- Shri Milankumar provided the KYC documents, such as certificate, PAN card, Aadhar Card and Bank details etc of M/s Ruby India & M/s Aashirvad Enterprise to my CHA Firm; his firm had verified the details from online portal as available on the Govt. Department websites; after the verification of KYC documents, his firm agreed to provide CHA services to M/s Ruby India & M/s Aashirvad Enterprise.
- The export consignments of M/s Ruby India & M/s Aashirvad Enterprise were examined many times by the Customs officers, ACC, Ahmedabad but never found any mis-declared items in the export consignments wherein they provided customs clearance service.
- He and his firm were in contact with Shri Milankumar Mansukhbhai Pansuriya only in respect of the firm's M/s Ruby India & M/s Aashirvad Enterprise.
- He does not know about the imports of the both firms as his firm never provided any services related to CHA for the imports of M/s Ruby India & M/s Aashirvad Enterprise.
- He perused the Statement dated 27.06.2024 of Shri Milankumar Mansukhbhai Pansuriya and after going through the statements, he appended dated signature in token of having seen and agreed upon.

5. Statutory Provisions:

5.1. Section 50- Entry of goods for exportation.

(1) The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting not electronically on the customs automated system, allow an entry to be presented in any other manner.

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:-

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

5.2. SECTION 113. Confiscation of goods attempted to be improperly exported, etc. –

The following export goods shall be liable to confiscation:-

113 (ia) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;

113 (ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;

5.3. Section 114. Penalty for attempt to export goods improperly, etc.-

Any person who, in relation to any goods, does omits to do any act or which act or omission would render such goods liable to confiscation under section 113, abets the doing or omission of such an act, shall be or liable,-

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

(ii) in the case of dutiable goods, other than prohibited goods, subject to the

provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

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

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

5.4. Section 114AA. Penalty for use of false and incorrect material-

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

5.5. Customs Valuation (Determination of Value of Export Goods) Rules, 2007

Rule 4. Determination of export value by comparison.

(1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

(2) In determining the value of export goods under sub-rule (1), the proper (2) officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-

- (i) *difference in the dates of exportation,*
- (ii) *difference in commercial levels and quantity levels,*
- (iii) *difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,*
- (iv) *difference in domestic freight and insurance charges depending on the place of exportation.*

Rule 8. 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 export goods, he may ask the exporter 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 exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value SO declared, the transaction value shall be deemed to have not been determined in accordance with sub- rule (1) of rule 3.

(2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (!).

5.6 Section 117- Penalties for contravention etc., not expressly mentioned.

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [Four lakh rupees]

6. Investigation:

6.1 During the course of examination of the goods, it was noticed that the goods were packed in 04 Corrugated Boxes (each shipping bill has one box) which were placed at the Warehouse of Air Cargo Complex, Ahmedabad. Among the said 04 Corrugated Boxes, it was noticed that **23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM** were placed instead of declared goods i.e. **Auto Suspension Control Part X7 Premium Air Suspension Control**. The goods were mis-declared by the exporters (M/s Ruby India & M/s Aashirvad Enterprise) as the exporters M/s Ruby India & M/s Aashirvad Enterprise had declared 23 Nos. of **Auto Suspension Control Part X7 Premium Air Suspension Control in the export documents**. On being asked regarding mis-declaration of goods, Shri Milankumar Mansukhbhai Pansuriya, de-facto owner of M/s Ruby India & main administrator of M/s Aashirvad Enterprise stated that he placed purchase order to the firm M/s Bholenaath Enterprises, House No 135, Old No A-57 Block CS Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi (GSTIN 07CDIPK1276K2Z9) for the delivery of 23 number of Auto Suspension Control Part X7 Premium Air Suspension Control for the export of the same to Dubai but received wrong products in the 04 boxes at the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 though courier on 11.06.2024 and they dispatched the same for the export from ACC, Ahmedabad on the same day without verifying the goods in the said 04 Corrugated Boxes. It clearly appeared to be an afterthought as Shri Milankumar Mansukhbhai Pansuriya failed to provide any evidence to corroborate his version of story that his firms was delivered wrong items by the supplier M/s Bholenaath Enterprises, House No 135, Old No A-57 Block CS Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi. Shri

Milankumar Mansukhbhai Pansuriya failed to provide any agreement or purchase order made to M/s Bholenaath Enterprises, New Delhi. Shri Milankumar Mansukhbhai Pansuriya accepted in his statement dated 27.06.2024 that he is de-facto owner of M/s Ruby India & main administrator of M/s Aashirvad Enterprise. Smt Monalisa Milankumar Pansuriya, Mahesh V Jasani & Tushar Chunilal Chauhan in their respective statements acknowledged that Shri Milankumar Mansukhbhai Pansuriya is the main person in handling the administration of both the firms M/s Ruby India & M/s Aashirvad Enterprise.

6.2. The Deputy Director of DRI, Regional Unit, Surat vide letter F. No. DRI/AZU/SRU/INT-05/2024 dated 1406.2024 informed that M/s Ruby India & M/s Aashirvad Enterprise are operating on the modus of over-valuation of inferior goods and have availed benefits of IGST in the past exports. The details provided by the above said DRI letter are as under:-

Sr. No.	Name of Exporter	Total FOB Value (Rs.)	IGST Amt Availed (Rs.)
1	M/s Ruby India, Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot-360005. (GSTN: 24BZFPP7706P1ZR)	21,84,63,942/-	4,88,77,912/-
2	M/s Aashirvad Enterprise, Sub Plot No. 47/1, Shed, Plot No 47, Rev. Sur.472/480, Shreenathji Industrial Area, Lodhika, Rajkot (GSTN: 24DWGPR50A1ZU)	3,18,68,093/-	89,38,609/-

6.3 During the examination of the goods covered under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 it was noticed that M/s Ruby India & M/s Aashirvad Enterprise tried to export the mis-declared goods i.e. 23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM" instead of the declared goods 23 Nos. of Auto Suspension Control Part X7 Premium Air Suspension Control. M/s Ruby India & M/s Aashirvad Enterprise appeared to have fraudulently availed IGST Refund benefits by using the same Modus Operandi in the past exports, now to protect the Govt. Revenue, necessary actions as per Customs Act, 1962, CGST Act, 2017 & IGST Act, 2017 and rules made thereunder may be taken by the Jurisdictional GST Authority i.e. CGST Rajkot Commissionerate, for recovery of Fraudulent IGST Refund claimed/availed by M/s Ruby India & M/s Aashirvad Enterprise in the past exports. Further, there are high chances that other firms may also be operating by the same syndicate/ persons/ proprietor on the similar modus operandi. Therefore transactions of these other firms may also be examined in light of the modus operandi discussed herein. Accordingly, a letter F.No. CUS/SIIB/SZRE/209/2024-DC/AC-I-0/0 PR COMMR-CUS-AH dated 09.07.2024 has been written to the Jurisdictional CGST Commissionerate to investigate the matter for recovery of Fraudulent IGST Refund

claimed/availed by the M/s Ruby India & M/s Aashirvad Enterprise in the past exports.

6.4 Valuation of Goods: Shri Bhasker G. Bhatt, 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 examined the goods covered under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 for ascertaining its value, He ide report BB/F-18/24/RI/AIRCARGO/ABAD dated 24.06.2024 stated that the exporters (M/s Ruby India & M/s Aashirvad Enterprise) tried to export "23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM" under the above said 04 Shipping Bills and estimated original price of the items under export is around Rs 23,599/-. Since, the good are used and old, accordingly, depreciated value is Rs 11,510.10. The value of the seized goods given by Shri Bhasker G. Bhatt, Customs Empanelled Chartered Engineer vide the said valuation report dated 24.06.2024 is as under-

Sr. No	Exporter Name	Shipping Bill/date	Declared FOB Value as per S/B in Rs.	Description of goods found on examination & Quantity	Value ascertained by Customs Empanelled Chartered Engineer in Rs.
1	M/s Ruby India	1633135 dated 13.06.2024	3294914	01 Lex pure (100 GPD)	540
				01 Micro well booster (100 GPD)	540
				01 Kemflo HF 1800 (100 GPD)	540
				01 Water polo booster pump (100 GPD)	540
				01 Kemflo HF 1800 (100 GPD)	540
				01 BNQSX Diaphgram pump (100 GPD)	434.7
2	M/s Ruby India	1633121 dated 13.06.2024	3292436	01 Aqua Booster Pump LX-CRU (75 GPD)	321
				01 Water Craft Diaphgram booster pump (100 GPD)	540
				01 BNQSX Diaphgram pump (100 GPD)	434.7
				01 BNQSX Diaphgram pump (100 GPD)	434.7
				01 Ability diaphragm pump (100 GPD)	540
				01 X Max Booster pump	540
				12 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM	5945.10
3	M/s Aashirvad Enterprise	1633172 dated 13.06.2024	2742320	01 Kemflo HF 1800 (100 GPD)	540
				01 Fil Max K-100 (100 GPD)	540

				01 Fil Max K-100 (100 GPD)	540
				01 Aqua Booster (100 GPD)	384
				01 Kemflo HF 1800 (100 GPD)	540
4	M/s Aashirvad Enterprise	1633196 dated 13.06.2024	3292436	01 Pressure Booster Pump EO36-IBP-1024 (100 GPD)	540
				01 Aqua Booster Pump EL-CRU (75 GPD)	321
				01 Kemflo HF 1800 (100 GPD)	540
				01 Fil Max K-100 (100 GPD)	540
				01 ECLU Rox EQLY-100 (100 GPD)	540
				01 Jed flow (100 GPD)	540
				11 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM	5565
				23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM	11510.10
				Grand Total	12622106

6.5. Search conducted at the various premises: - As per Shipping Bill and invoices, it was noticed that the registered address of the exporter i.e. M/s Ruby India was Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar Rajkot-360005. In order to gather more evidences, the search was organized at the said premises under panchnama dated 05.07.2024.

6.5.1 As per Shipping Bills and invoices, it was noticed that the registered address of the exporter i.e. M/S Aashirvad Enterprise was Sub Plot No. 47/1, Shed, Plot No 47, Rev. Sur.472/480, Shreenathji Industrial Area, Lodhika, Rajkot. In order to gather more evidences, the search was organized at the same premises under panchnama dated 05.07.2024 and noticed that a firm M/s ABC Pipe Industries was working at Sub Plot No. 47/1, Shed, Plot No 47, Rev. Sur.472/480, Shreenathji Industrial Area, Lodhika, Rajkot.

