



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल 4th Floor, हठको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20250571MN000000CE0E

क	फाइल संख्या FILE NO.	(1) S/49-211/CUS/AHD/2023-24 (2) S/49-212/CUS/AHD/2023-24 (3) S/49-215/CUS/AHD/2023-24
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTOM-000-APP-40 to 42-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals) Ahmedabad
घ	दिनांक DATE	23.05.2025
ङ	उद्भूत अपील आदेश की सं व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-In-Original No 28/ADC/VM/O&A/2023-24 dated 02.05.2023 passed by the Additional Commissioner of Customs, Ahmedabad
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	23.05.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. Appellant 1: Shri Jay Panwala Proprietor of M/s. Shreeji Creation Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat. 2. Appellant 2: Shri Bhavin Rajeshbhai Panwala of M/s. Shreeji Creation Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat. 3. Appellant 3: Shri Mohsin Yunus Jiya Partner of M/s National Computer Shop No.1, Ratna Deep Appt., Near Nanpura Police Chowki Street Surat, Gujarat 395001



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)	वैज्ञेय के रूप में आयातित कोई माल। (a) any goods imported
(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 दाखल करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जफती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपये दो सौ मात्र) या रु. 1000/- (रुपये एक हजार मात्र), जैसा भी मामला हो, से सम्यक् स्थित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां, यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपये एक लाख या उससे कम हों 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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ</td><td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td></tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td></tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -				
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपये या उससे कम हो तो एक हजार रुपये				
(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 रुपये से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपये				
(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 रुपये से अधिक हो तो; दस हजार रुपये				
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees				
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, 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

1. **Shri Jay Panwala, Proprietor** of M/s. Shreeji Creation, Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat, **Shri Bhavin Rajeshbhai Panwala** of M/s. Shreeji Creation, Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat and **Shri Mohsin Yunus Jiya, Partner of M/s National Computer**, Shop No.1, Ratna Deep Appt., Near Nanpura Police Chowki Street, Surat Gujarat (**hereinafter referred to as 'the Appellant 1, Appellant 2 and Appellant 3' respectively**) have filed the present appeals challenging the Order-in-Original bearing No. 28/ADC/VM/O&A/2023-24 dated 02.05.2023 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Customs, Ahmedabad (hereinafter referred to as 'adjudicating authority').

1.1 Facts of the case, in brief, are that an intelligence received by the Directorate of Revenue Intelligence, Ahmedabad Zonal Unit (herein referred as 'the DRI') indicated that M/s Shreeji Creation, Plot No.103, S.K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, holding IEC Code No. 5212008735 (hereafter referred to as "Shreeji Creation" or "the importer") had filed Bill of Entry No.6847198 dated 27.12.2021 at ICD, Sabarmati, Ahmedabad, by declaring the goods "Computer case including Motherboard, Fan, DVD, Power Supply" under CTH 84735000, was suspected to contain e-waste products and other mis-declared goods. The import of Old and Used Computer parts falls under the category of restricted import and requires Authorization by the DGFT, as per the FTP Notification No. 35(RE-2021)/2009-2014 dated 28.02.2013 as amended. Also, EPR authorization is required in cases of e-waste under E-Waste (Management and Transboundary Movement) Rules, 2016.

1.2 Accordingly, for the purpose of examination of the imported goods, the officers of DRI along with the officers of Customs, under Panchnama dated 30.12.2021 and running panchnama dated 31.12.2021/01.01.2022 proceeded to the location of the container at ICD Sabarmati, Khodiyar. The officers got examined the contents of the said Container No. MSCU7534196 in presence of the independent panchas. During the course of panchnama, the officers found that the container was filled with corrugated boxes. The officers proceed to open one of the corrugated box, in presence of the panchas, and found, a CPU and a Mother Board, Fan of Computer, a DVD writer and Power Supply, etc. in the said box. The officers also noticed that there were dust particles on the inside of the CPU and also visible scratch marks on the CPU which gave an impression that the CPU was an old and used one. Similarly, the officers, in presence of the panchas, opened other corrugated boxes on random basis and found that the CPU contained the same accessories as mentioned above and it appeared that the same were old and used ones.

1.3 During the course of examination, the officers further noticed that there were also CPUs in loose condition without corrugated boxes bearing different brands i.e. Dell, HP, Think Station (Lenovo) etc. and the sticker/marking affix on the case indicated unique Identification No. Model No. and other details, Laptops bearing brand name, 'LENOVO', 'DELL', 'HP', Desktop Monitor (not bearing any brand name), PC stand and accessories. Other than the old and used electronic goods, there were other mis-declared goods also which were, protein powder packed in jar of various brands, like 'GAT SPORT', 'HYDE',

'XTEND' etc., Shampoo and Conditioner bearing brand name 'TRESEMME', Lotion, Daily Moisturizing Lotion & Baby Lotion bearing brand name 'CETAPHIL', 'CERAVE' & 'AVEENO baby', respectively.

1.4 During the examination, the following items were found stuffed in the said container:

- a) 1623 corrugated boxes of Old and Used Computer CPU cabinets installed with Power supply, Motherboard, CD drive, 46 boxes of Laptops of various brands, viz., Dell, Lenovo & HP, 42 boxes of Monitors of various brands of Lenovo and HP and 17 boxes of unbranded Computer Desktop Stands.
- b) 3387 boxes of shampoo and conditioner bearing brand name of 'Tresseemme';
- c) 308 boxes of Protein Powder of various brands, viz., Redcon, Nitraflex, Nutrabolt, No Explode, Scivation;
- d) 498 boxes of Lotion and Moisturisers, namely, CETAPIL, CERAVE and Aveeno.

1.5 A search was conducted at the premises of M/s Shreeji Creation, Plot No.103, S.K. Industrial Socceity-2, Near Sosyo Circle, Bamroli Road, Surat under Panchnama dated 30.12.2021 drawn by the Inspector of Customs, Surat in presence of the officers of DRI, Surat wherein incrementing documents pertains to import of computer case were resumed for further investigation. For furtherance of investigation, search was conducted at the premises of buyer of M/s Shreeji Creation, Surat i.e. M/s National Computer, Shop No. 1, Ratna Deep Appt., Near Nanpura Police Chowki, Opp. Hills Nursery School, Nanpura Main Road, Surat and A-93, Green Park Industrial Estate, Udhna-Sachin Road, Surat under Panchnama dated 03.01.2022 drawn by the Inspector of Customs, Surat in presence of the officers of DRI, Surat under which incrementing documents pertains to import of computer case were resumed for further investigation, and 2353 old and used computers from the past import of M/s Shreeji Creation, Surat found at their godown were detained. Old and Used Computer parts, falling under CTH No.8473500 of CTA, 1975 falls under the category of restricted import and requires Authorization by the DGFT, as per the FTP Notfn. No. 35(RE-2021)/2009-2014 dated 28.02.2013 as amended. Also EPR authorization is required in cases of e-waste under E-Waste (Management and Transboundary Movement) Rules, 2016 and M/s Shreeji Creation, Surat had sold the above said old and used computer and its parts to M/s National Computer, Surat without holding Authorization by the DGFT therefore the above said 2353 old and used computers were detained under the above said panchnama dated 03.01.2022 and subsequently, seized under seizure memo issued vide F.No. CUS/SIIB/DR/2022 dated 12.04.2022 by the Inspector of Customs, SIIB, Surat.

1.6 The goods detained under running panchnama dated 31.12.2021/01.01.2022 drawn at the premises of the ICD, Sabarmati, was taken up for the examination purpose of valuation of the goods and drawal of samples for the purpose of testing. One set of representative samples drawn under running panchnama dated 31.12.2021/01.01.2022 were handed over to Shri Bhaskar Bhatt, Chartered Engineer, for the purpose of examination and valuation. Shri Bhaskar Bhatt vide his report summary for the market value opinion vide Ref.BB/L-31/21/DRI/KHODIYAR dated 06.01.2022 submitted his valuation

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report, showing value of the goods imported in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dated 27.12.2021, at Rs. 2,30,39,857/-. These values had been taken as the basis for valuation of the imported declared/mis-declared goods vide Bill of Entry No. 6847198 dt. 27.12.2021 in the name of M/s. Shreeji Creation, Surat for the purpose of seizure.

1.7 Further, one set of representative samples drawn under panchnama dated 03.02.2022 at the premises of M/s National Computers, were handed over to Shri Bhaskar Bhatt, Chartered Engineer, for the purpose of examination and valuation. Shri Bhaskar Bhatt vide his report summary for the market value opinion vide Ref. BB/B-03/DRI/Surat dated 22.02.2022 submitted his valuation report. Shri Bhaskar Bhatt, Chartered Engineer, submitted the value of the goods imported in the name of M/s. Shreeji Creation and supplied to M/s National Computers Surat and available from under past consignment, at Rs. 3,29,420/-.

1.8 After examination and inspection, Chartered Engineer gave the said valuation reports dated 06.01.2022 and 22.02.2022, wherein it is provided that

- (i) The fair value of the items imported was in the vicinity of Rs. 230.40 Lakhs mentioned in Annexure-A attached to the report for the consignment in container number MSCU7534196.
- (ii) The items of the Annexure-A attached to this report at serial number 01 to 04 were checked and found more than 08 Years Old as a result considered as electronic waste needs to be destroyed amounting to Rs. 17,59,380/-.
- (iii) Further, Shri Bhaskar Bhatt vide his report summary for the market value opinion vide Ref. BB/B-03/DRI/Surat dated 22.02.2022 certified that 524 computer cases stored at 1, Ratnadeep Apartment, Police Station Road, Nanpura, Surat on GF office and on Mezzanine Floor were considered as E- waste. Further, 1829 computer cases stored at A-93, Green Park Industrial Estate, Udhna-Sachin, Road, Unn, Surat were considered as E-waste and total value of all these 2353 cases inspected was amounting to Rs.3,29,420/-.

1.9 Statements of key persons were recorded under Section 108 of the Customs Act, 1962. The brief of the said statements are summarized as below:

S N.	Name (S/Shri)	Designation / status	Date
1.	Bhavin Rajesh bhai Panwala,	Associate Person of M/s Shreeji Creation, Surat	31.12.2021
2.	Jay Panwala	Proprietor of M/s Shreeji Creation, Surat	31.12.2021
3.	Samir Parekh	Manager of CHA M/s Parekh's International, Ahmedabad	03.01.2022 & 06.01.2022
4.	Bhavin Rajesh bhai Panwala,	Associate Person of M/s Shreeji Creation, Surat	09/10.02.2022
5.	Jay Panwala	Proprietor of M/s Shreeji Creation, Surat	09/10.02.2022
6.	Sailesh Galda	F Card Holder of CHA M/s Parekh's International, Ahmedabad	09.05.2022
7.	Jatin Chandulal Parekh	G card holder and 90% partner of CHA M/s Parekh's International, Ahmedabad	19.05.2022
8.	Ramesh Patel	Transport provider to M/s Shreeji Creation from Ahmedabad to Surat	20.05.2022
9.	Parmar Ranjit	Proprietor of M/s Dhruvesh Logistics, [Transporter]	20.05.2022

1.10 Statement of Shri Jay Panwala Proprietor of Shreeji Creation, Surat, was recorded on 31.12.2022 under Section 108 of the Customs Act, 1962, wherein, he interalia stated that, in 2013, he started a firm named M/s Shreeji Creation but as the embroidery work was not regular, the embroidery work was closed in 2017 and in 2018, he started import of fabrics from China at various ports viz. Kolkata, Chennai and Nhava Sheva. Later on, he also imported tobacco, weighing scale and computer parts in M/s Shreeji Creation. From last 6 months, he had started import of computer parts viz computer case, motherboard, fan, DVD, etc. from Dubai; that he had sold all the imported computer parts only to National Computer, Surat; that his cousin brother Shri Bhavin Rajeshbhai Panwala used to negotiate with foreign suppliers for the same; that Shri Bhavin Rajeshbhai Panwala is not an employee in M/s Shreeji Creation. On being further asked who was dealing with the import and sales of computer parts, he stated that all the work related to import and sales of computer parts was taken care by Shri Bhavin Rajeshbhai Panwala; that being a family member and more knowledgeable in the field of import, he had handed over all the work related to import of computer parts to Shri Bhavin Rajeshbhai Panwala. On being specifically asked, he stated that as such no fixed payments were made to Shri Bhavin Rajeshbhai Panwala, however, he used to collect payments of Rs.25,000/- to Rs.30,000/- per month for all the work done by him. On being asked to explain his role in M/s Shreeji Creation, he stated that he used to follow up payments from National Computer whenever required; that the payments to foreign supplier were made only after the payments were received from M/s National Computer, Surat in his account; that Shri Mohsin bhai (Mobile No. 9898615071) is the owner of M/s National Computer and his office is situated at Navdi Bandar Road, Opp. Hills Nursery School, Nanpura, Surat but he had no idea about any of its godown. He was shown panchnama dated 30.12.2021 drawn at ICD Khodiyar. On perusal of the same, he stated that vide said panchnama, examination of container No. MSCU7534196, containing goods imported vide BE No. 6847198 dated 27.12.2021 by his firm M/s Shreeji Creation, Surat, was dust/dirt stick on the inner side of the computer case and some scratches were also visible on the surface, therefore, it appeared that the items were used and second-hand goods. He was asked regarding the compliance of the query raised by the assessing officer in respect of BE No. 6847198 dated 27.12.2021 and compliance by the CHA-Parekh International, he stated that he was not aware about the query raised by assessing officer and he had not sent any response to CHA-Shri Samir Parekh for compliance. He was asked regarding the nature/condition of past consignment of computer parts imported by his firm from the suppliers situated in UAE, he stated that he had imported 03 consignments in the past but he or Shri Bhavin R Panwala had never opened the said imported consignments and examined the condition of goods. The said consignments were directly shipped from port to godown of National Computer, Surat. He was asked regarding how he received import documents, he stated that the same were sent to them through courier by the CHA Shri Samir Parekh from Ahmedabad.

1.10 Further statement of Shri Jay Panwala Proprietor of Shreeji Creation, Surat, was recorded on 09/10.02.2022 under Section 108 of the Customs Act, 1962, wherein, he deposed that he is Proprietor of M/s Shreeji Creation and responsible for day-to-day activities of the firm that includes managing logistics after import of goods and bank related work. He further stated that M/s Shreeji

Creation is mainly engaged in trading activities. It includes import of commodities like tobacco, fabrics, weighing scales, computer parts from countries like Dubai, China, Indonesia. The import of the said goods was primarily pre-order based, wherein, firstly, their domestic clients approaches him for the goods requirement. On receipt of advances from the clients, they place an import order to foreign based supplier; that their agent looks after getting the purchase order from the foreign based supplier, subsequently, the goods are imported into India by their firm and the said agent arranges for the domestic logistics to get the goods directly delivered at the client's desired address and for the said trading activity; that they generally get 2-3% commission per import consignment and the commission amount is calculated on the basis of the assessable value of the goods imported into India; that M/s Shreeji Creation has no manufacturing or export activities; that he and his cousin brother Shri Bhavin Rajesh Panwala mainly look after business of M/s Shreeji Creation; that they have one agent namely, Shri Jayesh Mamrawala, who is resident of C-27, Jay Jalaram Society, Rander Road, Surat who looks after getting purchase order from the foreign based suppliers; that he generally gets his commission from the foreign based supplier and they occasionally pay him some amount, whenever he calls for the same; that Shri Bhavin Rajeshbhai Panwala handles the work relating to purchases from the overseas supplier; that Shri Jayesh Mamrawala is the overseas agent of M/s Shreeji Creation and his address is not known to him at present, his mobile Number is 9727716324. On being asked he stated that M/s Shreeji Creation had imported fabrics, weighing scales from China and had also imported tobacco and computer parts from Dubai; that they do not store the imported goods in their premises and there are no godowns of M/s Shreeji Creation; they deliver the imported goods directly to the premises of the client who had earlier placed the purchase order to their firm M/s Shreeji Creations. He further stated that they had imported the goods declared as computer cases including Motherboard, DVD, Fan, Power supply from Dubai and sold to M/s National Computers, Shop No.1, Ratnadeep Apartment, Nanpura, Near Nanpura Police Chowky, Surat 395001; that he had perused the panchnama dated 30.12.2021 and running panchnama dated 31.12.2021/01.01.2022 drawn at ICD, Khodiyar, Ahmedabad and affixed his dated signature in token of having read and understood the same and he agreed with the contents of the above mentioned panchnamas; that he had perused the panchnama dated 30.12.2021 drawn at Plot No.103, 2nd floor, SK-2 Industrial Estate, Near Sosyo circle, Bamroli Road, Surat and affixed his dated signature in token of having read and understood the same and he agreed with the contents of the above mentioned panchnama; that he perused his statement dated 31.12.2021 and confirmed the facts stated therein and affixed his dated signature in token of having read and understood the same; that he perused the statement dated 31.12.2021 of Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation and affixed his dated signature in token of having read and understood the same; that he perused the panchnama dated 03.01.2022 drawn at National Computers, Surat and agreed with the contents of the above mentioned panchnama; that he perused the Valuation Report submitted by the Chartered Engineer in respect of the goods found in container No. MSCU7534196 during the examination under panchnama dated 31.12.2021/01.01.2022 and in token of having perused the same, he put his dated signature on it; that he perused the Bill of Entry No. 6847198 dated 27.12.2021 and he stated that the importer for the said BE number is his firm M/s Shreeji Creations and stated that for the said BE, goods have been declared as Computer case, including mother board,



fan, DVD and power supply and the country of origin declared for the said goods is UAE; that the Dubai based supplier for the said consignment is M/s Green Forest General Trading FZE; that the port of import for the said BE is ICD Sabarmati; that the CHA firm appointed for the customs clearance related purpose was M/s Parekhs International; that they started importing Computers from Dubai from 20.05.2021 onwards, which was their first Bill of Entry: that the goods were declared as Computer case, including mother board, fan, DVD and power supply; that for the said import consignment, they received an order from a Surat based firm, M/s National Computers having GST number 24AAJFN6333L1Z1, for this order, Shri Mohsinbhai of M/s National Computers had approached Shri Bhavin Panwala in the month of May, 2021 and Shri Mohsinbhai through his mobile No. 9898615071 used to contact Shri Bhavin Panwala on his personal mobile 9377276777; that they had imported goods declared as Computer case, including mother board, fan, DVD and power supply as new ones; that M/s their Shreeji Creations till date, had imported 4 consignments of goods declared as Computer case, including mother board, fan, DVD and power supply, the details are as under :-

Bill Of Entry No. & Date	Description of Goods	Quantity (in pieces)
4015434 - 20.05.2021	Computer case including	3267
5361187 - 08.09.2021	Mother Board,	3155
5398240 - 11.09.2021	Fan, DVD	1800
6360663 - 22.11.2021	Power supply	3000

1.11 He further deposed that they imported goods declared as Computer case including Mother Board, Fan, DVD Power supply from M/s Green Forest General Trading FZE in all the concerned import consignments; that they do not provide transportation facility for the imported goods from the port of import, i.e., ICD, Khodiyar, Ahmedabad to the office premises of M/s National Computers, Surat, Ratnadeep Apartment, Navdi Bandar Road, Opp. Hills Nursery School, Nanpura, Surat, however, they used to pay the transport charges to the transporter appointed by Shri Jayesh Mamrawala. On being asked that how did he came in contact with the overseas supplier of Computers, i.e. M/s Green Forest General Trading FZE, Dubai, he stated that his agent Jayesh Mamrawala was to manage purchase order for them to get goods supplied to M/s Shreeji Creations from foreign based suppliers. In this case too, he had managed to get the supply of goods from a Dubai based supplier M/s Green Forest General based in Dubai who was interested in supplying the goods; that he had not met anyone from M/s Green Forest General based in Dubai with respect to the supply of goods declared as Computer case including Mother Board, Fan, DVD Power supply; that his agent, Shri Jayesh Mamrawala looked after getting the supply of goods; that M/s Shreeji Creations had not done any business activity with the said Dubai based supplier M/s Green Forest General before these transactions in goods declared as Computer case including Mother Board, Fan, DVD Power supply; that Shri Bhavin Panwala placed the order on behalf of M/s Shreeji Creation; that since he was not placing the orders with their agent, Shri Jayesh Mamrawala, he cannot produce any text of communication. And the same would be available with Shri Bhavin Panwala as he was directly placing the orders with Shri Jayesh Mamrawala for the import of computer cases; that they had appointed M/s Parekh International as Custom House Agent for work relating to customs clearance of Bill of Entry No. 6847198 dated 27.12.2021; that they used to receive payments from M/s National Computers, Surat by way of

cheques/RTGS. On being asked about the contract price per piece of Computer cases in case of all the consignments and to produce the proof of remittances made to M/s Green Forest General, Dubai, he furnished the details with respect to the following Bills of Entry along with the proof of remittances.

