प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद – 380009.

दूरभाष: (079) 2754 4630**E-mail:** cus-ahmd-adj@gov.in फैक्स: (079) 2754 2343

DIN No. 20260971MN000009B5AC

PREAMBLE

A	फ़ाइलसंख्या/ File No.	:	GEN/ADJ/ADC/162/2026-ADJN-O/oPR-COMMR-CUS- AHD
B	कारणबताओनोटिससंख्या–तारीख / Show Cause Notice No. and Date	:	CUS/SIIB/MISC/216/2025-PREV-O/o PR COMMR-CUS-Ahmedabad dated 24.12.2025
C	मूलआदेशसंख्या/ Order-In-Original No.	:	**79/ADC/SRV/O&A/HQ/2026-27**
D	आदेशतिथि/ Date of Order-In-Original	:	**10.09.2026**
E	जारीकरनेकीतारीख/ Date of Issue	:	**10.09.2026**
F	द्वारापारित/ Passed By	:	**Shree Ram Vishnoi**, Additional Commissioner, Customs, Ahmedabad
G	आयातककानामऔरपता / Name and Address of Importer / Passenger	1:. 2. 3. 4. 5.	**1. M/s. Alfa and Sons**, Shop No. 02 IN KH. No. 870, Block-E, G/F, Sarita Vihar, Aali Vihar, New Delhi, South East Delhi, 110076 **2. Shri Shiv Kumar Bhaina**, Proprietor of M/s Alfa and Sons, Sivlibadi South, Gadikhana, Panchmahli, Kumardhubi, Dhanbaad, Jharkhand, 828203. **3. M/s C.P. Logistics**, 9th Floor, 910, Atlanta Tower, Opp. Satyam Complex, GulbaiTekra, Ahmedabad **4. M/s AESL Shipping Pvt Ltd**, F-308, Vedmata Society IOC Road Chandkheda, Ahmedabad, Gujarat **5. Ms. Vaibhavi Thakor** C/o Girishbhai, House No 3/2202,

			Pipradisheri, Salabatpura, Surat City-395003
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), ४वि मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (५.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथकेवल पांच (५.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FCATS OF THE CASE:

M/s. Alfa and Sons (IEC–DDVPB2817R) having GSTIN- 07DDVPB2817R1ZU and registered Principal Place of Business at Shop No. 02 IN KH. No. 870, Block-E, G/F, Sarita Vihar, Aali Vihar, New Delhi, South East Delhi, 110076 (hereinafter referred as 'the Exporter' for the sake of brevity) had filed self-assessed 04 Shipping Bill Nos. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 at ICD, Sachana Port (INJKA6), Customs Ahmedabad, under free shipping bill for Export of Ceramic Wall Tiles, falling under RITC Code 69072200 with declared Free on Board (FOB) value of Rs. 3,69,31,867.5/- through their Customs Broker M/s. C. P. Logistics, Ahmedabad, having license No. AOVPP1520RCH001 (hereinafter referred to as 'the CHA' for the sake of brevity) for customs clearance of the said consignment. Let Export Order (LEO) in respect of above shipping bills was

granted on 06.12.2025. Details of shipping bills filed are tabulated as under: -

	Table-1						
Sr No	Shipping Bill No & Date	Name of Exporter	FOB Value (Rs.)	IGST Amount	Quantity (in Sq. Meter)	Container No	Consignee Name & Address
1	6182430 dt. 05.12.2024	M/s. Alfa and Sons (IEC No. DDVPB2817R)	91,58,902.5	16,53,117	11625	MAGU2337021	Blackrock General Trading LLC, Sharjah Media City, Sharjah, United Arab Emirates
2	6182373 dt. 05.12.2024		92,97,156	16,78,002	11800		
3	6182333 dt. 05.12.2024		92,57,655	16,70,892	11750	IALU2265567	
4	6182220 dt. 05.12.2024		92,18,154	16,63,782	11700		

2. Above shipping bill Nos. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 were identified for 100% examination on the basis of specific intelligence input/alert received by the Department through internal agency. Accordingly, the said consignment was subjected to detailed examination in the presence of independent witnesses.

3. On 09.12.2024, the Additional Commissioner, ICD-Sachana, requested the Additional Commissioner (Export), Mundra Customs Commissionerate, to withhold the cargo pertaining to the shipping bills enumerated in Table-1 from further movement, as the said consignments were found to be lying at Mundra Port.

4. The Exporter also filed another 04 Shipping Bill Nos. 6182492, 6182568, 6182616 and 6182728 all dated 05.12.2024 at Port location

INJKA6 (ICD Sachana Port), however the subject export cargo of the said Shipping Bills was never presented to the Customs ICD-Sachana Port.

5. EXAMINATION OF GOODS

5.1 As per the alert received, the goods covered under Shipping Bill Nos. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 were examined at M/s Mundhra Container Freight Station Pvt. Ltd. CFS, APSEZ, Mundra (kutch) by the Preventive Officer, SIIB, Customs House, Mundra in the presence of Shri Raju Kumar Singh, Sr. Operation Executive, M/s Mundhra Container Freight Station Pvt. Ltd. CFS and 02 independent Panchas under the Panchnama dated 02.01.2025. During the course of examination, it was noticed that the goods to be exported were packed in corrugated boxes. The corrugated boxes were opened randomly and it was observed that the boxes contained wall tiles. The details of the goods physically examined during the panchnama are as under:-

Table-2

Sr No	Container No	No of Packages/Boxes	Quantity in Square Feet	Quantity in square meter
1	IALU2265567	1876	1876*10=18760	1742.86
2	MAGU2337021	1874	1874*10=18740	1741.01

Size of each tile = 300mm*600mm
Area of 01 tile = 2 Square feet
No of tiles in 01 package = 05
Area of tile in 01 package = 10 square feet

5.2 Er. Ajayrajsinh Baldevsinh Jhala, Customs Empanelled Chartered Engineer, examined the goods covered under Shipping Bill No. 6182220,

6182333, 6182430 and 6182373 all dated 05-12-2024 to ascertain the value of the goods. He vides report ABJ:INSP:SSIB:CE:ALFA:24-25:01 dated 08.01.2025 opined that the wall tiles are of various different companies with same size and appears to be old stock of unused kind. Further he has submitted the valuation of the examined cargo as under:-

Table-3

Sr. No.	Container No.	Description of Goods	No of Packages/Boxes	Quantity in Square Feet	Quantity in square meter	Average per unit Market Value	Total Average Market Value
1	IALU2265567	Wall tiles (600 mm x 300mm)	1876	1876*10 =18760	1742.86	Rs. 200/ Box	Rs. 3,75,200/-
2	MAGU2337021		1874	1874*10 =18740	1741.01		Rs. 3,74,800/-
TOTAL			**3750**		**3483.87**		**Rs. 7,50,000/-**

As per the examination report submitted by the Govt. approved Chartered Engineer, the quantity of goods and FOB value of the said consignments attempted to be exported does not match with the quantity and FOB value as mentioned in the export documents.

6. VERIFICATION OF EXPORTER

Letters were sent to the Deputy Commissioner, Anti-Evasion-I, CGST Delhi South Commissionerate (the jurisdictional Commissionerate where the exporter was registered under GST) requesting verification of the genuineness of the exporter, M/s Alfa and Sons. Vide letter dated 17.04.2025, it was reported that during the visit to the GST registered Principal Place of Business of the Exporter —Shop No. 02, Kh. No. 870, Block-E, G/F, Sarita Vihar Aali Vihar, South East Delhi-110076—on 09.01.2025, the premises were found closed. The visit proceedings were

recorded in the Panchnama dated 08.01.2025. It was further informed that summons had been issued to the Exporter, including through the registered email ID; however, the taxpayer neither appeared nor provided any documents or records. Additionally, physical verification at the said address was conducted twice by the officers of CGST Delhi South Commissionerate, in the following days in connection with NCTC exporter verification of other firms. The owner of the building informed that the address was being repeatedly used by unknown persons and that he was not aware of their activities. Therefore, it appears that fraudulent firms are being repeatedly created using this address, operating merely on paper with the intention of evading taxes or fraudulently claiming ITC. Further, it was informed that, upon verification on the GST-BO Portal, the GSTIN of the taxpayer was found to have been suspended with effect from 17.03.2025 by the State Jurisdictional Authority on the grounds that the entity with an active GST registration was engaged in the transfer of fraudulent input tax credit. A Show Cause Notice had also been issued under Rule 21(b) & 21(e) for violations of the provisions of Section 16 of the CGST/UTGST Act and the Rules made thereunder.

7. SEIZURE OF GOODS

As the goods covered under the said Shipping Bills were mis-declared in both quantity and value by the exporter, by declaring excess quantity and unusually high and inflated values, the goods were rendered liable to confiscation under Section 113 of the Customs Act, 1962. Therefore, the overvalued and mis-declared goods attempted to be exported under Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05.12.2024 were placed under seizure vide the Seizure Memo dated 17.06.2025 on the reasonable belief that the said goods are liable for confiscation under Section 113 of the Customs Act, 1962 and handed over the seized goods to Shri Rabindra Nath Muduli of M/s Mundhra Container Freight Station Pvt. Ltd. CFS, APSEZ, Mundra (Kutch) for safe custody vide suparatnama dated 17.06.2025.

8. STATEMENT OF CUSTOMS BROKER, M/s C. P. LOGISTICS.

8.1 During the investigations, summons were issued Sh. Vishal Kiritbhai Panchal, Proprietor of M/s C.P. Logistics, 9th Floor, 910, Atlanta Tower, Opp. Satyam Complex, Gulbai Tekra, Ahmedabad (Customs Broker for the Exporter) and his statement was recorded on 07.04.2025 under Section 108 of the Customs Act, wherein he *interalia* stated that he started business with M/s Alfa and Sons, New Delhi from November, 2024 and filed shipping Bill No. 5697686 dated 18.11.2024, 5698225 dated 18.11.2024, 5698519 dated 18.11.2024, 5698840 dated 18.11.2024, 6182220 dated 05.12.2024, 6182333 dated 05.12.2024, 6182373 dated 05.12.2024 and 6182430 dated 05.12.2024 for export of ceramic tiles; he has received copy of letter dated 09.11.2024 through a forwarder regarding authorization for CHA addressed to Dy./Asst. Commissioner of Customs, ICD, Khodiyar to file shipping bill/Bill of Entry and customs clearance of the cargo on their behalf at ICD, Khodiyar; However, no such authorization for export from ICD, Sachana have been received for filing of Shipping bill for export; also, stated that he don't have original authorization letter from the exporter; he stated that Contact details of M/s. Alfa & Sons was available with him; he further stated neither he nor any member of the firm personally met anyone from the exporter side for the authorization from M/s. Alfa & Sons to act as their custom broker; he received the authorization letter along with other KYC documents through forwarder M/s AESL Shipping Pvt. Ltd. only; he has not verified the address of M/s. Alfa & Sons as the client location was out of Gujarat i.e. Delhi; he has just acted on the basis of documents submitted to them via third person i.e. the forwarder; the client was from out of Gujarat and he has to file Shipping Bills at short notice he did not do any physical verification of the client in respect of their business profile or the address verification of the business premises; he stated that M/s. Alfa & Sons did

not produce any original documents to them, he only relied on the soft copy of the required documents sent via forwarder.

8.2 Shri Vishal Kiritbhai Panchal further clearly stated that M/s C. P. Logistics did not verify the business credential of the client and failed to do any physical verification of M/s. Alfa & Sons. He further stated that he was aware about the Container number MAGU2337021 & IALU2265567 related to M/s. Alfa & Sons, hold by the Customs, as informed by forwarder, due to overvaluation of the export goods. In view of the above, it appears that M/s C.P. Logistics has failed to comply with obligation of Customs House Broker as detailed in Regulation 10 of CBLR, 2018.

9. STATEMENT OF FORWARDER M/s AESL SHIPPING PVT. LTD.

9.1 Summons was issued to Shri Virender Sharma, Director of M/s AESL Shipping Pvt Ltd., F-308, Vedmata Society IOC Road Chandkheda, Ahmedabad, Gujarat, who acted as forwarder for M/s alfa and Sons. Statement of Shri Virender Sharma was recorded on 08.05.2025 under Section 108 of the Customs Act, 1962, wherein he *interalia* stated that M/s AESL Shipping Pvt Ltd is operational since 05.05.2022 and is engaged in the business of clearing and forwarding agent of import and export goods and transportation services; that they don't have any Custom Broker card holder in their company; that for carrying out the business of clearing and forwarding services they use license of M/s CP Logistics, Custom House Agent; that they don't have any contract or authority letter from M/s CP Logistics, Custom House Agent, for using their license as a clearing and forwarding service provider; that It is done on mutual understanding basis only, that they have filed Shipping bills on behalf of M/s Alfa and Sons, New Delhi from November, 2024; that they have filed 8 shipping bills on their behalf all for the export of ceramic tiles till 08.05.2025.

9.2 On being asked to provide the mobile number & email id of Proprietor of M/s. Alfa & Sons Shri Virender Sharma stated that Shri Shiv Kumar

Bhaina is the Proprietor of M/s Alfa and Sons, his mobile number is 6201615337, 9586766167 and e-mail id is alfaandsons5337@rediffmail.com. Further, he stated that neither he nor any member of the company personally met for the authorization from M/s. Alfa & Sons to act as their custom broker; that they have received the authorization letter dated 09.11.2024 addressed to Dy./Asst. Commissioner of Customs, ICD, Khodiyar along with other KYC documents through courier authorizing M/s CP Logistics/ AESL Shipping Pvt Ltd to act as CHA to file shipping bill/Bill of Entry and customs clearance of the cargo on their behalf at ICD, Khodiyar.

9.3 On being asked whether they are aware that the Custom Broker has to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information he stated that they are aware of their responsibility to verify the genuineness of the client before initiating any business clearance on their behalf; that However in this case they have not verified the credential of the firm; that the client was from Delhi and they have to file Shipping Bills at short notice, they did not do any physical verification of the client in respect of their business profile or the address verification of the business premises; that they have also not met any person from M/s. Alfa & Sons; that they totally relied on the soft copy of IEC copy of Importer, Company PAN Card, GST Certificate.

9.4 On being asked about details of Shipping bills filed by them for M/s. Alfa and sons, he stated that total 8 shipping filed by them for export of tiles, Shipping Bill No. 5697686, 5698225, 5698519, 5698840 all dated 18.11.2024 were filed from ICD, Khodiyar (INSBI6) and cleared for export of goods; that Shipping Bill No. 6182220, 6182333, 6182373 and 6182430 all dated 05.12.2024 were filed from ICD, Sachana(INJKA6) and the goods are on hold at Mundra Port. He further stated that payment for clearance of the

export goods was received through bank account only; that he is aware about the Container number MAGU2337021 & IALU2265567 related to M/s. Alfa & Sons are hold by the Customs due to overvaluation of the export goods; that they did not realize that the commodity is overvalued; that they have filed the shipping bills on the basis of documents submitted to them.

9.5 On being asked whether he is still in touch with any person from M/s Alfa and Sons and when did he last contact them he stated that Last month he has talked to Ms. Suhani at Mob No 9586766167, from M/s Alfa and Sons for taking the goods back to town; that she looks after the documentation at M/s Alfa and Sons; that she has requested to file for back to town request for the detained goods. Further, on being asked whether they are aware of the fact that the firm is not operational and it is merely fake entity existing merely on papers for availing fake ITC credits and IGST refunds he stated that they have no idea about the non-operational status of the firm.

9.6 Further statement of Shri Virender Sharma, Director of M/s AESL Shipping Pvt Ltd, was again recorded on 06.06.2025 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that he is agree with the contents of the Panchnama dated 02.01.2025 drawn at Mundhra Container Freight Station Pvt. Ltd, CFS, APSEZ, Mundra (Kutch) in respect of the export container bearing No. IALU2265567 AND MAGU2337021 in respect of export made under Shipping Bill number 6182220, 6182333, 6182373 & 6182430 all dated 05.12.2024 at ICD Sachana (INJKA6) by M/s. Alfa and Sons, Delhi (IEC - DDVPB2817R); that he is agree with the details mentioned in the inspection and opinion report dated 08.01.2025 prepared by Charted Engineer M/s. Er. Ajayrajsinh B. Jhala; that he is the concerned person who deals with M/s. Alfa and Sons for filing of Shipping bill number 5697686, 5698225, 5698519 & 5698840 dated 18.11.2024 at ICD Khodiyar (INSBI6); that Ms. Suhani (Mobile No. 9586766167) Staff of M/s. Alfa and Sons is in contact with him for filing of the shipping bill and payment

relating to the shipping bills at ICD Khodiyar (INSBI6); that the documents related to mentioned shipping bill received from her to file shipping bill at ICD Khodiyar through WhatsApp.

9.7 He further stated that M/s AESL Shipping Pvt. Ltd. issued invoices to M/s Alfa and Sons through whatsapp of Ms. Suhani (Mobile No. 9586766167) and received all payment through bank account of M/s Alfa and Sons for clearance of the export goods; that the total payments received for clearance & forwarding is Rs. 4,03,268/- with UTR reference No. 1432090102 dated 07.12.2024, 1432332310 dated 09.12.2024, 1432332733 dated 09.12.2024 & 1432333143 dated 09.12.2024 and Rs. 3,95,400/- with UTR reference No. 1432407098 dated 09.12.2024.

9.8 During his statement he submitted the purchase order number BK/ALFA/03605 DATED 22.10.2024 issued by the M/s. Blackrock General Trading LLC, Sharjah, U.A.E and one Courier receipt number 175210006469 dated 21.12.2024 issued by M/s. Mahavir Express Services Pvt. Ltd. On being asked that the courier service is provided by Surat district, however exporter address based on DGFT and GST is Delhi, he stated that all original documents sent to them through courier at the time of filing of Shipping bills; that one courier receipt is available with him issued by M/s. Mahavir Express Services Pvt. Ltd., Surat, however he do not have past courier receipt details related to M/s Alfa & Sons, Delhi; that the exporter address based on DGFT and GST is Delhi.

9.9 He further stated that he was in contact with Ms. Suhani (Mobile No. 9586766167) on behalf of M/s Alfa and Sons; that no other person from M/s Alfa and Sons is in contact with him; that he has not filed any shipping bill related to M/s Alfa and Sons at any other port except ICD, Sachana and ICD, Khodiyar.

