



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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DIN - 20260171MN000000B6C1

क	फ़ाइल संख्या FILE NO.	S/49-359/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-790-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	29.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/175/2024-25 dated 25.10.2024
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	29.01.2026
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Baldevsinh N. Vala, 74, Pratapsinh Devubha Pati, Near Nagbai Mataji Mandir, At Gadhethad, Upleta, Dist Rajkot- 360 460.



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

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



**ORDER-IN-APPEAL**

Appeal has been filed by Shri Baldevsinh N. Vala, 74, Pratapsinh Devubha Pati, Near Nagbai Mataji Mandir, At Gadhetad, Upleta, Dist Rajkot-360 460, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AKM/175/2024-25 dated 25.10.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra.

2. Facts of the case, in brief, are that the present case involves an intricate and wide-ranging investigation conducted by the Directorate of Revenue Intelligence (DRI), Gandhidham, which unearthed a large-scale, highly organized smuggling cartel operating through the Mundra Port. The investigation revealed that a common group of persons had established a sophisticated, multi-layered syndicate designed specifically to exploit the regulatory relaxations and procedural flexibilities inherent in the Special Economic Zone (SEZ) to Domestic Tariff Area (DTA) clearance mechanism. This syndicate was created for the primary purpose of importing prohibited and restricted goods—specifically high-value foreign-brand electronic cigarettes and various types of toys requiring mandatory Bureau of Indian Standards (BIS) compliance—by resorting to gross and calculated mis-declaration of description, quality, quantity, and value. While the broader investigation covered a staggering 18 import consignments involving eight different importers, the specific subject of this adjudication is the consignment imported in the name of M/s. M.M. Enterprises (IEC: BMEPM3625G) covered under DTA Bill of Entry No. 2012895 dated 26.08.2022.

2.1 The genesis of the case lies in specific, actionable intelligence gathered by the DRI suggesting a systematic and predatory abuse of the "self-assessment" and "trusted trader" schemes that underpin modern customs operations within the SEZ. The intelligence indicated that a smuggling cartel was utilizing front companies to move prohibited contrabands into the domestic market. Analysis of system data revealed that Vehicle No. GJ12BV0610 was carrying the import consignment imported through Container No. TLLU4615592. Acting swiftly upon this intelligence, DRI officers,



in coordination with the Surat Regional Unit, intercepted the truck near Palsana Chokdi on the National Highway on 01.09.2022.

2.2 The vehicle was found to be carrying Container No. TLLU4615592, which had been cleared from the SEZ Warehouse Unit of M/s. Empezar Logistics, Mundra, and was supposedly destined for a godown in Bhiwandi. Upon interception, the driver, Shri Chuna Singh Rawat, was questioned regarding the nature of the cargo. The preliminary inquiry and the recovery of incriminating documents from the driver—including e-way bills featuring unrelated entities—corroborated the intelligence that the container did not merely contain the declared items but was a vessel for contraband. Given the complexity of the concealment, the vehicle was escorted to ICD Sachin, where DRI officials requested the assistance of mechanical labor and equipment to de-stuff the entire container for an exhaustive examination in the presence of two independent arbitrators (Panchas). During the process, a person named Mr. Parvez Alam arrived at ICD Sachin, introducing himself as the representative of the actual buyers, Shri Mohammad Asif Sathi and Shri Sarfaraj Kamani, confirming the syndicate's oversight of the transit.

2.3 The rigorous examination of the impugned goods at ICD Sachin was conducted under Panchnamas dated 01/02.09.2022 and 19.10.2022. This process revealed a masterclass in smuggling techniques. Amidst the declared cargo of "Head Massagers" and "Exercise Books," officers recovered 107 cartons marked with the brand "DK123 XXL." Upon opening these cartons, they discovered a total of 85,600 pieces of electronic cigarettes of the "Yuoto" brand. These were found in a wide array of flavors clearly designed to appeal to younger demographics, including Strawberry Watermelon, Two Apples, Blueberry Ice, Watermelon Ice, Peach Ice, Mint Ice, Grape Ice, Energy Drink, Mango Ice, Pina Colada, Aloe Black Currant, Passion Fruit, Milk, and Coffee. These goods, falling under CTH 85434000, are strictly prohibited for import in terms of DGFT Notification No. 20/2015-2020 dated 26.09.2019 and the Prohibition of Electronic Cigarettes Act, 2019.