Bill Of Entry No. & Date	Price per Computer case/piece	Quantity (in pieces)	Total Value (in USD.)	Remittances made on Through HDFC Bank/ICICI Bank
4015434-20.05.2021	6.75 USD	3267	22052.25	23.06.2021
5361187-08.09.2021	6.75 USD	3155	21296.25	28.09.2021
5398240-	6.75 USD	1800	12150	16.09.2021

1.12 Further, on being asked about justification of the price per Computer case/piece was fixed at 6.75 USD with M/s Green Forest General, Dubai as per Invoice, which translates to Rs.540/- (approx.) per piece for a new Computer case, including Mother Board, Fan, DVD Power supply, he accepted that price of Rs.540/- for a new Computer case, including Mother Board, Fan, DVD Power supply cannot be justified, further aware that the computer cases including Mother Board, Fan, DVD Power supply imported from M/s Green Forest General, Dubai were not new ones. Further, stated that he was aware that Authorization was required from DGFT and Extended Producer Responsibility (EPR) and as per the above said notification the goods imported under Bill of Entry No. 6847198 dated 27.12.2021 falls under the category of 'Restricted Goods' for which authorisation from DGFT is required; that presently they had no authorisation issued by DGFT for import of Old and Used Personal computers/laptops therefore the goods are liable for seizure; he agreed that M/s Shreeji Creation has violated the conditions of the Notification No. 35 (RE-2012)/2009-2014 New Delhi dated 28.02.2013 issued by the DGFT, New Delhi and have imported restricted goods; that as per the Bill of Entry No. 6847198 dated 27.12.2021 and relevant documents the description of goods is 'Computer Case including Motherboard, Fan DVD, Power Supply'; that as per the running panchnama dated 31.12.2021/01.01.2022 the goods found inside the container were old and used computer cases fitted with mother board, DVD player, fan, and power supply pertaining to different brands i.e. Dell, HP, Lenovo etc., old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands. He further stated that during the panchnama proceeding, un-declared cosmetics items i.e. Shampoo, conditioner, Body Lotion and protein powder of different brands were also found in the above said container; that the quantity and value of the above said undeclared goods are much higher than the declared goods i.e. Computer Case including Motherboard, Fan DVD, Power Supply; that he perused the Valuation Report submitted by the Chartered Engineer in respect of the goods found in container No. MSCU7534196 with respect to Bill of Entry No. 6847198 dated 27.12.2021 during the examination under panchnama dated 31.12.2021/01.01.2022 and stated that as per the valuation report, the Computer cases, including Motherboard, power supply etc., were in the nature of old and used items. The value of the declared goods as per the Valuation report was Rs.2.27 lakhs (approx.) and the value of the undeclared goods, i.e. Cosmetic items, protein powder, shampoo, lotion, as per the Valuation report was Rs.2.28 crores. Further stated that as the said goods i.e. Shampoo, conditioner, Body

11.09.2021				
6360663-22.11.2021	6.75 USD	3000	33000	5000 USD on 28.09.2021 and 19000 USD 14.10.2021. Remaining amount was not disbursed

Lotion, protein powder were subjected to high rate of customs duty, they did not declare the same in their invoice and bill of entry to save the customs duty. He had perused Proforma invoice No. GFGT/SC/P1021221 of M/s Green Forest General Trading FZE and Bill of Entry No.6847198 dated 27.12.2021 and accepted the fact that only 1622 pieces have been found in the consignment. The space for the shortage of pieces imported as against the purchase was filled by concealing the 'undeclared' goods, viz., old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands, Shampoo, conditioner, Body Lotion and protein powder of different brands. He further agreed that the goods were mis-declared in terms of quantity as well as goods/items in the import consignment of M/s Shreeji Creation vide Bill of Entry No.6847198 dated 27.12.2021. Further agreed that he having the knowledge that the undeclared goods, i.e., Laptops, Cosmetics, protein powder etc. were concealed in the container No. MSCU7534196 imported vide Bill of Entry No.6847198 dated 27.12.2021. He had gone through the provisions of Section 2(39) of the Customs Act, 1962 and after gone through the above provision of Section 2(39), he agreed that M/s Shreeji Creation had violated the provisions of Foreign Trade Policy/Notification by importing restricted goods, i.e., Old and Used Computer cases and also violated the provisions of Customs Act/Rules by smuggling the undeclared goods, i.e., Laptops, Cosmetics, protein powder, Lotions, further agreed that he abetted in the illegal import of old and used computer cases and in smuggling of Laptops; Cosmetics, protein powder, Lotions. Further agreed that he had suppressed/mis-declared the actual value of the imports by way of smuggling of Laptops, Cosmetics, protein powder, Lotions. Further, he was shown printout of Section 111 of the Customs Act, 1962, after perusing the said Sections, he agreed that as per Section 111 of the Customs Act, 1962, the 'undeclared' goods, viz., old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands, Shampoo, conditioner, Body Lotion and protein powder of different brands imported by M/s. Shreeji Creation under Bill of Entry No.6847198 dated 27.12.2021 and seized vide seizure memo dated 01.01.2022 which was liable for confiscation as per Section 111 of the Customs Act, 1962.

1.13 Statement of Shri Bhavin Rajeshbhai Panwala Associate Person of Shreeji Creation, Surat, was recorded on 31.12.2022 under Section 108 of the Customs Act, 1962, wherein, he interalia stated that he looked after the work of import purchase and sale in Shreeji Creation jointly with his cousin brother Shri Jay Umeshbhai Panwala and received some payment randomly for the same; he did not have any knowledge regarding any EPR Certificate and DGFT authorization; that he had no knowledge of the date of arrival of the consignment or the date of its booking which were seized under panchnama dated 31.12.2021/01.01.2022, that after Panchnama dated. 30.12.2021 he called R.R. (+971523232284), an agent sitting in UAE, and enquired regarding present consignment to which he replied that the said consignment was similar to past 4 consignments. On being asked regarding import of computers, he stated that they used to import Computer cases under Shreeji Creation, that they had imported 4 consignments of computer cases. On being asked how they started import of this items he stated that after COVID situation the business of embroidery work got affected and he came to know about the business of importing Computer cases and selling it with commission. Further stated that then he came to know about M/s National Computers, Nanpura in due process; that he met Shri Mohsinbhai (Mob No.- 9898615071) of National Computer and enquired about importing

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Computer cases to which he replied him that National Computer buys the Computer cases for assembly purposes. Further, I state that Shri Mohsinbhai told me to contact some R.R. on +971523232284 and informed that computer cases can be imported from him. He further stated that he contacted R.R. on Whatsapp on +971523232284 and inquired regarding the import of Computer cases by giving reference of Shri Mohsinbhai to which R.R. replied that he would get back to him with all the details. After some days R.R. called him and informed him that he would raise an invoice of Computer case including motherboard, Fan, DVD, Power Supply at the rate of 6.75 USD per PC. He then contacted Shri Mohsinbhai and quoted price Rs. 585 per PCS to which Shri Mohsinbhai replied in affirmation and told him that he (Shri Mohsinbhai) will place the order to R.R. for the required quantity; he clearly told that any extra charges will be borne by Shri Mohsinbhai and payment for the consignment will be paid in advance to him to which Shri Mohsinbhai agreed; that R.R. sent him the Proforma Invoice in the month of May-2021 which had the details of bank (RAK Bank, Ajman Branch) to which money was to be transferred. On being asked he stated that he telephonically contacted Shri Mohsinbhai to transfer the funds in bank account for payment against Proforma Invoice., Further stated that after the payment of said Proforma Invoice, R.R. sent him the details of the CHA, Samir Parekh who looked after filing of B.E. and customs related work and all the documents required for filing of B.E. sent to him directly. On being asked he stated that Shri Samir Parekh contacted to transfer money to his account (Account No. 918020010839157, Axis Bank, RTO Circle Ahmedabad) for paying Customs duties and Freight charges. He further stated that after filing of B.E. Shri Samir shared the same with him for generation of E-way Bill for movement of goods. On being asked he stated that Shri Nahinbhai, accountant of Shreeji Creation used to prepare the Commercial invoice and E-way bill on the basis of B.E. On being asked, he stated that E-way bill was prepared for movement of goods directly to M/s National Computers at Ratnadeep Apartments-1, Surat Police ST Road, Surat. Further, stated that after receiving the goods he received the full payments in his bank account for the consignment including his commission (about 2.5%-3% of total value of consignment). On being asked, he stated that he did not receive any goods nor did he saw any consignment being imported and he just had the knowledge that Computer cases were being imported. On being asked, he stated that all the other consignments and the quantities were planned by Shri Mohsinbhai and directly he used to communicate with R.R. for the same, he further stated that as per his knowledge Shri Mohsinbhai used to import Computer cases from many other importers also.



1.14 Further, statement of Shri Bhavin Rajeshbhai Panwala Associate Person of Shreeji Creation, Surat, were recorded on 09/10.02.2022 under Section 108 of the Customs Act, 1962, wherein he interalia stated that M/s Shreeji Creation, Surat, located at Plot 103, S.K. Industrial Society-2, Nr Sosyo Circle, Bamroli Road, Surat, having IEC No.5212008735 is a proprietorship firm and Shri Jay Umesh bhai Panwala is the sole proprietor. Shri Jay Panwala is his cousin brother and so he help him in placing purchase orders to their suppliers based in China and UAE for imports of fabric and computers by M/s Shreeji Creation, Surat; that he also help in identifying local purchasers of the imports made by M/s Shreeji Creation; that Shri Jay Panwala deals with logistics work after the import of the goods and also deals with all bank related work of the Company; that he came into, contact with Shri Jayesh Mamrawala, based in China, during his visit to an exhibition in China some time in 2016. Shri Jayesh started

working with them as a commission based agent since 2019 and used to arrange all the activities at supplier end in China for the imports of goods i.e. fabric by M/s. Shreeji Creation, Surat from China. Later he asked him to arrange some exporter for supply of computer, accordingly, he informed that M/s. Green Forest General Trading Company based in UAE, was a supplier of computer cases; that Shri Jayesh used to arrange all the activities i.e. liasoning with supplier, CHA & transporters etc. in respect of the supply of Computer cases to M/s. Shreeji Creations, Surat. On being asked he stated that Shri Jayesh Mamrawala was the overseas agent of M/s Shreeji Creation and his address was not known to him at present, his mobile Number was 9727716324; that he perused the statement dated 09.02.2022 of Shri Jay Panwala in which he stated that all the work related to import and sales pertaining to M/s Shreeji Creation were taken care by his cousin brother Shri Bhavin Rajeshbhai Panwala, he fully agreed with the statement of Shri Jay Panwala; that he was looking after all the work related to booking of orders for M/s Shreeji Creation, Surat. He further stated that he was in contact for import of goods with Shri Jayesh Mamrawala, the overseas agent of M/s Shreeji Creation. On being asked about his role and responsibilities in the firm M/s Shreeji Creation, he stated that he had no official capacity in M/s Shreeji Creation, however, as he was the cousin brother of Shri Jay Panwala, Proprietor of M/s Shreeji Creation therefore he was looking after all the work related to import of goods with respect to M/s Shreeji Creation, Surat as per the request of Shri Jay Panwala; that M/s Shreeji Creation is a trading Company involved in import of commodities like tobacco, fabrics, weighing scales, computer parts from countries like Dubai, China, Indonesia; that he and his cousin brother Jay Panwala mainly looked after business of the firm M/s Shreeji Creation along with an accountant Shri Nahin Kaludi, who mainly looked after GST related accounts works, auditing, tax compliances etc.; that M/s Shreeji Creation had one agent namely, Jayesh Mamrawala, who was involved in getting purchase orders from the foreign based suppliers; that he did not get any fixed salary/remuneration from M/s Shreeji Creation, but amount is withdrawn by Shri Jay Panwala from the Company bank account for his personal expenses as and when needed; that he handled the work relating to purchases from the overseas supplier; that M/s Shreeji Creation had imported fabrics, weighing scales from China and had also imported tobacco and computer parts from Dubai; that as far as his knowledge, M/s Shreeji Creation did not store any imported goods in the premises and there were no Godowns of M/s Shreeji Creation. The imported goods were sent directly to the premises of the client who had earlier placed the purchase order from M/s Shreeji Creations. He further stated that M/s Shreeji Creation had imported the goods declared as computer cases including Motherboard, DVD, Fan, Power supply from Dubai and sold to M/s National Computers, Shop No.1, Ratnadeep Apartment, Nanpura, Near Nanpura Police Chowky, Surat 395001. He further perused the panchnama dated 30.12.2021 and running panchnama dated 31.12.2021/01.01.2022 drawn at ICD, Sabarmati, Ahmedabad, panchnama dated 30.12.2021 drawn at Plot No.103, 2nd floor, SK-2 Industrial Estate, Near Sosyo circle, Bamroli Road, Surat and panchnama dated 03.01.2022 drawn at M/s National Computers, Surat and affixed his dated signature in token of having read and understood the same and he agreed with the contents of the above mentioned panchnama. He further perused the Bill of Entry No. 6847198 dated 27.12.2021 and stated that for the said BE, goods had been declared as Computer case, including mother board, fan, DVD and power supply, the country of origin declared for the said goods was UAE and the supplier was M/s Green Forest General Trading



FZE, Dubai; that M/s Shreeji Creation had appointed M/s Parekhs International as CHA for the customs clearances; that they started importing Computers from Dubai during 2021 onwards and through BoE No. 6847198 and the goods were declared as Computer case, including mother board, fan, DVD and power supply; that he stated that for the said import consignment, M/s Shreeji Creation received an order from a Surat based firm, M/s National Computers having GST number 24AAJFN6333L1Z1, for this order, Shri Mohsinbhai of M/s National Computers had approached him in Surat during the month of May, 2021 and Shri Mohsinbhai used to contact him on his phone number 9377276777 through his mobile No.9898615071. Further stated that M/s Shreeji Creation had imported goods viz., new Computer case, including mother board, fan, DVD and power supply; that M/s Shreeji Creations till date, had imported 4 consignments of goods declared as Computer case, including mother board, fan, DVD and power supply, the details were as under :-

Bill Of Entry No. & Date	Description of Goods	Quantity (in pieces)
4015434 - 20.05.2021	Computer case	3267
5398240 - 11.09.2021	Board, Fan, DVD	1800
6360663 - 22.11.2021	Power supply	3000

1.15 On being asked he stated that; M/s Shreeji Creation had imported goods declared as Computer case including Mother Board, Fan, DVD Power supply from M/s Green Forest General Trading FZE in all the concerned import consignments; that he did not provide transportation facility for the imported goods from the port of import, i.e., ICD, Sabarmati, Ahmedabad to the office premises of M/s National Computers, Surat, Ratnadeep Apartment, Navdi Bandar Road, Opp. Hills Nursery School, Nanpura, Surat. However, they used to pay the transport charges to the transporter appointed by Shri Jayesh Mamrawala; that the agent Shri Jayesh Mamrawala was to manage purchase order for them to get goods supplied to their firm M/s Shreeji Creations from foreign based suppliers. Shri Jayesh Mamrawala managed the supply of goods viz., Computer case including Mother Board, Fan, DVD Power supply from a Dubai based supplier M/s Green Forest General based in Dubai who was interested in supply of computer cases. On being asked that how did he used to contact Shri Jayesh Mamrawala, he stated that he used to contact him on 9727716324; that he had not met anyone from M/s Green Forest General based in Dubai with respect to the supply of goods declared as Computer case including Mother Board, Fan, DVD Power supply. Shri Jayesh Mamrawala looked after getting the supply of goods declared as Computer case including Mother Board, Fan, DVD Power supply; that M/s Shreeji Creations has not done any business activity with the said Dubai based supplier firm before these transactions in goods declared as Computer case including Mother Board, Fan, DVD Power supply; he had placed the order on behalf of M/s Shreeji Creation. There were no written orders placed, out, only verbally with Shri Jayesh Mamrawala for the import of computer cases; that M/s Shreeji Creation had appointed M/s Parekh International as Custom House Agent for work relating to customs clearance of Bill of Entry No. 6847198 dated 27.12.2021; that M/s Shreeji Creations received payments from M/s National computers, Surat by way of cheques/RTGS; that he furnished the following details with respect to the below mentioned Bill of Entries along with the proof of remittances.



[Handwritten signature]

Bill Of Entry No.& Date	Price per Computer case/piece	Quantity (in pieces)	Total Value (in USD.)	Remittances made on through HDFC Bank/ICICI Bank
4015434-20.05.2021	6.75 USD	3267	22052.25	23.06.2021
5361187-08.09.2021	6.75 USD	3155	21296.25	28.09.2021
5398240-11.09.2021	6.75 USD	1800	12150	16.09.2021
6360663-22.11.2021	6.75 USD	3000	33000	5000 USD on 28.09.2021 & 19000 USD 14.10.2021. Remaining amount was not disbursed

1.16 He further accepted that price of Rs.540/- for a new Computer case, including Mother Board, Fan, DVD Power supply could not be justified, further stated that he was aware that the computer cases were not new ones,; that he was aware that Authorization was required from DGFT and Extended Producer Responsibility (EPR) and as per the above said notification the goods imported under Bill of Entry No. 6847198 dated 27.12.2021 falls under the category of 'Restricted Goods' for which authorisation from DGFT was required and presently they had no authorization issued by DGFT for import of Old and Used Personal computers/laptops; he further agreed that M/s Shreeji Creation had violated the conditions of the Noti. No. 35 (RE-2012)/2009-2014 dated 28.02.2013 issued by the DGFT, New Delhi and have imported restricted goods; that as per the Bill of Entry No. 6847198 dated 27.12.2021 and relevant documents the description of goods is 'Computer Case including Motherboard, Fan, DVD, Power Supply'; that as per the running panchnama dated 31.12.2021/01.01.2022 the goods found inside the container were old and used computer cases fitted with mother board, dvd player, fan, and power supply pertaining to different brands i.e. Dell, HP, Lenovo etc., old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands. He further stated that during the panchnama proceeding, un-declared cosmetics items i.e. Shampoo, conditioner, Body Lotion and protein powder of different brands were also found in the above said container; he perused the above said valuation report and in token of having perused the same, he put his dated signature on it and stated that as per the valuation report, the Computer cases, including Motherboard, power supply etc., were in the nature of old and used items; that the value of the declared goods as per the Valuation report was Rs.2.27 lakhs (approx.) and the value of the undeclared goods, i.e. Cosmetic items, protein powder, shampoo, lotion, as per the Valuation report was Rs.2.28 crores; that as the said goods i.e. Shampoo, conditioner, Body Lotion, protein powder were subjected to high rate of customs duty, they did not declare the same in their invoice and bill of entry to evade the customs duty; that they were yet to receive any payments for Bill of Entry No. 6847198 dated 27.12.2021 from M/s Green Forest General, Dubai till date nor did they receive any payments from M/s National Computers, Surat; he perused the Proforma invoice No. GFGT/SC/P1021221 of M/s Green Forest General Trading FZE and Bill of Entry No.6847198 dated 27.12.2021 and accepted the fact that only 1622 pieces have been found in the consignment and the space for the shortage of pieces imported as against the purchase was filled by concealing the 'undeclared' goods, viz., old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands, Shampoo, conditioner, Body Lotion and protein powder of different brands; that he agreed that the goods were mis-declared in terms of quantity as well as goods/items in the import consignment of M/s Shreeji Creation vide Bill of Entry No.6847198 dated 27.12.2021; that he having the

knowledge that the undeclared goods, i.e., Laptops, Cosmetics, protein powder etc were concealed in the container No. MSCU7534196 imported vide Bill of Entry No.6847198 dated 27.12.2021; he had gone through the provisions of Section 2(39) of the Customs Act, 1962 and agreed that the undeclared goods, i.e. Laptops, Cosmetics, protein powder, Lotions concealed in the container No. MSCU7534196 imported vide Bill of Entry No.6847198 dated 27.12.2021 had been smuggled by M/s Shreeji Creation into India; that he agreed that M/s Shreeji Creation had violated the provisions of Foreign Trade Policy/Notification by importing restricted goods, i.e., Old and Used Computer cases and also violated the provisions of Customs Act/Rules by smuggling the undeclared goods, i.e., Laptops, Cosmetics, protein powder, Lotions; that he agreed that he abetted with Shri Jay Panwala, Proprietor of M/s Shreeji Creation in the illegal import of old and 6 used computer cases and in smuggling of Laptops, Cosmetics, protein powder, Lotions; that he agreed that he had suppressed/mis-declared the actual value of the imports by way of smuggling of Laptops, Cosmetics, protein powder, Lotions. Further, he was shown printout of Section 111 of the Customs Act, 1962, after perusing the said Sections, he agreed that as per Section 111 of the Customs Act, 1962, the 'undeclared' goods, viz., old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands, Shampoo, conditioner, Body Lotion and protein powder of different brands imported by M/s. Shreeji Creation under Bill of Entry No.6847198 dated 27.12.202 (which were seized vide seizure memo dated 01.01.2022) which is liable for confiscation as per Section 111 of the Customs Act, 1962.