10. EXTENSION FOR ISSUANCE OF SHOW CAUSE NOTICE.

During the visit of the officers of Anti Evasion-1, CGST, Delhi South Commissionerate at the registered premises of M/s Alfa and Sons, the registered premises found closed and summons dated 10.01.2025 were issued to M/s Alfa and Sons was also sent on registered email. However, the exporter neither appeared and nor provided any documents/records. Accordingly, summons dated 08.04.2025 and 19.05.2025 and letter dated 13.05.2025 were issued to M/s Alfa and Sons at their registered premises by Preventive Section, Customs Ahmedabad and summons dated 08.04.2025 and 19.05.2025 were also issued to Shri Shiv Kumar Bhaina, the proprietor of M/s Alfa and Sons at his residential address. However, neither the proprietor nor any representative appeared to join the investigations. Therefore, the extension of 06 month for issuance of Show Cause Notice was granted by the competent authority as per provisions of Section 110(2) of the Customs Act, 1962 and the same was communicated to M/s Alfa and Sons vide letter dated 30.06.2025 issued by the Assistant Commissioner (Preventive), Customs Ahmedabad**.**

11. INVESTIGATION IN RESPECT OF OWNER OF MOBILE NO. 9586766167.

11.1 Customer Application Form (CAF) along with KYC details were sought from the telecom operator i.e. Bharati Airtel Limited, Gujarat Circle in respect of Mobile No 9586766167 allegedly pertains to Ms. Suhani (as stated by Shri Virender Sharma, Director of M/s AESL Shipping Pvt Ltd during his statement dated 06.06.2025). M/s Bharati Airtel Limited, Gujarat Circle vide letter dated 28.07.2025 provided the CAF in respect of Mobile No 9586766167. As per CAF provided by M/s Bharati Airtel Limited, the Mobile No 9586766167 belongs to Ms. Vaibhavi Thakor C/o Girishbhai, House No 3/2202, Pipradisheri, Salabatpura, Surat City-395003.

12. STATEMENT OF MS. VAIBHAVI THAKOR, SURAT.

12.1 Summons dated 29.07.2025, 05.08.2025 were issued to Ms. Vaibhavi Thakor to produce documents and give statement related to the investigation being conducted in respect of M/s Alfa and Sons however, she didn't turn up. Further, summons dated 28.08.2025 was served through the SIIB, Surat in physical on 08.09.2025. Thereafter, Ms. Vaibhavi Thakor appeared on 17.09.2025 to tender her statement.

12.2 Statement of Ms. Vaibhavi Thakor was recorded on 17.09.2025 wherein she interalia stated that she does part time jobs with various firms such as Khushi Sarees, Shri Mahavir Textile Market, Surat, Rashi Rasayan, 414, Empire Estate Building, Ring Road, Surat and Grams & Company, World Trade Centre, Ring Road, Surat; that she does data entry and account related work in all those above mentioned firms that she know Shri Shiv Kumar Bhaina to the extent that he is the Proprietor of M/s Alfa and Sons, Delhi; that she don't know Shri Shiv Kumar Bhaina in person and she never met him; that she do not know any anything about the business activities/operations of M/s. Alfa and Sons, Delhi except she used to prepare only export invoices and packing list and thereafter forwarded the same to Virender bhai (Mob No. 9377285176), Custom House Agent at Ahmedabad; that she used to follow up with Virender Bhai for export related work of M/s. Alfa and Sons; that she never prepared e-way bills or any other documents except invoices and packing list for M/s. Alfa and Sons, Delhi; that one Shri Ajay Sharma, Mob No. 6201615337 used to manage M/s. Alfa and Sons, Delhi; that he contacted her to work for M/s. Alfa and Sons, Delhi on salary basis for Rs. 5,000/- around October-2024; that Shri Ajay Sharma used to pay her salary in cash; that she used to do the work from her home; Shri Ajay Sharma used to send her the documents such as purchase invoices, e-way bills etc. from his Mob No 6201615337 on her Mob No 9586766167 through Whatsapp; that she met Shri Ajay Sharma 5 years ago when she used to work at Apple Emroidery, Rathi Palace, Surat; that Sh. Ajay Sharma used to come at Apple Emroidery, Rathi Palace as a broker of cloths material; that she know him since then; that however, she do not

know the whereabouts/address details of Sh. Ajay Sharma; that he used to contact her through Mobile No.6201615337only; that she did not prepare any financial records related to M/s. Alfa and Sons and did not handle any banking transactions related to the firm; that KYC details of M/s. Alfa and Sons, Delhi were forwarded to her (Mob No 9586766167) through Whatsapp by Sh. Ajay Sharma (Mob No. 6201615337) and she had forwarded the same to Sh. Virender Sharma, CHA at Ahmedabad; that she do not have details of whatsapp chat took place between her (Mob No 9586766167) and Sh. Ajay Sharma (Mob No. 6201615337) as she has discontinued her Mob No 9586766167 due to her personal family issue with in-laws; that she is aware that cargo related to M/s. Alfa and Sons, Delhi was held by the Customs Officer at Mundra port as the same was informed to her by Sh. Virender Sharma, CHA at Ahmedabad, however, she do not know the exact reason for holding the cargo by Custom Officials; that she was not aware about the fact that the commodity was to be exported by M/s. Alfa and Sons, Delhi i.e. Ceramic tiles were grossly overvalued and quantity of the goods were inflated as her job was limited to prepare only export invoices and packing list on the basis of the details provided by Sh. Ajay Sharma to her; that she do not have details of payment made by M/s. Alfa & Sons to CHA for clearing of cargo from ICD Sachana and ICD Khodiyar as the details of payment were not handled by her; that she used to only communicate to Sh. Ajay Sharma about the bills received from the CHA; that she was not aware that the registered premises of M/s. Alfa and Sons (GSTIN 07DDVPB2817R1ZU) was non- operational as Sh. Ajay Sharma never told her about that fact; that she don't have any knowledge about the amount M/s. Alfa and Sons has received from IGST refund/other benefits by clearing goods as overvalued as it was not her job to maintain financial records of the firm.

13 SEARCH AT RESIDENTIAL PREMISE OF SHRI SHIV KUMAR BHAINA, PROPRIETOR OF M/S ALFA AND SONS.

13.1 As Sh. Shiv Kumar Bhaina proprietor of M/s Alfa and Sons did not appear to join the investigations after many summons, letters dated 26.05.2025 and 20.06.2025 were issued to the Deputy/Assistant Commissioner (Preventive), Office of Pr. Commissioner, Customs (Preventive), Patna, 5th Floor, C.R. Building, Birchand Patel Path, Patna Bihar to search the residential premises of Sh. Shiv Kumar Bhaina at Sivilibari, South Garikhana, Panchmahli, Kumardhubi, Nirsa - cum - Chirkunda, Dhanbad, Jharkhand-828203 and to record the statement. The Superintendent, Customs (Prev.), Circle, Ranchi vide letter dated 14.08.2025 submitted that search of the premises of Shri Shiv Kumar Bhaina, Proprietor of M/s Alfa and Sons was conducted in presence of two independence witnesses and his family members, but no relevant documents or evidences pertaining to the case were recovered from his house.

13.2 At the said address, Shri Dev Kumar Bhaina (Elder Brother of Shri Shiv Kumar Bhaina) was present and stated that Shri Shiv Kumar Bhaina was presently not available in Dhanbad and may take some time to return back. Accordingly, voluntary statement of Smt. Lili Bhuyan, w/o Shri Shiv Kumar Bhaina and Shri Dev Kumar Bhaina (Elder Brother of Shri Shiv Kumar Bhaina) was taken. In his statement, Shri Dev Kumar Bhaina also undertook and assured that he would ensure the presence of Shri Shiv Kumar Bhaina at the office of the Superintendent, Customs (Prev), Cricle, Ranchi at Jerath Compund, Hinoo Ranchi within two or three days of his return, to record his statement as per the Customs Act, 1962.

13.3 The office of the Superintendent, Customs (Prev.), Circle, Ranchi issued three summons dated 15.07.2025, 22.07.2025 & 06.08.2025 to Shri Shiv Kumar Bhaina to appear before their office to record his statement under Section U/s 108 of the Customs Act, 1962, however Shri Shiv Kumar Bhaina again didn't appear.

14. STATEMENT OF SHRI SHIV KUMAR BHAINA, PROPRIETOR OF M/S ALFA AND SONS.

14.1. Further, summons dated 17.09.2025 and 19.11.2025 were issued to Shri Shiv Kumar Bhaina, proprietor of M/s. Alfa and Sons. Shri Shiv Kumar Bhaina appeared on 19.11.2025 at Preventive (HQ)Customs Ahmedabad to tender his statement.

14.2 Statement Shri Shiv Kumar Bhaina, proprietor of M/s Alfa and Sons was recorded on 19.11.2025 which is reproduced as under:

प्रश्न 1: कृपया अपना नाम, उम्र, पता और व्यवसायिक विवरण बताएं।
उत्तर: मेरा नाम श्री शिव कुमार भैना है। मेरी आयु 43 वर्ष है। मैं मेसर्स अल्फा एंड सन्स, दिल्ली (M/s Alfa & Sons, Delhi) का Proprietor हूँ। मेरा IEC कोड DDVPB2817R है।

वर्तमान पता और व्यवसाय- सिवलीबाड़ी साउथ, गाड़ीखाना, पंचम्ह्री, कुमारधुबी, धनबाद, झारखण्ड - 828203 मेरा स्थायी पता है | वर्तमान में, मैं बराकर (Barkar), पश्चिम बंगाल में बर्तन की दुकान (utensils shop) पे सेल्समेन (salesman) का काम करता हूँ, जहाँ मेरी मासिक तनख्वाह Rs. 6000/- है |

प्रश्न 2: क्या आपको ज्ञात है कि यह बयान किस जांच से संबंधित है?
उत्तर: हाँ, मुझे बताया गया है कि मेरा यह बयान मेसर्स अल्फा एंड सन्स, दिल्ली द्वारा दायर किए गए सिरेमिक टाइल्स के निर्यात से संबंधित शिपिंग बिलों (Shipping Bills) की जांच के संबंध में दर्ज किया जा रहा है।

प्रश्न 3: फर्म मेसर्स अल्फा एंड संस, दिल्ली (GSTIN 07DDVPB2817R1ZU) और उसके व्यावसायिक संचालन के बारे में आप क्या जानते हैं?

उत्तर: मैं बयान करता हूँ कि फर्म मेसर्स अल्फ़ा एंड संस, दिल्ली के व्यावसायिक संचालन के बारे में मुझे कोई जानकारी नहीं है।

प्रश्न 4: कृपया मेसर्स अल्फ़ा एंड संस, दिल्ली से संबंधित अपनी भूमिका का विवरण दें। साथ ही, उस कार्यालय का पता भी बताएँ जहाँ से आपने अल्फ़ा एंड संस के लिए काम किया था।

उत्तर: मैं बयान करता हूँ कि फर्म मेसर्स अल्फ़ा एंड संस, दिल्ली के कामकाज से सम्बंधित कोई जानकारी मेरे पास नहीं है | मुझे इस बात की भी कोई जानकारी नहीं है कि मेसर्स अल्फ़ा एंड संस, दिल्ली में क्या और कहाँ से काम करती थी |

प्रश्न 5: आपने फर्म मेसर्स अल्फ़ा एंड संस, दिल्ली को जी एस टी में पंजीकृत (GST Registration) कैसे करवाया ?

उत्तर: मैं बयान करता हूँ कि लगभग एक-डेढ़ साल पहले मैं काम खोजने के लिए दिल्ली आया था | वहाँ मुझे नई दिल्ली रेलवे स्टेशन पर एक आदमी मिला जिसने अपना नाम अजय शर्मा बताया था | उसने मुझे अपने साथ काम करने का प्रस्ताव दिया और कहा कि हम साथ में बिज़नेस करेंगे और इसमें जो भी नफा होगा उसका आधा- आधा कर लेंगे। ये बोल कर उसने मुझसे मेरा आधार कार्ड और PAN कार्ड की कॉपी ले ली। उसने मुझे बताया कि GST में रजिस्ट्रेशन के लिए एक मोबाइल नंबर की जरुरत पड़ेगी और इसके लिए मैंने अपनी सिम जिसका नंबर 6201615337 था, अजय शर्मा को दे दी थी। इसके बाद

प्रश्न 6: कृपया उस व्यक्ति/व्यक्तियों का विवरण प्रदान करें जो फर्म मेसर्स अल्फा एंड संस, दिल्ली का प्रबंधन (manage) करते थे।

उत्तर: मेरी जानकारी के अनुसार श्री अजय शर्मा ही मेसर्स अल्फ़ा एंड संस, दिल्ली का प्रबंधन (manage) करता था । इससे ज्यादा मेरे पास फर्म मेसर्स अल्फ़ा एंड संस, दिल्ली के कामकाज से सम्बंधित कोई जानकारी नहीं है।

प्रश्न 7: आप अजय शर्मा के बारे में क्या जानते हैं और उसका मोबाइल नंबर व वर्तमान पता बतायें |

उत्तर: मैं अजय शर्मा के बारे में इतना ही जानता हूँ कि वह मुझे नई दिल्ली रेलवे स्टेशन पर मिला था | उसने मुझसे मेरा आधार कार्ड और PAN कार्ड की कॉपी ली थी | उसने मुझसे मेरा सिम जिसका नंबर 6201615337 व्यापर करने के लिए लिया था | उसके बाद मेरा संपर्क उस से मेरे ही सिम कार्ड नंबर 6201615337 के जरिये होता था | उसके बाद मैं अजय शर्मा से कभी नहीं मिला | अजय शर्मा के वर्तमान पते के बारे में मुझे कोई जानकारी नहीं है |

प्रश्न 8: क्या श्री अजय शर्मा ने आपको आपके नाम पर मेसर्स अल्फ़ा एंड संस में व्यापार करने के बदले कोई धनराशि दी थी ?

उत्तर: मैं बयान करता हूँ कि श्री अजय शर्मा ने मुझे मेसर्स अल्फ़ा एंड संस में व्यापार करने के बदले कोई धनराशि नहीं दी | हालाँकि श्री अजय शर्मा ने मेसर्स अल्फ़ा एंड संस में व्यापार से होने मुनाफे में से आधा भाग मुझे देने की बात कही थी |

प्रश्न 9: कृपया अपने सभी बैंक खातों का विवरण दे तथा उनसे संबन्धित पिछले 01 वर्ष का बैंक स्टेटमेंट भी उपलब्ध कराएं।

उत्तर: मैं बयान करता हूँ कि मेरा बैंक खाता Allahabad Bank, धनबाद में था लेकिन वो अकाउंट अभी बंद है और उसमे कुछ पैसे भी नहीं है। आगे मैं बयान करता हूँ कि फर्म मेसर्स अल्फ़ा एंड संस, दिल्ली के लिए एक बैंक खाता Bank of Baroda, नई दिल्ली में खुलवाया था जिसके लिए श्री अजय शर्मा मुझे बैंक में लेकर गए थे। मुझे उस खाते के नंबर नहीं पता है और श्री अजय शर्मा ही उस खाते को सँभालते थे। Bank of Baroda के उस खाते के स्टेटमेंट बारे में मुझे इससे ज्यादा कुछ पता नहीं है।

प्रश्न 10: क्या आप सुश्री वैभवी ठाकोर (Ms Vaibhavi Thakor) को जानते हैं? क्या आप उनसे कभी मिले हैं?

उत्तर: मैं बयान करता हूँ कि सुश्री वैभवी ठाकोर (Ms Vaibhavi Thakor) को नहीं जानता हूँ तथा मैं कभी किसी वैभवी ठाकोर से नहीं मिला हूँ।

प्रश्न 11: कृपया मेसर्स अल्फा एंड संस, दिल्ली (IEC:DDVPB2817R) द्वारा किए गए पूर्ण व्यवसाय का विवरण प्रस्तुत करें?

उत्तर: मैं बयान करता हूँ कि फर्म मेसर्स अल्फ़ा एंड संस, दिल्ली के व्यवसाय के बारे में मुझे कोई जानकारी नहीं है।

प्रश्न 12: क्या आपने कभी मेसर्स सी.पी. लॉजिस्टिक्स के प्रोपराइटर श्री विशाल किरीटभाई पंचाल और मेसर्स ए.ई.एस.एल. शिपिंग प्राइवेट लिमिटेड के निदेशक, श्री वीरेंद्र शर्मा से मेसर्स अल्फा एंड संस से संबंधित माल यानी सिरेमिक वॉल टाइल्स के customs clearance के संबंध में बात की है?

उत्तर: मैं बयान करता हूँ कि मेरी कभी भी मेसर्स सी.पी. लॉजिस्टिक्स के प्रोपराइटर श्री विशाल किरीटभाई पंचाल व मेसर्स ए.ई.एस.एल. शिपिंग प्राइवेट लिमिटेड के निदेशक, श्री वीरेंद्र शर्मा से कोई बात नहीं हुई है।

प्रश्न 13: कृपया मेसर्स अल्फा एंड संस, दिल्ली (IEC:DDVPB2817R) द्वारा किए गए पूर्ण व्यवसाय का विवरण प्रस्तुत करें?

उत्तर: मैं बयान करता हूँ कि फर्म मेसर्स अल्फ़ा एंड संस, दिल्ली के व्यवसाय के बारे में मुझे कोई जानकारी नहीं है|

प्रश्न 14: क्या आप मुंद्रा बंदरगाह पर सीमा शुल्क अधिकारी द्वारा मेसर्स अल्फा एंड संस, दिल्ली से संबंधित कंटेनर संख्या MAGU2337021 और IALU2265567 वाले कार्गो को रोके जाने के बारे में जानते हैं?

उत्तर: मैं बयान करता हूँ कि मुंद्रा बंदरगाह पर सीमा शुल्क अधिकारी द्वारा मेसर्स अल्फा एंड संस, दिल्ली से संबंधित कंटेनर संख्या MAGU2337021 और IALU2265567 वाले कार्गो को रोके जाने के बारे मुझे कोई जानकारी नहीं है।

प्रश्न 15: क्या आप इस तथ्य से अवगत हैं कि मेसर्स अल्फा एंड संस, दिल्ली द्वारा जो वस्तु निर्यात की जानी थी, अर्थात् सिरेमिक टाइल्स, का मूल्य अत्यधिक अधिक आंका गया है तथा निर्यात की जाने वाली वस्तुओं की मात्रा शिपिंग बिलों में बढ़ा-चढ़ाकर दर्शाई गई थी?

उत्तर: मैं बयान करता हूँ कि मुझे इसके बारे में कोई जानकारी नहीं है क्योंकि मैंने मेसर्स अल्फा एंड संस के व्यवसाय का कभी भी प्रबंधन नहीं किया|

प्रश्न 16: आपको चार्टर्ड इंजिनियर अजयराज सिंह झाला द्वारा बनाई गयी valuation report दिनांक 08-01-2025 दिखाई जा रही है जिसमे माल (सिरेमिक टाइल्स) का मूल्य रु. 7,50,000/- और वर्ग मीटर में मात्रा 3483.87 वर्ग मीटर बताई गयी है जबकि आपके द्वारा दिनांक 05.12.2025 को फाइल किये शिपिंग बिल्स में माल (सिरेमिक टाइल्स) का मूल्य (FOB) रु. 3,69,31,867.5/- और वर्ग मीटर में मात्रा 46,875 वर्ग मीटर दिखाई गयी है. इस बारे में आपको क्या कहना है.