6.5.2. A search was also conducted at the residential premises of Shri Milankumar Mansukhbhai Pansuriya, the person responsible for looking after the business of both the firms M/s Ruby India & M/s Aashirvad Enterprise having address Prabhu Milan Block No- 58, Govardhan Society Main Road Rajkot, Sau Uni Area, Rajkot, Gujarat under the panchnama dated 05.07.2024.

7. Contravention of Statutory Provisions:-

7.1. The said exporters (M/s Ruby India & M/s Aashirvad Enterprise) had filed Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 at

ACC, Ahmedabad for export of 23 Nos. of Auto Suspension Control Part X7 Premium Air Suspension Control to M/s. Sasco Global Logistics FZCO, Warehouse Number G-08, Dubai Airport Free Zone, Dubai (UAE) by classifying the same under CTH 87088000, through their Customs Broker M/s S. M. Enterprise, Residing at A 5, Moonvihar apartment, Near Ishwer Bhavan, Navrangpura. The shipping bill was filed under Section 50 of the Customs Act, 1962 to export 23 Nos. of **Auto Suspension Control Part X7 Premium Air Suspension Control** declaring FOB value **Rs. 1,26,22,106/-** However, during the course of examination of the goods by the proper officer of Customs as well as Chartered Engineer, it was noticed that the exporters (M/s Ruby India & M/s Aashirvad Enterprise) tried to export the mis-declared goods i.e. **23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM**" under the above said 04 Shipping Bills. As per Chartered Engineer's analysis report the mis-declared goods are used and old, having value **Rs 11,510.10/-** As per Section 50 of the Customs Act, 1962, it was incumbent upon the said exporter (M/s Ruby India & M/s Aashirvad Enterprise) to furnish the accurate and complete information in the Shipping Bill with support of authentic and valid document. The exporter was subjected to make and subscribe to a declaration as to the truth of its contents in the Shipping Bill. Therefore, the said consignment attempted to export the goods which do not match to the declared items in the export documents. However, by way of mis- declaring the same, the said exporters (M/s Ruby India & M/s Aashirvad Enterprise) **violated the provisions of Section 50 of the Customs Act, 1962.**

7.2. As per examination of goods done by the proper officer of Customs as well as Chartered Engineer, it was noticed that the exporters (M/s Ruby India & M/s Aashirvad Enterprise) tried to export the mis-declared goods i.e **23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM**" under the above said 04 Shipping Bills. Therefore, the said consignments attempted to export mis declared goods and estimated original price of the items (used and old) under export was around Rs 11,510.10 only. He was planning to receive IGST refund from the GST department and Drawback and RODTEP amount from the Customs department in this case once the high valued consignment of mis-declared goods was exported successfully. By way of mis-declaring the goods, the said exporters had **contravened the provisions of Section 113 of the Customs Act, 1962.** Shri Milankumar Mansukhbhai Pansuriya also agreed with the contents of Valuation report issued by the government empaneled valuer in toto. In view of the above, it appeared that the exporter had made false declaration by mis-declaring and overvaluing the goods intended for export and declared a highly inflated value in the Shipping Bill. **In view of the above, it appeared that the goods seized vide seizure Memo dated 22.06.2024, were liable for confiscation under Section 113 of the Customs Act, 1962.**

7.3. By way of mis- declaring the goods, the exporter (M/s Ruby India &

M/s Aashirvad Enterprise) committed, omitted acts, which rendered the goods covered under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 liable for confiscation under Section 113 of the Customs Act, 1962, and exporters rendered himself liable for penal action under Section 114 of the Customs Act, 1962. Further, by way of presenting false and incorrect invoice, packing list and other export documents deliberately in order to export mis-declared goods M/s Ruby India & M/s Aashirvad Enterprise have also rendered themselves for penal action under **Section 114AA of the Customs Act, 1962.**

7.4. By way of mis-declaring the goods, Shri Milankumar Mansukhbhai Pansuriya, the person, responsible for looking after the business of both the firms M/s Ruby India & M/s Aashirvad Enterprise, of omitted act which rendered the goods covered under Shipping Bill No. 1633135, 1633121 1633196 & 1633172 all dated 13.06.2024 liable for confiscation under Section 113 of the Customs Act, 1962, which rendered himself liable for penal action under Section 114 of the Customs Act, 1962. Further, by way of presenting false and incorrect invoice, packing list and other export documents deliberately in order to export mis-declared goods, Shri Milankumar Mansukhbhai Pansuriya has also rendered liable himself for penal action under Section 114 and 117 of the Customs Act, 1962.

7.5. As per valuation report issued by the empanelled Chartered Engineer, it appeared that the said exporter had grossly inflated the FOB value of the goods which are liable to be rejected in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of Rule 8 of the Customs Valuation Determination of Value of Export Goods) Rules, 2007. **The new market value of Rs 11,510.10 as ascertained by the valuer is liable to be accepted in terms of Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007**

8. Accordingly, in view of Section 124 of the Customs Act, 1962, a Show Cause Notice No. CUS/SIIB/SZRE/209/2024-DC/AC-I-O/o PR COMMR-CUS-AH dated 15.07.2024 was issued to **M/s Ruby India, Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005**, as to why:-

- (i) Goods intended for export vide Shipping Bill No. 1633135 & 1633121 both dated 13.06.2024 having declared **FOB value Rs.65,87,350/-** and market value of **Rs. 5945.10**, should not be held liable for confiscation under Section 113 of the Customs Act, 1962.
- (ii) the value declared by the exporter in the Shipping Bill No 1633135 & 1633121 both dated 13.06.2024 to the tune of **Rs. 65,87,350/-** should not be rejected in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;

- (iii) The value worked out by the Government Empaneled Chartered Engineer amounting to **Rs. 5945.10** in respect of Shipping Bill No. 1633135 & 1633121 both dated 13.06.2024, should not be accepted for the purpose of the valuation of goods intended for export, in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (iv) Penalty should not be imposed on M/s Ruby India under Section 114 and 114AA of the Customs Act, 1962,

9. Accordingly, in view of Section 124 of the Customs Act, 1962, a Show Cause Notice No. CUS/SIIB/SZRE/209/2024-DC/AC-I-O/o PR COMMR-CUS-AH dated 15.07.2024 was issued to M/s Aashirvad Enterprise, Sub Plot No. 47/1, Shed, Plot No 47, Rev. Sur.472/480, Shreenathji Industrial Area, Lodhika, Rajkot, as to why:-

- (i) Goods intended for export vide Shipping Bill No. 1633172 & 1633196 both dated 13.06.2024 having declared FOB value **Rs. 60,34,756/-** and market value of Rs. 5,565/-, should not be held liable for confiscation under Section 113 of the Customs Act, 1962;
- (ii) The value declared by the exporter in the Shipping Bill No. 1633172 & 1633196 both dated 13.06.2024 to the tune of **Rs. 60,34,756/-** should not be rejected in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (iii) The value worked out by the Government Empaneled Chartered Engineer amounting to **Rs. 5,565/-** in respect of Shipping Bill No. 1633172 & 1633196 both dated 13.06.2024, should not be accepted for the purpose of the valuation of goods intended for export, in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (iv) Penalty should not be imposed on M/s Aashirvad Enterprise under Section 114 and 114AA of the Customs Act, 1962.

10. Also, a Show Cause Notice No. CUS/SIIB/SZRE/209/2024-DC/AC-I-O/o PR COMMR-CUS-AH dated 15.07.2024 was issued to Shri Milankumar Mansukhbhai Pansuriya, residing at Prabhu Milan Block No- 58, Govardhan Society Main Road, Rajkot, Sau Uni Area, Rajkot, Gujarat, as to why penalty under Section 114 and 117 of the Customs Act, 1962 should not be imposed on him.

DEFENSE REPLY

11.1 M/s Ruby India filed their defence reply vide letter dated 05.08.2024 wherein they have inter-alia submitted that in her statement dated 27.06.2024 she has stated that though she is the Proprietor of M/s Ruby India (IEC BZFPP7706P), she does not look after the business of the firm and has no knowledge of exports made by the firm ; that she also stated in her statement that her husband Shri Milankumar Pansuriya looked after the business of the said firm ; that she did not know anything about the goods under export as only her husband can answer about it as he is handling the sale/purchase, financial matters, personal matters of M/s Ruby India ; that in his statement dated 27.06.2024 her husband Shri Milankumar Pansuriya has stated that he was handling the sales/purchase/financial matters, personal matters of Ruby India and that he had placed purchase order to the firm M/s Bholenaath Enterprises, House No 135, Old No A-57 Block C S Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi for the delivery of 12 number of Auto Suspension Control Part X7 Premium Air Suspension Control for export of the same to Dubai; that it has also been stated in the statement that he had placed this order telephonically to Shri Sanjay Singh, a person from M/s Bholenaath Enterprises in May-2024 and when Shri Sanjay Singh dispatched the 04 boxes(containing 23 Nos of Auto Suspension Control Part X7 Premium Air Suspension Control) to the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 through courier on 11.06.2024, Shri Manav Maru, an employee of M/s Ruby India had received the said 04 boxes. (02 boxes were for M/s Ruby India and other 02 boxes for M/s Aashirvad Enterprise) ; that Shri Milankumar Pansuriya had also confirmed that these 04 boxes were not verified/checked by them and the boxes were dispatched on the same day for export from ACC, Ahmedabad ; that it has also been submitted by Shri Milankumar Pansuriya that he had not met or dealt with Sanjay Singh ever in the past and this was the first time he was meeting Shri Sanjay Singh when the later had visited at the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 on 29.04.2024 and introduced himself as a representative of M/s Bholenaath Enterprises, New Delhi ; that Shri Milankumar had also stated that Shri Sanjay Singh had arranged sample of Auto Suspension Control Part (ECU) on 01.05.2024 and thereafter the order for 23 nos of this item for export purpose was confirmed by Shri Milankumar Pansuriya after confirming the price of Rs.5,23,854.13 plus IGST per piece ; that however, it is not known as to why Shri Sanjay Singh sent wrong item to him and thereby cheated on him in this manner ; that having felt that they were cheated by the supplier, they have filed a police complaint on 22.06.2024 before the Rajkot Taluka Police for sending wrong consignment ; that since this was the first time that they were dealing with this supplier, no advance payment was made in this regard to M/s Bholenaath Enterprises, New Delhi as the payment had to be made 60 days after the delivery ; that the noticee was in no way directly involved in the mis-declaration before