1.17 Statement of Shri Samir Parekh, Manager of M/s Parekh's International was recorded on 03.01.2022 under Section 108 of the Customs Act, 1962, wherein, he inter alia stated that he does not have his own license and using license of M/s Parekh's International, Ahmedabad; that Shri Sailesh Galda (Mobile No.9879517459) is the main license holder, a Chartered Accountant; that M/s Parekh's International, Ahmedabad is partnership CHA firm and Shri Jatin C Parekh's (his brother) and Shri Sailesh Galda is the two partners of the firm; that Shri Sailesh Galda is not directly dealing with the client or documents of their CHA firm; that his brother Shri Jatin C Parekh is the 'G' Card holder of the firm and is only a signatory for the custom related documents and he is looking work related to Ahmedabad Air Cargo and Ahmedabad Air Port; that he is Manager of the CHA firm M/s Parekh's International, Ahmedabad but looking after the whole work of company; that he using license and for that he is giving 20% of the total documentation/clearing charges; that he is doing clearing work at Air Cargo, Ahmedabad, ICD Sanand and ICD Sachana, ICD, Khodiyar; that he is clearing Export and Import goods, approximately 120-130 documents handled in a month by him; that there is no fixed charges for clearing of documents, it depends of negotiation with clients; that he is looking after clearance work related to M/s Shreeji Creation, Surat from the month of November 2021; that at the time of taking work he had taken KYC of Importer but this time he doesn't remember the name of Importer; that he'll give Importer name and details after going through his KYC; that Shri Jay Panwala always sends documents through email on his email id samirparekh73@gmail.com from the email ID shreejicreation18@yahoo.com from Jay Panwala (Jayeshbhai); that the CHA firm M/s. Parkeh's International, Ahmedabad is a Customs Broker firm; that they handle the filing of the Bill of Entry for the import consignments and Shipping Bill for the export consignments of their various clients; that Shri



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Sailesh Galda is his good friend and he had given the license to use on 20% documentation charges; that he is the only person who deal with clients; he negotiates with them and after fixing the deal he asks the clients to give their KYC, and details of previous import/export document if they had dealt with the commodity earlier, he obtains their import/export documents so that he has a fair idea of the client; that after receiving the KYC from the clients, they give him the copies of Bill of Lading, Invoice, Packing List, Purchase Order, Certificate of Origin, end use certificate, certificate of analysis etc.; that he uploads the same on e-sanchit site on behalf of their clients in the name of their firm; that their firm has given him a dongle for access to file the documents with the Customs Authorities on behalf of their firm; that he obtains and verify the KYC documents such as IEC, GST Registration Certificate, PAN card, address proof, etc.; that they get the KYC forms filled in by the respective importers/exporters along with copies of the documents to be submitted to them this procedure they adopt as a one time measure and whenever there is a change, for all their clients; that his main clients are few pharmaceutical companies, and M/s Shreeji Creation, Surat etc. and handle their export consignments and they deal through Air Cargo complex, Ahmedabad; that he knows the importer M/s Shreeji Creation; that a person, namely, Shri Jayeshbhai Mamrawala [mobile No.9727716324] had called him during the month of November, 2021 for import/export purposes; he said he was calling from M/s Shreeji Creation, Surat and was given reference of him from ICD, Khodiyar for the purpose of business for import/export of goods; that he stated that he needed to change a CHA for his import/export business and wanted to engage him (M/s Parekh's International) as his CHA; that Shri Samir Parekh told him that he would need his previous history of consignments and KYC for conducting any business with him and he agreed to send the KYC and asked the CHA's fees for import/export consignments, to which he stated that the fees was Rs. 11,000/- per container; that he enquired about the nature of the goods to be imported by M/s Shreeji Creation and he was informed that the import of goods would be Weighment Scales and Polyester fabrics; that he obtained KYC documents of the importer M/s Shreeji Creation, during the month of November, 2021 through courier; that the first import was of Polyester Fabrics; that there were around 15-16 Bill of Entries of M/s Shreeji Creation, Surat and all Bills of Entry most of Bills of Entry were cleared under RMS, one Bills of entry cleared under examination by Customs Officers at ICD, Khodiyar; that the Bill of Entry No. 6847198 dated 27.12.2021 was presented by system for assessment and Examination; that he received the invoice/ packing list/Bill of Lading on 27.12.2021 from M/s Shreeji Creation through e-mail shreejicreation18@yahoo.com from Jay Panwala to his e-mail samirparekh73@gmail.com; that he inquired verbally, through mobile phone, with Shri Jayeshbhai with respect to the condition of the goods, value and payment proof; that Shri Jayeshbhai submitted the proforma invoice No.GFGT.SC/PI021221 dated 02.12.2021, wherein the payment conditions were stated as 45 days; thereafter he uploaded all the documents in ICEGATE and the Bill of Entry Number was generated; that the Appraising Officer, Customs raised the first query 'Catalogue' on 27.12.2021 to which he forwarded e-mail to the importer for the catalogue; that he received a whatsapp image from mobile Number 9727716324, which has been saved by him in the name of Shri Jayeshbhai; that he uploaded the said catalogue in ICEGATE and submitted his reply; that he received a second query 'PUT UP EPRA AND DECLARE BRAND AND JUSTIFY VALUATION' on 29.12.2021; that he forwarded the same to the importer immediately, to which the importer again forwarded the Purchase Order



and a letter stating that the computer cases were unbranded, and therefore, needed no EPR; that he uploaded the Purchase order and letter of the importer against the second query in ICEGATE; that he perused the Panchnama dated 30.12.2021 and running panchnama dated 31.12.2021 and 01.01.2022 drawn at ICD, Khodiyar for Import of Computer Case Including Motherboard, Fan, DVD, Power Supply by M/s Shreeji Creation, Plot No. 103, 1st Floor, S. K. Ind., Co. Op., Soc., NR. Sosyo Circle, U. M., Surat-395002 and stated that he was present during the course of search and panchnama proceedings dated 30.12.2021 and running panchnama dated 31.12.2021 and 01.01.2022 drawn at ICD, Khodiyar; that normally he does not deal with second hand goods of machinery, computers, etc. On being asked he stated that the first and foremost they obtain KYC documents invariably for all the new clients, i.e. first time importer/exporter as the case may be; that he is not aware as to whether the existence of the premises are verified; that then they collect documents related to previous consignment, the import/export documents as the case may be and file the same with the Customs authorities; that they are taking first check examination order with respect to first time Importer; that they generate the check list and send the same to their clients who verifies the same and send the same back to their CHA firm; that upon receipt of the same they file the same with the Customs authorities after which the Bill of Entry or Shipping Bill is generated as the case may be and after examination of the goods, the same are cleared for import or export as the case may be; that he was aware about the goods imported vide Bill of Entry No. 6847198 dated 27.12.2021 by M/s Shreeji Creation, Surat; he knew goods only from the Invoice No. GFGT.SC/PI021221 dated 19.12.2021 given by M/s Shreeji Creation, Surat to him on his email id samirparekh73@gmail.com from the email ID shreejicreation18@yahoo.com from Jay Panwala; that he had no idea about the goods inside the container imported vide Bill of Entry No. 6847198 dated 27.12.2021 by M/s Shreeji Creation, Surat; that the goods declared in the container No. MSCU7534196 (40HC) covering Bill of Entry No. 6847198 dated 27.12.2021 of M/s Shreeji Creation, Surat did not match with the goods found during the course of Panchnama dated 30.12.2021 and running panchnama 31.12.2021 and 01.01.2022 as detailed in Annexure-A attached to running panchnama dated 31.12.2021 and 01.01.2022; that the goods declared in the Bill of Entry No. 6847198 dated 27.12.2021 by M/s Shreeji Creation, Surat as 'Computer case, including Mother Board, Fan, DVD, Power supply' and the goods found in the container No. MSCU7534196 (40HC) were not only Computer case, including Mother Board, Fan, DVD, Power supply, but also CPUs in loose condition, Laptops, Desktop Monitor, protein powder packed in jar, Shampoo, conditioner, creams/lotions which were not declared in the Bill of Entry No. 6847198 dated 27-12-2021; that he is aware that the import of Old & Used computer parts, falling under Custom Tariff Heading 84735000 of Customs Tariff Act, 1975, falls under the category of restricted import as per Foreign Trade Policy. As per Notification. No. 35(RE-2012)/2009-2014, dated 28.02.2013, Authorization from DGFT is required for the import of Old & Used computer parts, similarly compliance with relevant provisions (for example, EPR Authorization) under E-Waste (Management) Rules, 2016 and Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 etc. are also to be made for the import of Old & Used computer parts; that he was aware about only import of new 'Computer case, including Mother Board, Fan, DVD, Power supply'; that he was not aware of any other goods that were found in excess to the above during the panchnama dated 31.12.2021/01.01.2022; that he agreed that the goods imported vide Bill of Entry No. 6847198 dated 27-12-



2021 i.e. Old & Used computer parts, falling under Custom Tariff Heading 84735000 of Customs Tariff Act, 1975, falls under the category of restricted import as per Foreign Trade Policy. As per Notification. No. 35(RE-2012)/2009-2014, dated 28.02.2013, Authorization from DGFT is required for the import of Old & Used computer parts. Similarly, compliance with relevant provisions (for example, EPR Authorization) under E-Waste (Management) Rules, 2016 and Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 etc. were also to be made for the import of Old & Used computer parts and the undeclared goods found during the running panchnama proceeding dtd 31.12.2021 and 01.01.2022 as detailed in Annexure-A attached to running panchnama dated 31.12.2021 and 01.01.2022 were liable for confiscation under Section-111 of Customs Act, 1962; their Company gives logistic support and transportation of the imported goods by M/s Shreeji Creation. They charged Rs.38,500/- for the transportation to Surat that the goods in the container No. MSCU7534196 (40HC) in question were supposed to be sent to Surat by road, but the exact location and address will be provided by Shri Jayeshbhai at the time of delivery of Container; that M/s Shreeji Creation, Surat is a trading firm; that he handled documents related to only Import of M/s Shreeji Creation, Surat; that normally they are declaring end use as 'Selling Purpose'; that he was not aware about the buyer of M/s Shreeji Creation, Surat; that M/s. Shreeji Creation, Surat made payment through NEFT in their Company M/s RSP Logistics Current Bank Account No. 029405501267 maintained by ICICI Bank, Sahi Bag Branch; that he is the proprietor of M/s RSP Logistics; that their clients made payment to M/s RSP Logistics and M/s RSP Logistics made payment to M/s Parekh's International through NEFT for their commission (20% of total bill receipt from clients); that M/s RSP Logistics was started by him during the year 2015-16 with a purpose to take payment and make payment and do work in addition to customs clearance of documents.

Statement of Shri Samir Parekh, Manager of M/s Parekh's International, was recorded on 06.01.2022 under Section 108 of the Customs Act, 1962, wherein, he interalia stated that he was looking after clearance work related to M/s Shreeji Creation, Surat from November-2021 onwards; that all correspondences with respect to the imports of M/s Shreeji Creation was sent through his e-mail samirparekh73@gmail.com to Shri Jay Panwala of M/s Shreeji Creation; that the importer name of the said consignment was Shri Jay Panwala, proprietor of M/s Shreeji Creation who sent documents through email on his email ID from the email ID shreejicreation18@yahoo.com; that all communication had been made with Shri Jayesh Mamrawala, Manager of M/s Shreeji Creation; that after gone through the KYC it is mentioned Shri Jay Panwala as the proprietor of the said firm; that Shri Jayesh Mamrawala (Mob No. 9727716324) is the person with whom he communicated with the office M/s Shreeji Creation and also had whatsapp communication with him for correspondences relating to the import; the they forward the imported goods of M/s Shreeji Creation to M/s National Computers, Surat in all previous consignments as well; that their company gives logistics support and transportation of the imported goods by M/s Shreeji Creation; that he arranged transporter for M/s Shreeji Creation; that the transporter name is Shri Rameshbhai (Transporter); that the previous consignment goods in respect of Shreeji Creation had been transported by Shri Rameshbhai from Ahmedabad to Surat at National Computer Centre; that they charged Rs. 38,500/- for transportation from Ahmedabad to Surat; that E-way Bill copy had been generated by Shri Jayesh Mamrawala; that his company did not process any truck; that he arranged the meeting between party and



transporter; that as far as he remembered Shri Rameshbhai (Transporter) had provided his service 15-16 times to Shreeji Creation for transportation of import goods.

1.18 Statement of Shri Sailesh Balram Gelada, Partner and licence holder of M/s Parekh's International, was recorded on 09.05.2022 under Section 108 of the Customs Act, 1962, wherein he interalia stated that he never negotiated with clients or clearing of documents; that M/s. Parkeh's International, Ahmedabad is a Customs Broker firm, it is giving work for clearance of consignment to M/s RSP logistics a proprietorship firm of Shri Samir Parekh; that the company is involved in handling the filing of the Bill of Entry for the import consignments and Shipping Bill for the export consignments of various clients and all work is looking after by M/s RSP Logistics; that he had no idea about the main clients of company, all the dealing with clients is handled by Shri Samir Parekh and his brother Shri Jatin Chandulal Parekh; that all the work related to their firm is looking after by Shri Samir Parekh and his brother Shri Jatin Chandulal Parekh, therefore they were obtaining and verifying the KYC documents of clients of their CHA firm; that after perusing the 'Panchnama dated 30.12.2021, 31.12.2021/01.01.2022 drawn at ICD, Sabarmati in the case of M/s Shreeji Creation, Surat he stated that he was not aware about the above said Panchnama dated 30.12.2021, 31.12.2021/01.01.2022 drawn at ICD, Sabarmati, when he received summons, he asked Shri Samir Parekh that why he had been summoned in the case of M/s Shreeji Creation, Surat then Shri Samir Parekh explained him about the case; that as he knew there were no direct transaction from clients in the account of their CHA firm M/s Parekh's International, all transaction routed through the account of M/s RSP Logistics which was looked after by Shri Samir Parekh; that he had no direct clients and Shri Samir Parekh and his brother Shri Jatin Chandulal Parekh, who was the 'G' card holder of company, had more idea about customs clearance and they had clients also therefore he started this CHA firm in partnership with Shri Jatin Chandulal Parekh and he has only 10% share in the company.

1.19 Statement of Shri Jatin Chandulal Parekh, Partner of M/s Parekh's International, were recorded on 19.05.2022 under Section 108 of the Customs Act, 1962, wherein, he interalia stated that he is a partner and 'G' card holder of the CHA firm M/s Parekh's International, Ahmedabad; that his CHA firm is involved in clearance of work at Air Cargo, Ahmedabad, ICD Sanand and ICD Sachana, ICD, Khodiyar; that he is clearing Export and Import goods, approximately 120-130 documents handled in a month by the company; that there is no fixed charges for clearing of documents it depends upon negotiation with clients; that he never deal with clients, Shri Samir Parekh is dealing with clients. On being asked about the clearance work related to M/s Shreeji Creation, Surat; that his brother Shri Samir had dealt with M/s Shreeji Creation and he had checked all the KYC; that he never met with importer M/s Shreeji Creation, Surat; that he did not know the main Importer, however he came to know about the client M/s Shreeji Creation at the time of daily noting details of work; that he knew commodity, party name through the documents received at the email id samirparekh73@gmail.com of his brother's email id; that he never met any person from M/s Shreeji Creation therefore he had no idea about the dealing person of M/s Shreeji Creation; that he is the 90% partner and 'G' card holder of CHA firm M/s. Parkeh's International, Ahmedabad, mostly he is looking work related to air cargo complex and airport Ahmedabad however when the

containers marks for examination he goes to ICD to remain present at the time of examination; that he has have no fix monthly salary as and when he needed he spoke to Shri Samir Parekh and after his consent he withdraw amount from the company's account; that he does not know the salary or charges of Shri Sailesh Galda Shri Samir Parekh is directly dealing with him; that Shri Samir Parekh is the only person who deal with clients, he negotiates with them and after fixing the deal, he ask the clients to give their KYC, and details of previous import/export document if they had dealt with the commodity earlier, he obtains their import/export documents so that he has a fair idea of the client; that after receiving the KYC from the clients, they give him the copies of Bill of Lading, Invoice, Packing List, Purchase Order, Certificate of Origin, end use certificate, certificate of analysis etc., he upload the same on e-sanchit site on behalf of clients in the name of their firm; that their firm had given Shri Samir a dongle for access to file the documents with the Customs Authorities on behalf of their firm; that Shri Samir Parekh does obtain and verify the KYC documents such as IEC, GST Registration Certificate, PAN card, address proof, etc. They get the KYC forms filled in by the respective importers/exporters along with copies of the documents to be submitted to them. This procedure, they adopt as a one time measure and whenever there is a change, for all their clients; that he came to know about M/s Shreeji Creation only at the time of noting of daily work, he did not know the name and dealing person of M/s Shreeji Creation, Shri Samir Parekh knew the same. Shri Samir dealt about handling charges; that he did not know about the nature of the goods to be imported by M/s Shreeji Creation; that the KYC documents of the importer, M/s Shreeji Creation, Surat received through courier with the name of Shri Samir Parekh; on being asked about the Bill of Entry No. and date and the status of all the imported consignments he stated that presently he does not know the Bills of Entry of M/s Shreeji Creation, Surat and he'll give the details after checking the same from his office; that since Shri Samir Parekh was dealing with M/s Shreeji Creation therefore he was not aware about filing of Bill of Entry No. 6847198 dated 27.12.2021; that after perusing the Panchnama dated 30.12.2021 and running panchnama dated 31.12.2021 and 01.01.2022 drawn at ICD, Khodiyar for Import of Computer Case Including Motherboard, Fan, DVD, Power Supply by M/s Shreeji Creation, Plot No. 103, 1st Floor, S. K. Ind., Co. Op., Soc., NR. Sosyo Circle, U. M., Surat he stated that Shri Samir Parekh spoke him about the above said panchnama; that Shri Samir Parekh told him that in the consignment of M/s Shreeji Creation some mis-declaration found therefore customs and DRI drawn the above said panchnama and the goods were detained; that the first and foremost they obtain KYC documents invariably for all the new clients, i.e. first time importer/exporter as the case may be; that he was not aware as to whether the existence of the premises are verified; then they collect documents related to previous consignment, the import/export documents as the case may be and file the same with the Customs authorities; that they are taking first check examination order with respect to first time Importer; that they generate the check list and send the same to their clients who verifies the same and send the same back to their CHA firm; that upon receipt of the same they file the same with the Customs authorities after which the Bill of Entry or Shipping Bill is generated as the case may be; that after examination of the goods, the same are cleared for import or export as the case may be; that he was not aware about the goods imported vide Bill of Entry No. 6847198 dated 27.12.2021 by M/s Shreeji Creation, Surat; that the goods declared goods in the Bill of Entry No. 6847198 dated 27.12.2021 by M/s Shreeji Creation, Surat as 'Computer case, including Mother Board, Fan,



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DVD, Power supply' and state that the goods found in the container No. MSCU7534196 (40HC) were not only Computer case, including Mother Board, Fan, DVD, Power supply, but also CPUs in loose condition, Laptops, Desktop Monitor, protein powder packed in jar, Shampoo, conditioner, creams/lotions which were not declared in the Bill of Entry No. 6847198 dated 27-12-2021; that he is aware that the import of Old & Used computer parts, falling under Custom Tariff Heading 84735000 of Customs Tariff Act, 1975, falls under the category of restricted import as per Foreign Trade Policy and as per Notification. No. 35(RE-2012)/2009-2014, dated 28.02.2013, Authorization from DGFT is required for the import of Old & Used computer parts. Similarly, compliance with relevant provisions for example, EPR Authorization) under E-Waste (Management) Rules, 2016 and Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 etc. are also to be made for the import of Old & Used computer parts that he was not aware about the goods that were found in excess to the above during the panchnama dated 31.12.2021/01.01.2022; he agreed that the goods imported vide Bill of Entry No. 6847198 dated 27-12-2021 i.e. Old & Used computer parts, falling under Custom Tariff Heading 84735000 of Customs Tariff Act, 1975, falls under the category of restricted import as per Foreign Trade Policy. As per Notification. No. 35(RE-2012)/2009-2014, dated 28.02.2013, Authorization from DGFT is required for the import of Old & Used computer parts. Similarly, compliance with relevant provisions (for example, EPR Authorization) under E-Waste (Management) Rules, 2016 and Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 etc. are also to be made for the import of Old & Used computer parts and the undeclared goods found during the running panchnama proceeding dtd 31.12.2021 and 01.01.2022 as detailed in Annexure-A attached to running panchnama dated 31.12.2021 and 01.01.2022 are liable for confiscation under Section 111 of Customs Act, 1962; on being asked about the logistic support and transportation of the imported goods by M/s Shreeji Creation? If so, how much did they charge for the transportation of container No. MSCU7534196 (40HC) he stated that all dealing with M/s Shreeji Creation was handled by Shri Samir Parekh; that he had no idea about the goods were supposed to be sent; that he is not aware about the buyer of M/s Shreeji Creation, Surat; he has no idea about the payment received from M/s. Shreeji Creation, Surat however; that normally all their clients made payment through NEFT in Company M/s RSP Logistics, Shri Samir Parekh is the proprietor of M/s RSP Logistics; that the clients made payment to M/s RSP Logistics and M/s RSP Logistics made payment to M/s Parekh's International through NEFT for their commission (20% of total bill receipt from clients); that may be Shri Samir Parekh established M/s RSP Logistics with a purpose to take payment and made payment from his clients and do work in addition to customs clearance of documents.

1.20 Statement of Shri Rameshbhai Patel, Partner of M/s Parekh's International, was recorded on 19.05.2022 under Section 108 of the Customs Act, 1962, wherein, he inter alia stated that he is working as a manager in M/s Pinnacle Marine; that the company is involved in the business of providing allotment of Container, gate-in and gate-out of container, rail-in and rail-out of container at ICD Khodiyar and his role is to look after work related to allotment of container; that he knows Shri Samir Parekh of M/s Shreeji Creation since from the last three to four years; that he met with him during allotment of container; that he was looking work of CHA therefore he had needed container; that he perused the running panchnama dated 31.12.2021/ 01.01.2022 and in

token of having seen he put his dated signature on last page of panchnama; that he perused statement of Shri Samir Parekh of M/s Parekh's International and in token of having seen he put his dated signature on last page of panchnama; that he did not know the importer M/s Shreeji Creation, Surat; that he was not dealing with the transport service; that Shri Samir Parekh knew him and asked him to look a good transporter; that he knows Shri Ranjit Javansingh Parmar (Mobile No. 9979865506) of M/s Dhruvesh Logistics who is providing transport service; that thereafter, he spoke with Shri Ranjit Javansingh Parmar of M/s Dhruvesh Logistics he agreed to work for Shri Samir Parekh and he agreed; that Shri Samir Parekh sent him container no. which remained sealed and Shri Samir Parekh told him the destination of container; that container of M/s Shreeji Creation dispatched to two destination Surat and Aslali, Ahmedabad Shri Samir Parekh told him that which container would dispatch to Surat or Aslali; that he had dealt total 09 containers of M/s Shreeji Creation; that out of 09 containers, 07 containers dispatched to Surat and 02 Containers dispatched to Aslali; that Shri Samir Parekh told him that the container will go to Surat or Aslali, thereafter he provide him the concerned persons mobile no. to the driver of vehicle thereafter driver with coordination with concerned person reached to destination; that he did not know the final address where containers were delivered; that the concerned person's name is Shri Jayeshbhai whose mobile no. is 9727716324, Shri Samir Parekh provided him the name and mobile no. of Shri Jayeshbhai; that Shri Ranjit Javansingh Parmar of M/s Dhruvesh Logistics forwarded him vehicle no. and name and mobile no. of driver thereafter he forwarded the same to Shri Jayeshbhai; that he never charged or received any money as commission; that Shri Ranjit Javansingh Parmar and Shri Samir Parekh are his friends sometimes they give him business and sometimes he gives them business they never paid any money for giving business; he never met with any person from M/s Shreeji Creation or Shri Jayeshbhai; that almost every time he spoke with Shri Jayeshbhai after receiving vehicle and driver; that he did not know Shri Jayeshbhai, however he sent message regarding vehicle no., name and mobile no. of driver after sending message; that he called him about the message; that he did not know Mohsinbhai of M/s National Computer, Surat and he never spoke with him; he is aware about the case booked by DRI against M/s Shreeji Creation at ICD, Sabarmati; that Shri Samir Parekh told him that one case was booked by DRI against M/s Shreeji Creation at ICD, Sabarmati.

1.21 Statement dated 19.05.2022 of Shri Parmar Ranjit Proprietor of M/s Dhruvesh Logistics, Krishna Plaza, ICD Khodiyar, Ahmedabad, was recorded on 20.05.2022 under Section 108 of the Customs Act, 1962, wherein he interalia stated that he is the proprietor of M/s Dhruvesh Logistics; that M/s Dhruvesh Logistics is engaged in goods transportation business; that they have three trailer and four torus vehicle and they are engage mainly in transport of goods in Gujarat only; that he looks after each and every activity in M/s Dhruvesh Logistics, i.e. general accounting, billing, coordination with the client, etc; that they had provided transport service to M/s Shreeji Creation, Surat; that they had given transport service of 07 containers to Surat and 2 containers to Aslali, Ahmedabad from ICD, Khodiyar in the month of November 2021; that the goods pertained to M/s Shreeji Creation were dispatched to various locations at Surat and they were told by Shri Ramesh to deliver goods at M/s Maa Ambey Transport at Aslali and the goods were further dispatched. And he did not know further dispatched location; that the concerned person at Surat Shri Jayesh Bhai and his mobile no. is 9727716324; that at Aslali Shri Jatin Sharma from M/s Maa



Ambey Transport and his mobile no. "is 98243 32599; he had come in contact with M/s Shreeji Creation through Sh. Ramesh Patel, who is a surveyor at ICD Khodiyar and known to him; that he had never contacted or get in touch with Sh. Jayesh Mamrawala proprietor of M/s Shreeji Creation, Surat that he never checked the goods physically,; that the containers dispatched in sealed condition.