प्रश्न 17: आईसीडी सचाना और आईसीडी खोडियार से कार्गो के customs clearance के लिए मेसर्स अल्फा एंड संस द्वारा सीएचए को किए गए भुगतान का विवरण प्रदान करें? भुगतान के तरीके क्या हैं और लेनदेन का विवरण प्रस्तुत करें।

उत्तर: मैं बयान करता हूँ कि सीएचए को किए गए भुगतान की कोई जानकारी मुझे नहीं हैं | यह भुगतान श्री अजय शर्मा ने ही किये होंगे |

प्रश्न 18: जाँच के दौरान, यह पता चला कि मेसर्स अल्फा एंड संस (GSTIN 07DDVPB2817R1ZU) का पंजीकृत परिसर, जिसका पता दुकान संख्या 2, इन ख (In kh) संख्या 870, ब्लॉक - E, G/F, सरिता विहार, आली विहार, नई दिल्ली, दक्षिण पूर्व दिल्ली, दिल्ली - 110076 है, बंद (non-operational) पायी गई | क्या आपको इस तथ्य की जानकारी थी कि मेसर्स अल्फा एंड संस अपने पंजीकृत परिसर में बंद (non-operational) था?

उत्तर: मुझे इस बारे में कोई जानकारी नहीं है कि मेसर्स अल्फा एंड संस अपने पंजीकृत परिसर पर बंद (non-operational) पाई गई क्योंकि मेसर्स अल्फा एंड संस के GST पंजीकरण के एक हफ्ते बाद मैं अपने गाँव वापस आ गया था | श्री अजय शर्मा ने मेसर्स अल्फ़ा एंड संस में व्यापार से होने मुनाफे में से आधा भाग मुझे देने का आश्वासन दिया था |

प्रश्न 19: आज तक, मेसर्स अल्फा एंड संस ने माल को ओवरवैल्यूड बताकर उसे क्लियर करके IGST रिफंड/अन्य लाभों से कितनी राशि प्राप्त की है? कृपया उन सभी रिफंड/लाभों का विवरण प्रस्तुत करें जो मेसर्स अल्फा एंड संस ने आज तक ओवरवैल्यूड माल के निर्यात से प्राप्त किए हैं।

उत्तर: मैं बयान करता हूँ कि इसके बारे में मुझे कोई जानकारी नहीं हैं | इन सभी रिफंड/लाभों का विवरण श्री अजय शर्मा के पास ही होगा |

प्रश्न 20: आपको बैंक ऑफ बड़ौदा में मेसर्स अल्फा एंड संस (बैंक खाता संख्या 00930200000939) का बैंक स्टेटमेंट दिखाया जा रहा है। जिसमें मेसर्स अल्फा एंड संस ने माल को ओवरवैल्यूड बताकर उसे क्लियर करके IGST रिफंड/अन्य लाभों से राशि प्राप्त की। इस राशि को अलग अलग बैंक खातो मे ट्रान्सफर किया गया है जैसे M/s V M Trading, Gloriking Enterprises, XNAP Enterprises etc. | क्या आप इन फ़र्म के बारे मे जानते हैं और मेसर्स अल्फा एंड संस का इन फ़र्म से क्या व्यापार लेन-देन है?

उत्तर: मैं बयान करता हूँ कि मेसर्स अल्फा एंड संस (बैंक खाता संख्या 00930200000939) का बैंक स्टेटमेंट मुझे कस्टम्स अधिकारियों द्वारा दिखाया गया है | बैंक स्टेटमेंट देखने के बाद मैंने उसके सभी पृष्ट पर अपने दिनांक हस्ताक्षर कर दिए हैं | इस बैंक स्टेटमेंट को देखने के बाद मैं यह बयान करता हूँ कि मुझे इसके बारे में कोई जानकारी नहीं है | मैंने मेसर्स अल्फा एंड संस के बैंक खाता संख्या 00930200000939 का कभी भी प्रबंधन नहीं किया |

15. Statutory Provisions: -

15.1 Section 14. Valuation of goods.

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for, -

(i) the circumstances in which the buyer and the seller shall be deemed to be related;

(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;

(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

[(iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria:]

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

*(2) ****

15.2. <u>Customs Valuation (Determination of Value of Export Goods) Rules, 2007</u>

Rule 3. Determination of the method of valuation. –

(1) Subject to rule 8, the value of export goods shall be the transaction value.

(2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.

(3) If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.

Rule 4. Determination of export value by comparison. *-*

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

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

(i) difference in the dates of exportation,

(ii) difference in commercial levels and quantity levels,

(iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,

(iv) difference in domestic freight and insurance charges depending on the place of exportation.

Rule 5. Computed value method. –

If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-

(a) cost of production , manufacture or processing of export goods;

(b) charges, if any, for the design or brand;

(c) an amount towards profit.

Rule 6. Residual method. –

(1) Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

…..

Rule 8. Rejection of declared value. -

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about

the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

15.3 Section 50- Entry of goods for exportation. -

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

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

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

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

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

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

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

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

The following export goods shall be liable to confiscation:-

.....

113 (i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act ot in the case of baggage with the declaration made under Section 77;

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

15.5 <u>Section 114. Penalty for attempt to export goods improperly, etc.</u> -

Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -
(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

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

person under this section shall be twenty-five per cent of the penalty so determined;

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

15.6 <u>Section 114AA. Penalty for use of false and incorrect material.</u> -

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

15.7 Section 114AC. Penalty for fraudulent utilisation of input tax credit for claiming refund.-

Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed.

Explanation.--For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017)

15.8 <u>Section 117- Penalties for contravention, etc., not expressly mentioned.</u>

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act, with which

it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [Four lakh rupees].

15.9 Customs Brokers Licensing Regulations, 2018

.....

***Regulation** 10. Obligations of Customs Broker-A Customs Broker shall*

(a) Customs Broker should obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be; … (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be; … (n) verify correctness of Importer Exporter Code (IEC)number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information; ….(q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

16. SUMMARY OF INVESTIGATION

16.1 M/s Alfa and Sons (IEC: DDVPB2817R, GSTIN: 07DDVPB2817R1ZU), registered at Shop No. 02, Kh. No. 870, Block-E, G/F, Sarita Vihar, Aali Vihar, New Delhi, 110076, filed self-assessed Shipping Bill Nos. 6182220, 6182333, 6182430, and 6182373 dated 05.12.2024 at ICD Sachana, for export of ceramic wall tiles under RITC Code 69072200 with a declared Quantity 46,875 Square Meter and FOB value of Rs. 3,69,31,867.50/-

through M/s C.P. Logistics, Ahmedabad (CHA License: AOVPP1520RCH001). Let Export Order (LEO) for these shipping bills was granted on 06.12.2024:

16.2 It appeared that the exporter has mis-declared the quantity and grossly over-valued the export goods. The exporter declared 46,875 sq. meters of tiles with a declared FOB value of Rs. 3,69,31,867.50/-. However, on physical examination of the goods and as per the Government-approved Chartered Engineer's report dated 08.01.2025, the actual quantity was found to be only 3,483.87 sq. meters and the market value of the goods was assessed at Rs. 7,50,000/-. The Chartered Engineer further reported that the tiles were of different companies and constituted old stock of unused goods. In view of the above, the declared FOB value appears to be grossly inflated and is liable to rejection and re-determined under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Since the value of the export goods could not be determined under Rule 4 of the said Rules for want of export of goods of like kind and quality to the same destination at or about the same time, and could also not be determined under Rule 5 due to non-availability of reliable data regarding cost of production, manufacture or processing and related elements, the value has been determined under Rule 6 of the said Rules on the basis of the Chartered Engineer's valuation report as the best judgment value arrived at sequentially in accordance with Rule 3(3).

16.3. M/s Alfa and Sons was found to be non-existing at its registered premises at Shop No. 02, Kh. No. 870, Block-E, G/F, Sarita Vihar, Aali Vihar, New Delhi-110076 during the visit conducted by the jurisdictional CGST officers (CGST Delhi South). Further, the GSTIN of M/s Alfa and Sons has been suspended by the jurisdictional State GST authorities. Shri Shiv Kumar Bhaina, proprietor of M/s Alfa and Sons, in his statement dated 19.11.2025, stated that he had no knowledge of the activities or business carried out in the name of the firm, as he did not manage any business

operations of M/s Alfa and Sons. He further stated that about one and a half years ago, while he was in Delhi in search of work, he met one person named Shri Ajay Sharma at New Delhi Railway Station, who offered to engage him in business promising to share profits. Shri Bhaina stated that Shri Ajay Sharma took from him copies of his Aadhaar card, PAN card, and a SIM card (No. 6201615337), and used these documents to obtain GST registration for M/s Alfa and Sons in his name. Shri Bhaina could not provide any contact details or whereabouts of Shri Ajay Sharma. He has admitted in his statement that he voluntarily provided his statutory documents and the SIM card to Shri Ajay Sharma, which were used for securing the GST registration of the firm. Further, the registered address of M/s Alfa and Sons is in Delhi, however, the invoices were prepared in Surat by Ms. Vaibhavi Thakor, and also all the documents for filing of Shipping bills received by CHA/Forwarder were couriered from Surat, completely unrelated location for said firm. Therefore, it appears that the said firm was created on the basis of fake/fraudulent documents with the intent to defraud the Government exchequer.

16.4 Letters were issued to ICD Khodiyar and Customs, Ahmedabad to ascertain the status of IGST refund pertaining to Shipping Bill Nos. 5697686, 5698225, 5698519, and 5698840, all dated 18.11.2024, which were filed at ICD Khodiyar (INSBI6) by M/s Alfa and Sons for the export of Ceramic Tiles. Vide letter dated 14.11.2025, it has been informed that the refund scroll was generated on 13.12.2024 in respect of three Shipping Bills bearing Nos. 5697686, 5698225, and 5698840 all dated 18.11.2024. Therefore, it appears that M/s Alfa and Sons has already availed the IGST refund in respect of the aforesaid three Shipping Bills. Further, as discussed in the preceding paragraphs, it appears that M/s Alfa and Sons is a non-existing firm and that the IGST refund was availed on the basis of fake Input Tax Credit (ITC). Therefore, a letter F No CUS/SIIB/MISC/216/2025-O/o PR COMMR-CUS-AHMEDABAD dated 02.12.2025 has been written to the

DGGI, Delhi Zonal Unit, New Delhi for recovery of IGST refund and Input Tax Credit (ITC) fraudulently availed by M/s Alfa and Sons.

16.5. The investigation has revealed that M/s C.P. Logistics, Ahmedabad, acting as a Customs Broker, has grossly failed to comply with the mandatory obligations prescribed under the Customs Brokers Licensing Regulations, 2018. It is observed that the said Customs Broker did not verify the genuineness and antecedents of the exporter M/s Alfa & Sons, as required under Regulation 10 of the CBLR, 2018. The Customs Broker neither met nor established any direct contact with the proprietor of the exporter firm, Shri Shiv Kumar Bhaina, and admittedly did not possess even the basic contact details of the said proprietor, thereby demonstrating a complete lack of due diligence and professional responsibility. Further, Shri Shiv Kumar Bhaina, Proprietor of M/s Alfa and Sons, in his statement submitted that he does not know anyone from M/s C P Logistics and that he has never met or spoken to anyone from M/s C P Logistics.

Further, M/s C.P. Logistics filed Shipping Bills at ICD Sachana without holding any valid or specific authorization issued by the exporter for filing Shipping Bills at that location. The Customs Broker had earlier received only a copy of authorization (and not the original) for filing Shipping Bills at ICD Khodiyar. Filing Shipping Bills at a different ICD without proper authorization amounts to a clear violation of the provisions of Regulation 10(a) of the CBLR, 2018, which mandates that a Customs Broker shall obtain proper authorization from the client for each Customs-related transaction. Further, investigations revealed that M/s Alfa & Sons had already availed export benefits by way of IGST refund in respect of three shipping bills dated 18.11.2024, filed by M/s C.P. Logistics at ICD Khodiyar. It is further observed that M/s C.P. Logistics relied entirely on soft copies of documents forwarded by a third-party freight forwarder, without undertaking any independent verification of the exporter's credentials or business activities. No physical verification of the exporter's functioning at the declared address was conducted, nor was any basic online verification carried out. A simple verification on the GSTN portal would have revealed that M/s Alfa & Sons was registered for dealing in goods falling under

Chapter 64 (Footwear) and not in ceramic tiles, which were the goods declared for export. The failure to notice such a glaring mismatch clearly establishes that the Customs Broker neglected its statutory obligation to verify the correctness of KYC particulars and the nature of business of the client.

Further, M/s C.P. Logistics has not submitted any reply in respect of the letters issued to them by ICD Sachana in the matter. Therefore, it appears that the Customs Broker has failed to comply with mandatory communications and directions issued by the Customs Authority during the course of investigation, demonstrating a lack of cooperation and disregard for statutory obligations. This amounts to a clear violation of the provisions of Regulation 10(q) of the CBLR, 2018.

Thus, it is evident that M/s C.P. Logistics failed to exercise the due diligence expected of a licensed Customs Broker, knowingly facilitated the filing of export documents without proper authorization and verification, and acted in a manner that aided and abetted the fraudulent attempt to export goods in the name of M/s Alfa & Sons. Such acts and omissions constitute serious violations of the Customs Brokers Licensing Regulations, 2018, rendering M/s C.P. Logistics liable for penal action under the said Rules.

16.6 The investigation has revealed that M/s AESL Shipping Pvt. Ltd., acting as a freight forwarder for M/s Alfa & Sons, played an active and facilitative role in the filing of Shipping Bills from ICD Khodiyar and ICD Sachana without conducting any verification of the credentials, authenticity, or actual functioning of the exporter. It is established that M/s AESL Shipping Pvt. Ltd. does not hold any Customs Broker licence, nor does it employ any authorised Customs Broker card holder. Shri Virender Sharma, Director of M/s AESL Shipping Pvt. Ltd., in his statements dated 08.05.2025 and 06.06.2025, recorded under Section 108 of the Customs Act, 1962, admitted that AESL Shipping was using the Customs Broker licence of M/s C.P. Logistics merely on the basis of a mutual understanding,

without any written agreement or legal authorization. Such conduct is in clear contravention of the statutory framework governing Customs clearance operations. Shri Virender Sharma further admitted that M/s AESL Shipping Pvt. Ltd. Filed eight Shipping Bills on behalf of M/s Alfa & Sons for export of ceramic tiles, relying entirely on soft copies of IEC, PAN, and GST registration certificates, which were received either through a third-party forwarder or via WhatsApp from one Ms. Suhani, later identified as Ms. Vaibhavi Thakor (Mobile No. 9586766167), who acted as the sole contact person for the exporter. It is further admitted that neither Shri Virender Sharma nor any employee of AESL Shipping ever met the exporter in person, nor did they carry out any verification of the exporter's KYC documents, business profile, or declared address, despite being fully aware that a Customs Broker or a freight forwarder is required to verify the IEC, GSTIN, identity, and functioning of the client before undertaking Customs-related work. The investigation has further revealed that all documents pertaining to the filing of Shipping Bills, including purchase orders and courier-related documents, were received exclusively through WhatsApp. AESL Shipping raised invoices and received payments from M/s Alfa & Sons solely on the basis of documents forwarded by Ms. Suhani (Ms. Vaibhavi Thakor), without any direct communication with or authorization from the proprietor of the exporter firm. Shri Virender Sharma also confirmed that AESL Shipping was in contact only with Ms. Suhani and had no direct interaction or knowledge of the proprietor of M/s Alfa & Sons. He further admitted that AESL Shipping was unaware that M/s Alfa & Sons was a non-existent and fraudulent entity, created for the purpose of fraudulently availing Input Tax Credit (ITC) and IGST refunds

16.7 The investigation revealed that Ms. Vaibhavi Thakor alias Ms. Suhani was the only person from M/s Alfa and Sons who communicated with the CHA and the forwarder, and that she provided all documents such as invoices and other export-related records. She also acted as the primary

contact for all discussions relating to the filing of Shipping Bills and payments to the forwarder and the CHA, as stated by Shri Virender Sharma of M/s AESL Shipping Pvt. Ltd. Further, Shri Virender Sharma stated that she introduced herself to him as "Ms. Suhani," although it was later revealed that her actual name is Ms. Vaibhavi Thakor. In her statement dated 17.09.2025, Ms. Vaibhavi Thakor admitted that she had no direct connection with the proprietor, Shri Shiv Kumar Bhaina, and had never met him. She stated that her involvement with M/s Alfa and Sons arose solely because Shri Ajay Sharma contacted her around October 2024 and engaged her on a part-time, cash-salary basis to prepare export invoices and packing lists from her home. She further stated that all documents required for preparing export invoices—such as purchase invoices and e-way billswere sent to her by Shri Ajay Sharma from mobile number 6201615337 through WhatsApp, and that she forwarded these documents, including the KYC particulars of M/s Alfa and Sons, to Shri Virender Sharma (AESL Shipping) for filing of Shipping Bills, and thereafter conveyed the bills received from the CHA back to Shri Ajay Sharma. She also stated that she had known Shri Ajay Sharma for the last five years from her previous workplace and was regularly in touch with him in respect of work related to M/s Alfa and Sons. However, she claimed that she did not know his address, alternate contact number, or any other whereabouts, which creates serious doubt and suggests that she was intentionally hiding &withholding these facts. Thus, it appears that Ms. Vaibhavi Thakor was working on behalf of, and under the instructions of, the main person, Shri Ajay Sharma, in relation to the export activities carried out in the name of M/s Alfa and Sons, thereby facilitating and enabling the fraudulent export operations undertaken in the name of the said firmand abetted the fraudulent export attempts made in the name of M/s Alfa & Sons.

16.8 From the foregoing facts and investigation, it appears that M/s Alfa and Sons is a non-existent and fraudulently created entity, set up using the

statutory documents of Shri Shiv Kumar Bhaina by one Shri Ajay Sharma with the intent to misuse GST registration for availing fake ITC and fraudulent IGST refunds. The exporter grossly inflated the value and quantity of the goods declared in the impugned Shipping Bills, as evidenced by the Government-approved Chartered Engineer's report, thereby attempting to obtain undue IGST refund benefits. The firm has already availed IGST refund in respect of three Shipping Bills filed at ICD Khodiyar on the basis of fake ITC. Shri Shiv Kumar Bhaina has facilitated in creation and getting GST Registration of M/s Alfa and Sons by providing his personal documents like PAN & Aadhar Card and Sim (Mobile No.) and thus abetted the fraudulent export attempts made in the name of M/s Alfa & Sons. Further, the Customs Broker M/s C.P. Logistics and the forwarder M/s AESL Shipping Pvt. Ltd. failed to fulfil their statutory obligations, acted without proper authorization, relied solely on soft copies received through WhatsApp, undertook no KYC verification, and thereby facilitated the fraudulent export attempts. Moreover, Ms. Vaibhavi Thakor—working under the instructions of the main person Shri Ajay Sharma—acted as the sole contact person, supplied all export documents to the CHA/forwarder and concealed material information about Shri Ajay Sharma, thereby actively enabling the fraudulent export operations. Further, neither Ms. Vaibhavi Thakor nor Shri Shiv Kumar Bhaina revealed the contact details, whereabouts, or any other information about Shri Ajay Sharma, except his name. In view of the above, it appears that M/s Alfa and Sons, along with Shri Shiv Kumar Bhaina, Ms. Vaibhavi Thakor, M/s AESL Shipping Pvt. Ltd., and M/s C.P. Logistics, have collectively engaged in filing mis-declared, overvalued exports with the deliberate intention to defraud the Government exchequer by availing inadmissible IGST refunds and thereby rendered themselves liable to action under the Customs Act, 1962 and other applicable laws.