2.4 Furthermore, the examination revealed 89,000 pieces of silicon "Pop up" toys falling under CTH 9503. These items were imported in direct violation of Policy Condition 2 of Chapter 95 of the Customs Tariff. This policy mandates that all imported toys conform to rigorous BIS standards, including IS: 9873 Part 1 (Safety aspects related to mechanical and physical properties), Part 2 (Flammability), and Part 3 (Migration of certain elements). The importer



*[Handwritten signature]*

failed to produce any valid BIS compliance certificates, rendering the toys "prohibited goods" under Section 2(33) of the Customs Act, 1962. The examination also found excess quantities of declared items, such as 240 additional Head Massagers and 1,364 Exercise Books. These "filler" goods were strategically used to pad the container, ensuring that the prohibited items remained shielded from the container doors and providing a facade of legitimacy during any casual visual inspection at the port or SEZ gate.

2.5 The investigation into the role and culpability of the noticees revealed a deep-rooted conspiracy characterized by a high degree of planning and division of labor. M/s. M.M. Enterprises, through its proprietor Shri Mohammed Tahir Hanif Menn, acted as a willing front for the syndicate. Shri Tahir Menn admitted that he allowed the smuggling cartel led by Shri Mohammad Asif Sathi to use his firm's IEC and bank accounts in exchange for "rental" monetary benefits ranging from Rs. 15,000 to Rs. 50,000 per consignment. To further insulate the mastermind from detection, Shri Tahir Menn facilitated the creation of dummy firms like M/s. J.H. Enterprises in the names of domestic workers, such as Shri Juma Hamir Halepotra, demonstrating the predatory nature of the syndicate's recruitment.

2.6 A critical aspect of the syndicate's modus operandi was the "crossing" operation, a tactical maneuver designed to disrupt the surveillance of enforcement agencies. After a container was cleared from the Mundra SEZ, the syndicate would monitor its movement in real-time via "Wheelseye" tracking links. To evade detection by agencies tracking e-way bills or container numbers, the syndicate would arrange for the "crossing" of goods at intermediate locations like Navsari or Surat. This involved transloading the contraband from the original container into secondary vehicles, effectively breaking the digital and physical trail between the port of entry and the final destination. In the present case, Shri Parvej Alam was dispatched specifically to oversee this transloading just before the vehicle was tactically intercepted.

2.7 During the investigation, it was revealed that the smuggling cartel had utilized the IEC of M/s. M.M. Enterprises for successful importations in the past. Shri Tahir Menn, Shri Asif Sathi, and Shri Parvez Alam all confirmed in their voluntary statements that a total of 265 cartons (comprising 125 and 140 cartons respectively) had been imported in July and August 2022. These consignments contained approximately 212,000 pieces of electronic cigarettes. Although these goods had already been disposed of in the domestic market and

were not available for physical seizure, the Adjudicating Authority held them liable for confiscation under Section 111, noting that the proceeds of these past crimes were laundered through the same dummy accounts.

2.8 The individual roles in this well-oiled machinery were established through various voluntary statements recorded under Section 108:

- a. Shri Mohammad Asif Sathi (The Mastermind): Sathi was the architect and financier of the racket. He coordinated directly with overseas suppliers in China (such as "Mrs. Shelly") and finalized deals through firms like "AH International Trading Co." and "HK Longcheng Trade Co." He managed the financial trail, collecting cash from domestic purchasers and depositing it into dummy firm accounts to facilitate outward remittances, thereby bypassing legitimate forex regulations.
- b. Shri Mohammed Tahir Menn (The Facilitator): As the proprietor of M.M. Enterprises, he lent the "credibility" of a local business to the cartel. He introduced Shri Baldevsinh to Sathi to handle port-side logistics and was actively involved in monitoring the location of trucks via shared GPS links. He admitted that his firm never conducted any actual business in the goods imported but served merely as a conduit for Sathi's contrabands.
- c. Shri Sarfaraj Kamani (The Associate): A close partner of Sathi, Kamani was involved in the loading phase in China and was identified as a joint owner of the Bhiwandi godowns. Evidence confirmed his participation in planning the import of counterfeit goods and mobile phone accessories infringing the Intellectual Property Rights (IPR) of brands like Vivo, Oppo, and Realme.
- d. Shri Baldevsinh Vala (The Logistical Operative): Operating through M/s. Kalpana Exim, Vala was the operative who manipulated the shipping documents and invoices provided by the overseas suppliers. For ensuring the smooth clearance of prohibited items, he charged Sathi a premium of approximately Rs. 17 Lakhs per container—a fee far exceeding any legitimate forwarding commission.
- e. Shri Samir Sharma (The Customs Broker): A G-Card holder of M/s. Al Cargo Services, Sharma misused the SEZ Online portal's sub-login functionality. He filed the Bills of Entry despite knowing that the descriptions were false. To facilitate the exit of the trucks from the SEZ gate, he submitted e-way bills featuring unrelated parties, ensuring the actual destination remained masked.