Customs ; that on the contrary, the noticee came to know about the mis-declaration only after the examination by the Customs Officers at ACC, Ahmedabad and after the same was informed to them by their CHA ; that it has already been admitted that this was the first time that the noticee firm had purchased the goods from the supplier and that the goods received from the supplier were further sent by courier to ACC, Ahmedabad, for export purpose and the packets received from the supplier were not opened in good faith ; that as an evidence to prove the mistake on the part of the supplier for supply of wrong item, copy of an affidavit furnished by M/s Bholenaath Enterprise, New Delhi, duly notarised, is enclosed herewith ; that the department has not brought on record any proof to support this allegation ; that it is reiterated that the consignment were transported for export as it was received from the supplier without verification which is clear from the letter (attested by notary) filed by the supplier ; that their bonafide contentions have also been proved from the fact that they have furnished the copy of complaint lodged with the Police for sending wrong consignment by the supplier ; that hence, it is not correct to state that the noticee firm was in any way involved with the mis-declaration of the goods in the disputed shipping bill Nos. 1633165 and 1633121 dated 13.06.2024 ; that the show cause notice does not mention the specific sub-clause contravened by the noticee under Section 113 of the Customs Act,1962 ; that the department has failed to prove any malafide intention on the part of the noticee firm and therefore has no case that the noticee firm i.e M/s Ruby India has rendered the goods liable for confiscation under any other provision of Section 113 of the Customs Act, 1962 ; that penalty proposed under Section 114 and 114AA of the Customs Act, 1962 is not imposable on M/s Ruby India, Rajkot in view of the decision of Hon'ble Tribunal, Chennai given in the case of Gopal K Sapru Vs CCommissioner of Customs (Airport), Chennai reported at {2007(213)E.L.T.689(Tri.-Chennai)} wherein it has been held that –

“3. It would follow that, for penalising the appellant under Section 112, there should be a finding that the appellants were parties to mis-declaration of description, quantity and value of the goods. Such a finding is not forthcoming. The finding of misdeclaration is against the importer and the CHA. The impugned order says that “the importers M/s Shri Kavithapriya Exports, Chennai or M/s Daisytek India (Mumbai) cannot escape the liability for unauthorised import of the subject goods and rendering them liable for confiscation under Section 111(m) of the Customs Act”. In the same style, the order further says that the appellant and others “attracted provisions of Section 112(a)/(b)of the Customs Act, for various acts of omission and commission as brought out in the above paragraphs”. In case, the purport of the order was to apply both clauses (a) and (b) of Section 112, there must be appropriate findings against the persons sought to be penalised. Under Clause (a) of 112, such persons must be held to have, with their commissions or

omissions, had rendered their goods liable confiscation or abetted such offence (omission/commission). There is no finding to this effect against the appellants in the impugned order. Under Clause (b) of Section 112, for a penalty on the appellants, they must be held to have acquired possession of or otherwise physically dealt with the offending goods. Again, no findings to this effect was recorded by learned Commissioner.

4. *Yet another relevant fact emanating from the records is that M/s Daisytek India (Mumbai) was a proprietorship run by the wife of Shri Gopal K Sapru. Even if it be held that Shri Sapru committed or abetted any offence in relation to the subject goods, it would be no reason to penalise his wife. A penalty under Section 112 is a personal penalty. To impose penalty on M/s Daisytek India means a penalty on Mrs Gopal Sapru who was not a party to these proceedings.*

5. *'For the reasons aforementioned, we set aside the penalties imposed on the appellants and allow the appeals.'*

That they rely on the decision of Hon'ble Principal Bench of CESTAT, New Delhi given in the case of M/s ITC Vs Commisioner of Customs, New Delhi (Import and General) reported in [2017(349)ELT154(TRI-Del)] wherein at para 5 of the subject order, it has been held that "*.....the wrong declaration of value was on account of mistake by the supplier sending in wrong invoice. However, no malafide intention can be attributed to the importer. Section 111(m) provides for confiscation of any goods which do not correspond in respect of value or in any other particular with the entry made under this act. In the present case, the Bill of Entry was filed as 35 Euro (Rs. 2583/-). However, the goods were found to be valued at Euro 1628. It is also a fact that but for the Customs opening the consignment, the mistake in declaration of the value would have gone un noticed. In the fact and circumstances of the case, I am of the view that, even though the goods are liable for confiscation under Section 111(m), there is no justification for imposing any redemption fine and penalty. Accordingly, the impugned order is modified and the appeal is disposed off.*

11.2 **M/s Aashirvad Enterprise** in their defense vide letter dated 05.08.2024 of Smt Rangani Sangitaben Gautaumbha (proprietor of M/s Aashirvad Enterprise) on behalf of M/s Aashirvad Enterprise have inter alia stated that her statement has not been recorded in this case and I have no role in the export of these items ; that Shri Milankumar Pansuriya is the main administrator of this notice firms and therefore, she is not aware of the exports of the items made under

the two Shipping Bills under reference ; that she deny all the allegations made in the subject show cause notice ; that Shri Milankumar Pansuriya had placed purchase order to the firm M/s Bholenaath Enterprises, House No 135, Old No A-57 Block C S Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi (GSTIN: 07CDIPK1276K2Z9) for the delivery of 23 number of Auto Suspension Control Part X7 Premium Air Suspension Control for export of the same to Dubai; that when Shri Sanjay Singh dispatched the 04 boxes at the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 through courier on 11.06.2024, Shri Manav Maru, an employee of M/s Ruby India had received the said 04 boxes. (02 boxes were for M/s Ruby India and other 02 boxes for M/s Aashirvad Enterprise) ; that Shri Milankumar Pansuriya had also confirmed that these 04 boxes were not verified/checked by us and the boxes were dispatched on the same day to ACC, Ahmedabad, for export to Dubai ; that Shri Milankumar Pansuriya had not met or dealt with Sanjay Singh ever in the past and this was the first time he was meeting Shri Sanjay Singh when the later had visited at the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 on 29.04.2024 and introduced himself as a representative of M/s Bholenaath Enterprises, New Delhi ; that Shri Milankumar Pansuriya had also stated that Shri Sanjay Singh had arranged sample of Auto Suspension Control Part (ECU) on 01.05.2024 and thereafter the order for 23 nos. (11 nos. in respect of the Shipping Bills filed by the noticee firm) of this item for export purpose was confirmed by Shri Milankumar Pansuriya after confirming the price of Rs 523854.13 plus IGST per piece ; that however, it is not known as to why Shri Sanjay Singh sent wrong item and thereby cheated in this deal, a police complaint was filed on 22.06.2024 by the other noticee firm i.e M/s Ruby India, Rajkot before the Rajkot Taluka Police for sending wrong consignment, since it was felt that the supplier had cheated ; that since this was the first time that the noticee firm was dealing with this supplier, no advance payment was made in this regard to M/s Bholenaath Enterprises, New Delhi as the payment had to be made 60 days after the delivery ; that on being informed by the CHA Shri Mahesh Jasani on 14.06.2024 about the mis-declared items found in the export consignments, Shri Milankumar Pansuriya had immediately contacted Shri Sanjay Singh on his mobile number which was found switched off ; that from the above it can be seen that the noticee was in no way directly involved in the mis-declaration before Customs authorities ; that on the contrary, Shri Milankumar Pansuriya, who was dealing with the export matters of this notice firm , himself came to know about the mis-declaration only after the examination by the Customs Officers at ACC, Ahmedabad and after the same was informed to him by the CHA ; that it is clear that neither the notice firm nor Shri Milankumar Pansuriya had tried to export mis-declared goods, knowingly or intentionally ; that the only mistake was that the employee of M/s Ruby India, Shri Manav Maru had sent the export cargo received from the supplier to Air Cargo Complex the same day for the purpose of export as it is, without checking that the goods in the boxes were indeed the same which was ordered, by

trusting and placing blind faith on the supplier ; that as an evidence to prove the mistake on the part of the supplier for supply of wrong item, copy of letter furnished by M/s Bholenaath Enterprise, New Delhi, duly attested by notary, is enclosed herewith ; that department has not brought on record any proof to support this allegation ; that the department has failed to prove any malafide intention on the part of the noticee firm ; that it is not correct to state that the noticee firm was in any way involved with the mis-declaration of the goods in the disputed shipping bill Nos. 1633172 and 1633196 dated 13.06.2024 ; that the show cause notice does not mention the specific sub-clause contravened by the noticee firm under Section 113 of the Customs Act, 1962 ; that the department has failed to prove any malafide intention on the part of the noticee firm and therefore has no case that the noticee firm i.e M/s Ruby India had rendered the goods liable for confiscation under any other provision of Section 113 of the Customs Act, 1962 ; that hence penalty proposed under Section 114 and 114AA of the Customs Act, 1962 is not imposable on M/s Ruby India, Rajkot in view of the decision of Hon'ble Tribunal, Chennai given in the case of Gopal K Sapru Vs CCommissioner of Customs (Airport), Chennai reported at {2007(213)E.L.T.689(Tri.-Chennai)} wherein it has been held that –

“3. It would follow that, for penalising the appellant under Section 112, there should be a finding that the appellants were parties to mis-declaration of description, quantity and value of the goods. Such a finding is not forthcoming. The finding of misdeclaration is against the importer and the CHA. The impugned order says that “the importers M/s Shri Kavithapriya Exports, Chennai or M/s Daisytek India (Mumbai) cannot escape the liability for unauthorised import of the subject goods and rendering them liable for confiscation under Section 111(m) of the Customs Act”. In the same style, the order further says that the appellant and others “attracted provisions of Section 112(a)/(b)of the Customs Act, for various acts of omission and commission has brought out in the above paragraphs”. In case, the purport of the order was to apply both clauses (a) and (b) of Section 112, there must be appropriate findings against the persons sought to be penalised. Under Clause (a) of 112, such persons must be held to have, with their commissions or omissions, had rendered their goods liable confiscation or abetted such offence (omission/commission). There is no finding to this effect against the appellants in the impugned order. Under Clause (b) of Section 112, for a penalty on the appellants, they must be held to have acquired possession of or otherwise physically dealt with the offending goods. Again, no findings to this effect was recorded by learned Commissioner.