17. Contravention of Statutory Provisions:-

17.1 M/s Alfa and Sons filed Shipping Bill Nos. 6182220, 6182333, 6182430 and 6182373 dated 05.12.2024 at ICD Sachana Port under Section 50 of the Customs Act, 1962 declaring export of 46,875 sq. meters of Ceramic Wall Tiles with FOB value of Rs. 3,69,31,867.50/-, supported by invoices, packing lists and other export documents. As per the statutory mandate under Section 50 of the Customs Act, 1962, the exporter is required to furnish accurate, complete and truthful information in the Shipping Bill and to make a declaration as to the correctness of its contents. However, upon physical examination by the Proper Officer and independent verification by Chartered Engineer, the actual exportable goods were found to be only 3,483.87 sq. meters of Ceramic Wall Tiles having a total market value of Rs. 7,50,000/-. The exporter thereby grossly mis-declared both quantity and value in a deliberate manner, attracting provisions pertaining to fraudulent export attempt. The conduct of the exporter clearly establishes willful suppression and intentional misrepresentation in violation of Section 50 of the Customs Act, 1962.

17.2 The act of declaring exaggerated quantity and highly inflated valuation of the export goods amounts to a planned attempt to export goods by means of false declaration, making the goods liable to confiscation under Section 113 (d) and (i) of the Customs Act, 1962 as the same were entered for exportation through mis-declaration and attempted to be exported contrary to the provisions of the law. Accordingly, M/s Alfa and Sons have rendered themselves liable to penal consequences under Section 114(iii) of the Customs Act, 1962 for abetting acts attracting confiscation.

17.3 Further, by submitting manipulated and incorrect invoices, packing lists and export documentation with the intention of unduly claiming export incentives or benefits, M/s Alfa and Sons have consciously committed acts of fraud. Such fraud attracts specific penal provisions under Section 114AA of the Customs Act, 1962 which stipulate penalty for knowingly or intentionally using false or incorrect material in any declaration, statement,

document or information submitted under the Act. Moreover, investigation reveals that the exporter availed fraudulent Input Tax Credit without any actual business activity at its registered premises. Therefore, the said entity is liable for penalty under Section 114AC of the Customs Act, 1962 relating to wrongful utilization of ITC for ulterior motives linked with export goods.

17.4 M/s C.P. Logistics, being a licensed Customs Broker, was under a clear statutory obligation to strictly adhere to the duties prescribed under Regulation 10 of the Customs Brokers Licensing Regulations (CBLR), 2018, which mandate verification of the correctness, authenticity and legality of the information furnished by the client, verification of the client's identity, antecedents and functioning at the declared address, obtaining proper authorization for each Customs-related transaction, and ensuring compliance with the provisions of the Customs Act, 1962 and allied laws. However, investigation has revealed that M/s C.P. Logistics failed to verify the genuineness, physical existence and business activities of the exporter M/s Alfa & Sons. The Customs Broker admittedly never met the proprietor or any authorized representative of the exporter, did not even possess the basic contact details of the exporter, and failed to carry out any physical or independent verification of the exporter's place of business, thereby violating the Regulation 10(d) & (n) of the CBLR, 2018. Despite such absence of due diligence, M/s C.P. Logistics proceeded to file Shipping Bills on behalf of the exporter without obtaining proper and valid authorization amounts to violation of Regulation 10(a) of CBLR, 2018. Further, M/s C.P. Logistics relied upon documents received from third parties without verifying their authenticity and correctness and failed to advise the exporter on proper valuation of the export goods, even though valuation is a critical aspect of export declarations. The Customs Broker also failed to respond to and comply with mandatory communications and directions issued by the Customs Authority during the course of investigation, demonstrating a lack of cooperation and disregard for statutory obligations, amounts to a clear

violation of the provisions of Regulation 10(q) of the CBLR, 2018. Further, M/s C. P. Logistics Such acts of omission and commission on the part of M/s C.P. Logistics directly facilitated the filing of Shipping Bills on the basis of false, incomplete and unverified documents, resulting in mis-declaration and overvaluation of the export goods. By failing to exercise the due diligence expected of a licensed Customs Broker and by knowingly proceeding with Customs documentation without proper verification and authorization, M/s C.P. Logistics actively aided and abetted the attempted evasion and misuse of Customs procedures. Accordingly, by their deliberate negligence and conscious disregard of statutory duties, M/s C.P. Logistics rendered themselves liable for penal action under Section 114(iii) and Section 114AA of the Customs Act, 1962 for abetting a fraudulent export transaction, and further under Section 117 for contravention of statutory procedural compliance requirements, in addition to action under the provisions of the Customs Brokers Licensing Regulations, 2018.

17.5 M/s AESL Shipping Pvt. Ltd., acting as Forwarder, knowingly participated in handling and forwarding export documentation without verification of authenticity of the exporter or the goods. They failed to verify the financial standing, business legitimacy, antecedents and actual operational status of M/s Alfa and Sons despite being in possession of the exporter's GST details which clearly did not mention Ceramic Tiles in "Goods and Services Dealt In." Their actions aided the fraudulent export activity. Therefore, they have rendered themselves liable for penalty under Section 114(iii) and Section 114AA of the Customs Act, 1962 for abetting a fraudulent export transaction, and further under Section 117 for contravention of statutory procedural compliance requirements.

17.6 Ms. Vaibhavi Thakor, identified as the staff of M/s Alfa and Sons, was found to be actively engaged in preparation and submission of false export documents on instructions of the primary operator, Shri Ajay Sharma. She drew regular monetary benefit for facilitating the execution of the fraudulent

export attempt. She was unable to provide legitimate justification for mis-declared goods or the whereabouts/contact details of the main operator of the firm, indicating conscious involvement. Her actions directly contributed to the export of mis-declared goods which are liable for confiscation under Section 113 of the Act, rendering her exposed to penal action under Section 114(iii), Section 114AA, and Section 117 of the Customs Act, 1962.

17.7 Sh. Shiv Kumar Bhaina having residential address at Sivilibari, South Garikhana, Panchmahli, Kumardhubi, Nirsa - cum - Chirkunda, Dhanbad, Jharkhand-828203, has facilitated in creation and getting GST Registration of M/s Alfa and Sons by providing his personal documents like PAN & Aadhar Card and Sim (Mobile No.) and thus abetted the fraudulent export attempts made in the name of M/s Alfa & Sons. His actions directly contributed to the export of mis-declared goods which are liable for confiscation under Section 113 of the Act, rendering her exposed to penal action under Section 114(iii), Section 114AA, and Section 117 of the Customs Act, 1962.

17.8 The valuation report issued by the empanelled Chartered Engineer clearly establishes that the declared quantity and value are grossly inflated and devoid of commercial justification. Hence, it appears that the declared value is liable to be rejected under Section 14 of the Customs Act, 1962 read with Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The revised market value of Rs. 7,50,000/- determined based on correct description, specifications and prevailing market price, appears to be acceptable as per Rule 6 of the aforesaid Rules. The attempt at export at an inflated value conclusively reflects intentional overvaluation for illegal gains.

18. Accordingly, a Show Cause Notice bearing no. CUS/SIIB/MISC/216/2025-PREV-O/o PR COMMR-CUS-Ahmedabad dated 24.12.2025 was issued to **1).M/s. Alfa and Sons**, having registered address

at Shop No. 02 IN KH. No. 870, Block-E, G/F, Sarita Vihar, Aali Vihar, New Delhi, South East Delhi, 110076, **2). M/s C.P. Logistics,** 9th Floor, 910, Atlanta Tower, Opp. Satyam Complex, GulbaiTekra, Ahmedabad, **3). M/s. AESL Shipping Pvt. Ltd.,** F-308, Vedmata Society IOC Road Chandkheda, Ahmedabad, Gujarat, **4). Ms. Vaibhavi Thakor**, C/o Girishbhai, House No 3/2202, Pipradisheri, Salabatpura, Surat City- 395003 **5) Sh. Shiv Kumar Bhaina** at Sivilibari, South Garikhana, Panchmahli, Kumardhubi, Nirsa - cum - Chirkunda, Dhanbad, Jharkhand-828203 as to why:-

(i) the value declared by the exporter in the Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 to the tune of Rs. 3,69,31,867.5/- should not be rejected in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and why value of Rs.7,50,000/- as certified by the Govt. approved Chartered Engineer & Valuer should not be accepted.

(ii) Goods intended for export vide Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 having declared FOB value Rs. 3,69,31,867.5/- and market value of Rs. 7,50,000/-, should not be held liable for confiscation under Section 113(d) and 113 (i) of the Customs Act, 1962.

(iii) the value worked out by the Government Empaneled Chartered Engineer amounting to Rs. 7,50,000/-in respect of Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024, should not be accepted for the purpose of the valuation of goods intended for export, in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of Customs

Valuation (Determination of Value of Export Goods) Rules, 2007;

(iv) Penalty should not be imposed on M/s Alfa and Sons under Section 114(iii), Section 114AA and Section 114AC of the Customs Act, 1962.

(v) Penalty should not be imposed on M/s C.P. Logistics, 9th Floor, 910, Atlanta Tower, Opp. Satyam Complex, GulbaiTekra, Ahmedabad under 114(iii), Section 114AA and Section 117 of the Customs Act, 1962.

(vi) Penalty should not be imposed on M/s AESL Shipping Pvt. Ltd., F-308, Vedmata Society IOC Road Chandkheda, Ahmedabad, Gujarat, under 114(iii) and Section 114AA and Section 117 of the Customs Act, 1962.

(vii) Penalty should not be imposed on Ms. Vaibhavi Thakor C/o Girishbhai, House No 3/2202, Pipradisheri, Salabatpura, Surat City-395003, under 114(iii) and Section 114AA and Section 117 of the Customs Act, 1962

(viii) Penalty should not be imposed on Sh. Shiv Kumar Bhaina, Sivilibari, South Garikhana, Panchmahli, Kumardhubi, Nirsa - cum - Chirkunda, Dhanbad, Jharkhand-828203, under 114(iii) and Section 114AA and Section 117 of the Customs Act, 1962.

19. **Written Submission:-**

19.1 **Written Submission of noticee M/s. Alfa and Sons**:- The noticee has not submitted any defense reply against the allegation made in SCN.

19.2 **Written Submission of noticee Shri Shiv Kumar Bhaina, Proprietor of M/s Alfa and Sons**:- The noticee has not submitted any defense reply against the allegation made in SCN.

19.3 **Written Submission of noticee M/s C.P. Logistics**:- The noticee vide letter dated 17.05.2026 received on 27.05.2026 submitted their defense reply wherein they have denied all the allegation levelled against them in the SCN except to what has been specifically admitted herein below. They have submitted that:

- they have no interest in the goods and action to be taken against the said goods under seizure, accordingly no comments are being offered in respect of misdeclaration of quantity and value of goods;
- the shipping bills were filed as a customs broker and the fixation and declaration of price of the goods to be exported is the prerogative of the exporter, in which custom broker has no role to play.
- the customs broker is governed by CBLR, 2018 and obligation of Customs Broker have been listed in Regulation 10. As per Clause (n) of Regulation 10, a customs broker is obliged to verify correctness of ICE, GSTN, Identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information.
- In the instant case all the documents were obtained from M/s. AESL Shipping Pvt Ltdhaving been in a regular trade relation with them, there was no reason to doubt the authenticity and genuineness of the documents received from M/s. AESL Shipping Pvt Ltd.
- It is not a case of department that the ICE and GSTN of the exporter was not genuine and therefore, it cannot be alleged that the Custom broker was careless.

- In panchnama dated 08.01.2025 drawn during premises verification of exporter, recorded that the said exporter was available at the registered address having display board with its name, however the premises was found closed and the exporter was functioning since last 4 or 5 months, therefore, as per the panchnama it is very clear that at the time of verification, exporter was in existence. Merely because at the time of visit the place was found closed does not inference that the said exporter was not in existence;
- that all the credential viz ICE and GSTN was verified online and same was found in active states and accordingly, believed that the exporter was bonafide and genuine and placed reliance on the case of Kunal Travels Vs. Commissioner of Customs (I&G), new delhi reported at 2017-TIOL-894-HC-DEL-CUS and judgment in case of IWW Logistics P.Ltd reported at 2025-TIOL-491-CETAT-KOL
- that no separate authorization for exports from ICD Sachana was forwarded by M/s. AESL and only forwarded the authorization addressed to ICD Khodiyar. No discrepancy in documents was pointed out at any point at Sachana and this lead to a bonafide belief that all documents submitted were in order
- that there is no remotest evidence which suggest that they were aware of overvaluation of the export good. That being so, it could not be expected to have either advised the exporter or informed the concerned officer of the department. There is no positive and tangible evidence to support the allegation of being aware of mis-declaration and overvaluation of exported goods and accordingly proposal of penalty against them is not in interest of justice and justified.

- They have verified all the documents online and then filed the shipping bills on the basis of documents provided by the forwarder and placed reliance on decision of Hon'ble Tribunal in case of Friends Cargo Services Vs. Commissioner of Customs reported at 2024-TIOL-252-CESTAT-DEL.
- They had received all documents from the forwarder who confirmed having supplied the documents to them and based on documents they processed the documents for export of goods. There was no lapse on their part, therefore, no penalty could be imposed and submitted the following case law:
    i. Ajai Kumar Singh 2024-TIOL-729-HC-KOL-CUS
    ii. Pallab Mitra 2024-TIOL-720-CESTAT-KOL
    iii. Joshy M J 201-TIOL-171-CESTAT-All
    iv. Manish Ranjan 2026-TIOL-306-CESTAT-KOL
- Penalty under Section 114 of the Act cannot be imposable merely for alleged failure to file the authorization or for alleged lapses covered under CBLR. In present case no culpable conduct is proved against them and therefore, penalty may be not imposed. They put reliance on decision in case of M/s. Excel Shipping Services Vs. Commissioner of Customs reported at 2025-TIOL-1872-CESAT-MAD;
- That allegation against them are covered under CBLR for which a separate proceeding has been initiated and for that placed reliance on judgment of Hon'ble High Court of Delhi in the case of Commissioner Vs. Buhariwal Logistics reported at 2015-TIOL-291-HC-DEL-CUS
- They further put reliance in case of Hindustan Steel Ltd Vs. State of Orissa reported at AIR 1970 SC (253) 1979 E.L.T (J402) against the imposition of penalty on them;
- Further, they put reliance on Instruction No. 20/2024 dated 03.09.2024 has recently been issued by CBIC directing that

implicating Customs Brokers as co- noticee in a routine manner and there was no evidence which suggest that they have know about misdeclaration of quantity and value of goods. They have also put reliance on decision in case of Liladhar Pasoo Forwarders P Ltd vs. Commissioner of Customs, Mumbai reported at 2000(122)ELT 737(T) and decision of Hon'ble Tribunal in case of Manasa Impex Services Vs Commissioner reported at 2026(395) E.L.T 110(Tri-Chennai), decision in case of Hera Shipping Solution P Ltd Vs. Commr reported at 2022(382) E.L.T 552 (tri-Chennai)

- The entire case is based on some uncorroborated statements made by various persons in some other proceedings and submit that they were never involved in exports made by M/s. Alfa and Sons and penal action against them unwarranted and not justified. Placed reliance on decision in case of Big Bags India P Ltd vs. Commissioner, reported at 2008 (228) ELT 400(Tri-Bom);
- As regard for imposition of penalty under Section 114AA it is submitted that penalty can be imposed for knowingly and intentionally signs any declaration which is false or incorrect in any material particular. In present case they have not signed any documents, nor they were actual exporter. They have put reliance on Para 65 and 66 of the 27th Report of Standing Committee on Finance and also relied upon the decision of Hon'ble Tribunal in case of Access World Wide Cargo vs. Commissioner reported at 2022(379) ELT 120 (tri-Bang)
- He prayed to drop the proceeding after taking into consideration of submission and passed any order deemed fit in interest of justice.

19.4 **Written Submission of noticee M/s. AESL Shipping P Ltd**:- The noticee vide letter dated 17.05.2026 received on 27.05.2026 submitted their written submission wherein they have denied all the allegation levelled against them in the SCN except to what has been specifically admitted herein below. They have submitted that:

- the subject notice proposes penalty only because they had forwarded the documents as received from the representative of the exporter to the Customs broker to undertake filing and processing of the documents for export of goods of M/s. Alfa and Sons; it was stated that at the material time Shri Virendra Sharma in the capacity of director looking after the commercial activities of company whose statement was recorded. In the subject notice no specific evidence has been brought on such and as such the proposal to impose penalty is legally not sustainable. They have also put reliance on decision in case of Liladhar Pasoo Forwarders P Ltd vs. Commissioner of Customs, Mumbai reported at 2000(122)ELT 737(T). they further submitted that parameter for imposition of penalty under Section 114(iii) and 114 AA are entirely different and cannot be imposed simultaneously as said tow sections do not operate simultaneously but are independent of each other and placed reliance on case law in matter of Adarash Kumar vs. Commissioner of Customs reported at 2000(122) ELT 830 (T);
- The Hon'ble Supreme Court in case of Hindustan Steel Ltd Vs. State of Orissa reported at AIR 1970 SC 253 (ELT 1977 A-43) has laid down the guidelines for imposition of penalty, wherein Hon'ble Court is of the view that where breach of any statutory provision has taken place incidentally without any guilt cognizant, no penalty should generally be imposed even though imposition of penalty is permissible under statute.

- For imposition of penalty there should be mens-rea, as held by Hon'ble Supreme Court of India in case of Akbar Badruddin Jiwani Vs. Collector of Customs reported at 1990 (47) ELT 161 (SC)
- They further relied upon the case law in matter of Plast Fab Vs Collector of Customs reported in 1933 (66) ELT 441(T), SP Kumria & Sons, Lucknow Vs. Collector of Central Excise, Allahabad reported in 1985 (22) ELT 142 (T), Pratibha Processors Vs. Union of India reported in 1996 (88) ELT (12),
- They submitted that penalty can be imposed for an act of omission and commission played in the offense for which the burden to prove the said act of omission and commission lies on Department, in the instant case, no evidence has been disclosed to show the active participation in alleged offense and relied upon the case law of Hon'ble Customs, Excise and gold (Control) Appellate Tribunal in case of Karnataka Minerls & MFG.Co.ltd vs. Collector of Central Excise Reported at 1989 (41) ELT 444(T). Further they relied upon the case law in matter of Smt. Shyam Kumari & Ors reported at 1982 ELT 392(CBEC) wherein it was held that penal liability depends on the role played by each of person to be penalized after examining the seriousness of his role played in commission of offense.
- As regard for imposition of penalty under Section 114AA it is submitted that penalty can be imposed for knowingly and intentionally signs any declaration which is false or incorrect in any material particular. In present case they have not signed any documents, nor they were actual exporter. They have put reliance on Para 65 and 66 of the 27th Report of Standing Committee on Finance and also relied upon the decision of Hon'ble Tribunal in case of Access World Wide Cargo vs. Commissioner reported at 2022(379) ELT 120 (tri-Bang)

- In the aforesaid premises the alleged action as proposed vide the subject notice being devoid of any evidence against them and same is required to be withdrawn in interest of justice and they also submitted that they did not desire to be heard in person, however the submission may be taken on record and discussed while adjudicating the case.