1.22 The following summons were issued by speed post to Shri Jayesh Kumar Mamrawala for his appearance at DRI, Zonal Unit, Ahmedabad, was issued to the Respondent by post on the address provided by mobile service provider i.e. M/s Vodafone, Ahmedabad, asking him to appear before the Senior Intelligence Officer.

TABLE-1

Name & Address of Persons to whom summons issued	Date of issue	Date for Appearance	Remarks
Shri Jayesh Kumar Mamrawala, S/o Shri Nareshchandra Chimanlal Mamrawala, Resident of House No. 8/A Sirmani Apartment, Gymkhana Road, Chandani Chowk, Piploi, Surat	23.02.2022	07.03.2022	No reply
	14.03.2022	22.03.2022	No reply
	21.03.2022	28.03.2022	No reply

1.23 The following summons were issued to Shri Mohsin Yunus Jiya for his appearance at DRI, Zonal Unit, Ahmedabad, was issued to the Respondent and personally served on him/sent by post, asking him to appear before the Senior Intelligence Officer.

TABLE-2

Name & Address of Persons to whom summons issued	Date of issue	Date for Appearance	Remarks
Shri Mohsin Yunus Jiya, Partner of M/s National Computer, Shop No. 1, Ratna Deep Appt., Near Nanpura Police Chowki Street, Surat	10.01.2022	18.01.2022	Only ledger statement and invoices submitted
	25.01.2022	04.02.2022	No reply received
	17.02.2022	28.02.2022	Only some statements submitted
	21.03.2022	29.03.2022	Only letter dated 31.03.2022 submitted giving reason that since he is out of country therefore he could not appear for statements

1.24 In spite of issuance of various Summons, Shri Jayesh Kumar Mamrawala and Shri Mohsin Yunus Jiya did not appear for recording of their statements and failed to honor the summons issued under Section 108 of the Customs act, 1962. Therefore, criminal complaint in the court of the Honourable Additional Chief Metropolitan Magistrate, Ahmedabad were filed against them under section 174 and 175 of Indian Penal Code, 1860. This proves that they had not co-operated during the course of investigation with an attempt to derail the investigation carried out in the present case and further prove that they have nothing in their favour to say before the investigating authorities.

1.25 Based on the investigations conducted, it appeared that the undeclared and mis-declared goods found during the running panchnama proceeding dated 31.12.2021/01.01.2022 as detailed in Annexure-A attached to running panchnama dated 31.12.2021/01.01.2022 having total market value of Rs. 2,30,39,857/- as per the valuation report submitted by the Chartered Engineer vide his report summary for the market value opinion vide Ref.BB/L-31/21/DRI/KHODIYAR dated 06.01.2022 imported vide Bills of Entry No.

6847198 dated 27.12.2021 filed in the names of M/s. Shreeji Creation, bearing names/logo of foreign brands were smuggled into India by concealing the same behind the declared goods i.e. Computer case, including Mother Board, Fan, DVD, Power supply which were also mis-declared and in violation of the provisions of the Customs Act, 1962. Further, it appeared that the mis-declared goods viz. old and used Computer case, including Mother Board, ran, DVD, Power supply, CPUs in loose condition, Laptops, Desktop Monitor were used to conceal the smuggled protein powder packed in Jar, Shampoo, Conditioner, Creams/Lotions. All these acts of omission and commission tantamount to "Smuggling" as defined under Section 2(39) of the Customs Act, 1962 and the same were placed under seizure vide Seizure Memo dated 07.01.2022 issued vide F.No. VIII/48-05/ICD/Prev/2018 by the Inspector of Customs, ICD, Sabarmati (Khodiyar), Ahmedabad. The seized goods were handed over to custodian of the goods at the ICD, Sabarmati under Supratnama dated 01.01.2022 for safe custody. The un-declared and mis-declared goods were placed under seizure on reason to belief that they become "prohibited goods" as defined under Section 2(33) and "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962, therefore, liable to confiscation under Section 111(d), (f), (m) & 119 of the Customs Act, 1962. The details of undeclared and mis-declared goods are as under :-

(i) The said seized goods i.e. 3387 boxes of shampoo and conditioner bearing brand name of "Tressemmé", 308 boxes of Protein Powder of various brands, viz., Redcon, Nitrallex, Nutrabolt, No Explode, Scivation, 498 boxes of lotion and Moisturisers, namely, CETAPIL, CERA VE and Aveen which were not declared by M/s Shreeji Creation, Surat in the Bill of Entry No.6847198 dated 27.12.2022 and illegally imported into India by way of concealment, having total market value at Rs. 2,12,80,477/-.

(ii) The seized goods i.e. 1623 corrugated boxes of Old and Used Computer CPU cabinets installed with Power supply, Motherboard, CD drive, 46 boxes of Laptops of various brands, viz., Dell, Lenovo & HP, 42 boxes of Monitors of various brands of Lenovo and HP and 17 boxes of unbranded Computer Desktop Stands mis-declared amounting Rs. 17,59,380/-.

1.26 Further, total 524 pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at Shop-Ground Floor & mezzanine floor, 1, Ratnadeep Apartment, Police Station Road, Surat and 1829 Pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at the Godown, A-93, Green Park Light Industrial Estate, Udhna-Sachin Road Unn, Surat total market valued at Rs. 3,29,420/- as per the valuation report dated 22.02.2022 submitted by Shri Bhaskar Bhatt. Therefore, they were become "prohibited goods" as defined under Section 2(33) and "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962 and were liable to confiscation under Section 111(d), (f), (m) & 119 of the Customs Act, 1962, accordingly, also placed under seizure vide Seizure Memo dated 12.04.2022 issued vide F. No. CUS/SIIB/DR/5/2022 by the Inspector of Customs, SIIB, Customs, Surat. The proforma Invoice no. GFGT/SC/P1021221 dated 02.12.2021 was raised by supplier M/s Green Forest General Trading F.Z.E., Business Centre 1301523, Ajman Free Zone, U.A.E on 02.12.2021 and BL No. JCL13061JEAAMD was issued on 27.12.2021 and Bill of Entry No.6847198 dated 27.12.2021 filed at ICD, Sabarmati, Ahmedabad. Examination of goods

conducted under panchnama dated 30.12.2021, running panchnama 31.12.2021/01.01.2022. Further, the goods were seized under running panchnama dated 31.12.2021/01.01.2022. Supplier M/s Green Forest General Trading F.Z.E., U.A.E. had requested to give permission for re-export of the goods shipped under BL No. JCL13061JEAAMD on 03.01.2022. They further stated that they were not concerned with the imported goods, therefore, they wish to relinquish the title of the goods as no order for home consumption had been passed till date, in case their request for re-export of the goods not permitted. Since, the request from supplier and importer submitted after booking of case against the smuggled goods and mis-declared goods under panchnama 30.12.2021, running panchnama 31.12.2021/01.01.2022, therefore, considering the above, it appeared that the re-export request and submission received from importer and supplier appeared to be baseless, to be an afterthought, frivolous and devoid of merits.

1.27 From the above, it appeared that to evade huge Customs Duty, which was otherwise payable by the importer on Whey Protein, Food and Nutritional Supplements, as well as, other consumer goods, Shri Jay Panwala, 14, Laxmi Poojan Row House, Ayodhya Nagari, Adajan, Surat, aided by Shri Bhavin R. Panwala, C-27, Jay Jalaram Society, Rander Road, Surat, Gujarat, Shri Jayesh Kumar Mamrawala, 8/A Siromani Apartment, Gymkhana Road, Chandani Chowk, Piplod, Surat, Gujarat-395007 and Shri Mohsin Yunus Jiya, Shop No. 1, Ratna Deep Appt., Near Nanpura Police Chowki Street, Surat, Gujarat-395001 had created firms in the name of M/s. Shreeji Creation, Surat. Shri Jayesh Kumar Mamrawala had meticulously arranged for concealment of the packages of undeclared goods viz. whey proteins and cosmetics items etc., concealed behind the packages of the mis-declared goods declared as 'Computer case, including Mother Board, Fan, DVD, Power supply' and they were having ulterior motive to clear the said concealed goods from Customs at ICD, Sabarmati, without disclosing the said undeclared/concealed goods before the Customs, without making payment of appropriate duty on such undeclared and concealed goods and making payment of lesser duty on the goods declared which is also mis-declared. Had it not been the officers of DRI, Ahmedabad, initiated the investigation in respect of their consignments at ICD, Sabarmati, they would have cleared those consignments and evaded Customs duties by concealment and mis-declaration of this consignment and would have ably cleared the goods which were imported in violation of various statutory provisions, under a well planned conspiracy hatched between the mastermind/s, conspirators and accomplice of the offence. From the above, violation of various provisions of the different sets of laws have been noticed in respect of the consignment imported in the name of M/s. Shreeji Creation, which has been seized at ICD, Sabarmati, details of which are summarized as follows:

1.28 As per clause 4 of the Chapter 1A of the General Notes regarding Import Policy given with the ITC (HS) Classification 2017, import of all edible/food products, domestic sale and manufacture of which are governed by Food Safety and Standards Act, 2006 and rules made thereunder, shall also be subject to the condition laid down in the aforesaid Act and rules framed thereunder; that the import of all such products will have to comply with the quality and packaging requirement as laid down in the Food Safety and Standards Act, 2006 and non-compliance with such provisions shall constitute violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation)

Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a) of the Foreign Trade Policy 2015-2020.

Regulation 3 of the Food Safety and Standards (Import) Regulations, 2017 provides as follow:

No person shall import any article of food without an import license from the Central Licensing Authority in accordance with the provisions of the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011.

1.29 For the purposes of sub-regulation (1), the Food Importer shall register himself with the Directorate General of Foreign Trade and possess valid Import Export Code.

1.30 The provisions of Regulation 2 of the Food Safety and Standards (Packaging and Labeling) Regulations, 2011 specifies the requirement in general, as well as, product specific requirement, which include the general requirement of compliance with the Indian standards Specifications, which are to be followed for the utensils or containers made of plastic, metals etc. It also makes provision in the context of labeling requirement, that the packages should display the FSSAI logo with FSSAI Licence Number, Nutritional Information in a particularly specified manner and also the declaration of food additives to be made in a specified manner.

1.31 The provisions of Section 22 of the Food Safety and Standards Act, 2006 provides that the genetically modified articles of food is not permitted in India, but no declaration in this respect has been found in the labels of the packages and no declaration has been made in this respect.

1.32 M/s Shreeji Creation Surat or the masterminds involved in the smuggling or any other claimant of the goods do not possess any such Import Licence for import of food items in the form of whey protein and other dietary supplements as provided in Regulation 3 of the Food Safety and Standards (Import) Regulations, 2017.

1.33 Further, there is no declaration made available by M/s. Shreeji Creation, Surat or the masterminds involved in the smuggling or any other claimant of the goods for compliance with the Indian Standard specifications for the plastic containers used for packaging and also not provided proper declaration of Nutritional Information as well as declaration regarding food additives, as provided in Regulation 2 of the Food Safety and Standards (Packaging and Labeling) Regulations, 2011, which is in contravention of the provisions of Section 23 of the Food Safety and Standards Act, 2006.

1.34 In that case, the goods imported by M/s. Shreeji Creation, Surat by way of concealment in the goods covered vide Bill of Entry No. 6847198 dated 27.12.2021 declared as 'Computer case, including Mother Board, Fan, DVD, Power supply' but imported old and used computer parts without proper authorisation and used for concealment of smuggled goods such as whey protein, shampoo, Lotion, etc., are to be considered as imported in contravention of the prohibition on importing such goods in violation of the provisions of

Section 25 (1) of the Food Safety and Standards Act, 2006 read with Section 22 and 23 of the Food Safety and Standards Act, 2006, Regulation 3 of the Food Safety and Standards (Import) Regulations, 2017 as well as Regulation 2 of the Food Safety and Standards (Packaging and Labeling) Regulations, 2011.

1.35 Thus, the import made as such is in violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a) of the Foreign Trade Policy 2015-2020. Therefore, the same may be treated as imported illegally into India and liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

1.36 As per clause 5 of the Chapter 1A of the General Notes regarding Import Policy given with the ITC (HS) Classification, import of all packaged commodities which are subject to the provisions of Legal Metrology (Packaged Commodities) Rules, 2011, shall also be subject to the condition laid down in the aforesaid Rules and non-compliance with such provisions shall constitute violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a) of the Foreign Trade Policy 2015-2020.

1.37 The packages of Whey protein and dietary supplements being ready to consume goods, Name and Address of the Importer, Maximum Retail Sale Price, Consumer Care number etc. details were also required to be pre-printed on the packages in terms of the provisions of the Rule 6(1)(e), 6(2), and 10 of the Legal Metrology (Packaged Commodities) Rules, 2011, but it was observed that such details were absent on each of the packages of the concealed goods. Further in terms of Rule 27 of the Legal Metrology (Packaged Commodities) Rules, 2011, the importer of any pre-packed commodity should register with the Director or Controller. Section 18 of the Legal Metrology Act, 2009 also prescribes the manner of making declaration on the pre-packed commodities. It was evident that M/s. Shreeji Creation, Surat or the masterminds involved in the smuggling or any other claimant of the goods had not produced any such registration certificate issued to them so far and for that the goods imported by them under concealment do not follow the manner of making declaration as prescribed. This is being in violation of the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 14 of the Foreign Trade (Regulation) Rules, 1993 and Para 2.01(b), 2.03(a) of the Foreign Trade Policy 2015-2020. Therefore, the same has to be treated as imported illegally into India and liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

1.38 The packages of Whey protein and other dietary supplements are of well known branded products and it appeared that such branded goods were protected as "intellectual property" in terms of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. M/s. Shreeji Creation, Surat or the masterminds involved in the smuggling or any other claimant of the goods had not come forward with the evidence of them being legal right holders for importing such goods into India for sale and marketing within India. Further, they had not produced any evidence to establish that the goods imported by them were not bearing false trade mark, brand name etc.

1.39 Therefore, the goods imported illegally by way of concealment might be treated as imported illegally into India, infringing the intellectual property rights and thereby the same were liable for confiscation under the provisions of Section 111(d) of the Customs Act, 1962 read with the provisions of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.

1.40 The said seized goods i.e. 3387 boxes of shampoo and conditioner bearing brand name of "Tressemmé", 308 boxes of Protein Powder of various brands, viz., Redcon, Nitraflex, Nutrabolt, No Explode, Scivation, 498 boxes of Lotion and Moisturisers, namely, CETAPIL, CERAVE and Aveen which were not declared and illegally imported into India by way of concealment, having total market value at Rs.2,12,80,477/-, imported in the name of M/s. Shreeji Creation under B.E.No. 6847198 dated 27.12.2021 and were found concealed behind the mis-declared goods viz. 'Old and use computer parts' become "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962 and hence the same were liable for confiscation under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962.

1.41 The seized goods i.e. 1623 corrugated boxes of Old and Used Computer CPU cabinets installed with Power supply, Motherboard, CD drive, 46 boxes of Laptops of various brands, viz., Dell, Lenovo & HP, 42 boxes of Monitors of various brands of Lenovo and HP and 17 boxes of unbranded Computer Desktop Stands mis-declared amounting Rs. 17,59,380/- imported in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dated 27.12.2021 become "prohibited goods" as defined under Section 2(33) and "smuggled goods" as defined under Section 2(39) of the Customs Act, and hence the same are liable for confiscation under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962.

1.42 The seized goods i.e. 524 pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at Shop-Ground Floor & Mezzanine Floor, 1, Ratnadeep Apartment, Police Station Road, Surat and 1829 Pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at the Godown, A-93, Green Park Light Industrial Estate, Udhna-Sachin Road Unn, Surat total valued at Rs. 3,29,420/- become "prohibited goods" as defined under Section 2(33) and "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962 and hence the same were liable for confiscation under the provisions of Section 111(d), (f), (i), (m) & 119 of the Customs Act, 1962.

1.43 In view of the facts discussed in the foregoing paras and material evidences available on record and the deposition of Shri Jay Parwala, Proprietor, Shreeji Creation, Surat in association with and Shri Bhavin Rajeshbhai Parwala of M/s Shreeji Creation, Surat along with Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayesh Kumar Mamrawala had been masterminded the syndicate of smuggling of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste). In the instant case imported into India at ICD, Sabarmati contrary to restriction imposed by DGFT and in contravention to Rule 13(2) of 'Hazardous and Other Waste (Management and Transboundary

Movement) Rules, 2016" by firms owned / controlled by Shri Jay Panwala, Proprietor of M/s Shreeji Creation, Surat, Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayesh Kumar Mamrawala. In the instant case, Shri Jay Panwala, Proprietor of Shreeji Creation, Shri Bhavin Rajeshbhai Panwala and Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayesh Kumar Mamrawala dealt in all operational activities of importer firm M/s Shreeji Creation, Surat that was found involved in smuggling of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste).

1.44 In view of the above, it appeared that Shri Jay Panwala, Proprietor of Shreeji Creation, Surat, had knowingly for monetary consideration allowed Shri Jayesh Kumar Mamrawala to import the said goods contrary to restrictions imposed by DGFT, in violations of provisions of "Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016" and by resorting to mis-declaration Computer case, including Mother Board, Fan, DVD and Power supply, CPUs in loose condition, Laptops, Desktop Monitor and undeclared smuggled protein powder packed in jar, Shampoo, conditioner, creams/lotions imported in Bill of Entry No. 6847198 dated 27.12.2021. Thus, he, knowingly, played an important role in the said consortium of Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat along with Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayeshbhai Mamrawala in effecting the said unscrupulous imports which were liable to confiscation under Section 111 of the Customs Act, 1962. The goods so imported were to be treated as "smuggled goods" as defined under Section 2(39) and "prohibited goods" as defined under section 2(33) of the Customs Act, 1962. Shri Jay Panwala, Proprietor of Shreeji Creation, Surat had therefore, in his individual capacity has committed an offence punishable under Section 135 of the Customs Act 1962. The acts of omission and commission on the part of Shri Jay Panwala, Proprietor of Shreeji Creation, Surat rendered the imported goods liable for confiscation under Section 111(d), 111(f), 111 (m) & 119 of the Customs Act, 1962 and rendered him liable to penalty under Section 112(a) & (b) of the Customs Act, 1962. He had also knowingly and intentionally made, signed or used or caused to be made, signed or used documents relating to import of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste), as discussed in detail hereinabove, which he knew or had reason to believe were false and incorrect in material particulars. Hence the said act on his part rendered him liable for penalty under Section 114AA of the Customs Act, 1962 too.

1.45 Shreeji Creation, Plot 103, S.K. Industrial Society-2, Nr Sosyo Circle, Bamroli Road, Surat, Opp. Bhatia Complex, Bamroli Road, Near Sosyo Circle, Surat-395007 in association with and Shri Jay Panwala, Proprietor of M/s Shreeji Creation, Surat along with Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayesh Kumar Mamrawala had been masterminded the syndicate of smuggling of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of

different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste). In the instant case, Shri Jay Panwala, Proprietor of Shreeji Creation, Shri Bhavin Rajeshbhai Panwala and Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayesh Kumar Mamrawala dealt in all operational activities of importer firm M/s Shreeji Creation, Surat that was found involved in smuggling of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste).

1.46 In view of the above, it appeared that Shri Bhavin R. Panwala of M/s Shreeji Creation, Surat, had knowingly for monetary consideration allowed Shri Jayesh Kumar Mamrawala to import the said goods contrary to restrictions imposed by DGFT, in violations of provisions of "Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016" and by resorting to mis-declaration Computer case, including Mother Board, Fan, DVD and Power supply, CPUs in loose condition, Laptops, Desktop Monitor and undeclared smuggled protein powder packed in jar, Shampoo, conditioner, creams/lotions imported in Bill of Entry No.6847198 dated 27.12.2021. Thus, he, knowingly, played an important role in the said consortium of Shri Jay Panwala Proprietor of M/s Shreeji Creation, Surat along with Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayesh Kumar Mamrawala in effecting the said unscrupulous imports which were liable to confiscation under Section 111 of the Customs Act, 1962. The goods so imported were to be treated as "smuggled goods" as defined under Section 2(39) and "prohibited goods" as defined under section 2(33) of the Customs Act, 1962. Shri Jay Panwala, Proprietor of Shreeji Creation, Surat had therefore, in his individual capacity has committed an offence punishable under Section 135 of the Customs Act 1962. The acts of omission and commission on the part of Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat rendered the imported goods liable for confiscation under Section 111(d), 111(f), 111 (m) & 119 of the Customs Act, 1962 and rendered him liable to penalty under Section 112(a) & (b) of the Customs Act, 1962. He had also knowingly and intentionally made, signed or used or caused to be made, signed or used documents relating to import of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste), as discussed in detail hereinabove, which he knew or had reason to believe were false and incorrect in material particulars. Hence the said act on his part rendered him liable for penalty under Section 114AA of the Customs Act, 1962 too.

1.47 Shri Jayesh Kumar Mamrawala, S/o Shri Nareshchandra Chumanlal Mamrawala, Resident of House No. 8/A Siromani Apartment, Gymkhana Road, Chandani Chowk, Piplod, Surat, Gujarat-395007 in association with Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jay Panwala, Proprietor of M/s Shreeji Creation, Surat along with Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat, have been masterminded the syndicate of smuggling of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different

brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste). In the instant case, Shri Jay Panwala, Proprietor of Shreeji Creation, Shri Bhavin Rajeshbhai Panwala and Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat and Shri Jayesh Kumar Mamrawala dealt in all operational activities of importer firm M/s Shreeji Creation, Surat that was found involved in smuggling of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste).