4. Yet another relevant fact emanating from the records is that M/s Daisytek India (Mumbai) was a proprietorship run by the wife of Shri Gopal K Sapru. Even if it be held that Shri Sapru committed or abetted

any offence in relation to the subject goods, it would be no reason to penalise his wife. A penalty under Section 112 is a personal penalty. To impose penalty on M/s Daisytek India means a penalty on Mrs Gopal Sapru who was not a party to this proceedings.

5. 'For the reasons aforementioned, we set aside the penalties imposed on the appellants and allow the appeals.'

That they rely on the decision of Hon'ble Principal Bench of CESTAT, New Delhi given in the case of M/s ITC Vs Commisioner of Customs, New Delhi (Import and General) reported in [2017(349)ELT154(TRI-Del)] wherein at para 5 of the subject order, it has been held that "*.....the wrong declaration of value was on account of mistake by the supplier sending in wrong invoice. However, no malafide intention can be attributed to the importer. Section 111(m) provides for confiscation of any goods which do not correspond in respect of value or in any other particular with the entry made under this act. In the present case, the Bill of Entry was filed as 35 Euro (Rs. 2583/-). However, the goods were found to be valued at Euro 1628. It is also a fact that but for the Customs opening the consignment, the mistake in declaration of the value would have gone unnoticed. In the fact and circumstances of the case, I am of the view that, even though the goods are liable for confiscation under Section 111(m), there is no justification for imposing any redemption fine and penalty. Accordingly, the impugned order is modified and the appeal is disposed off.*"

11.3 Shri Milankumar Mansukhbhai Ransuriya vide his letter dated 05.08.2024 raised various contentions, inter alia stating that in his statement dated 27.06.2024 he had stated that he had placed purchase order to the firm M/s Bholenaath Enterprises, House No 135, Old No A-57 Block C S Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi (GSTIN: 07CDIPK1276K2Z9) for the delivery of 23 number of Auto Suspension Control Part X7 Premium Air Suspension Control for export of the same to Dubai; that it has also been stated in above referred statement that he had placed this order telephonically to Shri Sanjay Singh, a person from M/s Bholenaath Enterprises in May-2024 and when Shri Sanjay Singh dispatched the 04 boxes at the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 through courier on 11.06.2024, Shri Manav Maru, an employee of M/s Ruby India had received the said 04 boxes. (02 boxes were for M/s Ruby India and other 02 boxes for M/s Aashirvad Enterprise) ; that it has been submitted that these 04 boxes were not verified/checked by us and the boxes were dispatched on the same day for export from ACC, Ahmedabad ; that it has also been submitted that they had not met or dealt with Sanjay Singh ever in the past and this was the first time they were meeting Shri Sanjay Singh when the later had visited at the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 on 29.04.2024 and

introduced himself as a representative of M/s Bholenaath Enterprises, New Delhi ; that it has been further stated that Shri Sanjay Singh had arranged sample of Auto Suspension Control Part (ECU) on 01.05.2024 and thereafter the order for 23 nos. of this item for export purpose was confirmed by them after confirming the price of Rs 523854.13 plus IGST per piece ; that however, it is not known as to why Shri Sanjay Singh sent wrong item and thereby cheated on them in this manner ; that since this was the first time that the noticee firm was dealing with this supplier, no advance payment was made in this regard to M/s Bholenaath Enterprises, New Delhi as the payment had to be made 60 days after the delivery ; that on being informed by the CHA Shri Mahesh Jasani on 14.06.2024 about the mis-declared items found in the export consignments, they had immediately contacted Shri Sanjay Singh on his mobile number which was found switched off ; that from the above it can be seen that the noticee was in no way directly involved in the mis-declaration before Customs authorities ; that on the contrary, the noticee came to know about the mis-declaration only after the examination by the Customs Officers at ACC, Ahmedabad and after the same was informed to us by our CHA ; that they have not tried to export mis-declared goods, knowingly or intentionally ; that the only mistake was that they sent the export cargo received from the supplier to Air Cargo Complex the same day 'as it is' for the purpose of export but without checking that the goods in the boxes were indeed the same which we had ordered, for the simple reason that they had believed him in good faith and had thereby put blind faith on the supplier ; that as an evidence to prove the mistake on the part of the supplier for supply of wrong item, copy of letter furnished by M/s Bholenaath Enterprise, New Delhi, duly attested by notary, is enclosed herewith ; that statement dated 28.06.2024 of Shri Tushar Chunilal Chauhan, Assistant Manager (Accounts) in the CHA firm namely M/s Cargo Channel Pvt Ltd., Ahmedabad has stated that export consignments of M/s Ruby India and M/s Aashirvad Enterprises, were examined many times by the Custom Officers, ACC, Ahmedabad but had never found any mis-declarations in the export consignments ; that thus it is evident that these firms have never indulged in any such mis-declarations in the past and the instance on hand had happened only because of the mistake done by the supplier, with whom they were dealing for the first time ; that the allegation regarding after though is unfounded since he had stated that the order was placed telephonically after having seen the sample arranged by Shri Sanjay Singh, the representative of M/s Bholenaath Enterprise, New Delhi ; that the department has not been able to prove any malafide intentions on his side ; that their bonafide contentions have also been proved from the fact that they have furnished a copy of complaint lodged by the noticee firm i.e M/s Ruby India with the Police, against the supplier, for sending wrong consignment ; that the department has failed to prove that the noticees have knowingly or intentionally dealt with the offending goods making them liable for confiscation under the provisions of Section 113 of the Customs Act, 1962 ; that hence, it is incorrect to state that the noticee firms or he himself was in any way involved with the mis-declaration of the goods in the disputed shipping bill Nos.

1633135, 1633121, 1633172 and 1633196 all dated 13.06.2024 ; that the show cause notice does not mention the specific sub-clause contravened by the noticee firm under Section 113 of the Customs Act, 1962 ; that the Chartered Engineer has not ascertained the original value of the goods declared in the shipping bill ; that they have placed reliance on the decision of Hon'ble Principal Bench of CESTAT, New Delhi given in the case of M/s ITC Vs Commissioner of Customs, New Delhi (Import and General) reported in [2017(349)ELT154(TRI-Del)] wherein at para 5 of the subject order, it has been held that **“.....the wrong declaration of value was on account of mistake by the supplier sending in wrong invoice. However, no malafide intention can be attributed to the importer. Section 111(m) provides for confiscation of any goods which do not correspond in respect of value or in any other particular with the entry made under this act. In the present case, the Bill of Entry was filed as 35 Euro (Rs. 2583/-). However, the goods were found to be valued at Euro 1628. It is also a fact that but for the Customs opening the consignment, the mistake in declaration of the value would have gone unnoticed. In the fact and circumstances of the case, I am of the view that, even though the goods are liable for confiscation under Section 111(m), there is no justification for imposing any redemption fine and penalty. Accordingly, the impugned order is modified and the appeal is disposed off.”**

PERSONAL HEARING

12. A personal hearing in the matter was scheduled on 17.06.2025, wherein, Shri D.B. Zala, Authorized Representative appeared on behalf of M/s Ruby India, M/s Aashirvad Enterprise and Shri Milankumar Mansukhbhai Pansuriya in virtual mode through Webex Application. Shri D.B. Zala submitted his written submission in the matter on 12.08.2024 vide letter dated 05.08.2024 and re-iterated the same. Shri D.B. Zala further submitted that there is no mistake on the part of his clients and wrong goods were supplied by the supplier. He further submitted that there was no intention of mis-declaration on the part of their clients and requested to take lenient view in the matter and decide the matter on merits.

DISCUSSION & FINDINGS

13. I have carefully considered the facts on record and the written submissions as well as oral submissions made during the course of personal hearing by the authorized representative of the said exporters and the relevant provisions of the Customs Act, 1962 and the Customs Valuation Rules, 2007.

14. I find that the said exporters M/s Ruby India and M/s Aashirvad Enterprise had fraudulently attempted to export "23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM" under the above said 04 Shipping Bills (2 Shipping Bills each for each exporter). There has been found to be clear attempt to mis-declare these goods in the shipping bills as "11 Nos. of Auto Suspension

Control Part X7 Premium Air Suspension Control" to Dubai, by classifying the same under CTH 87088000 of the Customs Tariff Act, 1975, through CHA M/s. S. M. Enterprise, CHA License No. ABKPJ5436ECH001. The declared value of the goods declared in the shipping bill is Rs. 65,87,350/- in case of M/s. Ruby India and Rs. 60,34,756/- in case of M/s. Aashirvad Enterprise.

15. I find that the Deputy Director of DRI, Regional Unit, Surat vide letter F. No. DRI/AZU/SRU/INT-05/2024 dated 14.06.2024 had informed the Customs, Ahmedabad and requested to keep on hold the consignments of both the exporters i.e. M/s Ruby India & M/s Aashirvad Enterprise and carry out 100% examination. The DRI vide the said letter informed that both the exporters (M/s Ruby India & M/s Aashirvad Enterprise) are exporting the mis-declared items on high value and availing drawback, RODTEP and IGST refund on the same. As per the instructions received from DRI, Regional Unit, Surat, the goods covered under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 were examined by the officers of Customs, ACC, Ahmedabad in the presence of Appraiser, ACC, Ahmedabad, SIO, DRI Ahmedabad and Govt. empanelled Chartered Engineer Shri Bhasker G. Bhatt, Shri Jay Shankar Tiwari (G card no. G/62/2016) and 02 independent Panchas under the Panchnama dated 18.06.2024. During the course of examination, it was noticed that the goods to be exported were packed in 04 corrugated boxes (one box for each Shipping Bill) and the goods as detailed in Table above were found to be different goods than the one declared in the shipping bills, they were found to be old and used goods. The Chartered Engineer ascertained the value of the goods and estimated original price of the items under export to be around Rs.23,599/-. However, since, the goods were used and old, accordingly, depreciated value of the said goods is Rs.11,510.10. Therefore, the description of the goods and the value of the goods declared in the shipping bills attempted to be exported did not match with the actual items being exported and its value. Thus, it became evident that the exporters had malafide intention to export the goods of low value in the guise of high valued goods so that they can get higher amount of export benefits in the form of IGST refund, Duty Drawback and Rodtep

16. Upon recording statements of Proprietor of both the exporter firms viz., statement of Smt. Monalisa Milankumar Pansuriya W/o Shri Milankumar Pansuriya, it was found that though she was Proprietor of the firm, in fact, Shri Milankumar Pansuriya, her husband was looking after all the work of the firm and he had started the firm in the name of M/s Ruby India in the year 2017. Similarly, in respect of M/s Aashirvad Enterprise, Shri Milankumar Pansuriya, on being authorized by Smt. Rangani Sangitaben Gautambhai Proprietor of M/s Aashirvad Enterprise informed that Smt. Sangitaben is wife of his friend Shri Gautambhai ; that Smt. Sangitaben is a house maker and he handles the affairs of this firm; the profit and investment in this firm is shared between him and Shri Gautambhai H/o Smt. Sangitaben equally; he has been given authority letter for appearing and giving

statement on behalf of Smt. Rangani Sangitaben Gautambhai. Thus, it appeared from these statements that Shri Milankumar Pansuriya was the mastermind and the actual person who was going to get the illegal benefit in the form of incentives on export of high valued goods in the guise of inferior goods.