19.5 **Written Submission of noticee Ms. Vaibhavi Thakor**:- The noticee has not submitted any defense reply against the allegation made in SCN.

20. PERSONAL HEARING: -

Adequate opportunities of personal hearing were given to all noticees in the Show Cause, which is summarized as under:-

Noticee: M/s. Alfa and Sons and its proprietor Shri Shiv Kumar Bhaina:- Opportunities for personal hearings were afforded to the noticee M/s. Alfa and Sons and its proprietor Shri Shiv Kumar Bhaina on 11.03.2026, 24.03.2026, 28.04.2026, 26.05.2026, 13.07.2026 & 30.07.2026 via letters dispatched to the registered address and emails sent to the provided email ID. But neither of them nor any authorized representative on their behalf appeared for personal hearing and to represent the case. In the instant case, the Noticee was granted six separate opportunities to be heard either in person or via virtual mode, yet failed to avail themselves of any. In view of the above, it is evident that the Noticee is indifferent to the ongoing adjudication proceedings and has nothing to submit in their defense.

Noticee M/s. C.P Logistics:- The noticee was granted personal hearing on 11.03.2026. In response, vide email dated 10.03.2026 they have requested for another date citing the medical reason for non-availability of their consultant/authorized person. Thereafter letters for person hearing fixing PH date on 24.03.2026, 28.04.2026 were issued and dispatched to their registered address as well as mailed to the provided email ID. Shri Vishal K

Panchal, Auhrotized person of M/s. C.P Logistics appeared for personal hearing through virtual mode on 28.04.2026 wherein he requested to grant another personal hearing after a week time citing the reason of non availability of their lawyer for filing their submission. Accordingly, Personal hearing in the matter was fixed on 06.05.2026. Shri Nirmal Tiwari, Authorized person attended the PH through virtual mode on 06.05.2026 wherein he submitted that he will submit detailed written submission within 07 days He further submitted that overvaluation was not within the knowledge of the noticee and that determination of export value was the prerogative of the exporter. He further submitted that the action under CBLR had already been taken and that no violation of the provisions of the Customs Act, 1962 was attributable to the noticee. However, due to change of adjudicating authority and to follow the principle of natural justice, fresh personal hearing letters fixing PH on 13.07.2026 & 30.07.2026 were dispatched to their registered address as well as mailed to the provided email ID, however neither noticee nor their representative appeared for personal hearing. In the instant case, the noticee has been granted sufficient opportunity of being heard to be heard either in person or via virtual mode. Consequent to the Noticee's failure to appear before the current Adjudicating Authority, I am compelled to consider the record of the personal hearing dated 06.05.2026, wherein the Noticee was duly represented.

Noticee M/s. AESL Shipping Pvt Ltd:- The noticee was granted personal hearing on 11.03.2026. In response, vide email dated 09.03.2026 they have requested for another date citing the medical reason for non-availability of their consultant/authorized person. Thereafter letters for person hearing fixing PH date on 24.03.2026, 28.04.2026 were issued and dispatched to their registered address as well as mailed to the provided email ID. Shri Virender Sharma, Director of M/s. AESL Shipping Pvt Ltd appeared for personal hearing through virtual mode on 28.04.2026 wherein he requested

to grant another personal hearing after a week time citing the reason of non-availability of their lawyer for filing their submission. Accordingly, Personal hearing in the matter was fixed on 06.05.2026. Shri Nirmal Tiwari, Authorized person attended the PH through virtual mode on 06.05.2026 wherein he submitted that he will submit detailed written submission within 07 days He further submitted that overvaluation was not within the knowledge of the noticee and that determination of export value was the prerogative of the exporter. He further submitted that the action under CBLR had already been taken and that no violation of the provisions of the Customs Act, 1962 was attributable to the noticee. However, due to change of adjudicating authority and to follow the principle of natural justice, fresh personal hearing letters fixing PH on 13.07.2026 & 30.07.2026 were dispatched to their registered address as well as mailed to the provided email ID, however neither noticee nor their representative appeared for personal hearing. In the instant case, the noticee has been granted sufficient opportunity of being heard to be heard either in person or via virtual mode. Consequent to the Noticee's failure to appear before the current Adjudicating Authority, I am compelled to consider the record of the personal hearing dated 06.05.2026, wherein the Noticee was duly represented.

Noticee Ms. Vaibhavi Thakor:- The noticee was granted personal hearing on 11.03.2026. Ms. Vaibhavi Thakor herself appeared for personal hearing through virtual mode. She stated that she does part time jobs and used to do work from home. She was doing work on salary basis for Rs. 5000/- and the salary was paid by Shri Ajay Sharma in cash. She did not know the whereabouts/address details of Shri Ajay Sharma as he used to contact her through mobile only. She had no knowledge about any wrong doing in the matter. She requested to take lenient view in the matter as she was doing only part time job on salary basis for Rs. 5000/- per month. Due to change of adjudicating authority and to follow the principle of natural justice, a

fresh personal hearing letter fixing PH on 07.08.2026 was dispatched to the registered address as well as mailed to the provided email ID. Ms. Vaibhavi Thakor, herself appeared for PH on 07.08.2026 through virtual mode. She submitted that she worked part-time job for Shri Ajay Sharma of M/s. Alfa and Sons. She first met Shri Ajay Sharma at Tirupati Market, where she was employed as a data entry operator. In 2024, he contacted her regarding employment opportunities, specifically for preparing invoices and handling documentation. He also provided her with the contact number of Shri Virendra Bhai, a Customs House Agent (CHA), to facilitate the emailing of documents. Upon receiving documents from Shri Virendra Bhai, she would routinely forward the information to Shri Ajay Sharma. She stated that she is currently employed at M/s. Khushi Sarees, where she prepares invoices. This is her final submission and nothing more to add.

21. DISCUSSION AND FINDINGS: -

I have carefully gone through the relevant records, the written submissions made by noticees as well as submission made by the noticee during the personal hearing and compilation of statutory provisions and case laws.

21.1. I find that as per Section 122A of the Customs Act, 1962, the Adjudicating Authority shall give an opportunity of being heard to the Noticee in a proceeding, if the Noticee so desires. Accordingly, in the present case ample opportunities were granted to M/s Alfa & Sons as well its Proprietor Shri Shiv Kumar Bhaina but they did not participate in the adjudication proceedings inspite of the fact that service of letters for personal hearings was done in terms of Section 153 of Customs Act, 1962.

Section 153 of the Customs Act reads as under -

(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:—

a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

d) by making it available on the common portal;

e) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or;

f) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]

Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that Personal Hearing letters were duly served to the Noticee, but they did not respond as if they did not have anything to submit in their defence.

21.2. I find that M/s Alfa & Sons as well its Proprietor Shri Shiv Kumar Bhaina have failed to appear for Personal Hearing, inspite of being given opportunity to appear in person several times as detailed in foregoing para for defending their case. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte in terms of merit of the case.

21.3. With regard to proceeding to decide the case ex-parte, support is drawn from the following case laws:

21.3.1. Hon'ble High Court of Kerala in the case of United Oil Mills Vs. Collector of Customs & C.Ex. Cochin reported in 2000 (124) ELT 53 (Ker.) has held that:

> 19. No doubt hearing includes written submissions and personal hearing as well but the principle of *Audi Alteram Partem* does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.
>
> 21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations. Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial

mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See *Union of India and Another* v. *M/s. Jesus Sales Corporation* [1996 (83) E.L.T. 486 (S.C.) = J.T. 1996 (3) SC 597].

21.3.2. Hon'ble Tribunal of Mumbai in the case of Sumit Wool Processors v. CC, Nhava Sheva reported in 2014 (312) E.L.T. 401 (Tri. - Mumbai) has observed as under:

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus the argument taken is only an *alibi* to escape the consequences of law. Accordingly, we reject the plea made by them in this regard."

21.3.3. Hon'ble High Court of Delhi in the case of Saketh India Ltd Vs. Union of India reported in 2002 (143) ELT 274 (Del), has observed that:

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. - Admittedly, the appellant herein did not respond to the show cause notice. Thereafter, the appellant was called

for personal hearing on six subsequent dates. According to the Additional DGFT nobody appeared on behalf of the appellant inspite of various dates fixed for personal appearance of the appellant and in these circumstances, the Additional DGFT proceeded with the matter ex parte and passed the impugned order. The appellant had the knowledge of the proceedings but neither any reply to the show cause notice was given nor it chose to appear before the Additional DGFT to make oral submissions. Thus it is a clear case where proper opportunity was given to the appellant to reply to show cause notice and to make oral submissions, if any. However, fault lies with the appellant in not availing of these opportunities. The appellant cannot now turn around and blame the respondents by alleging that the Additional DGFT violated principles of natural justice or did not give sufficient opportunity to the appellant to present its case."

21.3.4. The Hon'ble CESTAT, Mumbai in the case of Gopinath Chem Tech. Ltd Vs. Commissioner of Central Excise, Ahmedabad-II reported in 2004 (171) ELT 412 (Tri. Mumbai) has held that:

"Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated."

21.3.5. The Hon'ble Supreme Court in the case of Jethmal Vs. Union of India reported in 1999 (110) ELT 379 (S.C.) has held as under:

7. Our attention was also drawn to a recent decision of this Court in *A.K. Kripak* v. *Union of India* - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of *audi alteram partem* and it was argued that an *ex parte* hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause

notice. Clearly, he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality.

21.3.6. Hon'ble Delhi Tribunal in the case of Commissioner of C.Ex. Vs. Pee Iron & Steel Co. (P) Ltd. reported in as 2012 (286) E.L.T. 79 (Tri. – Del) [upheld by Hon'ble Punjab & Haryana High Court reported in **2015 (316) E.L.T. A118 (P&H.)]** has observed that:

"9. Notice to the respondent has been received back undelivered with the report that address is not correct. No other address of the respondent is available on record, therefore, the respondent cannot be served with the notice without undue delay and expense. Accordingly, we are constrained to proceed *ex parte* order against the respondent."

21.4 In view of the discussion held in Para 21 to 21.3.6. above, I proceed to adjudicate the Show Cause Notice No. CUS/SIIB/MISC/216/2025-Prev-O/o PR-COMMR-CUS-Ahmedabad dated 24.12.2025 ex parte.

22. I find that the matter before me is to decide whether :-

(i) the value declared by the exporter in the Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 to the tune of Rs. 3,69,31,867.5/- should be rejected in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value worked out by the Government Empaneled Chartered Engineer amounting to Rs. 7,50,000/- in respect of above-mentioned shipping bills, should be accepted for the purpose of the valuation of goods intended for export, in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of Rule 4 and Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;

(ii) Goods intended for export vide Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 having declared FOB value Rs. 3,69,31,867.5/- and market value of Rs. 7,50,000/-, should be held liable for confiscation under Section 113(d) and 113 (i) of the Customs Act, 1962.

(iii) Penalty should be imposed on M/s Alfa and Sons under Section 114(iii), Section 114AA and Section 114AC of the Customs Act, 1962.

(iv) M/s C.P. Logistics, 9th Floor, 910, Atlanta Tower, Opp. Satyam Complex, GulbaiTekra, Ahmedabad, is liable for penalty under Section 114(iii) and Section 114AA and Section 117 of the Customs Act, 1962.

(v) M/s AESL Shipping Pvt. Ltd., F-308, Vedmata Society IOC Road Chandkheda, Ahmedabad, Gujarat, is liable for penalty under Section 114(iii) and Section 114AA and Section 117 of the Customs Act, 1962.

(vi) Ms. Vaibhavi Thakor C/o Girishbhai, House No 3/2202, Pipradisheri, Salabatpura, Surat City-395003, is liable for penalty under 114(iii) and Section 114AA and Section 117 of the Customs Act, 1962.

(vii) Sh. Shiv Kumar Bhaina, Sivilibari, South Garikhana, Panchmahli, Kumardhubi, Nirsa - cum - Chirkunda, Dhanbad, Jharkhand-828203 is liable for penalty under Section 114(iii) and Section 114AA and Section 117 of the Customs Act, 1962

23. Now, I proceed to consider each of the aforementioned points one by one.

23.1. **Whether goods intended for export vide Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 having declared FOB value Rs. 3,69,31,867.5/- should be rejected and**

ascertained assessable market value of Rs. 7,50,000/-, should be considered and held liable for confiscation under Section 113(d) and 113(i) of the Customs Act, 1962.

23.1.1 I find that on the basis of specific intelligence, the filed shipping bills bearing numbers 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 were identified for 100% examination and accordingly, the containers bearing number MAGU2337021 & IALU2265567 carrying the goods declared as Ceramic Wall Tiles under CTH 69072200 with FOB value of Rs. 3,69,31,867.5/- was put on hold and a 100% examination was carried out at M/s Mundhra Container Freight Station Pvt. Ltd. CFS, APSEZ, Mundra (kutch) by the Preventive Officer, SIIB, Customs House, Mundra in the presence of Shri Raju Kumar Singh, Sr. Operation Executive, M/s Mundhra Container Freight Station Pvt. Ltd. CFS and 02 independent Panchas under the Panchnama dated 02.01.2025. It was noticed during the examination of cargo that the goods were packed in corrugated boxes. The boxes were opened randomly and found that boxes contain “Wall Tiles”. The details of the goods physically examined during the panchnama are as under:-

Table-2

Sr No	Container No	No of Packages/Boxes	Quantity in Square Feet	Quantity in square meter
1	IALU2265567	1876	1876*10=18760	1742.86
2	MAGU2337021	1874	1874*10=18740	1741.01

Size of each tile = 300mm*600mm

Area of 01 tile = 2 Square feet

No of tiles in 01 package = 05

Area of tile in 01 package = 10 square feet

Further, for the purpose of ascertaining the precise nature of the goods under export, an empaneled Chartered Engineer Shri Ajayrajsinh Baldevsinh Jhala was called upon. Shri Ajayrajsinh Baldevsinh Jhala, an empaneled chartered engineer examined the goods being exported under mentioned shipping bills and submitted a report no. ABJ:INSP:SSIB:CE:ALFA:24-25:01 dated 08.01.2025 wherein he found that that the actual present market value of the goods was in total Rs 7,50,000/-. This was much less in comparison to the FOB declared by the exporter i.e. Rs. 3,69,31,867.5/-.

23.1.2 I find that during the course of the investigation, Shri Shiv Kumar Bhaina, Proprietor of M/s. Alfa and Sons, was issued summons; however, he failed to respond. Consequently, a physical verification of the registered premises was requested and subsequently conducted by the officers of Anti-Evasion-1, CGST Delhi South Commissionerate, on 08.01.2025. During the physical verification, conducted under a panchnama dated 08.01.2025, the officers found the premises locked and closed. I further observe that physical verification of the registered premises was conducted on two additional occasions, besides the verification on 08.01.2025. On both instances, the premises were found locked and closed. Upon making enquiries with the building owner, it was revealed that the premises were frequently used by unknown persons. Consequently, it appears that the said premises were deliberately utilized to create bogus firms operating merely on paper, with the sole intention of evading taxes and fraudulently claiming Input Tax Credit (ITC) and claiming undue benefit of IGST Refund on export of goods.

23.1.3 Further, I find from the GST-BO portal, that the GSTIN number of said firm was suspended with effect from 17.03.2025 by the State

Jurisdictional authority on the ground that the noticee was engaged in transfer of fraudulent ITC and for that a Show Cause Notice under Rule 21(b) & 21(e) for violation of provisions of Section 16 of the CGST/UTGST Act and Rules made thereunder was already issued by the State GST Authority. On going through the Rules 21 of CGST/SGST/IGST Act, 2017 read with Section 16 of CGST/SGST/UTGST Act, 2017, I noticed that the said Rules and provisions related to wrong/fraudulently availment and utilization of ITC. Further, I find that the firm was registered with the GST Department on 18.06.2024 by mentioning the nature of business as Wholesale Trader/ Distributor of *"Rubber and Waterproof Footwear with Outer Soles and uppers of Rubber or of plastics, The Uppers of which are neither fixed to the Sole nor assembled by stitching, Riveting, Nailing, Screwing, Plugging or Similar processes other Footwear: Covering the Knee: of rubber."* *Under CTH 6401/6402*. However, the noticee subsequently filed a shipping bill for the export of "Ceramic Wall Tiles" under CTH 6907. This blatant contradiction to the core business activities declared in their GST registration casts serious doubt upon the genuineness and bona fides of the noticee. Cumulative analysis of the aforementioned discrepancies conclusively establishes that the subject firm was intentionally created as a front to illicitly claim and wrongfully avail IGST refunds by mis declaring and exporting grossly overvalued, substandard, and near-valueless goods.

23.1.4 I have carefully perused the inspection report submitted by the Chartered Engineer and find that the declared assessable value of Rs. 3,69,31,867.50/- in respect of the export consignments under the subject shipping bills is completely irreconcilable with the actual quality and specification of the goods. The physical examination of the cargo conclusively revealed that the consignment comprised "Wall Tiles" of uniform dimensions but sourced from various disparate manufacturing entities. The goods bore the distinct characteristics of old, obsolete, and unused liquidated stock.

Based upon a meticulous physical inspection, an objective market survey of identical/similar goods in bulk quantities, and a detailed assessment of standard production costs, the Chartered Engineer determined the fair market value of the goods to be Rs. 200/- per box. Accordingly, the true aggregate value of the entire consignment was determined to be a mere Rs. 7,50,000/- for the 3,750 boxes actually found loaded. I further find that upon conversion and verification of the physical dimensions; the actual quantity of the cargo works out to only 3,483.87 Sqm. This stands in stark and unacceptable contrast to the declared quantity of 46,875 Sqm in total mentioned in the shipping bills for the cargo stuffed inside the two containers (bearing numbers IALU2265567 and MAGU2337021). It is therefore absolute and irrefutable that the noticee has fraudulently inflated the quantity of the export goods by more than 13 times with the sole, mala fide intention of mis declaring the value in order to avail ineligible IGST Refund. Besides, the exporter failed to produce documents/evidence including sales contract/agreement with the overseas customer to justify the value of the impugned goods and allay the doubt of overvaluation.