1.48 In view of the above, it appeared that Shri Jayesh Kumar Mamrawala, had knowingly for monetary consideration effected the import of the said mis-declared goods in the name of M/s Shreeji Creation, Surat in contrary to restrictions imposed by DGFT, in violations of provisions of "Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016" and by resorting to mis-declaration Computer case, including Mother Board, Fan, DVD and Power supply, CPUs in loose condition, Laptops, Desktop Monitor and undeclared smuggled protein powder packed in jar, Shampoo, Conditioner, Creams/Lotions imported in Bill of Entry No.6847198 dated 27.12.2021. Thus, he, knowingly, played an important role in the said consortium of Shri Jay Panwala Proprietor of M/s Shreeji Creation, Surat, Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat along with Shri Mohsinbhai Proprietor/Director of M/s National Computer, Surat in effecting the said unscrupulous imports which were liable to confiscation under Section 111 of the Customs Act, 1962. The goods so imported were to be treated as "smuggled goods" as defined under Section 2(39) and "prohibited goods" as defined under section 2(33) of the Customs Act, 1962. Shri Jay Panwala, Proprietor of Shreeji Creation, Surat had therefore, in his individual capacity has committed an offence punishable under Section 135 of the Customs Act 1962. The acts of omission and commission on the part of Shri Jayesh Kumar Mamrawala, Surat rendered the imported goods liable for confiscation under Section 111(d), 111(f), 111 (m) & 119 of the Customs Act, 1952 and rendered him liable to penalty under Section 112(a) & (b) of the Customs Act, 1962. He had also knowingly and intentionally made, signed or used or caused to be made, signed or used documents relating to import of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste), which he knew or had reason to believe were false and incorrect in material particulars. Hence the said act on his part rendered him liable for penalty under Section 114AA of the Customs Act, 1962 too. Further, Shri Jayesh Kumar Mamrawala, Surat had also rendered himself liable for penalty under Section 117 of the Customs Act, 1962 for dishonoring Summons dated 23.02.2022, 14.03.2022 and 21.03.2022 issued to him under Section 108 of the Customs Act, 1962.

1.49 In view of the above it appeared that Shri Mohsin Yunus Jiya, of M/s National Computer, Surat, had knowingly for monetary consideration along with Shri Jayesh Kumar Mamrawala to import the said goods in the name of M/s Shreeji Creation, Surat in contrary to restrictions imposed by DGFT, in violations

of provisions of "Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016" and by resorting to mis-declaration Computer case, including Mother Board, Fan, DVD and Power supply, CPUs in loose condition, Laptops, Desktop Monitor and undeclared smuggled protein powder packed in jar, Shampoo, conditioner, creams/lotions imported in Bill of Entry No. 6847198 dated 27.12.2021. Thus, he, knowingly, played an important role in the said consortium of Shri Jay Panwala Proprietor of M/s Shreeji Creation, Surat, Shri Bhavin R. Panwala of M/s Shreeji Creation, Surat along with Shri Jayesh Kumar Mamrawala in effecting the said unscrupulous imports which were liable to confiscation under Section 111 of the Customs Act, 1962. The goods so imported were to be treated as "smuggled goods" as defined under Section 2(39) and "prohibited goods" as defined under section 2(33) of the Customs Act, 1962. Shri Jay Panwala, Proprietor of Shreeji Creation, Surat had therefore, in his individual capacity has committed an offence punishable under Section 135 of the Customs Act 1962. The acts of omission and commission on the part of Shri Mohsin Yunus Jiya, of M/s National Computer, Surat rendered the imported goods liable for confiscation under Section 111(d), 111(f), 111 (m) & 119 of the Customs Act, 1962 and rendered him liable to penalty under Section 112(a) & (b) of the Customs Act, 1962. He had also knowingly and intentionally made, signed or used or caused to be made, signed or used documents relating to import of non-declared branded items like Shampoo, Lotions, Creams, Protein Powder, Old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands and mis-declaration of import of old and used computer cases including mother board, fan, DVD, power supply (E-waste), which he knew or had reason to believe were false and incorrect in material particulars. Hence the said act on his part rendered him liable for penalty under Section 114AA of the Customs Act, 1962 too. Further, Shri Mohsin Yunus Jiya of M/s National Computer, Surat had also rendered himself liable for penalty under Section 117 of the Customs Act, 1962 for dishonoring Summons dated 10.01.2022, 25.01.2022, 17.02.2022 and 21.03.2022 issued to him under Section 108 of the Customs Act, 1962.

1.50 In view of the contravention of aforesaid legal provisions, the said Shampoos/ conditioners/ Protein Powder/ Lotions, which were not declared by M/s Shreeji Creation, Surat in the Bill of Entry No.6847198 dated 27.12.2022 and illegally imported into India by way of concealment, having total market valued at Rs.2,30,39,857/- imported in the name of M/s. Shreeji Creation under Bill of Entry No.6847198 dated 27.12.2021 and 524 pcs of old and used computer parts and 1829 Pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat total valued at Rs. 3,29,420/- were become "prohibited goods" as defined under Section 2(33) and "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. Therefore, the same were liable to confiscation under Section 111(d) of the Customs Act, 1962 and the same were required to be re-exported under Notification No. 05/2015-2020 dated 07.05.2019.

1.51 Accordingly, vide **Show Cause Notice** bearing No. VIII/10-53/DRI-AZU/O&A/HQ/2022-23 dated 21.06.2022 (herein after referred to as "the said SCN") issued by the Additional of Customs, Ahmedabad, Shri Jay Panwala, Proprietor of M/s Shreeji Creation, Plot No.103, S.K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat, Shri Jayesh Kumar Mamrawala, S/o Shri

Nareshchandra Chimanlal Mamrawala, Resident of House No. 8/A Siromani Apartment, Gymkhana Road, Chandani Chowk, Piplod, Surat and Shri Mohshin Yunus Jiya, Partner of M/s National Computer, Shop No. 1, Ratna Deep Appt., Near Nanpura Police Chowki Street, Surat, Gujarat-395001 (herein after referred to as 'the Noticees') were called upon to Show Cause to the Additional Commissioner of Customs, Ahmedabad, as to why :-

- (i) The said seized goods i.e. 3387 boxes of shampoo and conditioner bearing brand name of "Tressemmé", 308 boxes of Protein Powder of various brands, viz., Redcon, Nitraflex, Nutrabolt, No Explode, Scivation, 498 boxes of Lotion and Moisturisers, namely, CETAPIL, CERAVE and AVEEN which were not declared by M/s Shreeji Creation, Surat in the Bill of Entry No.6847198 dated 27.12.2022 and illegally imported into India by way of concealment, having total market value at Rs. 2,12,80,477/-, imported in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dated 27.12.2021 become 'smuggled goods' as defined under Section 2(39) of the Customs Act, 1962 should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962;
- (ii) The seized goods, i.e. 1623 corrugated boxes of Old and Used Computer CPU cabinets installed with Power supply, Motherboard, CD drive, 46 boxes of Laptops of various brands, viz., Dell, Lenovo & HP, 42 boxes of Monitors of various brands of Lenovo and HP and 17 boxes of unbranded Computer Desktop Stands mis-declared amounting Rs. 17,59,380/- imported in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dated 27.12.2021 become 'prohibited goods' as defined under Section 2(33) and 'smuggled goods' as defined under Section 2(39) of the Customs Act, 1962 should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962;
- (iii) The seized goods, i.e. 524 pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at Shop-Ground Floor & Mezzanine floor, 1, Ratnadeep Apartment, Police Station Road, Surat and 1829 Pcs of apartment, Police Station Road, Surat and 1829 Pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at the Godown, A-93, Green Park Light Industrial Estate, Udhna-Sachin Road Unri, Surat total valued at Rs. 3,29,420/- become 'prohibited goods' as defined under Section 2(33) and 'smuggled goods' as defined under Section 2(39) of the Customs Act, 1962 should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962;
- (iv) Penalties should not be imposed upon Shri Jay Panwala Proprietor of Shreeji Creation, Surat, Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat, Shri Jayesh Kumar Mamrawala, S/o Shri Nareshchandra Chimanlal Mamrawala, Resident of House No. 8/A Siromani Apartment, Gymkhana Road, Chandani Chowk, Piplod, Surat, Gujarat-395007 and Shri Mohshin Mohsin Yunus Jiya, Partner/Proprietor of M/s National Computer, Shop No. 1, Ratna



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Deep Appt., Near Nanpura Police Chowki Street, Surat, Gujarat-395001, under Section 112(a), 112 (b) and 114AA of the Customs Act, 1962;

- (v) Penalty should not be imposed upon Shri Jayesh Kumar Mamrawala, S/o Shri Nareshchandra Chimanlal Mamrawala, resident of House No. 8/A Siromani Apartment, Gymkhana Road, Chandani Chowk, Piplod, Surat, Gujarat-395007 and Shri Mohshin Yunus Jiya, Partner/Proprietor of M/s National Computer, Shop No. 1, Ratna Deep Appt., Near Nanpura Police Chowki Street, Surat, Gujarat-395001 under Section 117 of the Customs Act, 1962.

1.52 It is in the above context the Appellant 1, Appellant 2 and Appellant 3 has filed the present appeal in terms of Section 128 of Customs Act, 1962 before this appellate authority seeking to set aside the impugned order dated 02.05.2023 so passed by Additional Commissioner, Customs, Ahmedabad.

2. SUBMISSIONS OF THE APPELLANTS:

The Appellant 1 and Appellant 2 have filed their appeals on 05.07.2023. The Appellant 3 has filed his appeal on 07.07.2023. They submitted following written submissions:

Submissions of the Appellant 1, viz. Shri Jay Panwala, Proprietor of M/s. Shreeji Creation, Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat:

1. The appellant herein is a proprietor of M/s. Shreeji Creation situated at Plot No. 103, 2nd Floor, SK Industrial Society-2, Opp. Bhatia Complex, Bamroli Road, Nr. Sosyo Circle, Surat - 395 007 (hereafter referred to as Shreeji Creation). The appellant is engaged in import of various goods. The appellant had regularly imported computer cases (including mother board, fan, DVD, power supply) from Green Forest General Trading FZE, Business Centre, 1301523, Ajman Free Trade Zone, UAE P.O. Box 380792 (hereinafter referred to as Green Forest) in past. Four different compilations of documents evidencing that the appellant had imported said goods from the said foreign supplier in the months of June 2021, September 2021 and December 2021 and that the said goods were supplied by the aforesaid foreign supplier and that on each occasion the appellant has regularly made payment towards the imported goods received by him through the said foreign supplier are collectively annexed hereto and marked as **ANNEXURE-A Colly**.
2. These compilations contain (a) tax-invoice issued by the clearing and forwarding agent being addressed to Shreeji Creation, (b) invoice issued by Container Corporation of India Ltd. addressed to the clearing and forwarding agent, (c) payment receipt issued by Container Corporation of India Ltd. to the said clearing and forwarding agent evidencing that clearing and forwarding agent has paid required charges in regard to the respective consignments to the Container Corporation of India Ltd., (d) invoice issued by the agent of shipping line, (e) payment receipt evidencing payment made by Shreeji Creation, (f) Bill of Entry in regard to computer



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case (including mother-board, fan, DVD, power supply) being filed by Shreeji Creation while importing the goods supplied by Green Forest, (g) commercial invoice issued by Green Forest in favour of Shreeji Creation, (h) Bill of Lading generated by the shipping line in regard to the goods supplied by Green Forest to Shreeji Creation (i) commercial invoice issued by Green Forest to Shreeji Creation in regard to the goods supplied by them, (j) a request letter for import payment made by Shreeji Creation to their Bank and (k) payment receipt issued by the Bank evidencing that Shreeji Creation had made payment to Green Forest in regard to the goods supplied to them. Thus, all these documents show that Green Forest regularly supplied goods to Shreeji Creation in India and that Shreeji Creation regularly used to import the goods into India. On each occasion, the goods supplied are computer cases (including mother-board, fan, DVD, power supply).

3. Consequent upon receiving purchase order from Shreeji Creation in regard to the computer cases (including mother-board, fan, DVD, power supply), on 02/12/2021, Green Forest had first issued a proforma invoice viz. PI No: GFGT/SC/PI021221 dtd. 02/12/2021 to Shreeji Creation. It is clearly mentioned in the said proforma invoice that 2965 pcs. of computer cases (including mother-board, fan, DVD, power supply) having net weight 25670 KGs with the rate of USD 11.00 per pc. (CNF Ahmedabad) i.e., total amount USD 32615 is shipped to Shreeji Creation. The proforma invoice also clearly shows that same were also invoiced to Shreeji Creation. A copy of the said proforma invoice dtd. 02/12/2021 is annexed hereto and marked as **ANNEXURE-B**.
4. Subsequently, Green Forest had issued commercial invoice to Shreeji Creation i.e., buyer for 2965 pcs of computer cases (including mother-board, fan, DVD, power supply) @ USD 11.00 per pc. (CNF ICD Ahmedabad) for a total amount of USD 32615.00. A copy of said commercial invoice dtd. 19/12/2021 bearing No. GFGT/SC/211219 is annexed hereto and marked as **ANNEXURE-C**. It also shows that the goods were loaded from "Jebel Ali" port and they were destined to ICD Ahmedabad / Khodiyar via Mundra Port.
5. Along with the commercial invoice, Green Forest had also issued a packing list dtd. 19/12/2021 in regard to the very same goods. This packing list was corresponding to aforesaid invoice. A copy of packing list is annexed hereto and marked as **ANNEXURE-D**.
6. Subsequently, the goods were then shipped on board from "Jebel Ali" port, United Arab Emirates, on 22/12/2021 for which Bill of Lading No. JCL13061/JEAAMD was issued by the shipping line. A copy of said Bill of Lading is annexed hereto and marked as **ANNEXURE-E**. It clearly shows that the goods were shipped on board on 22/12/2021, the shipper is Green Forest and the consignee as well as notified party is Shreeji Creation. The name of the vessel is mentioned as "Northern Dexterity V.2150E". The port of discharged is mentioned as "Mundra India" and the place of delivery is mentioned as "ICD Ahmedabad".



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7. As could be seen from above, the goods were shipped on 22/12/2021. Green Forest is doing a big business. They export various goods to various countries including India and China. The owner of Green Forest Mr. Usman Ganibhai Ilyas Umer personally looks after the entire business. He is responsible for delivering the goods to the foreign buyers like Shreeji Creation. It was his responsibility to see that the particular goods are loaded with particular documents in a particular ship. However, his very own real blood brother Mr. Mohammad Ganibhai Ilyas Umer was very sick and he finally expired. Because of this, from 10/12/2021 to 30/12/2021, said owner of Green Forest was not able to attend the office. The work of loading goods in the ship for delivery to foreign buyers was undertaken by one of the employee. Green Forest has huge godown and different goods are stored in the said godown after procuring them from various places. The employee made a mistake. The goods which were required to be sent to China were by mistake sent along with the documents of the goods requires to be sent to India to Shreeji Creation.

8. Because of aforesaid mistake, in place of computer cases (including mother-board, fan, DVD, power supply), the goods viz. cosmetics, computer cases, computer case tower, laptop, LCD and protein powder were shipped to India by mistake along with the documents for computer cases (including mother-board, fan, DVD, power supply) being addressed to Shreeji Creation.

9. The goods arrived at ICD, Khodiyar along with the aforesaid documents. Shreeji Creation had appointed a CHA viz. M/s. Parekh's International. As mentioned in the Show-cause Notice, Bill of Entry No. 6847198 dtd. 27/12/2021 was filed by CHA at ICD, Sabarmati, Ahmedabad by declaring the goods as "computer cases including mother board, fan, DVD, power supply" under CTH 84735000.



Despite such a clear and genuine case on facts, the officers of DRI had wrongly roped appellant herein and Bhavin Panwala into the offence. The officers of DRI had created the whole case. They have wrongly harassed them, kept them illegally in custody and had also beaten up them very badly for which they had made a complaint vide their email dtd. 31/12/2021 sent by Shreeji Creation from shreejicreation18@yahoo.com to driaazu-gi@gov.in in which they had clearly stated that appellant herein and Bhavin Panwala were kept in custody at DRI office, Surat and were harassed and beaten up by the officers. A copy of said email dtd. 31/12/2021 is annexed hereto and marked as **ANNEXURE-F**.

11. As mentioned in the Show-cause Notice, the officers of DRI along with the officers of customs, under panchnama dtd. 30/12/2021; copy whereof is annexed hereto and marked as **ANNEXURE-G**, and running panchnama dtd. 31/12/2021 -01/01/2022; copy whereof is annexed hereto and marked as **ANNEXURE-H**, detained the container and had examined the same. The examination was done in presence of manager of CHA firm i.e. Shri Samir C. Parekh of M/s. Parekh's International. Appellant and Bhavin Panwala were informed by their CHA that on examination of the container, apart from CPU, mother board, fan of computer, DVD writer and power supply, etc. loose CPUs, protein powder and cosmetics were

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also found in the said container. However, the CHA never informed them that the DRI / customs believed that even the said computer cases including mother board, fan, DVD, power supply which were found in the container were old & used. Appellant & Bhavin Panwala were only informed that in addition to the goods ordered to be imported by them, the cosmetics and protein powder were also found in the container.

12. Therefore, immediately the appellant had contacted the foreign supplier and informed him about receipt of different goods than what was ordered. Therefore, even prior to the date of seizure memo, upon realizing mistake and knowing that the goods were detained by the customs, Green Forest had written letter dtd. 31/12/2021 Shreeji Creation. A perusal of the said letter would show that Green Forest had explained the reason for such mistake and also assured that the correct goods which were to be supplied to Shreeji Creation are lying intact in the godown of Green Forest. Along with the said letter, Green Forest had also sent photographs of the correct goods. Green Forest had assured that they will supply the correct goods. Green Forest had requested Shreeji Creation to kindly show said letter dtd. 31/12/2021 and also attached photographs and videos to the Customs department. Green Forest had also made it very clear that they are ready to bear all the expenses for re-export of the wrong goods being supplied by mistake, back to UAE. Green Forest had also clarified that they will compensate Shreeji Creation for all the loss caused because of delay and shipment mistake. They requested to kindly hurry up the matter as the goods in question are required to be redelivered to the correct buyer in the correct country. Said letter was sent to Shreeji Creation by Green Forest / their agent Mr. R.R. through email. In turn the appellant herein (Jay Panwala), as proprietor of Shreeji Creation had forwarded said email along with said letter and photographs to their CHA who had submitted the same before the customs. A copy of said letter dtd. 31/12/2021 of Green Forest along with said email dtd. 01/01/2022 of Mr. R.R., photographs of the goods belonging to Shreeji Creation which were lying at the godown of Green Forest and email dtd. 02/01/2022 sent by Shreeji Creation to the CHA are all collectively annexed hereto and marked as **ANNEXURE-I Colly**. Thus, it was requested to kindly give permission to re-export the goods back to UAE.

13. Shreeji Creation had also submitted letter dtd. 31/12/2021 to the Assistant Director, DRI Zonal Office, Ahmedabad. In the said letter, they had specifically mentioned that appellant & Bhavin Panwala had come to know that the shipment had other items besides computer cases; they were not aware of said goods and the goods other than computer cases does not belong to them; they had tried to talk with the shipper, as per their information, this container was mistakenly loaded by the shipper; the goods were to go some other destined country; staff made a mistake. Appellant had clarified that said other goods does not belong to them and they had requested to kindly help them to re-export the same. Said letter was sent by email. A copy of said letter dtd. 31/12/2021 along with RPAD slip evidencing that the same was sent on 03/01/2022 are collectively annexed hereto and marked as **ANNEXURE-J Colly**.

14. Green Forest had written letter dtd. 03/01/2022 to Assistant Director, Directorate of Revenue Intelligence, Zonal Office, Thaltej, Ahmedabad and

Assistant Commissioner of Customs, Customs House, ICD-Khodiyar, Gandhinagar, whereby Green Forest had requested to kindly permit them to re-export the goods shipped under Bill of Lading No. JCL13061JEAMD. Said letter dtd. 03/01/2022 was sent by them through email on 07/01/2022. A copy of the said email was also marked to Shreeji Creation. A copy of the said letter dtd. 03/01/2022 along with email dtd. 07/01/2022 are collectively annexed hereto and marked as **ANNEXURE-K Colly**. It may be observed that Green Forest had explained that they had received order for supply of computer cases (including mother board, fan, DVD, power supply) from Shreeji Creation. The goods were supplied under aforesaid Bill of Lading from "Jebel Ali" port at UAE. Green Forest had apologized for their mistake of supplying wrong consignment to Shreeji Creation. The reason for this mistake is also explained in the said letter. It was explained that two separate orders were received from China and India respectively. On account of death of close relative of the owner of Green Forest, he was not able to attend his office. The employee made a mistake by sending wrong goods to India in place of China. Green Forest had also mentioned that they had written aforesaid letter dtd. 31/12/2021 to Shreeji Creation requesting them to request the customs department for permitting them to re-export the goods. It was mentioned that the photographs of the correct goods lying in the godown of Green Forest were sent through E-mail dtd. 01/01/2022.

15. On the other hand, Shreeji Creation had also sent letter dtd. 03/01/2022 through registered post AD to the Assistant Director, DRI, Ahmedabad. Vide the said letter, in reference to previous letter dtd. 31/12/2021, all the facts were reiterated. It was contended that Shreeji Creation had placed order for supply of computer cases including mother boards, fans, DVDs, power supply. Said order was placed with Green Forest, UAE; proforma invoice dtd. 02/12/2021 was also issued for the said goods; upon confirmation of order, goods were shipped by the shipping line; goods were to be delivered at ICD, Ahmedabad; goods were shipped along with commercial list, packing list and bill of lading; Shreeji Creation had engaged Parekh Logistics as a CHA; the CHA was called on 28/12/2021; Shri Samir Parekh remained present when the container was opened; it was learnt that the shipper, instead of sending computer cases and other materials as mentioned in proforma invoice, shipped the wrong consignment; upon receipt of message from CHA, Shreeji Creation had immediately contacted Green Forest who had explained the aforesaid facts and informed that the employee had shipped the wrong shipment which was meant for being supplied to China; copy of letter dtd. 31/12/2021 of Green Forest as well as copy of email dtd. 01/01/2022 whereby the shipper had apologized their mistake and ensured to compensate expenses incurred for re-export of goods and inconvenience caused were enclosed with the said letter dtd. 03/01/2022 of Shreeji Creation. It was requested to allow re-export of the goods with such terms & conditions as deemed fit by the Assistant Director, DRI. It was clarified that Shreeji Creation was not concerned with the consignment since they had never ordered for the goods sent by the supplier; since the shipper had sought help for re-export of goods, Shreeji Creation had vide their letter dtd. 31/12/2021 requested to allow re-export on payment of appropriate fine and penalty as may be applicable. Shreeji Creation had relinquished the



title over the goods as no order for home consumption was passed till that date. Shreeji Creation also clearly mentioned that they would like to cooperate in the investigation and provide all the information as required by the DRI in the matter. It was clarified that only because of mistake of the shipper, investigation was initiated. A copy of said letter dtd. 03/01/2022 of Shreeji Creation along with track consignment report evidencing that said letter was sent through RPAD are collectively annexed hereto and marked as **ANNEXURE-L Colly**. Despite writing aforesaid letters, there was no response either from the DRI or from the Customs.