17. Shri Milankumar Mansukhbhai Pansuriya in his statement recorded under Section 108 of the Customs Act, 1962 confessed that the goods attempted to be exported under the subject shipping bills were mis-declared. However, he has attempted to hide himself under the cover of innocence on the ground that Shri Sanjay Singh, representative of M/s Bholenaath Enterprise, Delhi had cheated him by sending different goods and Shri Maru, their employee had transported the goods in the same condition as received from Delhi to Air Cargo Complex, Ahmedabad, without examining whether the goods were genuine or not. However, this appears to be a very weak defence employed by the person who was master mind of the entire game of pocketing the export incentives at higher rates than what they were entitled to looking to the actual value of the goods attempted to be shipped. He cannot take an alibi that he was innocence in the entire process. In any case ignorance of law is no excuse not to follow something which is required to be done by the law in a particular manner. This principle has been recognized and followed by the Apex Court in a catena of its judgments. To support my view, I relied upon the judgment of Hon'ble High Court of Calcutta in case of Provash Kumar Dey Vs. Inspector of Central Excise and others wherein it was held that "*ignorance of law is no excuse and accordingly, the petitioner was rightly found guilty for contravention of Rule 32(2) [1993(64) ELT23(Del.)]*".

18. I find that the exporters and on their behalf Shri Milankumar Mansukhbhai Pansuriya has contravened the provisions of Section 50 of the Customs Act, 1962, which puts responsibility on the exporter of any goods, while presenting a shipping bill or bill of export, to make and subscribe to a declaration as to the truth of its contents. The exporter who presents a shipping bill or bill of export under this section shall ensure that the accuracy and completeness of the information given, the authenticity and validity of supporting documents and compliance with the restrictions or prohibitions, if any, related to the goods. I find that in the era of trade facilitation, the government has placed full trust on the taxpayer/exporter and accordingly measures like Self assessments etc., based on mutual trust and confidence were in place at the relevant period. A considerable amount of trust was placed on the taxpayers/exporters. All these operated on the basis of honesty of the registered person; ***therefore, the governing statutory provisions created an absolute liability when any provision has been contravened or there has been a breach of trust by the taxpayer, no matter how innocently.*** In the instant case, the exporter and on their behalf Shri Milankumar Mansukhbhai Pansuriya has intentionally mis-

declared the goods and also overvalued the price of the said goods to their actual price, thereby contravened the provisions of Section 14 of Customs Act, 1962.

19. As per Section 14 of the Customs Act, 1962 read with Rule 3 of the Customs Valuation (Determination of Value of Export Goods) 2007, the value of the export goods shall be the transaction value. However, Rule 8 of the said Rules provide that if the proper officer has reason to doubt the truth and accuracy of the value declared in relation to any goods attempted to be exported. In the present case, there is a clear-cut mis-declaration of goods and value of the goods in the shipping bills presented by the said exporters. Hence, the value declared in the Shipping Bills is required to be rejected in terms of the above provisions of the Customs Act, 1962 and the rules made there under and the value is required to be re-determined in terms of the said provisions of the law. Rule 6 of the said Valuation Rules provides for a Residual Method by using a reasonable means consistent with the principles and general provisions of the Rules. Accordingly, I find that Shri Bhasker G. Bhatt, 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 examined the goods covered under Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 for ascertaining its value, He vide report BB/F-18/24/RI/AIRCARGO/ABAD dated 24.06.2024 stated that the exporters (M/s Ruby India & M/s Aashirvad Enterprise) tried to export "23 machines of DIAPHRAGM BOOSTER PUMP FOR REVERSE OSMOSIS SYSTEM" under the above said 04 Shipping Bills and stated that estimated original price of the items under export is around Rs.23,599/-. He further stated in the Valuation Report that since the said goods attempted to export are old and used, accordingly, depreciated value is Rs 11,510.10. The value of the seized goods given by Shri Bhasker G. Bhatt, Customs Empanelled Chartered Engineer vide the said valuation report dated 24.06.2024 is detailed in table appended in para 6.4 above. Accordingly, the Chartered Engineer being the expert to identify the goods and its value, I accept the value given by the Chartered Engineer as the actual value of the goods.

20. In their written submissions, M/s Ruby India have raised various contentions mainly stating that it was Shri Milankumar Mansukhbhai Pansuriya, husband of proprietor of the said firm looked after the business of the said firm. Shri Milankumar Mansukhbhai Pansuriya in his statement dated 27.06.2024 has stated that he was handling the sales/purchase/financial matters, personal matters of Ruby India and that he had placed purchase order to the firm M/s Bholenaath Enterprises, House No 135, Old No A-57 Block C S Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi for the delivery of 12

number of Auto Suspension Control Part X7 Premium Air Suspension Control for export of the same to Dubai. He had placed this order telephonically to Shri Sanjay Singh, a person from M/s Bholenaath Enterprises in May-2024 and when Shri Sanjay Singh dispatched the 04 boxes(containing 23 Nos of Auto Suspension Control Part X7 Premium Air Suspension Control) to the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 through courier on 11.06.2024, Shri Manav Maru, an employee of M/s Ruby India had received the said 04 boxes. (02 boxes were for M/s Ruby India and other 02 boxes for M/s Aashirvad Enterprise) ; that Shri Milankumar Pansuriya had also confirmed that these 04 boxes were not verified/checked by them and the boxes were dispatched on the same day for export from ACC, Ahmedabad. Shri Milankumar Pansuriya submitted that he had not met or dealt with Sanjay Singh ever in the past and this was the first time he was meeting Shri Sanjay Singh when the later had visited at the office premises of M/s Ruby India. Shri Sanjay Singh had arranged sample of Auto Suspension Control Part (ECU) on 01.05.2024 and thereafter the order for 23 no's of this item for export purpose was confirmed by Shri Milankumar Pansuriya after confirming the price of Rs.5,23,854.13 plus IGST per piece. Shri Milankumar expressed his innocence regarding incorrect supply of goods by Shri Sanjay Singh. He has stated that he was in no way **directly** involved in the mis-declaration before Customs. However, I find these contentions to factually incorrect. After having been caught by the department before actual export of goods, now Shri Milankumar Mansukhbhai Pansuriya has created a story and shifted the burden to Shri Sanjay Singh of M/s Bholenaath Enterprise, Delhi, by alleging incorrect supply and Shri Maru, his employee by saying that he did not check the goods. Filing of a police complaint and notarized reply of Shri Sanjay Singh are all fabricated evidences to concoct the story and safely exit the responsibility caste by the Customs Act and the rules made there under on the exporter. Hence, these submissions are untenable. Shri Milankumar Pansuriya has raised the contention that the show cause notice does not mention the specific sub-clause contravened by the noticee under Section 113 of the Customs Act,1962. I find this is also a mere futile attempt to escape from the rigors of law after having committed fraud with the Revenue. Section 113 of the Customs Act, 1962 does not deal with the law and procedure relating to export, it deals with the provisions of confiscation of goods and elucidates various conditions for which the goods attempted for export would be liable for confiscation. Shri Milankumar's other contention is that the department has failed to prove any malafide intention on the part of the noticee firm and therefore has no case that the noticee firm i.e M/s Ruby India has rendered the goods liable for confiscation under any provision of Section 113 of the Customs Act, 1962. I find that Proprietor of M/s Ruby India has stated that her husband Shri Milankumar was

looking after the entire business of M/s Ruby India and Shri Milankumar has also accepted that he was looking after the entire business of M/s Ruby India. M/s Ruby India as the exporter has to follow all the law and procedure for genuine export of goods. All the documents for export have been signed for and on behalf of M/s Ruby India. The malafide intention is established once the incorrect declarations are made in the shipping bills by the exporter and these facts are not brought to the notice of the department by the exporter. Had there not been the alert raised by DRI, the said exporter firm would have easily exported the mis-declared goods having a very less FOB value and earned the export incentives at FOB value exorbitantly high as declared in the shipping bill by them. As regards penalty proposed under Section 114 and 114AA of the Customs Act, 1962 on M/s Ruby India, Rajkot, the noticee submitted that in view of the decision of Hon'ble Tribunal, Chennai given in the case of Gopal K Sapru Vs Commissioner of Customs (Airport), Chennai reported at {2007(213)E.L.T.689(Tri.-Chennai)}, and on the decision of Hon'ble Principal Bench of CESTAT, New Delhi given in the case of M/s ITC Vs Commissioner of Customs, New Delhi (Import and General) reported in [2017(349)ELT154(TRI-Del)] to support their contention that the penalty is not imposable. I find that the ratio of these decisions is not applicable in the present case as proper provisions of Customs Act, 1962 have been invoked in the show cause notice clearly exhibiting how M/s Ruby India has filed incorrect details in the shipping bills and supported it by Commercial Invoice of supplier, Packing list, etc. On physical examination of packages by the department in presence of independent witnesses and expert Chartered Engineer duly nominated by the department to exercise the statutory functions, these goods have been found to be mis-declared in respect of its description and FOB value thereof. In the case of ITC it was found by the Hon'ble Tribunal that the supplier had sent the wrong invoice by mistake, but there was no mis-declaration with respect to goods. In the present case, there is clear malafide intention on the part of M/s Ruby India to defraud the Revenue by exporting goods of lesser value and claim export incentives on the basis of declaration of goods at much higher value. Hence, the ratio of the said decision of the Hon'ble Tribunal is not applicable to the facts of the present case. Section 50(2) of the Customs Act 1962, requires an exporter when they file the shipping bill required to subscribe to a declaration regarding the truth of the contents of the shipping bill. If the details so declared to be true are found to be not true, it is 'mis-declaration'. Mis-declaration is an offense and punishable under the provisions of the Customs Act 1962. Mens rea means guilty mind. Generally, a penalty is imposed if the violation is intentional. Mis-declaration of any particulars in the shipping bill is a serious concern for the department and is a punishable offense under the provisions of the Customs Act, 1962. Such an act does harm the exporters. Therefore, proper care should be taken by the

exporter or the customs broker while filing the export documents. The exporter is expected to check the documents with utmost care and ensure himself that he has properly declared the value of the goods, weight, description of goods, quantity, HS Code, etc., before he submits the same to the department. Hence, the penalty is imposable on M/s Ruby India, the exporter.