23.1.5 The exporter did not submit any other document/ evidence of the actual/correct value of the goods, which could be taken as the transaction value of the goods for the purpose of Rule 3(1) of the CVR 2007. Therefore, the declared value of the consignment could not be considered as true and actual transaction value of the goods and same is required to be rejected under Rule 8 of CVR 2007. Furthermore, owing to above circumstances, transaction value of these impugned export goods could not be determined under the provisions of subrule (1) of Rule 3 and then resorted to Rule 4 to 6 of CVR 2007 to determine transaction value of the impugned goods. I also find that value could not be re-determined by comparison as laid down under Rule 4 of the CVR 2007 because the impugned goods were of various manufacturer, old ones and unused

liquidated stock and hence goods of like kind and quality (in terms of make, dimensions, composition, quality and design) could not be found to be exported at or about the same time. I, furthermore, find that the value could not re-determined as well on the basis of Computed Value Method as laid down under Rule 5 of CVR 2007 because the exporter has failed to submit any licit document/evidence in support of cost of production, manufacture or processing of the impugned goods. I find that since options from rule 3 to 5 of CVR 2007 could not be observed due to one reason or other, as mentioned above, therefore, the same resorted to the value determined by empanelled chartered engineer in order to ascertain correct value of the impugned goods as per rule 6 of CVR 2007. I find that the Empaneled Chartered Engineer had prepared a report based on his visual inspection of goods along with market survey of similar/like goods. It thus appears that due diligence was done by the Empaneled Chartered Engineer to arrive at a specific value i.e. Rs.200 per box and accordingly, aggregate value of the entire consignment was determined to be Rs. 7,50,000/-. Accordingly, the Chartered Engineer being expert to identify the goods and its value, I accept the value given by Chartered Engineer as the actual value of goods and hold accordingly.

24. Whether Goods intended for export vide Shipping Bill No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 having declared FOB value Rs. 3,69,31,867.5/- and market value of Rs. 7,50,000/-, should be held liable for confiscation under Section 113(d) and 113 (i) of the Customs Act, 1962.

24.1 I have perused the statement dated 19.11.2025 of Shri Shiv Kumar Bhaina, Proprietor of M/s. Alfa and Sons, recorded under Section 108 of the Customs Act, 1962. In his deposition, he confirmed his status as the sole proprietor of the said firm, operating under IEC Code DDVPB2817R. I further note from his deposition that his actual, everyday occupation was that of a modest salesman at a utensil shop in West Bengal, drawing a

meager monthly salary of Rs. 6,000/-. This staggering economic disparity between his modest livelihood and the multi-crore export operations orchestrated under his firm's name conclusively demonstrates that M/s. Alfa and Sons was nothing but a dummy entity. The firm was established with the sole, mala fide intent to set up a fraudulent mechanism to siphon off fiscal incentives under Government Export Schemes, specifically IGST refunds which were instituted by the Government in good faith exclusively to support and promote genuine exports.

24.2 I further note that in his deposition, Shri Shiv Kumar Bhaina stated that he visited Delhi during the financial year 2023-24 in search of employment. He claimed to have encountered a person named Shri Ajay Sharma at the Delhi Railway Station, who allegedly offered to partner with him on a 50-50% profit-sharing basis. Therefore, he handed over copies of his PAN and Aadhaar card to the said Shri Ajay Sharma. He further confirmed that he provided his mobile SIM card (bearing number 6201615337) to Shri Ajay Sharma to facilitate the procurement of the GST registration, which was subsequently obtained using these credentials. When questioned about the records of the firm, he stated his inability to produce any statutory or commercial documents relating to M/s. Alfa and Sons, asserting that all operations were exclusively managed by Shri Ajay Sharma and he has no knowledge of exporting the goods under said Shipping Bills. I find that this narrative put forth by Shri Shiv Kumar Bhaina is entirely implausible, inherently contradictory, and devoid of any commercial feasibility. It is beyond comprehension that an individual would hand over highly confidential personal data and a functional SIM card to an absolute stranger met by chance at a railway station, without conducting any background verification or due diligence regarding his identity or credibility. Furthermore, he failed to exercise even ordinary prudence to track the subsequent usage of his statutory identity documents. Under the provisions of Section 108 of the Customs Act, 1962, a person summoned is

bound by law to state the truth and make true disclosures upon the matters in respect of which they are examined. The version deponed by Shri Shiv Kumar Bhaina is an evident afterthought, appearing highly flimsy, fabricated, and concocted rather than representing true and factual circumstances. Such a preposterous story is legally unsustainable and is hereby rejected as a clear attempt to shield his own statutory liabilities as a registered proprietor. Had, he been an innocent person, he would have represent himself before the Customs officers, Ranchi Customs against the summons issued to him, however he failed to do so, which clearly establishes his involvement in floating a dummy firm in order to fraudulently availing the IGST Refund on overvalued export.

24.3 I note that these four shipping bills No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 were filed without claiming any benefit of Drawback and RODTEP but on payment of IGST @18% i.e. of Rs.66,65,793/-. It was also declared that IGST amounting to Rs. 66,65,793/- had been paid, thereby making the exporter eligible to claim refund upon export in contravention to provisions of Section 14 and section 50 of Customs Act, 1962 read with section 11 of Foreign Trade (Development and Regulation) Act, 1992. Hence, I find that the goods were being grossly overvalued in comparison to the original value of goods to fraudulently obtain/claim the IGST refund. The contravention of law and procedure has occurred and is on record. The subject goods export was attempted with a clear intention of mis-declaring the quantity and value of goods to be exported for export incentives.

24.4 The provisions of Section 113 of Customs Act, 1962 in respect of Confiscation of Goods attempted to be improperly exported are as:-

The following export goods shall be liable to confiscation:-

(d). any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported,

***contrary to any prohibition imposed by or under this Act or any other law for the time being in force**;*

*(i). any goods entered for exportation which do not correspond in **respect of value or in any material particular** with the entry made under this Act or in the case of baggage with the declaration made under section 77;]*

I find that any goods attempted to be exported or brought within the limits of any **customs area** for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in forces; any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made in Shipping Bills; violates the provision of 113 (d), & 113 (i) of Customs Act, 1962, respectively and thereby the conditions of export of subject goods had not been fulfilled.

24.5 I have carefully examined the facts of the case, the oral and documentary evidence on record, and the relevant statutory provisions. It is a glaring fact on record that the subject goods have rendered themselves liable to confiscation. This finding is conclusively established by the concurrent, corroborative statements recorded under section 108 of the Customs Act, 1962, of Shri Shiv Kumar Bhaina (Proprietor of the firm), Ms. Vaibhavi Thakor (Accountant), M/s. CP Logistics (CHA), and M/s. AESL Shipping Pvt. Ltd. (CFS). The exporter's mala fide intent is further substantiated by data retrieved from the GST portal, which confirms that M/s. Alfa & Sons failed to file their mandatory GSTR-1 and GSTR-3B returns for the period of December 2024, the exact period during which the noticee attempted the impugned export. This failure indicates a deliberate attempt to operate outside the regulatory framework while executing the transaction.

I find that the noticee, M/s. Alfa & Sons, has completely failed to adduce any credible or verifiable documentary evidence to substantiate the transaction value/assessable value declared by them in the Shipping Bills. The declared value stands completely debunked and contradicted by the independent valuation report issued by the Empaneled Chartered Engineer. The cumulative weight of the evidence on record leaves no room for doubt regarding the exporter's actual intentions. It is explicitly established that the noticee brought the goods into the customs area with the sole, fraudulent intent to misuse fiscal export incentives, specifically by claiming an illicit IGST refund on grossly over-valued goods.

A plain reading of the statute reveals no bar or restriction against taking enforcement action where an improper export is intercepted within the customs jurisdiction. The contravention stands fully proven. Once it is established that mis-declared, over-valued goods were brought into the customs area for illegal export, M/s. Alfa & Sons cannot be absolved of its strict statutory liability to comply with the law. Consequently, I hold that the subject goods were attempted to be exported in direct violation of the law, thereby attracting the penal provisions of Section 113(d) and Section 113(i) of the Customs Act, 1962.

24.6 I note that the invocation of Section 113 of the Customs Act, 1962, operates on the principle of strict liability and does not strictly require the establishment of 'mens rea'. A mere contravention of any prohibition imposed by or under the Customs Act, or any other law for the time being in force, is sufficient to invoke Section 113(d) and Section 113(i), thereby rendering the subject goods liable to confiscation. In the present case, the contraventions and violations of the Customs Act, 1962, and its prescribed procedures stand fully established. Furthermore, without prejudice to the strict liability absolute nature of the offense, the material evidence on record specifically the independent report of the Empaneled Chartered Engineer conclusively establishes the element of deliberate mens rea on the part of

the exporter. The calculated act of bringing grossly overvalued and mis-declared quantities of goods into the Customs area with an explicit attempt to export them amounts to a flagrant breach of statutory provisions and the due process of law, as detailed in the Show Cause Notice dated 24.12.2025. Consequently, I hold that the subject goods are rendered liable for confiscation under Section 113(d) and Section 113(i) of the Customs Act, 1962.

24.7 I further examine the physical facts of the interception as recorded during the investigative proceedings. M/s Alfa and Sons filed four shipping bills at ICD Sachana for the export of 'CERAMIC WALL TILES' under Customs Tariff Item (CTI) '69072200'. However, a physical examination conducted by the Preventive Officers, SIIB, Customs House, Mundra, in the presence of independent witnesses and Sr. Operation Executive, M/s. Mundhra Container Freight Station Pvt. Ltd, CFS, completely dismantled the declared description. The examination of the two containers revealed 3750 boxes containing 05 pieces each of 02 square feet tiles. Crucially, I find that a total of 3483.87 Sq. Mtr of tiles were physically found stuffed inside the two containers, as against the declared quantity of 46,875 Sq. Mtr. across the four Shipping Bills. As detailed and held in *para supra*, the impugned tiles covered under all four Shipping Bills were of grossly inferior quality, and their declared values were highly mis-declared. The proprietor of the firm consistently failed to appear during both the investigative and the adjudication proceedings. Crucially, the Accountant of the firm has confirmed that she used to prepare the export document viz. invoices and checklist for M/s. Alfa and Sons and follow up with Shri Virender Sharma, Director of M/s. AESL Shipping Pvt Ltd. The accountant further disclosed that she used to get call from Shri Ajay Sharma on behalf of M/s. Alfa and Sons, from whom all operational directions were received. It stands conclusively established that M/s. Alfa and Sons, in collusion with other individuals, willfully mis-declared the value and quantity of goods meant for

export. By mis-stating and suppressing the true value and description of the export goods to fraudulently pocket massive export incentives, the noticee failed to declare true and correct information. They have thereby violated Section 50 of the Customs Act, 1962, read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992, and Rules 11 and 14 of the Foreign Trade (Regulation) Rules, 1993. Section 113 of the Customs Act, 1962, governs the confiscation of goods attempted to be improperly exported. Consequently, the provisions of Section 113(h), (i), and (ja) of the Customs Act, 1962, are squarely applicable. In light of the deliberate mis-declaration of description and value, alongside the active suppression of material facts in the Shipping Bills to claim fraudulent IGST refunds, I hold that M/s. Alfa and Sons alongwith its Prop. Shri Shiv Kumar Bhaina has rendered the impugned goods liable for confiscation. Therefore, I hold that the seized goods covered under Shipping Bill Nos. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024, having an artificially declared FOB value of Rs. 3,69,31,867.5/- as against the actual re-determined value of Rs. 7,50,000/-, are strictly liable to confiscation under the provisions of Section 113(d) and 113(i) of the Customs Act, 1962. To support my view, I placed reliance on decision of full bench of Calcutta High Court in case of Euresian Equipments and Chemical Ltd and Others Vs. Collector of Customs and others, 1980(6) ELT 38(Cal.) wherein hon'ble Court concluded that *"the goods are liable for confiscation as soon as an attempt is made".*

25. Once the seized goods are held to be liable for confiscation, the next question before me to decide is whether to allow the release of the impugned goods on Redemption Fine or order for absolute confiscation of the same. The provisions related to redemption of confiscated goods are stipulated in Section 125 of the Customs Act, 1962; sub-section (1) of the said section 125 says that

"Option to pay fine in lieu of confiscation. - (1) whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the

case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession, or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit. It is, amply clear from the said Section that, where the confiscated goods are not prohibited for import or export, the Adjudicating Authority is under obligation to release the same. However, in those cases where the confiscated goods are prohibited for import or export, discretion has been vested in the Adjudicating Authority to decide the issue on the basis of the facts and circumstances involved.

25.1. A plain reading of Section 125 of the Customs Act, 1962, reveals that the Adjudicating Authority is statutorily mandated to offer an option of redemption fine in lieu of confiscation when the goods in question are not subject to any absolute prohibition. Conversely, there is no legal bar preventing the Adjudicating Authority from permitting the redemption of prohibited goods on a case-by-case basis based on individual merit. The exercise of this quasi-judicial discretion inherently depends upon the specific nature of the goods and the underlying character of the prohibition. For instance, commodities such as spurious drugs, arms, ammunition, hazardous materials, contaminated flora or fauna, or food items failing to meet prescribed food safety standards pose an immediate hazard to society if permitted for import/export. On the other hand, the release of certain commercial goods on a redemption fine even if they technically fall under the 'prohibited' category due to the non-fulfillment of specific import/export conditions may not cause any wider public harm. Furthermore, it is a well-settled position of law that the confiscation of export goods that are prohibited or restricted under the Customs Act, 1962, or any other law for the time being in force, can be legally ordered, and a redemption fine in lieu

of confiscation may be imposed. This principle holds valid even if the goods are not physically available, provided an enforceable bond or financial guarantee is available on record. In the present case, since the impugned goods were physically intercepted, examined, re-valued, and formally seized by the Customs Authorities, they can appropriately be released upon the payment of an imposed redemption fine. I find that the relevant provisions of the law are specific, unambiguous, and clear. The subject illegal attempt to export grossly over-valued and mis-declared goods directly contravenes the statutory provisions and prescribed procedures of the Customs Act, 1962, thereby falling squarely within the ambit of Section 113. It also constitutes a clear violation of the provisions of the Foreign Trade Policy (FTP) and the accompanying Handbook of Procedures. Accordingly, I hold that the subject goods are liable to confiscation, and the owner of the said export goods is liable to pay a redemption fine in lieu of confiscation.

26. Whether M/s. Alfa & Sons and other co-noticees i.e. (i) Shri Shiv Kumar Bhaina, proprietor of M/s. Alfa & Sons are liable for penalty under Section 114(iii), 114AA and 114AC of the Customs Act, 1962 and (ii) Ms. Vaibhavi Thakor, Accountant of M/s. Alfa & Sons, Delhi are liable for penalty under Section 114(iii), 114AA and 117 of the Customs Act, 1962 ?

The Show Cause Notice proposes penalty under the provisions of Section 114(iii), Section 114AA and Section 114AC of the Customs Act, 1962 on M/s Alfa & Sons alongwith Shri Shiv Kumar Bhaina Prop. of M/s. Alfa and Sons. The Show Cause Notice also proposes penalty under Section 114(iii), 114AA and 117 of Customs Act, 1962 upon Ms. Vaibhavi Thakor co-noticee & accountant of M/s. Alfa and Sons. Section 114 deals with cases related to penalty for attempt to export goods improperly. The Penalty under Section 114(iii) can be imposed on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods

liable to confiscation under section 113, or abets the doing or omission of such an act.

26.1. As discussed in the paragraph supra, it is clear that during the physical examination of the export consignment, a severe discrepancy was found. Against the total declared quantity of 46,875 Sq. Meters across four shipping bills, only 3,483.87 Sq. Meters of tiles were physically found stuffed inside the two containers. Furthermore, the detected goods were of grossly inferior quality, consisting of old, unused stock. While the total declared FOB value of the consignment under the four shipping bills was Rs. 3,69,31,867.50/-, the report of the Empaneled Engineer reveals that the actual cumulative value of the said goods is a mere Rs. 7,50,000/-.

26.2 I find that Shri Shiv Kumar Bhaina, Proprietor of M/s. Alfa & Sons, in his statement dated 19.11.2025, admitted of having a proprietary firm under the name of M/s. Alfa and Sons. However, he claimed that all business activities were managed by one Shri Ajay Sharma, whom he allegedly met at the New Delhi Railway Station during 2023-24 while searching for employment. He further stated that he handed over his personal documents including copies of his Aadhaar card, PAN card, and Mobile SIM (bearing No. 6201615337) to the said Shri Ajay Sharma solely to obtain GST registration for doing business on profit sharing basis. This contention appears highly implausible and is legally untenable. It defies logic that an individual would share sensitive personal identification and a live SIM card with a complete stranger upon their very first meeting, knowing nothing more than the person's name. Furthermore, Shri Shiv Kumar Bhaina has failed to provide any details regarding the identity, contact information, or whereabouts of the alleged Shri Ajay Sharma. It is evident that this narrative is a mere ploy, using a fictional or random name to project himself as a scapegoat and to save himself from the clutches of law. This finding is conclusively fortified by the Panchnama dated

08.01.2025 drawn by the Inspector, Anti-Evasion, CGST Delhi South, at the declared principal place of business of M/s. Alfa and Sons. The Panchnama records that when the official dialed the registered mobile number (6201615337), the individual who answered explicitly identified himself as Shri Shiv Kumar Bhaina, Proprietor of M/s. Alfa and Sons. He informed the officer that he was temporarily out of station and promised that his accountant would visit the GST office to submit the required documents. Consequently, the Noticee's defense that he was entirely oblivious to the business operations of the firm and that the same were handled exclusively by Shri Ajay Sharma is a demonstrable afterthought, completely devoid of merit, and is hereby rejected.

26.3 I also find that during the physical verification, conducted under a panchnama dated 08.01.2025, the officers found the premises locked and closed. To comprehensively ascertain the existence of the firm, physical verification of the registered premises was conducted on two additional occasions subsequent to the visit on 08.01.2025. On both subsequent instances, the premises was consistently found locked and closed. Upon making enquiries with the building owner, it was revealed that the premises was frequently used by unknown persons. Consequently, it is abundantly evident that the said premises was deliberately utilized as a front to set up a bogus entity operating merely on paper. This structure was designed with the sole, fraudulent intent of evading taxes, passing on illicit Input Tax Credit (ITC), and claiming undue, fraudulent IGST refunds on the purported export of goods. This finding is further fortified by the fact that the GSTIN of the firm was suspended with effect from 17.03.2025 by the State Jurisdictional Authority on the specific ground that the Noticee was actively engaged in the generation and transfer of fraudulent ITC. To this effect, a Show Cause Notice under Rules 21(b) and 21(e) of the CGST Rules, 2017, for the violation of Section 16 of the CGST Act, 2017, and the rules made thereunder, has already been issued by the State GST Authority. This

administrative action conclusively establishes that the firm has no genuine business existence and was merely a conduit for revenue fraud.

26.4 Before I proceed further it would be appropriate to reproduce the relevant sections of the Customs Act, 1962 under which penalties have been invoked/proposed on the noticee M/s. Alfa and Sons, Shri Shiv Kumar Bhaina, Prop. of Firm and Ms. Vaibhavi Thakor, Accountant of M/s. Alfa and Sons.