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2.9 The investigation also highlighted gross professional negligence on the part of the then-Preventive Officer, Shri Vipin Sharma. Charged with the statutory duty to verify the physical cargo against the invoice, Sharma submitted an examination report stating he had "inspected the lot." The subsequent seizure of nearly 175,000 units of prohibited or un-declared cargo from that very container proved that no meaningful physical examination was ever performed. This "casual approach" provided the syndicate with a virtual "green channel," directly enabling the entry of prohibited contrabands that pose a risk to national health and child safety.

2.10 Under the Customs Valuation Rules (CVR), 2007, the Adjudicating Authority rejected the transaction values declared in Bill of Entry No. 2012895. Rule 12 was invoked because the significant mis-declaration rendered the declared values—and the associated invoices—fraudulent. Consequently, the value was re-determined using the "Best Judgment Method" under Rule 9. A government-approved Chartered Engineer assessed the market price of the seized goods at approx. Rs. 21.67 Crores, compared to a declared value of approx. Rs. 4.43 Lakhs.

2.11 On the basis of the investigation, Show Cause Notice dtd. 31.08.2023 was issued to the appellant and other persons. Consequently, the Adjudicating Authority passed the following order in respect of the appellant.

**IN RESPECT OF GOODS IMPORTED AND CLEARED THROUGH BILL OF ENTRY NO. 2012895 DT. 26.08.2022:**

- (I) He imposed penalty of Rs. 20,00,000/- upon the appellant under Section 112(a)(i) of the Customs Act, 1962.
- (II) He imposed penalty of Rs. 10,00,000/- upon the appellant under Section 114AA of the Customs Act, 1962.

**SUBMISSIONS OF THE APPELLANT:**

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



Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant first contends that the impugned order is a non-speaking order because it fails to address the specific grounds and submissions he advanced during the adjudication process. A major point of contention is the Adjudicating Authority's reliance on WhatsApp chat conversations as evidence. The appellant argues that these chats cannot be legally recognized as evidence because the mandatory certificate required under Section 138C of the Customs Act, 1962, was not provided. Furthermore, he claims the investigation was incomplete and biased, noting that while some accused deleted messages, no effort was made to retrieve them, leading to a reliance on "stray" or potentially tampered chats to wrongly implicate him.

3.2 The appellant asserts that his primary role was limited to logistics and transportation arranged for Shri Asif Sathi, rather than customs clearance. He maintains that, unlike the Customs Broker (Shri Samir Sharma), he was not conversant with customs procedures, valuation rules, or specific compliance requirements like BIS for toys. The appellant argues he acted merely as a conduit, passing documents received from Shri Sathi to the Customs Broker and relaying messages back. Consequently, he claims he acted in good faith based on the Customs Broker's assurances and did not commit any act that would render the goods liable for confiscation.

3.3 A significant portion of the appeal disputes the allegations of document forgery and manipulation. The appellant states that the Adjudicating Authority failed to cite even a single specific document to prove he forged or fabricated records sent by the foreign shipper. He clarifies that all essential import documents—including Invoices, Packing Lists, and Bills of Lading—were provided by Shri Mohammad Asif Sathi. The appellant argues he had no means or obligation to verify if these documents were false or incorrect in any material particular. Therefore, he submits that he is not liable for penalties under Sections 112(a), 112(b), or 114AA of the Customs Act, 1962.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 10.12.2025 following the principles of natural justice wherein Shri Vikas Mehta, Consultant appeared for the hearing and re-iterated the submissions made at the time of

filing the appeal.

**DISCUSSION AND FINDINGS:**

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

5.1 The investigation and the findings in the impugned order unequivocally establish that the Appellant, Shri Baldevsinh Vala, was a central figure in the operational execution of the smuggling syndicate. His contention of being an "innocent logistics provider" is belied by several critical factors. The Appellant was not merely arranging transport; he was managing the highly sensitive "crossing" operations. In the context of organized smuggling, "crossing" involves shifting goods from one vehicle to another at a pre-determined location (such as Navsari or near highways) to break the trail of the original transit document and E-way bill. WhatsApp conversations recovered from the mastermind (Shri Asif Sathi) and co-accused (Shri Parvez Alam) show the Appellant providing real-time updates on truck locations, driver contacts, and Wheelseye GPS tracking links for the specific container TLLU4615592. Such granular involvement in the tactical movement of goods far exceeds the scope of a standard logistics agent.

5.2 The Adjudicating Authority has noted that the Appellant was receiving approximately ₹17 Lakh per container as a "clearing charge." Standard logistics and documentation fees for a container from Mundra to its destination typically range in the thousands, not lakhs. The "hefty sum" demanded and received by the Appellant is a clear indicator of "speed money" or "protection money" intended to cover the risks associated with smuggling prohibited cigarettes. The receipt of such disproportionate consideration is substantive evidence of mens rea and full awareness of the illicit nature of the cargo. The evidence shows a close nexus between the Appellant and Shri Asif Sathi. The Appellant was the authorized signatory for M/s Kalpana Exim, a firm used to facilitate these clearances. The mastermind's statement under Section 108 explicitly mentions the Appellant as the person responsible for ensuring that the "prohibited items" were safely exited from the port and managed during transit. The Appellant's role was essential for the "last mile" success of the smuggling operation.