16. The appellant was in receipt of Show-cause Notice bearing F. No. VIII/10-53/DRI-AZU/O&A/HQ/2022-23 dtd. 21/06/2022 (DIN - 20220671MN000000F828); copy whereof is annexed hereto and marked as **ANNEXURE-M**. Vide the same, appellant was called upon to show cause as to why the seized goods i.e. 3387 boxes of shampoo and conditioner bearing brand name of 'Tresseemme', 308 boxes of protein powder of various brands, viz. Redcon, Nitraflex, Nutrabolt, No Explode, Scivation, 498 boxes of lotion and moisturizers namely, CETAPIL, CERA VE and Avoen which were not declared by M/s. Shreeji Creation, Surat in the Bill of Entry No. 6847198 dtd. 27/12/2021 and illegally imported into India by way of concealment and total market value of Rs.2,12,80,477/- imported in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dtd. 27/12/2021 became 'smuggled goods' as defined u/s. 2(39) of Customs Act, 1962, should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111(m) and 119 of Customs Act, 1962; seized goods i.e. 1623 corrugated boxes of Old & Used Computer CPU Cabinets installed with power supply, mother board, CD Drive, 46 boxes of laptops of various brands viz. Dell, Lenovo and HP, 42 boxes of monitors of various brands of Lenovo and HP and 17 boxes of unbranded computer desktop stands mis-declared amounting to Rs.17,59,380/- incorporated in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dtd. 27/12/2021 became 'Prohibited Goods' as defined u/s. 2(33) and 'Smuggled Goods' as defined u/s. 2(39) of the Customs Act, 1962 should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111(m) and 119 of Customs Act, 1962; the seized goods i.e. 524 pcs of Old & Used Computer parts from the past import of M/s. Shreeji Creation, Surat stored at shop-Ground Floor and Mezzanine Floor, 1, Ratnadeep Apartment, Police Station Road, Surat and 1829 pcs of Old & Used Computer parts from the past import of M/s. Shreeji Creation, Surat stored at Godown A-93, Green Park Light Industrial Estate, Udhna-Sachin Road, Unn, Surat, total valued at Rs.3,29,420/- become 'Prohibited Goods' as defined u/s. 2(33) and 'Smuggled Goods' as defined u/s. 2(39) of the Customs Act, 1962 should not be confiscated under the provisions of Section 111(d), 111(f), 111(i), 111(m) and 119 of Customs Act, 1962; penalty should not be imposed on him u/s. 112(a), 112(b) and 114AA of Customs Act, 1962. In the very same Show-cause Notice, apart from appellant herein, prepositions were also made against Shri Bhavin Rajeshbhai Panwala of Shreeji Creation, one Jayeshkumar Mamrawala and Shri Mohsin Yunus Jiya, partner of M/s. National Computers, Surat.



17. The appellant herein had contested the Show-cause Notice. He had filed preliminary reply to the same. It was prayed that cross examination of all those people whose statements are relied upon for the purpose of Show-cause Notice may be afforded to the appellant; Show-cause Notice was completely unreliable and baseless; the goods may not be confiscated and be released and the appellant may be allowed to reexport the same back to UAE; no penalty may be imposed on the appellant; and the Show-cause Notice may be quashed and set aside. A copy of said preliminary reply to the Show-cause Notice is annexed hereto and marked as **ANNEXURE-N**.
18. Personal hearing in the matter was held on 10/04/2023. Appellant was represented by advocate. All the submissions made vide aforesaid preliminary reply were reiterated.
19. Having regard to the submissions, it was expected that Ld Adjudicating Authority would be pleased to at least afford opportunity of cross examination of all the witnesses whose statements are heavily relied upon for the purpose of Show-cause Notice. However, the appellant is shocked and surprised to receive Order-in-Original No. 28/ADC/VM/O&A/2023-24 dtd. 02/05/2023 (hereinafter referred to as 'impugned order'); copy whereof is annexed and marked as **ANNEXURE-O**. Vide the same, the Ld Adjudicating Authority has confirmed the Show-cause Notice. Ordered absolute confiscation of all the goods and imposed penalty of Rs.60,00,000/- on appellant u/s. 112(a) & (b)(i) of Customs Act, 1962; another penalty of Rs.60,00,000/- u/s. 114AA of Customs Act, 1962.

Being aggrieved and dissatisfied by the impugned order, appellant prefers this appeal there against relying on following amongst other grounds which are raised without prejudice to each other.

GROUNDS OF APPEAL OF THE APPELLANT 1, VIZ. SHRI. JAY PANWALA

- The impugned order is illegal, improper and incorrect and deserves to be quashed and set aside because the same is arbitrary and unjust. It is against the provisions of law.
- B. It was submitted before the Adjudicating Authority that on perusal of the Show-cause Notice, it would be found that yet another panchnama dtd. 30/12/2021 which is drawn at the premises viz. Plot No. 103, 2nd Floor, SK-2 Industrial Estate, Nr. Sasyo Circle, Bamroli Road, Surat is relied upon. It is pertinent to note that absolutely no incriminating document or any goods evidencing that Shreeji Creation was engaged in any sort of illegal activity, smuggling activity, etc were found. No stock of protein powder, cosmetics, or any other such goods was found. Absolutely no stock of any imported goods was found in the said premises. A copy of said panchnama dtd. 30/12/2021 is annexed hereto and marked as **ANNEXURE-P**. Said submissions are not appreciated by the Adjudicating Authority. Therefore, impugned order deserves to be quashed and set aside.
- C. It was submitted before the Adjudicating Authority that the statement of appellant (Jay Panwala) as well as statement of Bhavin Rajeshbhai Panwala who is cousin brother and who looks after the day-today work of Shreeji Creation. Copies of both the statements, both dtd. 31/12/2021 are collectively annexed hereto and marked as **ANNEXURE-Q Colly**. On going

through the same, it may be found that both of them have fully cooperated in the matter. They have explained the pattern of business of Shreeji Creation. As far as the container detained and examined by the customs/DRI is concerned, it was explained that they have no idea about the goods found in the container. They had given details of consignments imported in past. It was specifically explained that they had placed orders for only computer cases including mother board, fan, DVD, power supply. It is pertinent to note that they had never seen the consignment of goods when the goods were examined by the customs/DRI. However, they were told that the computer cases found in the container were old & used. So they had explained that they had never placed orders for old & used computer parts. Appellant and Bhavin Panwala had correctly stated that they were doing a genuine business of importing 'computer cases including mother board, fan, DVD, power supply' only. They were not aware as to how despite placing orders of the correct goods and despite invoice and all other documents of the correct goods, wrong goods are sent by the foreign supplier. Bhavin Rajeshbhai Panwala had specifically informed that in past one of our consignments was inspected at Ahmedabad and everything was found to be absolutely genuine. He also gave details of the foreign agent Mr. R.R. along with his mobile number. Mr. R.R. is the agent sitting in UAE who used to arrange for supplying the goods. Ld Adjudicating Authority has failed to appreciate the said submissions. Therefore, impugned order deserves to be quashed and set aside.

- D. WITHOUT PREJUDICE TO THE ABOVE, IT WAS SUBMITTED BEFORE THE ADJUDICATING AUTHORITY THAT IT IS IMPORTANT TO NOTE THAT APPELLANT AND BHAVIN PANWALA HAVE NOT SEEN THE COMPUTER CASES BEING DETAINED /SEIZED BY THE CUSTOMS/DRI. WE DO NOT AGREE THAT THE SAME ARE OLD & USED AND NOT BRAND NEW. WHY WOULD A FOREIGN SUPPLIER SEND OLD & USED COMPUTER CASES? THE VERSION OF THE CUSTOMS/DRI THAT THERE WERE DUST AND DURT PARTICLES AND SCRATCHES ON THE SAME IS ALSO NOT ACCEPTABLE. IT IS SO BECAUSE, OBVIOUSLY NO SHOP IN INDIA WOULD SELL SUCH ITEMS. NO BUYER IN INDIA WOULD PURCHASE SUCH ITEMS. EVEN IF IT IS ASSUMED THAT IT IS OLD & USED, IT IS IMPOSSIBLE THAT IT WOULD APPEAR TO BE SO. IT IS IMPOSSIBLE THAT IT WOULD BE DIRTY AND FULL OF SCRATCHES. THEREFORE THE SAME IS COMPLETELY DENIED AS THE SAME COULD NOT BE TRUE. Since it is so, the question of EPR authorization or restriction for import would not arise. Said submissions are also not appreciated by the Adjudicating Authority. Therefore, impugned order deserves to be quashed and set aside.
- E. It was submitted before the Adjudicating Authority that on perusing the Show-cause Notice, it is also found that reliance is placed on statements dtd. 03/01/2022 and 06/01/2022 of Shri Samir Parekh, S/o. Shri Chandulal Nagdas Parekh, Manager of M/s. Parekh's International. Copies of both these statements are collectively annexed hereto and marked as **ANNEXURE-R Colly**. It is found that in his statements, Shri Samir Parekh of M/s. Parekh's International has made various incorrect contentions. He has given name of agent Jayesh Mamrawala. In this regard, it is clarified here that as the appellant was at the relevant time engaged in business of import of goods from various countries, Jayesh Mamrawala was his agent

who only helped him in procuring goods from foreign country. However, neither appellant nor Jayesh Mamrawla are/were involved in any kind of illegal activity. Further, Shri Samir Parekh in his statements has also wrongly confirmed that the computer parts imported under the consignment are old & used and therefore are restricted and relevant provisions of EPR provisions under E-Waste (Management) Rules, 2016 and Hazardous and other Waste (Management & Transboundary Movement) Rules, 2016 etc. are attracted. Thus, it is quite clear that because of his wrongful statements, appellant was adversely affected. **Therefore, appellant had requested Adjudicating Authority to kindly afford him cross examination of the said witness Shri Samir Parekh of M/s. Parekh's International.** However, Adjudicating Authority had not taken into consideration said submission. No cross examination was afforded. Despite that, in the impugned order, reliance is placed on the said statement of the said witness. Therefore, impugned order deserves to be quashed and set aside.

- F. It was submitted before the Adjudicating Authority that on going through the Show-cause Notice, it is found that reliance is placed on panchnama dtd. 03/01/2022 drawn at National Computers, 1, Ratnadeep Apartment, Police Station Road, Surat. It is important to note that statement of partner / proprietor of M/s. National Computers is not even recorded by the DRI/Customs. For that matter statement of any person of M/s. National Computers, whether employee or otherwise is not recorded. However, a perusal of panchnama dtd. 03/01/2022; copy whereof is annexed hereto and marked as **ANNEXURE-S**, it is found that the panchnama is drawn in presence of one Krunal R. Dudhwala, employee of National Computers. He is said to have stated that he had total 2352 (524 + 1829) computer cases of mixed typed which were purchased from Shreeji Creation. It is submitted that the said contention of Krunal Dudhwala is completely false. Appellant have not supplied the said goods to National Computers. A copy of ledger account pertaining to National Computers in the books of Shreeji Creation along with invoices under which computer cases are supplied by Shreeji Creation to M/s. National Computers are collectively annexed hereto and marked as **ANNEXURE-T Colly**. It is submitted that said contention of Krunal Dudhwala adversely affects my case. Therefore, **appellant had requested Adjudicating Authority to kindly afford him cross examination of the said witness Shri Krunal Dudhwala, employee of National Computers.** However, Adjudicating Authority failed to understand the said submissions. He has not afforded cross examination of the said person. He has relied upon the said panchnama in the impugned order. Therefore, impugned order deserves to be quashed and set aside.

- G. It was further submitted before the Adjudicating Authority that from the Show-cause Notice, it is further found that reliance is placed on opinion of Chartered Engineer. A copy of said opinion titled as opinion about valuation for estimated FOB value as a chartered engineer for the items/goods of Mr. Bhaskar G. Bhatt of B.G. Bhatt & Co., Vastrapur, Ahmedabad (Chartered Engineer) is annexed hereto and marked as **ANNEXURE-U**. A perusal of the same would show that on the 1st page itself it is wrongly titled as 'Opinion as a Chartered Engineer for **Food Items in packings** inspected at ICD Khodiyar, Dist. Gandhinagar'. It is mentioned on the 2nd page thereof that *"for forming my valuation opinion*



A/

on valuation of goods detained, I have taken base of description of goods mentioned for the items inspected by me. As per the panchnama perused by me for the detained consignment the names of the items in given cartons / sacks are mentioned in each entry of Annexure 'A' attached to this report." Thus, it is clear that the chartered engineer has taken the data only from the panchnama. This itself proves that the so-called opinion is completely biased opinion. He has further mentioned that "I visited local shops of Ahmedabad, from the rates received verbally as well as from public domain, I have considered rates available for my valuation." However, it is important to note that not even a single documentary evidence to support this contention is accompanied by the so-called opinion. It is impossible that somebody could get rates verbally. It is not known as to on which date and in which shops the chartered engineer had personally gone and inquired for the rates. It is also not known what the chartered engineers means by the word "public domain". On the very same page, it is mentioned that, **"various assumptions & presumptions were considered while drawing report"**. It is clearly mentioned below the said heading on Page No. 3 that "the details of the goods provided to the chartered engineer in hard copy / MS Excel sheets are considered by him to be true and correct." "He has believed the details of description of items / goods mentioned upon samples provided to him in Annexure 'A' to be true and correct." Thus, it is absolutely clear that the so-called opinion is a biased opinion and is totally dependent upon the spoon feeding made by DRI. On 4th page of the said opinion, it is mentioned that "to arrive at estimated fair value of the detained goods, I have visited local shops dealing in similar items. I also searched for such imported goods / items through internet / electronic media to the best possible extent. Where the identical quantity of the items was not available the value availed were interpolated or extrapolated and its value is estimated. The MRP value of public domain are adjusted for the margin of profit, taxes, incidental charges, bulk discount, etc. and considered in this opinion." Thus it is clear that the approach and analysis is totally vague and evasive. It is not clear that how many components were considered because it is mentioned that to adjust margin of profit, taxes, incidental charges, bulk discount, **etc.** are considered. Further, it is not mentioned as to which shops the chartered engineer has visited. No documentary evidence to that effect is placed on record. It is also not mentioned whether survey was made at retail outlets or wholesaler. The brand names of similar items claimed to have been verified are also not mentioned. A conclusion is drawn that:

- (1) The fair value of the items imported is in the vicinity of Rs.230.40 lacs mentioned in Annexure 'A' attached to the report for the consignment received by the Container No. MSCU7534196 and
- (2) The items of Annexure 'A' at Sr. Nos. 01 to 04 of the report are checked and found more than eight years old as a result considered as electronic waste items which needs to be destroyed amounting to Rs.17,59,380/- say Rs.17.59 lacs.

However, on going through the same, it is found that absolutely no provisions of valuation under the Customs Act are followed. The relevant circulars issued by the Central Board of Indirect Taxes is also not followed.



The entire report is completely vague and evasive. As the said report adversely affects my case, **Appellant had requested Adjudicating Authority to kindly afford him cross examination of the said witness Shri Bhaskar G. Bhatt of B.G. Bhatt & Co. (the Chartered Engineer). Adjudicating Authority had failed to appreciate the said submissions. He has not afforded cross examination of the said Chartered Engineer. On the other hand, the impugned order relies upon his certificate.** Therefore, impugned order deserves to be quashed and set aside.

- H. It was submitted before the Adjudicating Authority that the goods shipped in Container No. MSCCU7534196 were seized under seizure memo dated 07/01/2022 by the Inspector, ICD Khodiyar, Ahmedabad. The goods were seized from ICD Khodiyar Ahmedabad Customs Dry Port. Copy of said seizure memo dated 07/01/2022 is annexed herewith and marked as **ANNEXURE-V**. On perusing the said seizure memo, it would be found that in order to seize the goods, reliance is placed on aforesaid panchnama dtd. 30/12/2021 and 31/12/2021 as well as aforesaid report of Chartered Engineer. On that basis, it is wrongly concluded in the seizure memo dtd. 07/01/2022 that Shreeji Creation had resorted to smuggling. It is alleged that the old & used computer parts without necessary authorization from Director General of Foreign Trade required under para: 2.31 (1) (a) of Foreign Trade Policy, 2015-20 and allied Laws is imported by Shreeji Creation. It is mentioned therein that in presence of panchas to the aforesaid panchnama dtd. 30/12/2021 and 31/12/2021 - 01/01/2022 it was found that the computer cases, etc. were old & used, where having dirt and dust particles and were having scratch marks. As already submitted hereinabove, same cannot be true. **ALTHOUGH APPELLANT HAS PERSONALLY NOT SEEN THE GOODS AND NOBODY HAS SHOWN HIM THE SAME, HE BELIEVED AND UNDERSTOOD THAT NO FOREIGN SUPPLIER WOULD SEND COMPUTER CASES AND COMPUTER PARTS WITH DIRT AND DUST PARTICLES AND SCRATCH MARKS. SUCH GOODS WOULD NOT HAVE ANY VALUE AND IT WOULD NOT BE POSSIBLE TO SELL THE SAME IN THE MARKET. THIS VERSION ITSELF SHOWS THAT THE ENTIRE CASE OF THE CUSTOMS DEPARTMENT / DRI IS COMPLETELY FABRICATED.** As regard the Chartered Engineer, whose report is relied upon appellant has already requested Adjudicating Authority to afford him his cross examination as mentioned hereinabove. Since, even the panchas to panchnama dtd. 30/12/2021 and 31/12/2021-01/01/2022 viz. : (1) Shri Vishnu, E/79/F, Old Railway Colony, Kabir Chowk, Sabarmati, Ahmedabad and (2) Viha, H-6, Abugiri Society, Nakoda, B/h. Chandkheda Railway Station, Ahmedabad, are claimed to have contended in both these panchnamas that the computer cases and computer parts were old & used and were with dust particles and scratch marks, needless to mention that the version of those panchas adversely affects his case. Therefore, **appellant had requested Adjudicating Authority to kindly afford cross examination of both said panchas witnesses of the aforesaid two panchnamas. Same was also not taken into consideration by Adjudicating Authority. On one hand no cross examination of the panchas to the panchnama is granted. On the other hand, reliance is placed on the panchnama in the impugned order.** Therefore, impugned order deserves to be quashed and set aside.



1. It was submitted before the Adjudicating Authority that Shreeji Creation has also provided copy of the said Seizure Memo dtd. 07/01/2022 to Green Forest. In turn, Green Forest had written letter dtd. 17/01/2022 to the Assistant Commissioner of Customs, Ahmedabad and the Deputy Director, DRI, Ahmedabad. They had denied the charges mentioned in the seizure memo. They referred to previous letter dtd. 03/01/2022. Details of the goods wrongly consigned by mistake in place of correct goods were mentioned in said letter dtd. 17/01/2022. It was reiterated that it was an inadvertent error on the part of Green Forest. It was explained that the cosmetic items and protein powder which were wrongly consigned by mistake to India in place of China have a shelf-life. The shelf-life would expire. It was requested to kindly appreciate and allow re-export of the consignment. It was submitted that Green Forest has already incurred huge loss. The Green Forest had stated that they are ready to pay the penal charges, penalty amount, any other expense for the inadvertent mistake. It was explained that no prejudice would be caused to the revenue in case the consignment wrongly consigned to India is allowed to be re-exported. It was clarified that Green forest would abide by any condition as deem fit. Said letter dtd. 17/01/2022 was sent vide email dtd. 18/01/2022 and a copy of the said email was marked to Shreeji Creation. Copy of the said letter dtd. 17/01/2022 along with email dtd. 18/01/2022 of Green Forest are collectively annexed herewith and marked as **ANNEXURE-W Colly**. **Said submissions were not taken into consideration by Adjudicating Authority.** Therefore, impugned order deserves to be quashed and set aside.

2. It was submitted before the Adjudicating Authority that vide letter dtd. 31/01/2022, in furtherance to appellant's previous letters dtd. 31/12/2021 and 03/01/2022, appellant had once again reiterated before the Assistant Director, DRI, Ahmedabad that this is a case where Green Forest wrongly shipped the consignment to them and they had requested for re-export of goods. They were ready and willing to pay appropriate amount of redemption fine and penalty in accordance with law. It is not their fault at all and they had sought relinquishment of the title of goods. Appellant had also offered that they were ready to deposit appropriate amount of money to show their bona-fide. Appellant had explained that they are regular importers and they import several goods and not even a single instance was found in past where appellant have indulged in something illegal. Appellant is genuine importer and there is no illegality at all. Appellant had requested to kindly release the goods allow re-export and quantify the amount of fine of penalty if any. A copy of said letter dtd. 31/12/2021 is annexed hereto and marked as **ANNEXURE-X**. However, there was no response. On the contrary, the investigation by DRI had turned completely ugly. Statements of appellant herein (Jay Panwala) and Bhavin Panwala of Shreeji Creation were recorded on 09-10/02/2022 by the DRI. Copies of both these statements, both dtd. 09-10/02/2022 are collectively annexed hereto and marked as **ANNEXURE-Y Colly**. It was submitted that the Adjudicating Authority may kindly appreciate that after such a long course of investigation, the DRI had gathered all the required information. On the basis of appellant's personal information, the officers of DRI had prepared detailed statements in Question & Answer form and they had written all sort of incorrect facts which could suit their needs. They have mentioned such details which were never stated by them



[Handwritten signature]

(appellant & Bhavin Panwala) in their respective statements. Then they were forced to sign those statements. They were beaten up very badly, tortured, threatened of being arrested and after forcibly obtaining their signatures on their respective statements, they were also arrested. The Adjudicating Authority had miserably failed to appreciate the said submissions. Therefore, the impugned order deserves to be quashed and set aside.