1. "114. Penalty for attempt to export goods improperly, etc.

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

(i).....

(ii).....

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

2. "114AA. [Penalty for use of false and incorrect material. **[Inserted by Act 29 of 2006, Section 27 (w.e.f. 13.7.2006).]**

- If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.] [Substituted by Act 10 of 2000, Section 85, for the first and second proviso (w.e.f. 12.5.2000).]"

3. Section 114AC : Penalty for Fraudulent utilisation of input tax credit for claiming refund:

"Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for

exportation under claim of refund of such duty or tax, such person shall liable for penalty not exceeding five times the refund claimed."

In this regard, I find that neither M/s. Alfa and Sons nor Shri Shiv Kumar Bhaina, Prop. of firm submitted any written submission in their defense as well as not availed the opportunity of personal hearing extended to them on various occasions. I find that Ms. Vaibhavi Thakor, the alleged part-time accountant of the firm, appeared for a personal hearing on 07.08.2026. In her statement, she claimed she was employed by the elusive Shri Ajay Sharma, whom she had initially met at Tirupati Market while working as a data entry operator. She stated that in 2024, Shri Ajay Sharma engaged her services specifically to prepare invoices and process documentation. He provided her with the contact details of Shri Virendra Bhai, a Customs House Agent (CHA), to manage communication. According to her, she acted merely as a conduit—receiving documents from the CHA and routinely forwarding them to Shri Ajay Sharma. From an exhaustive review of the evidence and documents on record, I find that M/s. Alfa & Sons entered the subject goods for exportation under a deliberate mechanism of gross overvaluation. This was executed with the singular fraudulent objective of extracting an illegal and undue integrated tax (IGST) refund. Specifically, the exporter declared the Free on Board (FOB) value of the consignment to be **Rs. 3,69,31,867.50/-**. However, upon physical verification and evaluation by the Empaneled Chartered Engineer, the actual market value of the goods was determined to be a mere **Rs. 7,50,000/-**. This is compounded by a massive quantitative deficit between the volume declared on paper and the actual quantity found stuffed inside the two shipping containers. I therefore hold that the exporter willfully suppressed the true value, nature, and quantity of the goods, deliberately inflating the value by over 4,800% to fraudulently pocket an undue IGST refund amounting to Rs. 66,65,793/- (the amount debited/paid under the four shipping bills). Consequently, I hold that the goods attempted to be

exported improperly by M/s. Alfa & Sons under the 04 impugned Shipping Bills are liable for confiscation under Section 113(d) and Section 113(i) of the Customs Act, 1962.

26.4.1 Furthermore, I find that M/s. Alfa & Sons completely failed to file its statutory GSTR-1 and GSTR-3B returns for the period of December 2024 and January 2025 the exact period during which this fraudulent export attempt was executed. This reveals the deeper layer of the fraud as the Noticee attempted to clear the export shipping bills through the Customs portal by utilizing fake Input Tax Credit (ITC) accumulated via non-existent, paper-only purchases that never reflected on the GST common portal. By fabricating and utilizing patently false invoices, non-existent purchase histories, and heavily manipulated customs declarations to pass off junk tiles as premium cargo, the Noticee has knowingly and intentionally used false and incorrect material in the transaction of business. It is imperative to address that the legal status of the Noticee M/s. Alfa and Sons is a Proprietorship Firm. It is a well-settled principle of law that a sole proprietorship firm has no independent legal identity separate or distinct from its proprietor. The firm M/s. Alfa & Sons and its proprietor, Shri Shiv Kumar Bhaina, are one and the same legal person. The fraudulent actions, willful misstatements, and deliberate fabrications executed under the trade name of the proprietorship firm are, in law, the personal acts and omissions of the proprietor himself. Accordingly, I hold that M/s. Alfa & Sons (Prop. Shri Shiv Kumar Bhaina) has rendered himself liable to a penalty under Section 114(iii) for wilful misstatement and suppression of value, a penalty under Section 114AA for the intentional use of false and material fabrications, and a penalty under Section 114AC of the Customs Act, 1962, for the fraudulent utilization of illicit ITC to claim an export refund. Since penalty is imposed on Proprietorship Firm i.e M/s. Alfa and Sons, no penalty would be imposed separately on the Proprietor Shri Shiv Kumar Bhaina.

26.4.2 With respect to the submissions and personal liability of Ms. Vaibhavi Thakor, I have perused her voluntary statement recorded under Section 108 of the Customs Act, 1962, on 17.09.2025 before the Superintendent of Customs (Preventive), Ahmedabad. In her statement, she admitted that she was engaged on a monthly salary of Rs. 5,000/- paid in cash by Shri Ajay Sharma around October 2024 to prepare export-related documents from her residence. She explicitly stated that her role was to prepare the export invoices and packing lists for M/s. Alfa and Sons on the basis of details sent via WhatsApp by Shri Ajay Sharma, and to routinely forward these documents to Shri Virender Sharma (referred to as Virender Bhai), a clearing and forwarding agent at Ahmedabad, with whom she maintained continuous operational follow-ups. She further confirmed that she received KYC details of M/s. Alfa & Sons from Shri Ajay Sharma and forwarded them to the CFA to facilitate the fraudulent documentation. While she claimed ignorance regarding the gross overvaluation and inflated quantities of the ceramic tiles, the record demonstrates that she knowingly acted under an assumed name and was actively in contact with the Forwarder Shri Virender Sharma of M/s. AESL Shipping Pvt Ltd for the filing of shipping bills and payments under the name "Ms. Suhani," a fact corroborated by the recovered WhatsApp chat printouts which she perused and signed in token of acceptance. Her active connivance with Shri Ajay Sharma and Shri Virender Sharma to systematically generate, process, and transmit false, highly inflated invoices makes her a vital operational tool in this tax evasion machinery. A claim of being a part-time domestic worker does not absolve her of liability when she consciously handled fabricated commercial records to give a color of legitimacy to a paper-only export scheme. Her deliberate actions directly facilitated the attempt to secure fraudulent IGST refunds. Consequently, I find that her active role falls squarely within the mischief of Section 114(iii) of the Customs Act, 1962, for abetting the attempt to improperly export goods that are liable to

confiscation under Section 113. Further, I note that, a strict distinction must be drawn regarding the remaining penal provisions. While Section 114AA provides for penalties against anyone who knowingly signs or uses false material declarations in customs business, and Section 114AC penalizes the fraudulent utilization of Input Tax Credit (ITC) to claim an export refund, the primary beneficiaries, legal executors, and controllers of the illicit ITC and trade channels were the firm and its proprietor. Because Ms. Vaibhavi Thakor acted strictly as a proxy instrument and clerk for the operators rather than the contracting exporter or direct claimant of the tax refund, her culpability is restricted to the gravity of her operational abetment. Therefore, while she is held fully liable to a penalty under Section 114(iii) for her connivance and abetment, I refrain from imposing separate, independent penalties upon her under Section 114AA and Section 114AC of the Customs Act, 1962.

26.4.3 The Show Cause Notice also proposes penalty under Section 117 of the Customs Act, 1962 on Shri Shiv Kumar Bhaina Prop. of M/s Alfa and Sons. I find that Section 117 of Customs Act, 1962 provide ***for imposition of penalty on any person who contravenes any provision of the said Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, to be liable to a penalty not exceeding four lakhs rupees. The maximum amount of penalty prescribed under Section 117 originally Rs. One lakh was enhanced to Four lakhs, with effect from 01.08.2019***. The detailed discussions in the preceding paragraphs clearly establish that the noticee intentionally committed acts that resulted in the violation of multiple provisions of the Customs Act, 1962, leading to claiming of fraudulently ineligible IGST Refund by exporting mis-declared quantity and overvalued goods, thereby causing loss to the Government Exchequer. Further, he failed to appear before the Adjudicating authority to

submit their reply as well as present their case at the time of personal hearing. In doing so, he failed to fulfill the legal obligations and responsibilities cast on him under the provisions of Customs Act, 1962. Accordingly, I find that this is a fit case for imposition of penalty under Section 117 of the Customs Act, 1962 on Shri Shiv Kumar Bhaina, Prop. of M/s. Alfa and Sons.

26.4.4 I also find that Show Cause Notice also proposes Penalty under Section 117 of the Customs Act, 1962 upon Ms. Vaibhavi Thakor. Section 117 of the Customs Act, 1962 reads as under:

> ***117. Penalties for contravention, etc., not expressly mentioned****: Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees].*

I find that this is a general penalty which may be imposed for various contravention and failures where no express penalty is elsewhere provided in the Customs Act, 1962. In the present case, a specific and express penalty under Section 114(iii) of the Customs Act, 1962, has already been invoked against the noticee Ms. Vaibhavi Thakor. This penalty arises from actions that rendered the exported goods liable for confiscation under Sections 113(d) and 113(i) of the Act. As discussed and established hereinabove, the liability under this specific provision has already been determined as imposable. Furthermore, the record demonstrates that Ms. Vaibhavi Thakor has duly complied with the summons/letters issued to her, appearing for a personal hearing before the predecessor adjudicating authority on 11.03.2026, and subsequently appearing before me via virtual mode on 07.08.2026. Given that a specific penalty has already been found applicable for the infractions in question, the invocation of the general

penalty under Section 117 is redundant. It is a settled principle of law that a general penalty cannot be imposed alongside a specific penalty for the same set of contraventions. Consequently, I hold that the proposal to levy a penalty under Section 117 of the Customs Act, 1962, is neither warranted nor legally sustainable.

27. Whether, M/s. C.P Logistics, Custom Broker, is liable for penalty under Section 114(iii), 114AA and Section 117 of Customs Act, 1962 ?

I find that on the basis of specific input/alert Four Shipping Bill No. 6182220, 6182430, 6182333 and 6182373 all dated 05.12.2024 filed by M/s. Alfa and Sons for the export of "Ceramic Wall Tiles," were placed on hold for detailed verification. Consequently, a physical examination of the consignment was conducted by the Preventive Officer, Special Intelligence and Investigation Cell (SIIB), Mundra Customs. This examination was carried out in the presence of the authorised representative of M/s. Mundhra Container Freight Station (CFS) and two independent panchas (witnesses). The physical examination revealed gross discrepancies, establishing that the cargo was not in consonance with the declared quantity, quality, and value. I find that against a declared Free On Board (FOB) value of Rs. 3,69,31,867.50/-, the actual market value of the cargo was assessed at a mere Rs. 7,50,000/-. This actual valuation was conclusively ascertained by the empanelled Chartered Engineer, Shri Ajayrajsinh Baldevsinh Jhala under Report No. ABJ:INSP:SSIB:CE:ALFA:24-25:01 dated 08.01.2025. Further, the physical quantity available on-site was found to be only 3,483.87 Sq. Mtr., in stark contrast to the declared quantity of 46,875 Sq. Mtr and goods under exportation were also found as old and unused stock sourced from various different manufacturers.

27.1 I find that all the Bills of Entry were filed by M/s. C.P Logistics, a customs broker and M/s. AESL Shipping Pvt Ltd on behalf of Exporter i.e

M/s. Alfa and Sons. I note that M/s C.P Logistics, Customs Broker of M/s. M/s. Alfa and Sons has submitted its written submission vide letter dated 17.05.2026 wherein they have pleaded that they had fulfilled all KYC requirements based on GST Registration Certificate, IEC, KYC Form, Office Registration documents, Pan Card and Aadhar Card of Proprietor and acted only as an intermediary. They further contended that the exporter in question was available at the principal place of business and that a display board with its name was affixed, however the premise was found to be closed. The Customs Broker has submitted that mere closure of the premises at the time of visit by the jurisdictional officers cannot lead to the inference that the exporter was not in existence.

In this regard, I find from the voluntary statement dated 07.04.2025 of Shri Vishal Panchal Prop. of M/s. C.P Logistics wherein he clearly admitted that the authorization letter dated 09.11.2024 was specifically addressed to the customs authorities at **ICD Khodiyar**. No separate or specific authorization was obtained for operations at **ICD Sachana**, which is the actual port of export for the impugned consignments. Furthermore, the firm processed the clearances entirely on the basis of soft copies forwarded by M/s. AESL Shipping Pvt Ltd without insisting on verifying the original authorization documents. He explicitly conceded that neither he nor any representative of his firm had ever physically met, spoken to, or directly interacted with anyone from M/s. Alfa and Sons. The entire commercial relationship was managed via a third-party freight forwarder, M/s. AESL Shipping Pvt. Ltd. The noticee admitted that because the exporter was located outside the state of Gujarat (in New Delhi) and the cargo clearance was requested at short notice, the firm did not conduct any independent background checks, business profile assessments, or physical verification of the exporter's operating premises.

27.2 Regarding the contention that the exporter in question was available at the principal place of business and that a display board with its

name was affixed, however the premise was found to be closed and mere closure of the premises at the time of visit by the jurisdictional officers cannot lead to the inference that the exporter was not in existence. In this regard, I find that the presence of a display board at the premises cannot be conclusive evidence of operational existence of a unit. The actual existence and functionality of a business depend on multiple factors, including the presence of equipment, personnel, and ongoing business activities, which cannot be determined solely by a display board. During, the investigation, it is on record that summons issued to the exporter were not responded to; no rent agreement for the premises was available; the premises was frequently used by different persons; and the jurisdictional SGST authority in Delhi had issued a Show Cause Notice for cancellation of registration on the ground 'Active GST registration status engaged in transfer of fraudulent input tax credit.' These facts indicate that the address was repeatedly used to create non-existent entities for tax evasion or for fraudulently claiming input tax credit (ITC) and then encashing the same by claiming the refund of said ITC. Also, during the investigation it had been revealed that there had been numerous instances of misuse of the said premises by fictitious persons for the purpose of engaging in a fake invoicing racket. These facts and evidences placed on record clearly show that the exporting firm was dummy firm created to claim the benefit of fake ITC and thus, mere presence of display board at the export premise does not justify the presence of operational existence of a unit at the declared address. All these facts unambiguously establish that M/s. CP Logistics failed to exercise the degree of professional care and due diligence expected of a licensed intermediary. They operated blindly, treating critical security and regulatory compliance protocols as mere clerical formalities. The mandate of **Regulation 10(n) of the CBLR, 2018** requires the broker to verify the identity and **actual functioning** of the client at their declared address using reliable, independent, and authentic data. Merely verifying that a GSTIN is "Active" on a digital portal does not fulfill the legal obligation of checking the

"functioning of the client" when the physical premises are locked or non-existent. By routing the entire transaction through an unverified third-party forwarder and filing declarations blindly on the basis of unauthenticated soft copies, the Customs Broker acted with structural recklessness that directly enabled a multi-crore valuation fraud.

27.3 In the present case, there was a clear and substantial misdeclaration of both value and quantity in the Shipping Bills filed. The market value of the goods was found to be Rs. 7,50,000/-, as against the declared value of Rs. 3,69,31,868/-. Further, the actual quantity of goods was found to be 3,483.87 square meters as against the declared quantity of 46,875 square meters. The magnitude of the discrepancy clearly establishes deliberate inflation of both value and quantity.

27.4 I find that the role of a Customs Broker is not that of a mere document processor, but that of a vital link in the Customs clearance mechanism, entrusted with ensuring compliance with statutory requirements. The enormous gap between the declared and actual value and quantity was not a minor clerical error but a gross and evident misdeclaration which ought to have raised serious suspicion and prompted verification. Had the alert not been triggered, they have succeeded in their unlawful attempt to export goods on the basis of highly inflated value and quantity, thereby potentially availing ineligible export benefits and causing substantial loss to the Government revenue.

27.5 I find that Regulation 10(a) clearly obligates a Customs Broker to obtain proper authorization from the company, firm, or individual by whom they are appointed to act as a Customs Broker. In the present case, it is observed that all communications between the Customs Broker and the exporter were conducted through an intermediary/forwarder, namely M/s AESL Shipping Pvt. Ltd. The Customs Broker admittedly never had any

direct interaction with the exporter. These facts indicate that the Customs Broker did not possess any original authorization obtained directly from the exporter in respect of the impugned export consignment. It is further observed that the Customs Broker received only a copy of a letter dated 09.11.2024 through the said forwarder, addressed to the Deputy/Assistant Commissioner of Customs, ICD Khodiyar, authorizing filing of Shipping Bills/Bills of Entry and clearance of cargo at ICD Khodiyar. However, no authorization specific to exports from ICD Sachana was obtained for filing the Shipping Bill in respect of the subject goods. The contention of the Customs Broker that any defect in authorization should have been objected to by Customs authorities at the time of clearance is untenable.

27.6 Further, the noticee relied on rulings such as *Excel Shipping Services Vs. Commissioner of Customs* and *M/s. Buhariwal Logistics Vs. Commissioner* to argue that any omission or failure in background verification falls strictly within the disciplinary domain of the licensing regulations (CBLR) and cannot be made the basis for penalties under the main Act. This interpretation of the law is fundamentally flawed. Parallel proceedings under the CBLR (for administrative license actions) and the Customs Act, 1962 (for fiscal/penal actions) are legally independent. The penalty under Section 114(iii) is attracted by any person who "**abets any act of omission or commission**" which renders goods liable for confiscation. By failing to secure an authorization addressed to the specific port of export (ICD Sachana) and utilizing a general authorization meant for another station, the broker knowingly bypassed security filters. This was not a passive procedural oversight rather an act of omission that directly caused a fraudulent declaration to be fed into the customs system, satisfying the legal definition of abetment under Section 114.

27.7 Further, the noticee claimed that they had no knowledge of the over-valuation, did not sign the primary commercial documents, and lacked any

mens rea or profit-sharing motive in the transaction, rendering the discrepancies a result of routine processing. The argument that this was an isolated, passive clerical processing error or an incidental oversight is completely demolished by a highly unusual factual anomaly appearing on the face of the record. Apart from the four Shipping Bills currently under active investigation (Nos. 6182220, 6182333, 6182430, and 6182373), the records of the Show Cause Notice reveal that four additional Shipping Bills (Nos. 6182492, 6182568, 6182616, and 6182728) were successfully generated and filed by M/s. CP Logistics on behalf of the exact same exporter, M/s. Alfa and Sons, all bearing the exact same date of 05.12.2024 in knowledge/help of M/.s AESL Shipping Pvt Ltd. Crucially, these additional four Shipping Bills were ultimately not executed or presented before Customs for physical cargo clearance. This fact is highly incriminating and reveals a calculated modus operandi. In the logistics and customs clearance trade, generating and filing as many as eight high value shipping bills on a single day (05.12.2024) for the same unvetted client, while leaving exactly half of them unexecuted, is an extraordinary anomaly that cannot be dismissed as an innocent mistake or routine clerical processing. The fact that all eight shipping bills were uploaded simultaneously or in immediate succession on the very same day demonstrates that the Customs Broker was actively engaged to maximizing the potential avenues of export paperwork for the exporter. By continuously feeding these highly inflated, unexecuted figures into the Customs Electronic Data Interchange (EDI) system, the Customs Broker actively engaged in generating artificial paperwork to facilitate fiscal fraud. This repeated, systematic cluster generation of unexecuted documents completely vitiates the plea of good faith and firmly establishes their active, conscious role in creating a legal shield for a fraudulent export.