5.3 The Appellant was instrumental in mis-declaring the 85,600 e-cigarettes and 89,000 toys as "exercise books" and "massagers." By providing the Customs Broker with forged invoices and packing lists (which omitted the prohibited goods), the Appellant directly facilitated the entry of items banned under the Prohibition of Electronic Cigarettes Act (PECA), 2019. In light of these findings, the Appellant's role is categorized not as a passive service provider, but as an active "accomplice" and "facilitator" who provided the logistical infrastructure necessary for the crime.

5.4 The Appellant's liability under Section 114AA of the Customs Act, 1962, is anchored in his role as the conduit for the transmission of false information to the Customs Department. Section 114AA was specifically inserted to penalize the use of "false and incorrect" material in customs transactions. It applies to any person who "knowingly or intentionally makes, signs or uses... any declaration, statement or document which is false or incorrect in any material particular." The legislative intent is to punish not just the mastermind, but anyone who facilitates the fraud by processing the paperwork. The Appellant's defense that he had "no means to verify" the documents provided by Shri Asif Sathi is legally flawed. As an authorized signatory for M/s Kalpana Exim, the Appellant held a position of trust and responsibility. The evidence establishes that the Appellant didn't merely "pass" documents; he actively coordinated their submission to the Customs Broker, Shri Samir Sharma. Shri Sathi's statement under Section 108 clearly mentions that the Appellant "managed to change/forge/fabricate the documents" to match the container's mis-declared profile.

5.5 Willful Blindness and Knowledge: In customs law, "knowledge" includes "willful blindness." The Appellant was handling documentation for a shipment where 85,600 e-cigarettes were declared as "exercise books." The physical discrepancy in weight, volume, and value between these items is so stark that no reasonable logistics professional could claim ignorance. Furthermore, the receipt of ₹17 Lakh per container—a fee that is structurally incompatible with a legal logistics operation—confirms that the Appellant was fully aware that the documents he was "using" were fraudulent. In the instant case, the Appellant's act of using forged invoices to obtain clearance for prohibited goods at Mundra SEZ squarely meets the criteria of "knowingly using" false documents under Section 114AA.




5.6 The Appellant relied on Arun Kumar vs. Commissioner of Customs, Mundra [2024 (6) TMI 259 - CESTAT AHMEDABAD] to argue that WhatsApp chats require Section 138C certification. In the instant case, the WhatsApp chats are corroborated by voluntary statements under Section 108 of the co-accused and the mastermind, physical recovery of 85,600 e-cigarettes from the very container the Appellant was tracking, GPS/Wheelseye tracking links provided by the Appellant himself. The "preponderance of probability" in quasi-judicial proceedings, as upheld in K.L. Tripathi vs. State Bank of India [AIR 1984 SC 273], is heavily against the Appellant.


5.7 The Adjudicating Authority correctly applied the rulings in Shivom Ply-N-Wood Pvt. Ltd. vs. Commissioner [2004 (177) ELT 1150] regarding the scope of natural justice and cross-examination. In a case involving organized smuggling where documentary evidence and physical seizures exist, the denial of cross-examination of co-accused does not vitiate the order.

5.8 The Appellant was an active "facilitator" and "associate" of the smuggling cartel. He knowingly participated in the importation of prohibited e-cigarettes, used forged documents to deceive the department, and managed the illicit transit of goods. The massive volume of prohibited items (over 85,000 e-cigarettes) and the sophisticated methods of concealment and mid-transit vehicle switching demonstrate a high level of culpability. The grounds raised by the Appellant regarding "lack of knowledge" are rejected as they are belied by the technological and oral evidence on record. The penalties under Section 112(a)/(b) and 114AA are entirely justified to deter such organized economic offenses.

6. In view of the detailed discussions and findings recorded above, I find no reason to interfere with the Order-in-Original No. MCH/ADC/AKM/175/2024-25 dated 25.10.2024.

7. The Appeal filed by Shri Baldevsinh N Vala is hereby rejected.

सत्यापित/ATTESTED  
  
 अधीक्षक/SUPERINTENDENT  
 सीमा शुल्क (अपील्स), अहमदाबाद.  
 CUSTOMS (APPEALS), AHMEDABAD

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

F. No. S/49-359/CUS/MUN/2024-25

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Date:29.01.2026

By Speed post/E-Mail

To,  
Shri Baldevsinh N. Vala,  
74, Pratapsinh Devubha Pati,  
Near Nagbai Mataji Mandir,  
At Gadhethad,  
Upleta, Dist Rajkot- 360460.



Copy to:

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