20.1. M/s Aashirvad Enterprise in their defense vide letter dated 05.08.2024 of Smt. Rangani Sangitaben Gautambhai (proprietor of M/s Aashirvad Enterprise) on behalf of M/s Aashirvad Enterprise have raised various contentions mainly stating that Shri Milankumar Pansuriya is the main administrator of this notice firm and therefore, she is not aware of the exports of the items made under the two Shipping Bills under reference, hence, she deny all the allegations made in the subject show cause notice. I find that this outright false statement being made by Smt. Sangitaben Gautambhai Rangani. It is on record that during the course of investigation of this case, the proprietor of M/s. Aashirvad Enterprise (IEC- DWGPR5050A) was summoned to record the statement under Section 108 of the Customs Act, 1962. Shri Milankumar Mansukhbhai Pansuriya S/o Mansukhbhai Pansuriya, appeared before the statement recording officer with the authority letter given by Smt. Sangitaben Rangani in favour of Shri Milankumar Mansukhbhai Pansuriya for appearing and giving statement on her behalf. Shri Milankumar Mansukhbhai Pansuriya was also summoned during the investigation as he was the main person who handled the business of M/s Ruby India & M/s. Aashirvad Enterprise. Accordingly, statement dated 27.06.2024 of Shri Milankumar Mansukhbhai Pansuriya was recorded under Section 108 of the Customs Act, 1962. Hence, now Smt. Sangitaben cannot say that her statement was not recorded by the department as Shri Milankumar Pansuriya has given statement on her behalf. Shri Pansuriya in his statement stated that M/s Aashirvad Enterprise is a proprietorship firm in the name of Smt. Rangani Sangitaben Gautambhai. Smt. Sangitaben is wife of his friend Shri Gautambhai. Smt. Sangitaben is a house maker and he handles the affairs of this firm. The profit and investment in this firm is shared between him and Shri Gautambhai H/o Smt. Sangitaben equally. he has been given authority letter for appearing and giving statement on behalf of Smt. Rangani Sangitaben Gautambhai. He was shown panchnama dated 18.06.2024 drawn at the premises of warehouse of ACC, Ahmedabad and he agreed with the contents of the said panchnama. He also agreed with the discrepancies/ mis-match in declared items in the Shipping Bills and items found in the examination of the export consignments of M/s Ruby India & M/s Aashirvad Enterprise. Shri Milankumar Mansukhbhai Pansuriya in his statement dated 27.06.2024 has stated that he was handling the sales/purchase/financial matters, personal matters of Ruby India and that he had placed purchase order to the firm M/s

Bholenaath Enterprises, House No 135, Old No A-57 Block C S Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi for the delivery of 12 number of Auto Suspension Control Part X7 Premium Air Suspension Control for export of the same to Dubai. He had placed this order telephonically to Shri Sanjay Singh, a person from M/s Bholenaath Enterprises in May-2024 and when Shri Sanjay Singh dispatched the 04 boxes (containing 23 Nos of Auto Suspension Control Part X7 Premium Air Suspension Control) to the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot-360005 through courier on 11.06.2024, Shri Manav Maru, an employee of M/s Ruby India had received the said 04 boxes. (02 boxes were for M/s Ruby India and other 02 boxes for M/s Aashirvad Enterprise); that Shri Milankumar Pansuriya had also confirmed that these 04 boxes were not verified/checked by them and the boxes were dispatched on the same day for export from ACC, Ahmedabad. Shri Milankumar Pansuriya submitted that he had not met or dealt with Sanjay Singh ever in the past and this was the first time he was meeting Shri Sanjay Singh when the latter had visited at the office premises of M/s Ruby India. Shri Sanjay Singh had arranged sample of Auto Suspension Control Part (ECU) on 01.05.2024 and thereafter the order for 23 nos of this item for export purpose was confirmed by Shri Milankumar Pansuriya after confirming the price of Rs.5,23,854.13 plus IGST per piece. Shri Milankumar expressed his innocence regarding incorrect supply of goods by Shri Sanjay Singh. He has stated that he was in no way directly involved in the mis-declaration before Customs. However, I find these contentions to factually incorrect. After having been caught by the department before actual export of goods, now Shri Milankumar Mansukhbhai Pansuriya has created a story and shifted the burden to Shri Sanjay Singh of M/s Bholenaath Enterprise, Delhi, by alleging incorrect supply and Shri Maru, his employee by saying that he did not check the goods. Filing of a police complaint and notarized reply of Shri Sanjay Singh are all fabricated evidences to concoct the story and safely exit the responsibility caste by the Customs Act and the rules made there under on the exporter. Hence, these submissions are untenable. Shri Milankumar Pansuriya has raised the contention that the show cause notice does not mention the specific sub-clause contravened by the noticee under Section 113 of the Customs Act, 1962. I find this is also a mere futile attempt to escape from the rigors of law after having committed fraud with the Revenue. Section 113 of the Customs Act, 1962 does not deal with the law and procedure relating to export, it deals with the provisions of confiscation of goods and elucidates various conditions for which the goods attempted for export would be liable for confiscation. Shri Milankumar's other contention is that the department has failed to prove any malafide intention on the part of the noticee firm and therefore has no case that the noticee firm i.e M/s Aashirvad Enterprises has rendered the goods liable for confiscation under any provision

of Section 113 of the Customs Act, 1962. I find that Proprietor of M/s Aashirvad Enterprises has given authority to Shri Milankumar as he was looking after the entire business of M/s Aashirvad Enterprises and Shri Milankumar has also accepted that he was looking after the entire business of M/s Aashirvad Enterprises. M/s Aashirvad Enterprises as the exporter has to follow all the law and procedure for genuine export of goods. All the documents for export have been signed for and on behalf of M/s Aashirvad Enterprises. The malafide intention is established once the incorrect declarations are made in the shipping bills by the exporter and these facts are not brought to the notice of the department by the exporter. Had there not been the alert raised by DRI, the said exporter firm would have easily exported the mis-declared goods having a very less FOB value and earned the export incentives at FOB value exorbitantly high as declared in the shipping bill by them. As regards penalty proposed under Section 114 and 114AA of the Customs Act, 1962 on M/s Aashirvad Enterprises, Rajkot, it is stated that in view of the decision of Hon'ble Tribunal, Chennai given in the case of Gopal K Sapru Vs Commissioner of Customs (Airport), Chennai reported at {2007(213)E.L.T.689(Tri.-Chennai)}, and on the decision of Hon'ble Principal Bench of CESTAT, New Delhi given in the case of M/s ITC Vs Commissioner of Customs, New Delhi (Import and General) reported in [2017(349)ELT154(TRI-Del)] to support their contention that the penalty is not imposable. I find that the ratio of these decisions is not applicable in the present case as proper provisions of Customs Act, 1962 have been invoked in the show cause notice clearly exhibiting how M/s Aashirvad Enterprises has filed incorrect details in the shipping bills and supported it by Commercial Invoice of supplier, Packing list, etc. On physical examination of packages by the department in presence of independent witnesses and expert Chartered Engineer duly nominated by the department to exercise the statutory functions, these goods have been found to be mis-declared in respect of its description and FOB value thereof. In the case of ITC it was found by the Hon'ble Tribunal that the supplier had sent the wrong invoice by mistake, but there was no mis-declaration with respect to goods. In the present case, there is clear malafide intention on the part of M/s Aashirvad Enterprises to defraud the Revenue by exporting goods of lesser value and claim export incentives on the basis of declaration of goods at much higher value. Hence, the ratio of the said decision of the Hon'ble Tribunal is not applicable to the facts of the present case. Section 50(2) of the Customs Act 1962, requires an exporter when they file the shipping bill required to subscribe to a declaration regarding the truth of the contents of the shipping bill. If the details so declared to be true are found to be not true, it is 'mis-declaration'. Mis-declaration is an offense and punishable under the provisions of the Customs Act 1962. Mens-rea means guilty mind. Generally, a penalty is imposed if the violation is intentional. Mis-declaration of any particulars in the shipping bill is

a serious concern for the department and is a punishable offense under the provisions of the Customs Act, 1962. Such an act does harm the exporters. Therefore, proper care should be taken by the exporter or the customs broker while filing the export documents. The exporter is expected to check the documents with utmost care and ensure himself that he has properly declared the value of the goods, weight, description of goods, quantity, HS Code, etc., before he submits the same to the department. Hence, the penalty is imposable on M/s Aashirvad Enterprises, the exporter.