- K. It was submitted before the Adjudicating Authority that on perusing appellant's statement dtd. 09-10/02/2022, it may be observed that apart from giving details of bank accounts of Shreeji Creation, and giving details of the business of Shreeji Creation that they were doing business of embroidery work, subsequently started importing fabrics and various other goods from various countries, then started importing computer parts, viz. computer cases, mother board, fan, DVD, etc. from Dubai, appellant is said to have stated various things which he had not even stated. They are that the panchnama drawn at National Computers, Surat was agreeable to him; the valuation report of the chartered engineer was agreeable to him; appellant was aware that computer cases imported by them were not new but old & used; appellant said to have agreed to the valuation and given some data of value; appellant was aware that EPR authorization from DGFT was required and the goods were restricted; Shreeji Creation has imported restricted goods; as per the panchnama undeclared cosmetic items and protein powder were found; the value of declared goods as per the valuation report was Rs.2.27 lacs and undeclared goods was Rs.2.28 Crores; the undeclared goods were subjected to the higher rate of duty; the complaint filed by appellant by email was not correct; appellant agreed that goods were mis-declared; they had committed smuggling, etc. Fact remains that the said statement was not recorded as per appellant's say. His signatures were obtained under pressure, threat and duress and therefore immediately, he had retracted his said statement by way of affidavit dtd. 14/02/2022. A copy of said affidavit dtd. 14/02/2022 is annexed hereto and marked as **ANNEXURE-Z**. Appellant had deposed in the said affidavit that he was served with summons dtd. 03/02/2022, he appeared before the DRI officer on 09/02/2022; the signatures were obtained on the statement under threat, compulsion, mental duress and against his free will and he retracted the said statement in entirety other than the actual facts. Appellant was forced to sign the statement as per desire of DRI officer. Coercive pressure tactics were used against appellant. Appellant was threatened that unless the statement in pre-typed form were not signed, he would be forced to face dire consequences. Appellant was not allowed to raise any objections. Appellant was kept under mental pressure and tension. Appellant was forced and threatened to confirm the statements as true and correct. He was not allowed to refer to any documents. Thus it is clear that said statement of appellant cannot be used against him. All these submissions were not appreciated by the Adjudicating Authority. Therefore, the impugned order deserves to be quashed and set aside.

- L. Likewise, it was submitted before the Adjudicating Authority that on perusing statement of Bhavin Rajeshbhai Panwala dtd. 09-10/02/2022, it may be observed that apart from giving details of Shreeji Creation he is also said to have stated very same identical details about the panchnama



drawn at National Computers, Surat was agreeable to him; the valuation report of the chartered engineer was agreeable to him; he was aware that computer cases imported by us were not new but old & used; he is said to have agreed to the valuation and given some data of value; he was aware that EPR authorization from DGFT was required and the goods were restricted; Shreeji Creation has imported restricted goods; as per the panchnama undeclared cosmetic items and protein powder were found; the value of declared goods as per the valuation report was Rs.2.27 lacs and undeclared goods was Rs.2.28 Crores; the undeclared goods were subjected to the higher rate of duty; the complaint filed by appellant by email was not correct; appellant agreed that goods were mis-declared; they had committed smuggling, etc. Fact remains that the said statement was not recorded as per Bhavin Panwala's say. His signatures were obtained under pressure, threat and duress and therefore immediately, he had retracted his said statement by way of affidavit dtd. 14/02/2022. A copy of said affidavit dtd. 14/02/2022 is annexed hereto and marked as **ANNEXURE-AA**. He has deposed in the said affidavit that he was served with summons dtd. 03/02/2022; he appeared before the DRI officer on 09/02/2022; the signatures were obtained on the statement under threat, compulsion, mental duress and against his free will and he retracted the said statement in entirety other than the actual facts; he was forced to sign the statement as per desire of DRI officer; Coercive pressure tactics were used against him; he was threatened that unless the statement in pre-typed form were not signed, he would be forced to face dire consequences. He was not allowed to raise any objections. He was kept under mental pressure and tension. He was forced and threatened to confirm the statements as true and correct. He was not allowed to refer to any documents. Thus, it is clear that Bhavin Panwala's said statement cannot be used against appellant or against Bhavin Panwala. Although these submissions were made in great detail before the Id Adjudicating Authority, he has failed to appreciate the same. Therefore, the impugned order deserves to be quashed and set aside.



- M. It was submitted before the Adjudicating Authority that as mentioned in the Show-cause Notice, another report dtd. 22/02/2022 of the very same chartered engineer is relied upon. According to said report, said chartered engineer along with his assistant had visited two different premises of National Computers and had examined the goods viz. 524 cases and 1829 cases respectively of computer found over there. A copy of said chartered engineer's report dtd. 22/02/2022 is annexed hereto and marked as **ANNEXURE-BB**. On perusing the same, it would be found that he is the very same chartered engineer who had given aforesaid report dtd. 06/01/2022 in regard to items inspected inside Warehouse No. 12 at ICD Khodiyar alleged to have been destuffed from Container No. MSCU7534196. Even in this report assumptions and presumptions are made. Importer's detail is wrongly mentioned in regard to all the goods as Shreeji Creation. This itself shows that the report was prepared as per the say of DRI officers and that no independent examination was done. As already submitted hereinabove, all the seized goods viz. 524 and 1829 cases were not supplied by Shreeji Creation. The conclusion drawn in the said report that the said goods were considered as e-waste and the value of these goods was Rs.3,29,420/- say Rs.3.29 lacs only is without any basis. The entire report is full of contradictions. On one hand it is

mentioned that "looking to the content and condition of the various old & used computer cases containing case, power supply, mother board without CPU, without RAM, without hard disk, couple of cases were noticed with CD ROM, however all of these cases were more than 4 years old. Looking to the condition these all computer cases total 2353 is considered by me as an electronic waste only. Which needs to be destroyed." Whereas on the other hand, it is mentioned that "for forming my valuation opinion on valuation of goods detained, I have taken base of description of goods mentioned for the items inspected by me...." Further it is mentioned that "I visited local shops of Ahmedabad, I have also relied upon the circular of customs 27/1998 as I received the information verbally from the representative Mr. Krunal R. Dudhwala, technician / employee of M/s. National Computers. The goods were detained as per panchnama dtd. 03-Jan-2022". This means there is a conflict in the opinion. On one hand, the chartered engineer says that the goods were more than four years old and therefore they are waste. Whereas on the other hand he says that he had found similar goods in the market in Ahmedabad which are being sold. This itself shows complete contradiction. The goods which required to be destroyed could not be sold in the open market. Thus, the entire report / certificate of chartered engineer is completely unreliable. Further, the report otherwise is also in doubt because according to the said report goods were inspected on 03/02/2022 whereas the report/opinion is prepared as late as 22/02/2022. Since the said **opinion of chartered engineer adversely affects my case, even in that view of the matter appellant may be afforded an opportunity of cross examining him.** Appellant had already requested Adjudicating Authority to be afforded for his cross examination as mentioned hereinabove (in reference with his opinion/certificate dtd. 06/01/2022). Appellant had reiterated the request of his cross examination in reference with his opinion / certificate dtd. 22/02/2022 as well. However, the said submissions were not taken into consideration by the Ld Adjudicating Authority. On one hand, no cross examination was granted and on the other hand reliance is placed on said opinion of chartered engineer. Therefore, the impugned order deserves to be quashed and set aside.

- N. It was further submitted before the Adjudicating Authority that the Show-cause Notice also places reliance on statement dtd. 09/05/2022 of Shri Shailesh Balaram Gelada, license holder of M/s. Parekh's International. As per his statement, he was shown panchnama dtd. 30/12/2021, 31/12/2021-01/01/2022 drawn at ICD Sabarmati and he has stated that said panchnama was drawn in the case of mis-declaration and smuggling of goods in container imported under Bill of Entry No. 6847198 dtd. 27/12/2021 and that under said panchnama old & used computer parts and protein powder and cosmetic items imported by Shreeji Creation which were not declared were detained by the Inspector of Customs, ICD Sabarmati. He made such a statement despite not knowing anything about the goods imported by Shreeji Creation and although he was not aware about the said panchnama and that when he received summons he asked Shri Samir Parekh and in turn Samir Parekh explained him. A copy of statement dtd. 09/05/2022 of Shri Shailesh Balaram Gelada is annexed hereto and marked as **ANNEXURE-CC**. Since his said statement adversely affected case, appellant **requested Adjudicating Authority to kindly afford him his cross examination.** On one hand, no cross examination

was granted and on the other hand reliance is placed on said statement of Shailesh Balram Gelada in the impugned Order-in-Original. Therefore, the impugned order deserves to be quashed and set aside.

- O. It was submitted before the Adjudicating Authority that the Show-cause Notice also places reliance on statement dtd. 19/05/2022 of one Jatin Chandulal Parekh of M/s. Parekh's International. A copy of said statement is annexed hereto and marked as **ANNEXURE-DD**. On perusal of the same, it may be found that he never dealt with any clients. Clearance work of Shreeji Creation was looked after by his brother Samir Parekh. He was shown panchnama dtd. 30/12/2021 and running panchnama dtd. 31/12/2021-01/01/2022. He only stated that Shri Samir Parekh spoke to him about the same. Although in the whole statement he has simply stated that he was not at all aware about goods imported by Shreeji Creation or the business of Shreeji Creation, etc. somehow in answer to one question he says that he agrees that the goods imported vide Bill of Entry No. 6847198 dtd. 27/12/2021 i.e. old & used computer parts, falling under Customs Tariff Heading No. 84735000 of Customs Tariff Act, 1975, falls under the category of restricted import as per Foreign Trade Policy as per Notification No. 35(RE-2012)/2009-2014 dtd. 28/02/2013, authorization from DGFT is required for the import of old & used computer parts and compliance with relevant provisions are also required. He also agrees that the goods under said bill of entry are liable for confiscation u/s. 111 of Customs Act, 1962. Appellant failed to understand that as to how he would be even capable enough to agree with something he is not aware about. As his statement adversely affects appellant's case, appellant **requested Adjudicating Authority to kindly afford him cross examination of Shri Jatin Chandulal Parekh of M/s. Parekh's International**. On one hand, no cross examination was granted and on the other hand reliance is placed on said statement of Jatin Chandulal Parekh in the impugned Order-in-Original. Therefore, the impugned order deserves to be quashed and set aside.

- P. It was further submitted before the Adjudicating Authority that the Show-cause Notice further places reliance on statement of Shri Parmar Ranjit, Proprietor of M/s. Dhruvesh Logistics, Ahmedabad. He states that he has transported seven (07) containers for Shreeji Creation to Surat and two (02) containers to Aslali from ICD, Khodiyar in the month of November 2021. He clearly states that he never checked the goods physically, all the containers transported by him were sealed. The details of goods declared can be referred from the e-way bill produced by him. A copy of statement of Shri Parmar Ranjit dtd. 20/05/2022 is annexed hereto and marked as **ANNEXURE-EE**. It is pertinent to note that he has not made any adverse deposition which would even remotely support the Show-cause Notice. His statement also supports appellant's case that Shreeji Creation has never indulged in any kind of any illegal activity and that no smuggling activity was carried out at all. Said submissions are not taken into consideration by Adjudicating Authority. Therefore, impugned order deserves to be quashed and set aside.

- Q. It was submitted before the Adjudicating Authority that the last statement relied upon in the Show-cause Notice is the statement of Shri Rameshbhai Patel, Manager of M/s. Pinacle Marine Services. A copy of said statement

dtd. 20/05/2022 is annexed hereto and marked as **ANNEXURE-FF**. According to his statement, his company M/s. Pinnacle Marine is involved in the business of providing allotment of container, etc. He knows Samir Parekh of Shreeji Creation since last three to four years. He was shown the panchnama dtd, 31/12/2021-01/01/2022 and statement of Shri Samir Parekh. He states that he does not know Shreeji Creation. He was not dealing in transport service. He only spoke to Ranjit Javansingh Parmar of M/s. Dhruvesh Logistics to provide service of transportation to Samir Parekh. He has stated that he had dealt with total nine (09) containers of Shreeji Creation. The containers were despatched to Surat and Aslali and Samir Parekh told him about which container would be sent to which place. However, he states that Shri Samir Parekh gave him mobile number of one Jayeshbhai which was forwarded by him to the driver Shri Ranjit Javansingh Parmar. He clearly says that he has never met any person of Shreeji Creation or Jayeshbhai. However, he has stated that he had sent message regarding vehicle number, name and mobile number of driver to Jayeshbhai. He says that he does not know Mohsinbhai of National Computers. He says that Shri Samir Parekh told him about the case booked by DRI against Shreeji Creation. It seems that said Rameshbhai Patel has made some mistake. Appellant **requested Adjudicating Authority to kindly afford him cross examination of Shri Rameshbhai Patel, S/o. Bhavanbhai, Manager of M/s. Pinnacle Marine Service, Gandhinagar. Same was also not taken into consideration by Adjudicating Authority.** On one hand, no cross examination was granted and on the other hand reliance is placed on said statement of Shri Rameshbhai Patel. Therefore, the impugned order deserves to be quashed and set aside.

R. Adjudicating Authority failed to appreciate that the Show-cause Notice places reliance on various unreliable documents as mentioned hereinabove. Therefore, the entire Show-cause Notice deserves to be quashed and set aside. The Adjudicating Authority ought to have observed that the allegations made against appellant in the entire Show-cause Notice are not supported by any concrete evidences. The aforesaid statements, panchnama and valuation report / opinion of chartered engineer are completely unreliable. Therefore, in order to reveal the truth, appellant had already requested Adjudicating Authority to kindly afford him opportunity of cross examination of all the witnesses as mentioned hereinabove. It was submitted before the Adjudicating Authority that in the facts & circumstances of the case, in order to reveal the truth, it becomes absolutely necessary to afford cross examination of all the aforesaid people as mentioned hereinabove. Only then principles of natural justice could be followed. It was therefore requested before the Adjudicating Authority that first Adjudicating Authority may kindly afford cross examination as aforesaid. Once the said principles of natural justice are complied, appellant had craved liberty to make further detailed/final submissions in the matter. Appellant had taken this opportunity to invite Adjudicating Authority's kind attention to following judgements in support of the submission that in such kind of a matter, Adjudicating Authority must afford cross examination as requested:

- a. 2002(143) ELT 21(SC)
- b. 1991(56) ELT 29 (Bom.)

- c. 2006(193) ELT 385 (Bom.)
- d. 1998(97) ELT 42, (Ker.)
- e. 2008 (222) ELT 395 (Tri.-Calcutta)

As a matter of fact, in response to the Show-cause Notice, only preliminary reply making all the aforesaid submissions was submitted. The Adjudicating Authority completely failed to appreciate the said preliminary reply. Therefore, the impugned Order-in-Original deserves to be quashed and set aside.

It was specifically submitted in the said preliminary reply that appellant shall make a detailed final submission only after he was afforded cross examination of following witnesses / persons:

- a. Shri Samir Parekh of M/s. Parekh's International.
- b. Shri Krunal Dudhwala, employee of National Computers.
- c. Shri Bhaskar G. Bhatt of B.G. Bhatt & Co. (the Chartered Engineer).
- d. Panchas to panchnama dtd. 30/12/2021 and 31/12/2021-01/01/2022 viz. : (1) Shri Vishnu (2) Viha.
- e. Shri Shailesh Balaram Gelada, license holder of M/s. Parekh's International
- f. Jatin Chandulal Parekh of M/s. Parekh's International
- g. Shri Rameshbhai Patel, S/o. Bhavanbhai, Manager of M/s. Piracle Marine Service, Gandhinagar.



However, the Adjudicating Authority had miserably failed to appreciate the same. He had before passing impugned Order-in-Original, not afforded cross examination of any of the aforesaid persons, not granted any opportunity of making final submission in the matter. Thus, the impugned order even otherwise is passed in gross violation of principles of natural justice. Therefore, the same deserves to be quashed and set aside.

- S. Adjudicating Authority had failed to consider that this is a case where Shreeji Creation is seeking Re-Export of goods which are inadvertently sent by Green Forest in place of the correct goods ordered by Shreeji Creation. Appellant had invited Adjudicating Authority's kind attention to Circular No. 4/20015-Cus., dated 20/01/2015 issued from F. No. 450/74/2014-Cus-IV by the Central Board of Excise and Customs, New Delhi. For the sake of ready reference, said circular is annexed hereto and marked as **ANNEXURE-GG**. On perusing the same, Adjudicating Authority ought to have appreciated that the Board has clarified that permission for re-export of goods that are shipped contrary to the instruction of the importer has to be granted by the Commissioner of Customs. Thus, all that the appellant requested before the Adjudicating Authority was to kindly allow Shreeji Creation to re-export the goods as the same were wrongly sent by Green Forest by way of bona-fide mistake at their end. Same is clearly evident from all the documents mentioned hereinabove. However, the Adjudicating Authority had miserably failed to consider the

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said submissions. Therefore, the impugned order deserves to be quashed and set aside.

22. As a precondition of filing this appeal, the appellant has deposited Rs.9,00,000/- (Rs.1,20,00,000/- x 7.5%). A copy of challan is annexed herewith and marked as **ANNEXURE-HH**. Therefore, it is requested to kindly take up the matter for hearing and oblige.

Submissions of the Appellant 2, viz. Shri Bhavin Rajeshbhai Panwala of M/s. Shreeji Creation, Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat:

1. Mr. Bhavin Rajeshbhai Panwala (hereinafter referred to as 'appellant') was in receipt of Show-cause Notice F. No. VIII/10-53/DRI-AZU/O&A/HQ/2022-23 dtd. 21/06/2022; copy whereof is annexed herewith and marked as **ANNEXURE-A**, calling upon him as well as few other co-noticees to show cause to Adjudicating Authority as to why seized goods i.e. 3387 boxes of shampoo and container bearing brand name of "Tressemmé", 308 boxes of protein powder of various brands, viz Redcon, Nitraflex, Nutrabolt, No Explode, Scivation, 498 boxes of lotion and moisturizers, namely, CETAPIL, CERA VE and AVEEN which were not declared by M/s. Shreeji Creation, Surat in the Bill of Entry No. 6847198 dtd. 27/12/2021 and illegally imported into India by way of concealment, having total market value at Rs.2,12,80,477/- imported in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dtd. 27/12/2021 became "Smuggled Goods" as defined u/s. 2(39) of the Customs Act, 1962 should not be confiscated under the provisions of section 111(d), 111(f), 111(i), 111(m) and 119 of the Customs Act, 1962; seized goods i.e. 1623 corrugated boxes of Old & Used Computer CPU cabinets installed with power supply, mother board, CD Drive, 46 boxes of laptops of various brands viz Dell, Lenovo & HP, 42 boxes of monitors of various brands of Lenovo and HP and 17 boxes of unbranded computer, desktop stands mis-declared amounting to Rs.17,59,380/- imported in the name of M/s. Shreeji Creation under Bill of Entry No.6847198 dtd. 27/12/2021 become "Prohibited Goods" as defined u/s. 2(33) and "Smuggled Goods" as defined u/s. 2(39) of Customs Act, 1962 should not be confiscated under the provisions of section 111(d), 111(f), 111(i), 111(m) and 119 of the Customs Act, 1962; seized goods, i.e. 524 pieces of old & used computer parts from the past import of M/s. Shreeji Creation, Surat stored at Shop-Ground Floor, and Mezzanine Floor, 1, Ratnadeep Apartment, Police Station Road, Surat and 1829 pcs of apartment, Police Station Road, Surat and 1829 pcs of old & used computer parts from the past import of M/s. Shreeji Creation, Surat stored at the godown, A-93, Green Park Light Industrial Estate, Udhna-Sachin Road, Unn, Surat total valued at Rs.3,29,420/- become "Prohibited Goods" as defined u/s. 2(33) and "Smuggled Goods" as defined u/s. 2(30) of the Customs Act, 1962 should not be confiscated under the provisions of section 111(d), 111(f), 111(i), 111(m) and 119 of the Customs Act, 1962; penalty should not be imposed upon him amongst others u/s. 112(a), 112(b) and 114AA of the Customs Act, 1962.



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2. As appellant was not the main noticee but main noticee was his brother Mr. Jay Panwala who is a proprietor of M/s. Shreeji Creation, Surat and since said Jay Panwala had submitted a detailed preliminary reply dtd. 14/12/2022 in response to the very same Show-cause Notice before the Adjudicating Authority and since the submissions made in the said preliminary reply of Jay Panwala were good enough for the purpose of the appellant herein, vide a preliminary reply dtd. 14/12/2022, the appellant herein had simply adopted all the submissions made by Mr. Jay Panwala in his said preliminary reply dtd. 14/12/2022. It was particularly mentioned in the preliminary reply of the appellant to kindly consider all the submissions made by Jay Panwala in his preliminary reply dtd. 14/12/2022 as submissions of appellant herein (Bhavin Panwala) as well.
3. The appellant had denied all the allegations levelled against him. It was most respectfully submitted that the Show-cause Notice is completely illegal, improper and incorrect. The allegations are completely false. Appellant has not committed any of the alleged offences. No penalty could be imposed on him. Appellant had not indulged in any smuggling activity. The goods seized are required to be returned back and appellant may be allowed to re-export the same as a wrong consignment was delivered by the foreign supplier by mistake. No redemption fine may be imposed. The Show-cause Notice deserves to be quashed and set aside. A copy of said preliminary reply dtd. 14/12/2022 of the appellant herein which was submitted before the Adjudicating Authority is annexed herewith and marked as **ANNEXURE-B**.
4. Although, aforesaid submissions were made in detail before the Adjudicating Authority, and that although detailed submissions were made vide preliminary reply of Jay Panwala, particularly requesting for affording cross examination of various people as mentioned therein which request was also adopted by the appellant herein, the Adjudicating Authority had arbitrarily, illegally, unlawfully and in gross violation of principles of natural justice, passed impugned Order-in-Original bearing No. 28/ADC/VM/O&A/2023-24 dtd. 02/05/2023; copy whereof is annexed hereto and marked as **ANNEXURE-C** (hereinafter referred to as 'impugned order'), whereby the Ld Adjudicating Authority had not only ordered absolute confiscation of various goods as mentioned therein but apart from imposing penalties on several other noticees, also imposed a penalty of Rs.60,00,000/- on the appellant herein u/s. 112(a) & (b)(i) of Customs Act, 1962 and a penalty of Rs.60,00,000/- on the appellant herein u/s. 114AA of the Customs Act, 1962.

The appellant herein is aggrieved and dissatisfied by the impugned Order-in-Original to the aforesaid extent. Therefore, he prefers this appeal replying on following amongst other grounds:

GROUND OF APPEAL OF APPELLANT 2, VIZ. SHRI BHAVIN RAJESHBHAI PANWALA

- A. It is submitted that a perusal of the Show-cause Notice as well as impugned Order-in-Original would show that identical allegations are

made against appellant and his brother Shri Jay Panwala who is Proprietor of M/s. Shreeji Creation. Appellant's brother Shri Jay Panwala has already filed a detailed appeal whereby he has made detailed submissions. In light of said detailed submissions made in his said appeal of Jay Panwala, he has requested Your Honour to kindly quash and set aside the impugned Order-in-Original.