20.2. Shri Milankumar Mansukhbhai pansuriya in his defence has stated that vide his letter dated 05.08.2024 raised various contentions, inter alia stating that in his statement dated 27.06.2024 he has deposed that he had placed purchase order to the firm M/s Bholenaath Enterprises, House No 135, Old No A-57 Block C S Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi for the delivery of 12 number of Auto Suspension Control Part X7 Premium Air Suspension Control for export of the same to Dubai. He had placed this order telephonically to Shri Sanjay Singh, a person from M/s Bholenaath Enterprises in May-2024 and when Shri Sanjay Singh dispatched the 04 boxes (containing 23 Nos of Auto Suspension Control Part X7 Premium Air Suspension Control) to the office premises of M/s Ruby India i.e. Block 187, Chandra Park, 150 ft Ring Road, Nr Big Bazaar, Rajkot- 360005 through courier on 11.06.2024, Shri Manav Maru, an employee of M/s Ruby India had received the said 04 boxes. (02 boxes were for M/s Ruby India and other 02 boxes for M/s Aashirvad Enterprise) ; that Shri Milankumar Pansuriya had also confirmed that these 04 boxes were not verified/checked by them and the boxes were dispatched on the same day for export from ACC, Ahmedabad. Shri Milankumar Pansuriya submitted that he had not met or dealt with Sanjay Singh ever in the past and this was the first time he was meeting Shri Sanjay Singh when the later had visited at the office premises of M/s Ruby India. Shri Sanjay Singh had arranged sample of Auto Suspension Control Part (ECU) on 01.05.2024 and thereafter the order for 23 no's of this item for export purpose was confirmed by Shri Milankumar Pansuriya after confirming the price of Rs.5,23,854.13 plus IGST per piece. Shri Milankumar expressed his innocence regarding incorrect supply of goods by Shri Sanjay Singh. He has stated that he was in no way directly involved in the mis-declaration before Customs. However, I find these contentions to factually incorrect. After having been caught by the department before actual export of goods, now Shri Milankumar Mansukhbhai Pansuriya has created a story and shifted the burden to Shri Sanjay Singh of M/s Bholenaath Enterprise, Delhi, by alleging incorrect supply and Shri Maru, his employee by saying that he did not check the goods. Filing of a police complaint and notarized reply of Shri Sanjay Singh are all fabricated evidences to concoct

the story and safely exit the responsibility caste by the Customs Act and the rules made there under on the exporter. Hence, these submissions are untenable. Shri Milankumar Pansuriya has raised the contention that the show cause notice does not mention the specific sub-clause contravened by the noticee under Section 113 of the Customs Act, 1962. I find this is also a mere futile attempt to escape from the rigors of law after having committed fraud with the Revenue. Section 113 of the Customs Act, 1962 does not deal with the law and procedure relating to export, it deals with the provisions of confiscation of goods and elucidates various conditions for which the goods attempted for export would be liable for confiscation. Shri Milankumar's other contention is that the department has failed to prove any malafide intention on the part of the noticee firm and therefore has no case that he has rendered the goods liable for confiscation under any provision of Section 113 of the Customs Act, 1962. I find that being the person responsible to file documents on behalf of the said two exporter firms, he has to follow all the law and procedure for genuine export of goods. All the documents for export have been signed for and on behalf of both the firms. The malafide intention is established once the incorrect declarations are made in the shipping bills by the exporter and these facts are not brought to the notice of the department by the exporter. Had there not been the alert raised by DRI, the said exporter firms and actual beneficiary Shri Milankumar Pansuriya would have easily exported the mis-declared goods having a very less FOB value and pocketed the export incentives at FOB value exorbitantly high as declared in the shipping bills. Shri Pansuriya in his defence reply has drawn attention to point No 2 of 'Note' of Chartered Engineer Certificate dated 24.06.2024 wherein it is mentioned that "the declared item are explored on public domain, it is found that the identical narration items with additional accessories are available at US \$ 219.99. This value of brand-new item itself is very low than the value declared in the commercial invoices by two consignors." And he has submitted that the original value of the item declared in the shipping bills i.e Auto Suspension Control Part X7 Premium Air Suspension Control E C U BMW X7, has not been ascertained by the Chartered Engineer. I find that there was no need for the Chartered Engineer to ascertain the original value of the item declared in the shipping bill for the reason that actual goods attempted to be exported were not as per the description of the goods declared in the shipping bill. Shri Pansuriya has further stated that the declarations given in the export documents like packing list, export invoice, commercial invoice etc are all correct and genuine but for the wrong supply of the export item by the supplier. In this regard, I find that the fact that the actual goods attempted to be export were not as per the description given in the shipping bills, the descriptions given in the packing list, export and commercial invoices, were also to support the incorrect description of goods in the shipping bills. As regards

penalty proposed under Section 114 and 117 of the Customs Act, 1962 he has stated that in view of the decision of Hon'ble Principal Bench of CESTAT, New Delhi given in the case of M/s ITC Vs Commissioner of Customs, New Delhi (Import and General) reported in [2017(349) ELT154(TRI-Del)] the penalty is not imposable. I find that the ratio of this decision is not applicable in the present case as proper provisions of Customs Act, 1962 have been invoked in the show cause notice clearly exhibiting how Shri Milankumar Mansukhbhai Pansuriya has masterminded the entire gamut of fraud. In the case of ITC relied upon by Shri Pansuriya, it was found by the Hon'ble Tribunal that the supplier had sent the wrong invoice by mistake, but there was no mis-declaration with respect to goods. In the present case, there is clear malafide intention on the part of Shri Pansuriya and is established beyond doubt with the documentary evidence that he has cheated the Government by his acts of omission and commissioning which have rendered the goods liable for confiscation under Section 113 of the Customs Act, 1962. Shri Milankumar Mansukhbhai Pansuriya, defacto owner of M/s Ruby India & the main administrator of M/s Aashirvad Enterprise Shri Milankumar Mansukhbhai Pansuriya failed to provide any evidence to corroborate his version of story that his firms have been delivered wrong items by the supplier M/s Bholenaath Enterprises, House No 135, Old No A-57 Block CS Nagar, Kamla, Main Road, Swaroop Nagar, New Delhi. Shri Milankumar Mansukhbhai Pansuriya accepted in his statement dated 27.06.2024 that he is defacto owner of M/s Ruby India & main administrator of M/s Aashirvad Enterprises. Smt. Monalisa Milankumar Pansuriya, Mahesh V Jasani & Tushar Chunilal Chauhan in their respective statements acknowledged that Shri Milankumar Mansukhbhai Pansuriya is the main person in handling the administration of both the firm's M/s Ruby India & M/s Aashirvad Enterprise. Therefore, there is no force in the contentions raised by Shri Milankumar Mansukhbhai Pansuriya to defend the charges levelled against him in the subject show cause notice for imposition of penalty under Section 114 and Section 117 of the Customs Act, 1962.

20.3 He has referred to statement dated 28.06.2024 of Shri Tushar Chunilal Chauhan, Assistant Manager (Accounts) in the CHA firm namely M/s Cargo Channel Pvt Ltd., Ahmedabad who has stated that export consignments of M/s Ruby India and M/s Aashirvad Enterprises, were examined many times by the Custom Officers, ACC, Ahmedabad but had never found any mis-declarations in the export consignments. Thus, it is evident that these firms have never indulged in any such mis-declarations in the past. Assuming that there was no mis-declaration found in the past exports done by the said exporters, it cannot give a clean chit to the exporters and Shri Pansuriya from the present offence committed on record which is proved with the documentary evidence.

20.4. Ongoing through the defence plea raised by both the exporter firms and Shri Milankumar Mansukhbhai Pansuriya I do not find any merit in these written submissions. The story of the purchase of goods from M/s Bholenath Enterprises is a concocted story to safeguard themselves from the clutches of law. Regarding M/s Bholenath Enterprises it has been found on verification of GSTN portal that the said firm had obtained GST registration on 24.01.2024 and their registration was suo-moto cancelled on 28.01.2024 which implies that the said supplier unit was a fake entity and did not engage in genuine business activity. Hence, the invoices issued by such supplier M/s Bholenath Enterprises were fake invoices. Besides, I also find that invoices of M/s Bholenath Enterprises produced on record does not bear the signature on it, the bank details required for money transaction are absent in the invoices. The registered number of the transporting vehicles mentioned in the invoices as DL-01-LAA-4765 and DL-01-LAC-7872 appeared to be fake, as no details was found registered for the said registration numbers of vehicle from the website. Further, I noticed that details of E-Way Bill Number & Date are not mentioned in the invoices. Further, I find that name of the transporter, Lorry Receipt Number for each consignment is also not mentioned in the invoices and also, the noticee has failed to produce the same alongwith his submission which establishes that no such transportation of goods was happened in actual from Delhi to Rajkot. Further, I noticed that the noticee has failed to provide any details regarding transportation of goods from Rajkot to Ahmedabad which clearly indicates that no physical movement of the goods was happened and only paper work was done just to show the transaction appears genuine. The weight of the packages is 45 kgs and it is highly improbable to transport a single consignment from Delhi to Rajkot. Further, if the goods are booked for transportation individually with any transport agency, the agency would issue the Goods Received Note or Lorry Receipt under which the freight would be charged from the consignor/consignee subject to conditions. Rule 46 of the CGST Rules, 2017 read with Section 31 of the CGST Act, 2017 require that tax invoice issued by the registered person must contain certain details as stipulated therein. It is found that all the above details are required to be contained in a tax invoice to be considered it as a valid tax invoice. Hence, these invoices were invalid invoices and these were fake invoices issued by a non-existing firm which vitiates the entire proceedings. They have stated that supplier had sent them the goods through Courier Agency, however, there is no document issued by the Courier Agency is found to have been attached with the invoices. There are no details of goods transported from Rajkot to Ahmedabad. Shri Mahesh V Jasani, Proprietor of the CHA firm M/s S. M. Enterprise stated in his statement that Shri Chirag Patel (H Card Holder), an employee of his firm S. M. Enterprise received the above said 04 parcels of M/s

Ruby India & M/s Aashirvad Enterprise from M/s Nandan Courier company on 14.06.2024 in the premises of GSEC and carried the same in the GSEC Godown. However, he also did not produce any document of Courier company under which he might have received the said goods from M/s Nandan Courier Company. Moreover, I have sufficient reasons to believe that the goods actually found during examination might have been transported in the above manner because transportation of goods described in the Shipping Bills was not possible to be transported in the manner claimed by the exporters. Besides, also the fact that this was their first transaction with Shri Sanjay Singh of M/s Bholenath Enterprises and the goods were valued at Rs.1.26 Crores and still Shri Milankumar has claimed that they had not made any advance payment to the supplier is difficult to believe, unless transaction was only on paper and supplier was to issue fake invoices without actual supply of goods mentioned in the invoices. The exporters have stated that they have filed the Police Complaint against Shri Sanjay Singh, however, copy of the Police Complaint has not been provided for verification. Assuming that the Police Complaint was genuinely filed by Shri Milankumar, they have not informed the present status of the said Complaint. It is also equally difficult to believe that the first consignment of goods received by Shri Milankumar from Shri Sanjay Singh was not checked by opening the packages when they presumably received the goods from supplier and when they sent the goods for export, still they did not check whether the goods were as per their requirement. No prudent businessman would deal in such a casual manner with the goods being received for the first time from the supplier and being exported to Dubai. Therefore, I do not find any contention of the exporters or Shri Milankumar Pansuriya tenable as they are bare contentions without any supporting documentary evidences.

21. This is a clear case of fraudulent attempt to pocket huge amount of export incentives by exporting the old and used goods in the guise of high valued goods. Section 113 of the Customs Act, 1962 deals with the provisions relating to confiscation of the goods attempted to be improperly exported. Sub-Section (i) of 113 deals with confiscation of any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77. The subject goods attempted to be exported vide Shipping Bill No. 1633135, 1633121, 1633196 & 1633172 all dated 13.06.2024 by both the exporter firms, having the declared FOB value of Rs.1,26,22,106/- as against actual re-determined value of Rs 11,510.10 are required to be confiscated under Section 113(i) of the Customs Act, 1962.

22. M/s Ruby India and M/s Aashirvad Enterprise, the said exporter firms

have contravened the provisions of Customs Act, 1962 and the rules made there under as discussed above by mis-declaring the description of the goods attempted to be exported and its value. This has been done with the ulterior motive of collecting higher amounts of export incentives. Had the said consignments of 4 shipping bills not examined after getting intelligence from DRI, the goods would have been exported and the said exporters would have pocketed the illegal money. Therefore, these exporters have rendered the goods liable for confiscation under Section 113(i) of the Customs Act, 1962 and they have rendered themselves liable for penalty under Section 114(iii) of the Customs Act, 1962.

23. Shri Milankumar Mansukhbhai Pansuriya, Mastermind of the offence has been found to be very actively involved in mis-declarations to the Customs department to avail the benefit of export incentives. He has no defence except innocence. It is a well settled legal position that ignorance of the LAW is not an excuse. This is captured in the Latin phrase: "ignorantia juris non excusat" or "ignorantia legis neminem excusat" ("ignorance of law excuses no one"), this as a general rule, presupposes that a person who is ignorant of the provision of an existing law may not escape liability for breaking the law. Similarly, the innocence is also not an excuse when it is done with ulterior motive which is established on record. The role played by Shri Milankumar Mansukhbhai Pansuriya is very crucial and established that there is no one else but he was involved in the entire gamut of pocketing the export incentives illegally. It is evident that Shri Milankumar was aware about the different goods packed in the packages attempted to be exported in the guise of goods declared in the shipping bill. He is trying to put the entire burden on Shri Maru employee that he did not check the contents of the boxes and directly sent the packages to Air Cargo for export. In fact, Shri Milankumar was well aware about the mis-declaration. He kept on changing the firms for exporting the goods. Shri Jasani in his statement has stated that earlier Shri Milankumar had exported goods in the name of M/s KMP. He had taken Shri Gautambhai Rangani into confidence on the condition of sharing the profit and used the firm in the name of Smt. Sangitaben Gautambhai i.e. M/s Aashirvad Enterprise, for this illegal export of old and used items in the guise of machinery items carrying higher values. Hence, the offence of Shri Milankumar Mansukhbhai Pansuriya is proved beyond doubt on the basis of several statements referred above and relied upon by the department. Section 50 of the Customs Act, 1962, as stated above requires that the exporter has to be cautious while making declarations in the export documents like shipping bill etc. and the entire responsibility is on the person who claims to be the exporter to give accurate information regarding the goods attempted to be exported. The innocence about the quality and nature of goods packed in the

boxes is absolutely unacceptable. Any prudent businessman would not commit such lapses, unless the lapses are done deliberately and with ulterior motive of pocketing the export incentives by inflating and mis-declaring the value of the goods. The act of omission and commission on the part of Shri Milankumar Mansukhbhai Pansuriya as discussed above have rendered the subject goods attempted to be exported under the four shipping bills referred above in respect of the two exporter firms, liable for confiscation under Section 113(i) of the Customs Act, 1962. Shri Milankumar Mansukhbhai Pansuriya has rendered himself liable for penalty under Section 114(iii) of the Customs Act, 1962. Further, as regards proposal to impose upon him penalty under Section 117 of the Customs Act, 1962, I find that this Section contains provisions for imposing penalty in such cases where there are no specific penalty provisions are provided for specified contraventions. From the above discussion and findings, I find that Shri Milankumar Mansukhbhai Pansuriya was the mastermind and used false and fabricated documents showing procurement of goods from the non-existence unit, overvalued the goods so that on after exportation, he may claim the benefits like claiming IGST refunds or other incentives which he was not actually entitled to them and accordingly, Shri Milankumar Mansukhbhai Pansuriya is liable for penalty under Section 117 of Customs Act, 1962.

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

M/s. Ruby India, Block 187, Chandra Park, 150 Ft Ring Road, Nr. Big Bazaar, Rajkot-360005

ORDER

- (i) I hereby reject the declared FOB value of Rs. 65,87,350/- for the goods intended for export under Shipping Bills No. 1633135 & 1633121 both dated 13.06.2024 pertains to M/s. Ruby India, in terms of provision of Section 14 of Customs Act, 1962 read with the provisions of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (ii) I hereby order to accept the value of goods intended for export under Shipping Bills No. 1633135 & 1633121 both dated 13.06.2024 in respect of M/s. Ruby India, worked out by Government Empaneled Chartered Engineer to the tune of Rs. 5,945.10/- in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (iii) I order for absolute confiscation of the impugned goods entered for exportation covered under 2 Shipping Bills No. 1633135 & 1633121 both dated 13.06.2024 in respect of M/s Ruby India having declared FOB value of Rs.65,87,350/- and market (re-determined) value of Rs.5,945.10/- under Section 113(i) of Customs Act, 1962.

- (iv) I impose penalty of Rs.65,87,350/- (Rupees Sixty-Five Lakh Eighty-Seven Thousand Three Hundred & Fifty only) on M/s Ruby India, Block 187, Chandra Park, 150 Ft Ring Road, Nr. Big Bazaar, Rajkot-360005 under Section 114(iii) of the Customs Act, 1962;
- (v) I impose penalty of Rs.65,87,350/- (Rupees Sixty-Five Lakh Eighty-Seven Thousand Three Hundred & Fifty only) on M/s Ruby India, Block 187, Chandra Park, 150 Ft Ring Road, Nr. Big Bazaar, Rajkot-360005 under Section 114AA of the Customs Act, 1962;

M/s. Aashirvad Enterprises, Sub Plot No. 47/1, Shed Plot No. 47, Rev. Sur. 472/480, Shreenathji Industrial Area, Lodhika, Rajkot

- (vi) I hereby reject the declared FOB value of Rs. 60,34,756/- for the goods intended for export under Shipping Bills No. 1633172 & 1633196 both dated 13.06.2024 pertains to M/s. Aashirvad Enterprises, in terms of provision of Section 14 of Customs Act, 1962 read with the provisions of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (vii) I hereby order to accept the value of goods intended for export under Shipping Bills No. 1633172 & 1633196 both dated 13.06.2024 in respect of M/s. Ruby India, worked out by Government Empaneled Chartered Engineer to the tune of Rs. 5,565/- in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (viii) I order for absolute confiscation of the impugned goods entered for exportation covered under 2 Shipping Bills No. 1633172 & 1633196 both dated 13.06.2024 in respect of M/s. Aashirvad Enterprises, Sub Plot No. 47/1, Shed Plot No. 47, Rev. Sur. 472/480, Shreenathji Industrial Area, Lodhika, Rajkot having declared FOB value of Rs. 60,34,756/- and market (re-determined) value of Rs.5,565/- under Section 113(i) of Customs Act, 1962.
- (ix) I impose penalty of Rs. 60,34,756/- (Rupees Sixty Lakh Thirty-Four Thousand Seven Hundred & Fifty-Six only) on M/s. Aashirvad Enterprises, Sub Plot No. 47/1, Shed Plot No. 47, Rev. Sur. 472/480, Shreenathji Industrial Area, Lodhika, Rajkot under Section 114(iii) of the Customs Act, 1962;
- (x) I impose penalty of Rs. 60,34,756/- (Rupees Sixty Lakh Thirty-Four Thousand Seven Hundred & Fifty-Six only) on M/s. Aashirvad Enterprises, Sub Plot No. 47/1, Shed Plot No. 47, Rev. Sur. 472/480, Shreenathji Industrial Area, Lodhika, Rajkot under Section 114AA of the Customs Act, 1962;

Shri Milankumar Mansukhbhai Pansuriya, residing at Prabhu Milan Block No. 58,

- (xi) I impose penalty of Rs.1,26,22,106/- (Rupees One crore Twenty-Six Lakh Twenty-Two Thousand One Hundred & Six only) under Section

114(iii) of the Customs Act, 1962 on Shri Milankumar Mansukhbhai Pansuriya.

(xii) I impose penalty of Rs. 4,00,000/- (Rupees Four Lakh Only) under Section 117 of the Customs Act, 1962 on Shri Milankumar Mansukhbhai Pansuriya.

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

26. The SCN No. CUS/SIIB/SZRE/209/2024-DC/AC-I-O/o PR COMMR-CUS-AH dated 15.07.2024 is disposed of in above terms.

(Lokesh Damor)
Additional Commissioner
Air Cargo Complex, Ahmedabad.

F. No. ACC/ASST/BE/23/2025-ACC
DIN 20250771MN000000CFD2

Dated:23.07.2025

To

1. M/s Ruby India,
Block 187, Chandra Park,
150 ft Ring Road, Nr Big Bazaar,
Rajkot-360005.
2. M/s Aashirvad Enterprise,
Sub Plot No. 47/1, Shed, Plot No 47,
Rev. Sur.472/480,
Shreenathji Industrial Area,
Lodhika, Rajkot
3. Shri Milankumar Mansukhbhai Pansuriya,
Prabhu Milan Block No-58,
Govardhan Society Main Road,
Sau Uni Area, Rajkot, Gujarat.

Copy to:

1. The Dy./Asst. Commissioner, Review Cell, HQ, Ahmedabad;
2. The Dy./Asst. Commissioner, Air Cargo Complex, Ahmedabad;
3. The Dy./Asst. Commissioner, System, HQ, Ahmedabad;
4. Guard file.