- B. It is submitted that as the allegations are identical, the preliminary reply filed by Shri Jay Panwala before the Adjudicating Authority also cover the case of the appellant herein. Therefore, even before the Adjudicating Authority, the appellant had adopted all the submissions made by Jay Panwala in his said preliminary reply dtd. 14/12/2022.
- C. A perusal of the appeal filed by Jay Panwala against the very same impugned order would show that the submissions made therein are not only good enough to set aside the impugned order insofar as Jay Panwala is concerned, but the same is good enough to set aside the impugned order insofar as appellant herein is concerned. Therefore, with a view to not burden this appeal by repeating all the submissions made by Shri Jay Panwala, appellant request to kindly treat all the submissions made by Shri Jay Panwala in his said appeal as incorporated with reference herein. All the submissions made by him may also be considered for the purpose of this appeal. Appellant hereby adopt each and every submission made by his brother Shri Jay Panwala in his said appeal. Appellant is doing so in order to save very precious time of Your Honour. If he will repeat all the said submissions in this appeal, Your Honour would be unnecessarily burden with some work which could be avoided.



In light of all the submissions made by Shri Jay Panwala in his appeal which is adopted by appellant as mentioned hereinabove, upon considering the said submissions as appellant's submissions, Your Honour may kindly observe and appreciate that the Show-cause Notice placed reliance on various unreliable documents as mentioned therein. Therefore, the entire Show-cause Notice deserved to be quashed and set aside. It may be observed that the allegations made against appellant in the entire Show-cause Notice are not supported by any concrete evidences. The statements, panchnama and valuation report / opinion of chartered engineer are completely unreliable. Therefore, in order to reveal the truth, appellant had requested Ld Adjudicating Authority to kindly afford opportunity of cross examination of all the witnesses as mentioned in the appeal of Jay Panwala. However, the Adjudicating Authority had miserably failed to consider the said submissions. The impugned order is passed in gross violation of principles of natural justice without affording cross examination, without affording opportunity to make detailed final submissions in the matter and without considering any of the submissions made in the preliminary reply.

- E. It is most respectfully submitted that in the facts & circumstances of the case, in order to reveal the truth, it was absolutely necessary for the Adjudicating Authority to afford appellant herein cross examination of all the witnesses / persons as mentioned in reply dtd. 14/12/2022 of Shri Jay Panwala which appellant had adopted in his interim reply dtd. 14/12/2022 as mentioned hereinabove. Only then principles of natural justice could be followed. It was requested before the Adjudicating

Authority that first, Adjudicating Authority may kindly afford cross examination as aforesaid. Once the said principles of natural justice are complied, appellant had craved liberty to make further detailed/final submissions in the matter. Various judgements mentioned hereinbelow were cited before the Adjudicating Authority in support of the submission that in such kind of a matter, Adjudicating Authority must afford cross examination as requested:

- a. 2002(143) ELT 21(SC)
- b. 1991(56) ELT 29 (Bom.)
- c. 2006(193) ELT 385 (Bom.)
- d. 1998(97) ELT 42, (Ker.)
- e. 2008 (222) ELT 395 (Tri.-Calcutta)

F. It was specifically clarified before the Adjudicating Authority that the interim reply submitted by the appellant was just a preliminary submission. Appellant shall make a detailed final submission only after appellant would be afforded cross examination of following witnesses / persons:

- a. Shri Samir Parekh of M/s. Parekh's International.
- b. Shri Krunal Dudhwala, employee of National Computers.
- c. Shri Bhaskar G. Bhatt of B.G. Bhatt & Co. (the Chartered Engineer).
- d. Panchas to panchnama dtd. 30/12/2021 and 31/12/2021-01/01/2022 viz. : (1) Shri Vishnu (2) Viha,
- e. Shri Shailesh Balaram Gelada, license holder of M/s. Parekh's International
- f. Jatin Chandulal Parekh of M/s. Parekh's International
- g. Shri Rameshbhai Patel, S/o. Bhavanbhai, Manager of M/s. Pinnacle Marine Service, Gandhinagar.

G. Appellant had also requested the Adjudicating Authority to kindly consider that this is a case where Shreeji Creation is seeking Re-Export of goods which are inadvertently sent by Green Forest in place of the correct goods ordered by Shreeji Creation. Appellant had invited Adjudicating Authority's kind attention to Circular No. 4/20015-Cus., dated 20/01/2015 issued from F. No. 450/74/2014-Cus IV by the Central Board of Excise and Customs, New Delhi. On perusing the same it may be found that the Board has clarified that permission for re-export of goods that are shipped contrary to the instruction of the importer has to be granted by the Commissioner of Customs. Thus, all that I am requesting is that, Your Honour may kindly allow Shreeji Creation to kindly re-export the goods as the same are wrongly sent by Green Forest by way of bona-fide mistake at their end. Same is clearly evident from all the documents mentioned in reply dtd. 14/12/2022 of Shri Jay Panwala, which submissions appellant had adopted in his preliminary reply as mentioned hereinabove.



- H. Although aforesaid submissions were made in detail before the Adjudicating Authority, he had failed to consider any of the said submissions. He has arbitrarily and illegally passed impugned order in gross violation of principles of natural justice.

Submissions and Grounds of Appeal of the Appellant 3, viz. Shri Mohsin Yunus Jiya, Partner of M/s National Computer, Shop No.1, Ratna Deep Appt., Near Nanpura Police Chowki Street, Surat Gujarat

The appellant has filed the present appeal on the following grounds which are taken independent of and without prejudice to each other.

1. The appellant says and submit that the impugned order is passed in violation of the principles of natural justice inasmuch as specific request made by the appellant for supply of all the Relied Upon Documents and cross-examination of the persons associated with M/s. Shreeji Creation have been brushed aside without cogent reasons. It is a settled law that no statement can be used against a third party without affording opportunity of cross-examination to the said party. In this case, statements of various persons associated with M/s. Shreeji Creation, who had filed Bills of Entry with Customs have been relied to presume that the appellant was involved in importing the incriminating goods whereas it is a matter of record that the appellant had purchased computer cases from not only M/s. Shreeji Creation but other domestic sellers also. Similarly, the Chartered Engineer's competence is required to be examined given the fact that he may have the required competence to give opinion about computers. Moreover, the impugned order is a non-speaking order inasmuch as the documentary evidence produced by appellant in the form of purchase invoices of other local sellers, stock statement showing stock of computers that were purchased from other sellers (sellers other than M/s. Shreeji Creation), etc. have been ignored without giving any findings on the same. Therefore, the appellant would say and submit that the impugned order is violative of the principles of natural justice as well as a non-speaking order and hence, the same is liable to be quashed and set aside.
2. The appellant says and submit that there is no evidence to link the appellant with the undeclared goods, namely, shampoo, etc. that were found from the container imported by M/s. Shreeji Creation. None of the persons associated with M/s. Shreeji Creation, including their Proprietor have named appellant as responsible for placing any order with the overseas supplier for supply of undeclared shampoo, etc. Moreover, the appellant is engaged in trading of computer cases and search of the premises of appellant by the officers have also not yielded any evidence to show that appellant was directly or indirectly responsible for presence of these items in the container imported by M/s. Shreeji Creation.
3. The appellant says and submit that there is no rebuttal of the submission made by the appellant that out of 2353 pieces of computer cases found from the premises of appellant, only 733 were purchased by appellant from M/s. Shreeji Creation. Assuming without admitting that the said 733 pieces were supplied by M/s. Shreeji Creation from their stock of imported goods, it is not the case of department that the same were cleared without



assessment and examination. Hence, the impugned order would tantamount to reversing the assessment and examination on the basis of a report given by Chartered Engineer, who, according to appellant did not even visit the premise of appellant. In these facts and circumstances, the appellant hereby says and submit that he may be permitted to cross-examine Chartered Engineer.

4. The appellant therefore would say and submit that Ld. Adjudicating Authority has not cited any specific evidence to link the appellant with surreptitious import of old & used computers, shampoo, etc. Despite this, he has imposed penalty on appellant under Section 112 (a) & (b), 114AA and Section 117 of Customs Act, 1962, which is not tenable in the eyes of law.
5. The appellant also says and submit that the appellant had explained his inability to remain present when summoned and hence, it would not be justified to draw any adverse inference against him for imposing penalty under Section 117 of Customs Act, 1962.

3. PERSONAL HEARING:

By following the principles of natural justice, Personal Hearing was granted to the Appellants. Shri. Devashish K. Trivedi, Advocate, appeared on behalf of the Appellant 1 Shri. Jay Panwala (Proprietor of M/s. Shreeji Creation) and the Appellant 2 Shri. Bhavin Panwala on 15.05.2025. He reiterated the submissions made at the time of filing of appeal. Shri. Vikas Mehta, Consultant, appeared on behalf of the Appellant 3 Shri. Mohsin Yunus Jiya on 20.05.2025. He reiterated the submissions made at the time of filing of appeal. They requested to drop the impugned order dated 02.05.2023 in its entirety.

4. DISCUSSION AND FINDINGS:

4.1 I have carefully gone through the case records, show cause notice and corresponding order passed by the adjudicating authority and the defense put forth by the Appellants in their appeal.

4.2 I find that the condition of pre-deposit stands fulfilled in respect of the above referred appeal, as the appellants has deposited the pre-deposit of 7.5% as prescribed under the Act.

4.3 That as the appeals have been filed by the instant Appellant 1, 2 and 3, I restrict myself to the instant Appellants i.e. **Shri Jay Panwala, Proprietor of M/s. Shreeji Creation, Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat, Shri Bhavin Rajeshbhai Panwala of M/s. Shreeji Creation, Plot No.103, S. K. Industrial Society-2, Near Sosyo Circle, Bamroli Road, Surat, Gujarat and Shri Mohsin Yunus Jiya, Partner of M/s National Computer, Shop No.1, Ratna Deep Appt., Near Nanpura Police Chowki Street, Surat, Gujarat only.**

4.4 That on going through the said material, I find that there are two issues required to be decided in the instant appeal which are as follows:

- a) Whether the seized goods i.e. 3387 boxes of shampoo and conditioner bearing brand name "Tresseemme", 308 boxes of Protein Powder of various brands, viz., Redcon, Nitraflex, Nutraboit, No Explode, Scivation, 498 boxes of Lotion and Moisturisers, namely, CETAPIL, CERA VE and Aveen which were illegally imported into India by way of concealment and not declared by M/s Shreeji Creation, Surat in the Bill of Entry No.6847198 dated 27.12.2021 and, having total market value at Rs. 2,12,80,477/-, are liable to confiscation under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962;
- b) Whether the seized goods, i.e. 1623 corrugated boxes of Old and Used Computer CPU cabinets installed with Power supply, Motherboard, CD drive, 46 boxes of Laptops of various brands, viz., Dell, Lenovo & HP, 42 boxes of Monitors of various brands of Lenovo and HP and 17 boxes of unbranded Computer Desktop Stands mis-declared amounting Rs.17,59,380/- imported in the name of M/s. Shreeji Creation under Bill of Entry No. 6847198 dated 27.12.2021 are liable to confiscation under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962;
- c) Whether the seized goods, i.e. 524 pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at Shop-Ground Floor & Mezzanine floor, 1, Ratnadeep Apartment, Police Station Road, Surat and 1829 Pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at the Godown, A-93, Green Park Light Industrial Estate, Udhna-Sachin Road Unn, Surat total valued at Rs. 3,29,420/- are liable to confiscation under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962;
- d) Whether the penalties are imposable upon Shri Jay Panwala, Proprietor of M/s Shreeji Creation, Surat, Shri Bhavin Rajeshbhai Panwala of M/s Shreeji Creation, Surat and Shri Mohshin Yunus Jiya, Partner of M/s National Computer, Surat under Section 112 (a), 112 (b) and 114AA of the Customs Act, 1962;
- e) Whether the penalty is imposable upon Shri Mohshin Yunus Jiya, Partner of M/s National Computer, Surat under Section 117 of the Customs Act, 1962;



4.5 Firstly, I take up the issue of confiscation of seized goods as mentioned under the provisions of Section 111(d), 111(f), 111(i), 111 (m) & 119 of the Customs Act, 1962. On analysing the evidence so available on record, I find that Shri Jay Panwala and Shri Bhavin Rajeshbhai Panwala (who are cousin brothers) and Shri Mohsin Yunus Jiya of M/s National Computers hatched the conspiracy of smuggling of Old and Used Computer, cases, old and used Laptop, Monitor of different brands i.e. Dell, HP, Lenovo etc., un-branded PC stands, Shampoo, conditioner, Body Lotion and protein powder of different brands by way of concealment in computer cases. Subsequently, when the smuggled goods were detected /intercepted by DRI, they create theory of change of goods at supplier's end. Hence, I find that investigation has very clearly established the criminal

nexus between Panwala brothers and Shri Mohsin Yunus Jiya of M/s National Computers for smuggling of seized goods i.e. (i) 3387 boxes of shampoo and conditioner bearing brand name of 'Tressemmé', 308 boxes of Protein Powder of various brands, viz., Redcon, Nitrallex, Nutrabolt, No Explode, Scivation, 498 boxes of Lotion and Moisturisers, namely, CETAPIL, CERAVE and Aveen, 1623 corrugated boxes of Old and Used Computer CPU cabinets installed with Power supply, Motherboard, CD drive, 46 boxes of Laptops of various brands, viz., Dell, lenovo & HP, 42 boxes of Monitors of various brands of Lenovo and HP and 17 boxes of unbranded Computer Desktop Stands by way of concealment in guise of computer cases under Bill of Entry No. 6847198 dated 27.12.2021 and (ii) seized goods, i.e. 524 pcs of old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at Shop-Ground Floor & Mezzanine floor, 1, Ratnadeep Apartment, Police Station Road, Surat and 1829 Pcs of apartment, Police Station Road, Surat and 1829 Pcs of old and used computer parts from the past imports of M/s Shreeji Creation, Surat stored at the Godown, A-93, Green Park Light Industrial Estate, Udhna-Sachin Road Unn, Surat.

4.6 In their defense submission, three noticees namely Shri. Jay Panwala, Bhavin Panwala and Mohsin Yunus Jiya have claimed innocence by claiming that it was supplier fault; that there is no documentary evidence specifically against them. As regards the contention of the appellants that they had no prior knowledge such sent by the supplier, I find that in such situation the appellant should have sought 'first check' of the consignment as prescribed under the second proviso to Section 46 of the Customs Act, 1962. The said provisions are as under:

"SECTION 46. Entry of goods on importation. — (1) *The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be 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 electronically on the customs automated system, allow an entry to be presented in any other manner.*

Provided further that *if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same."*

In the present case, the appellant has not sought 'first check' of the consignment and subscribed to a declaration regarding correctness of the information given by them in the Bill of Entry. Therefore, this contention of the appellants is not acceptable.

4.7 Further, the noticees have also sought to retract their statements recorded under Section 108 of the Customs Act, 1962. In this regard, I find that this is a clear case of smuggling of seized goods Shampoo, Conditioner, Protein Powder,



Lotion and Moisturisers of various brands, Old and Used Computer CPU cabinets installed with Power supply, Motherboard, CD drive, Laptops and Monitors of various brands and unbranded Computer Desktop Stands by way of concealment in guise of computer cases under Bill of Entry No. 6847198 dated 27.12.2021 and old and used computer parts from the past import of M/s Shreeji Creation, Surat stored at different location at Surat into India in a clandestine manner, therefore no one can expect any specific documentary evidence which would have been created by the persons involved. In such a situation, confessional and corroborative statements recorded under Section 108 of the Customs Act, 1962, are the only tools in the hands of the department to establish the role of the offenders. These statements recorded under Section 108 of the Customs Act, 1962, are in the nature of primary evidence and culpability of the concerned persons can be based on the same. Moreover, the statements so recorded under Section 108 of the Customs Act, 1962 are valid evidence and by mere retraction that too at a later stage, the original statement does not lose its evidentiary value. The appellants Shri Jay Panwala and Shri Bhavin Panwala in their defence reply stated threatening/harassment by DRI officers. I find that there is no merit in his narration. The allegation made by the noticee at the stage of adjudication that the statements had been obtained forcefully is nothing but an afterthought and cannot be given cognizance. The scope of these provisions of law have been subject matter catena of judgments of authoritative pronouncements of the Supreme Court and the High Court are there which have been discussed by the adjudicating authority in the impugned Order dated 02.05.2023.

4.8 In this regard, I place reliance on the following judgements of various higher forums wherein **evidentiary value of statements recorded under Section 108 of the Customs Act, 1962** has been emphasized:

- The Hon'ble Apex Court in the case of **Naresh J. Sukhwani vs Union of India 1996 (83) ELT 258 (SC)** has held that statement made under Section 108 of the Customs Act, 1962 is a material piece of evidence collected by the Customs Officials. That material incriminates the Petitioner inculcating him in the contravention of provisions of the Customs Act. Therefore, the statements under Section 108 of the Customs Act, 1962 can be used as substantive evidence in connecting the applicant with the act of contravention.
- In the case **Collector of Customs, Madras and Ors vs D. Bhoormull-1983 (13) ELT 1546 (SC)** the Hon'ble Supreme Court has held that Department was not required to prove its case with mathematical precision. The whole circumstances of the case appearing in the case records as well as other documents are to be evaluated and necessary inferences are to be drawn from these facts as otherwise it would be impossible to prove everything in a direct way.
- **Kanwarjeet Singh vs. Collector of Central Excise 1990 (47) ELT 695 (Tri)** wherein it is held that strict principles of evidence do not apply to a quasi-judicial proceedings and evidence on record in the shape of various statements is enough.
- Hon'ble High Court decision in the case of **Assistant Collector of Customs Madras-I vs. Govindasamy Ragupathy 1998 (98) E.L.T. 50 (Mad.)**

wherein it was held by the Hon'ble Court confessional statement under Section 108 even though later retracted is a voluntary statement and was not influenced by threat, duress or inducement etc. is a true one.

- In the case of **Govind Lal vs. Commissioner of Customs Jaipur 2000 (117) ELT 515 (Tri)** Hon'ble Tribunal held that— 'Smuggling evidence-statement- when statement made under Section 108 of the Customs Act, 1962 never retracted before filing the replies to the Show Cause Notice-retraction of the statement at later stage not to affect their evidence value'.

- In the case of **Surjeet Singh Chhabra vs. UOI 1997 (89) ELT (646) SC** Hon'ble Supreme Court held that statement made before Customs Officer though retracted within six days, is an admission and binding since Customs Officers are not Police Officers. As such, the statement tendered before Customs is a valid evidence under law.

In the case of **G. Subramanian 2002 (142) ELT 224 (GOI)**, the Revisionary Authority, Govt. of India, Deptt. of Revenue, has held that:

"7. Government observes that through sustained and well directed investigation, the Department was able to crack the organised gang which specialized in illegal exportation of foreign currency and import of foreign goods. The role of Shri G. Subramanian, in this organised activity is established by the investigation carried out. It has been held by the Hon'ble Supreme court that Customs officers are not police officers and therefore statements given before Customs Officers are valid as substantive evidence. It has been categorically held that statements made before the customs official is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by the Customs Officer under Section 108 of the Customs Act. Hon'ble Supreme Court had also held that the statements made before Customs Officers though retracted within six days is an admission and binding because it has been made before a Custom Officer and not a police officer. These aspects have been dealt with in detail by the Hon'ble Supreme Court in the judgements of Surjit Singh Chhabra vs Union of India reported in 1997 (89) E.L.T. 646, and Naresh J. Sukhawani vs Union of India 1996 (83) E.L.T. 258 (S.C.) etc."

4.9 In light of the above judicial pronouncements, the argument so put forth by the appellants to the effect that retracted statement has no evidentiary value is not maintainable. Apart from the above, in light of the retraction, it is of utmost importance to ascertain whether the statements were voluntary or otherwise. For the purpose of ascertaining the same, the contents of the statements need to be analyzed. The above facts indicate that the entire statement contains the explanations rendered by the appellants in relation to the sequence of events, and documents on record. The averments made in the statements are not only in consonance to the details contained in the said documents, and sequence of events but also corroborated with the statements of co-accused.

4.10 Therefore, the contentions of all the appellants that charges made against them in the said SCN are factually incorrect, do not merit acceptance.

Consequently, the reasons cited justifying cross examinations of various persons including co-appellants and panchas do not exist. As regards to other issues so raised by the appellants in their appeal sets are just repetition which are dealt at length in the impugned order dated 02.05.2023 and needs no interference.

4.11 In view of the above discussion, I hold that seized goods smuggled by the appellants by Shri Jay Panwala, Shri Bhavin Rajeshbhai Panwala and Shri Mohsin Yunus Jiya, Partner of M/s National Computer are liable for absolute confiscation.

4.12 Now, I take up the issue of whether the penalties are imposable under Section 112 (a), 112 (b) and 114AA of the Customs Act, 1962 and under Section 117 of the Customs Act, 1962 upon the appellants, I find that appellants in consonance with each other making a consortium and resorted to import of non-declared branded goods such as Shampoo, Lotions, Creams, Protein Powder, Old and used laptops, monitors of different brands and mis-declaration of import of old and used computer cases including mother boards, fan DVD, power supply (e-waste) contrary to restrictions imposed by DGFT, in violations of provisions of "Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016 imported vide Bill of Entry No. 6847198 dated 27.12.2021 in effecting the said unscrupulous imports which were found liable for confiscation under Section 111 & 119 of the Customs Act, 1962.

4.13 The goods so imported were to be treated as "smuggled goods" as defined under Section 2(39) and "prohibited goods" as defined under section 2(33) of the Customs Act, 1962. The acts of omission and commission on the part of all the appellants rendered them liable for penalty under Section 112 (a), 112 (b) and 114AA of the Customs Act, 1962 and under Section 117 of the Customs Act, 1962 severally or jointly as discussed in the impugned order dated 02.05.2023.

4.14 Therefore, in view of the above discussion and findings, the pleas put forth by the three appellants in their appeals do not qualify for acceptance.

4.15 Accordingly, the impugned order dated 02.05.2023 of the adjudicating authority is upheld and warrants no interference. The appeals filed by all the three appellants i.e. Shri Jay Panwala, Proprietor of M/s. Shreeji Creation (Appellant 1), Shri Bhavin Rajeshbhai Panwala (Appellant 2) and Shri Mohsin Yunus Jiya, Partner M/s National Computer (Appellant 3) are hereby rejected.



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

Date: 23.05.2025

File Nos.

(1) S/49-211/CUS/AHD/2023-24

(2) S/49-212/CUS/AHD/2023-24

(3) S/49-215/CUS/AHD/2023-24

By Registered post A.D. / Speed Post / Email

899 to 900

To,

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5. Guard File.

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