27.8 I further find that a bare scrutiny of the GSTN portal conclusively exposes the complete absence of due diligence by the Customs Broker. The

statutory registrations on the portal reveal that the exporter, **M/s. Alfa and Sons**, was primarily registered as dealing in goods falling under **Chapter 6401** *(Waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging, or similar processes)* and **Chapter 6402** *(Other footwear with outer soles and uppers of rubber or plastics)* and ceramic tiles were nowhere mentioned in the column 'Dealing in Goods and Service. This severe oversight demonstrates a manifest failure on the part of the Customs Broker to verify the fundamental *bona fides* and trade profile of the exporter. Had the Customs Broker executed the primary diligence expected of a licensed intermediary, they would have instantly noticed that the exporter's registered line of business was restricted to rubber and plastic footwear (Chapter 64), and completely unrelated to ceramic products. This gross omission proves that the Customs Broker failed to verify the client's operational credentials and completely abdicated their statutory duty to advise the exporter regarding the correct nature, description, and classification of the export goods.

27.9 In the present case, I find that M/s. C.P Logistics merely on the basis of documents submitted by M/s. AESL Shipping Pvt Ltd prepared the checklists, filed the Shipping Bills, and submitted the supporting documents, including purchase invoices, without verifying their authenticity or correctness. As a result, incorrect particulars were knowingly placed before the Customs authorities, which did not correspond to the actual goods sought to be exported. This directly enabled an attempt to avail inadmissible IGST refund amounting to Rs. 66,65,793/-, thereby causing potential loss to the Government exchequer. Moreover, I find that the actual value of goods found to Rs. 7,50,000/- against the declared value of Rs. 3,69,31,867.5/-. Despite being fully aware of the fact that he had no authorization to file the Shipping Bills at ICD Sachana, the Customs Broker proceeded to file the Shipping Bills on the mere assurance and the

authorization of ICD Khodiyar. This conduct is not only imprudent but indicative of conscious facilitation. A reasonable and prudent Customs Broker, acting in accordance with law, would have withheld filing until satisfactory explanation and complete authorization was received or brought the matter to the notice of the Department. The failure to do so clearly establishes willful blindness, which in law is equivalent to knowledge and intent.

27.10 I further observe that the discrepancies were so apparent and substantial that failure to detect and act upon them cannot be attributed to oversight but amounts to gross negligence bordering on deliberate complicity. The Customs Broker ignored multiple red flags, including non-response from the exporter, inconsistencies in documentation, and the absence of corresponding records on the GST portal. Such conduct is in clear violation of the obligations prescribed under Customs Brokers Licensing Regulations, 2018, which mandate advising clients to comply with the law and exercising due diligence to verify the correctness of information. By knowingly using false or fabricated documents in a material particular, the Customs Broker has rendered itself liable to penalty under Section 114AA of the Customs Act, 1962. It is a settled principle that use of forged or unreliable documents in customs transactions attracts stringent penal consequences.

27.11 A Customs Broker is entrusted with the responsibility of verification of the documents with certain degree of diligence by the Department and prescribed a complete set of guidelines as CBLR, 2018. I find that the noticee relied upon the judgments in case of M/s. Kunal Travels, IWW Logistics P.Ltd and Friends Cargo Service regarding identification of mis-declaration, verifying of documents and physical verification of premises. In this regard, I am of the view that conclusions in those cases may be correct, but they cannot be applied universally without

considering the hard realities and specific facts of each case. The Noticee cannot shield its total lack of basic regulatory due diligence and active involvement in document manipulation behind a flood of generalized case laws. To Support me view, I put reliance on following case law which are as :

The Hon'ble Principal Bench of Tribunal New Delhi in **Customs Appeal No. 52154 of 2024** in the case of **Sagar Shipping Services Vs. Commissioner of Customs (Preventive) Jodhpur** held that:-

> *"The above observed facts unrebutted, on record it becomes clear that appellant services received reference of the said importer through Shri Ghanshyam Meena who was handling a freight forwarding firm M/s Transglobe Shipping Services, Gandhidham never contacted the importer directly as they had received the work from a freight forwarder. They received all the documents of the importer through e-mail from M/s Transglobe Shipping services without even been signed by the importer Authority cum appointment letter dated 30.01.2024. These observations are sufficient for us to hold that the appellant has failed to fulfill the obligation of 10(d) and 10(e)."*

Further, the legal rationale laid down vide the above-mentioned judgments passed by the Hon'ble Courts has been followed in the case of **M/s Falcon India (Customs Broker) v. Commissioner of Customs, (Airport and General) New Delhi in Customs Appeal No. 50934 of 2021 dated 21-3-2022**, wherein the Hon'ble Principal Bench of the Tribunal has observed:

> *"33. The above decisions lay down that the Customs Broker (or Custom House Agent) is a very important person in the transactions in the Custom House and it is appointed as an accredited broker as per the Regulations and is expected to discharge all its responsibilities under them. Violations even without intent are sufficient to take action against*

the appellant. While it is true, as has been decided in a number of cases, that the Customs Broker is not expected to do the impossible and is not expected to physically verify the premises of the importer or doubt the documents issued by various Governmental authorities for KYC, it is equally true that the Customs Broker is expected to act with great sense of responsibility and take care of the interests of both the client and the Revenue. It is expected to advise the client to follow the laws and if the client is not complying, it is obligated under the Regulations to report to the Assistant Commissioner or Deputy Commissioner……"

Also, Reliance is placed on the Judgment passed in the case of **Millenium Express Cargo Pvt. Ltd. Vs. Commr. of Cus., New Delhi reported in 2017 (346) E.L.T. 471 (Tri. - Del.),** wherein it has been held that documents filed by a Customs Broker are treated with a certain degree of trust by Customs Authorities and it is expected that Customs broker has made efforts to verify the genuineness of the antecedents of their clients. The relevant portion of the said judgment is reproduced below:-

" 7. The documents filed by CHA are treated with a certain degree of trust by the Customs and such trust was completely violated in the present case. Filing of bill of entry filed in the name of a non-existent importer is a grave offence on the part of CHA and it becomes graver when it turns out that CHA did not make minimum efforts to verify the genuineness of the importer and its address. Such acts of omission and commission on the part of CHA can potentially have even more serious financial/security consequences and therefore such a CHA hardly deserves any leniency….."

27.12 Further, I find that the Noticee M/s. C.P Logistics has quoted and relied on various case laws/judgments in their defense submission to support their contention on some issues raised in the Show Cause Notice. I

am of the view that conclusions in those cases may be correct, but they cannot be applied universally without considering the hard realities and specific facts of each case. Those decisions were made in different contexts, with different facts and circumstances, and cannot apply here directly. Therefore, I find that while applying the ratio of one case to that of the other, the decisions of the Hon'ble Supreme Court are always required to be borne in mind. The Hon'ble Supreme Court in the case of *CCE, Calcutta Vs Alnoori Tobacco Products [2004 (170) ELT 135(SC)]* has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of *Escorts Ltd. Vs CCE, Delhi [2004(173) ELT 113(SC)]* wherein it has been observed that one additional or different fact may make huge difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again in the case of *CC(Port), Chennai Vs Toyota Kirloskar [2007(2013) ELT4(SC)]*, it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to be understood in factual matrix involved therein and that the ratio of a decision has to be culled from facts of given case. Further, the decision is an authority for what it decides and not what can be logically deduced there from. In view of the judgments passed by the Hon'ble Courts, I find that every case has to be dealt on its own merits after considering the facts and evidences available on record and thus, I find that the ratio of case laws cited by the Customs Broker do not apply to the present case at hand.

27.13 In view of the foregoing, the contention of the noticee that they did not abet the mis-declaration is untenable and is rejected outright. The totality of evidence on record clearly establishes that M/s. C.P Logistics, by acts of commission as well as omission, actively facilitated the attempted overvaluation and mis-declaration of export goods. Accordingly, since the goods have been held liable for confiscation under Sections 113(d) and 113(i)

of the Customs Act, 1962, I hold that M/s. C.P Logistics is liable to penalty under Section 114(iii) of the Customs Act, 1962 for abetment of improper export, and also under Section 114AA for knowingly using false and incorrect documents in the course of customs proceedings.

27.14 I find that Show Cause Notice also proposes Penalty under Section 117 of the Customs Act, 1962 upon M/s. C.P Logistics. Section 117 of the Customs Act, 1962 reads as under:

> ***117. Penalties for contravention, etc., not expressly mentioned****: Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees].*

I find that this is a general penalty which may be imposed for various contravention and failures where no express penalty is elsewhere provided in the Customs Act, 1962. In the present case, a specific and express penalty under Section 114(iii) and 114 AA of the Customs Act, 1962, has already been invoked against the noticee M/s. C.P Logistics. This penalty arises from actions that rendered the exported goods liable for confiscation under Sections 113(d) and 113(i) of the Act. As discussed and established hereinabove, the liability under this specific provision has already been determined as imposable. Furthermore, the record demonstrates that M/s. C.P Logistics has duly complied with the letters issued to them, appearing for a personal hearing before the predecessor adjudicating authority on 06.05.2026. Given that a specific penalty has already been found applicable for the infractions in question, the invocation of the general penalty under Section 117 is redundant. It is a settled principle of law that a general penalty cannot be imposed alongside a specific penalty for the same set of contraventions. Consequently, I hold that the proposal to levy a penalty

under Section 117 of the Customs Act, 1962, is neither warranted nor legally sustainable.

28. Whether, Clearing and Forwarding Agent M/s. AESL Shipping Pvt Ltd, is liable for penalty under Section 114(iii), 114AA and Section 117 of Customs Act, 1962?

From the records available on file, Statements of Director Shri Virender Sharma of M/s. AESL Shipping Pvt Ltd, Statement of other Co-noticees viz. Shri Shiv Kumar Bhaina, Shri Vishal Panchal, Prop. of M/s. C.P Logistics and Ms. Vaibhavi Thakor, accountant of M/s. Alfa and Sons, I find that M/s. AESL Shipping Pvt. Ltd. does not employ any qualified Customs Broker cardholders. He revealed that to provide clearing and forwarding services, the firm routinely utilizes the license of M/s. CP Logistics. This arrangement operates entirely on an undocumented, informal "mutual understanding," lacking any legitimate contractual authority or legal framework. In his statement dated 08.05.2025/06.06.2025 he confirmed that neither he nor any employee of his company ever personally met or directly interacted with the stated Proprietor of M/s. Alfa and Sons, Shri Shiv Kumar Bhaina. The entire commercial transaction and filing instructions were managed via an unvetted staff member named "Ms. Suhani" over mobile phone communications (Mobile Number 9586766167). He further confirmed that despite knowing their responsibility to verify a client's genuineness before processing customs clearances, they failed to perform any background checks. They chose to rely blindly on unvetted soft copies of the IEC, PAN, and GST certificates received via courier. In his subsequent statement on 06.06.2025, Shri Virender Sharma explicitly agreed with the contents of the investigative Panchnama dated 02.01.2025 drawn at Mundra Port CFS, as well as the technical evaluation report of the Chartered Engineer, Shri Ajayrajsinh B. Jhala, which quantified the extreme over-valuation of the cargo. He also acknowledged handling four prior

executed shipping bills for the same exporter on 18.11.2024 at ICD Khodiyar.

28.1 The noticee argued that merely forwarding documents received from an exporter to a licensed Customs Broker does not constitute an act of omission or commission sufficient to attract penalties under the Customs Act. In this regard, I find that M/s. AESL Shipping Pvt Ltd acting as a freight forwarder for M/s. Alfa and Sons, played an active and facilitative role in filing of Shipping Bills from ICD Khodiyar and ICD Sachana without conducting any verification of the Credentials, authenticity, or actual functioning of the Exporter. Further, it is evident that M/s. AESL Shipping Pvt Ltd does not hold any Customs Broker license, nor does it employ any authorized Customs Broker Card Holder. Such conduct is in clear contravention of Statutory framework governing Customs clearance operations. Further, I find that instead of having any authorization from the exporter to file the shipping bills at ICD Sachana, they forward all the documents to M/s. C.P Logistics to file the Shipping Bills at ICD Sachana. This structured, unauthorized role removes them from the category of an innocent intermediary and establishes them as an active facilitator of the paperwork driving the fiscal fraud.

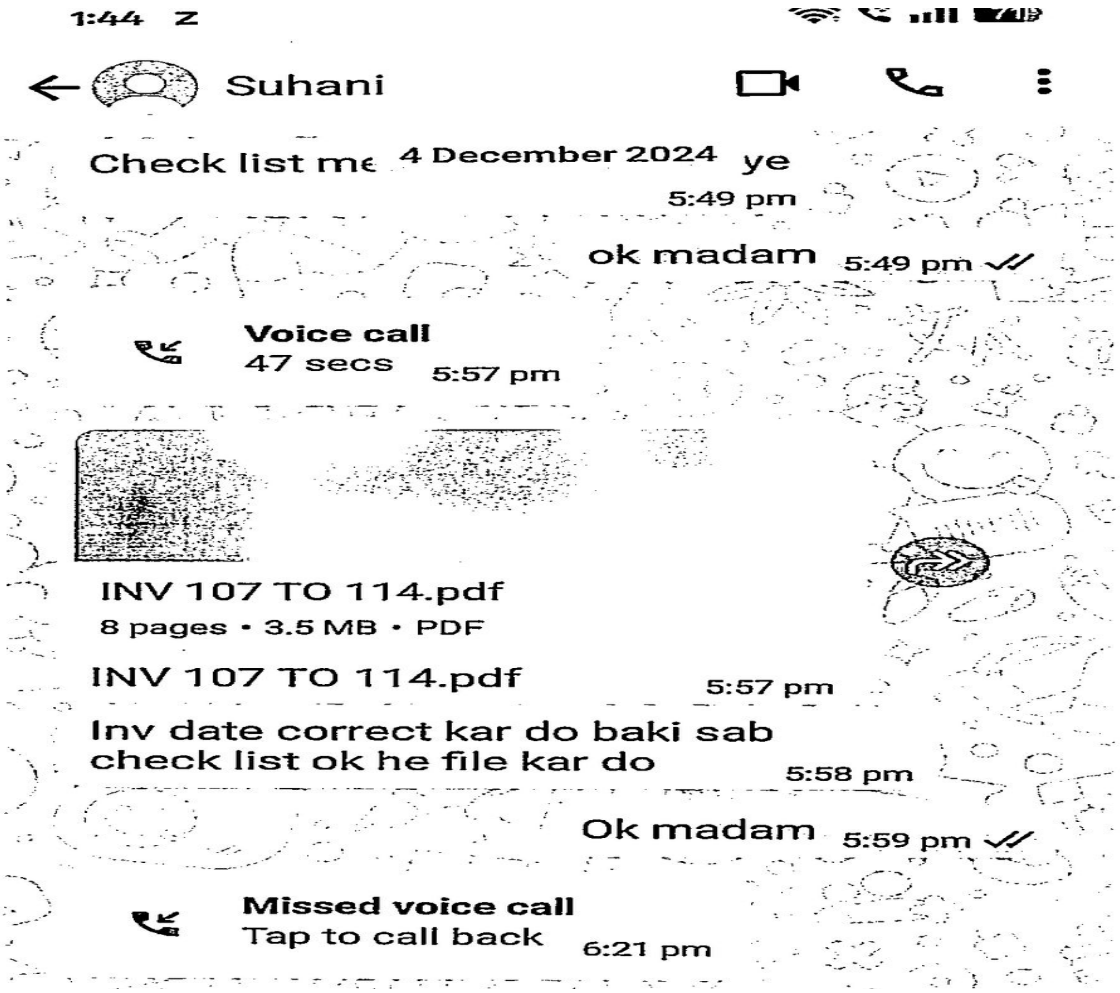
28.2 The noticee in his written submission vide letter dated 17.05.2026 contended that they cannot be held liable for an act of omission or commission under Section 114 or 114AA because they merely forwarded soft copies of trade documents received from the exporter to the Customs Broker in the normal course of business and that the Department has failed to establish a specific *mens rea* on their part.

In this regard, I find that, the voluntary statements dated 08.05.2025 and 06.06.2026 given by Shri Virender Sharma, Director of M/s. AESL Shipping Pvt. Ltd., directly contradicts this defense. Shri Virender Sharma clearly admitted that they received an authorization letter dated 09.11.2024, addressed to the Deputy/Assistant Commissioner of Customs, ICD

Khodiyar, from M/s. Alfa and Sons. This letter authorized M/s. C.P. Logistics and M/s. AESL Shipping Pvt. Ltd. to act as the Customs House Agent (CHA) for filing shipping bills and clearing cargo on behalf of M/s. Alfa and Sons at ICD Khodiyar only. Furthermore, Shri Virender Sharma confirmed that M/s. AESL Shipping Pvt. Ltd. did not possess a valid Customs Broker License of their own and instead on mutual understanding used the credentials of M/s. C.P. Logistics for filing of Shipping bills/Bills of Entry. M/s. C.P. Logistics also admitted that the authorization letter dated 09.11.2024 was strictly port-specific, addressed only to the customs authorities at ICD Khodiyar. No separate or specific authorization was ever obtained for operations at ICD Sachana, which is the actual port of export for the impugned consignments. Shri Virender Sharma explicitly conceded in his deposition that neither he nor any representative of his firm had ever physically met, spoken to, or directly interacted with anyone from M/s. Alfa and Sons. The entire commercial relationship was managed exclusively through WhatsApp with an unverified individual operating under the name "Ms. Suhani" (Mobile No. 9586766167), who was later identified as Ms. Vaibhavi Thakor. The firm processed the export clearances entirely on the basis of soft copies, completely failing to insist on or verify original authorization documents.

A perusal of the WhatsApp chat logs between Shri Virender Sharma and the said individual reveals that while Shri Virender Sharma had saved her contact's name as "Ms. Suhani," she confirmed in her voluntary statement that her actual name is Ms. Vaibhavi Thakor. This glaring contradiction conclusively establishes that M/s. AESL Shipping Pvt. Ltd. failed to perform even the most basic due diligence to verify the identity of the exporter or their purported employee. The chat history further reveals an active exchange of invoices, courier bills, and payment-related messages. Crucially, the logs demonstrate that the export invoices were actually being prepared/modified by Shri Virender Sharma himself. This is evidenced by a

specific message from Ms. Suhani stating, ***"inv date correct kar do baki sab check list ok he file kar do"*** (Correct the invoice date, the rest of the checklist is okay, please file it), to which Shri Virender Sharma replied, ***"Ok Madam."***.For ease I would like to reproduce the screenshot of the chat as :



These facts demonstrate that M/s. AESL Shipping Pvt. Ltd. did not act as a mere passive forwarder of documents in the normal course of business. Instead, they actively participated in the fabrication of commercial documents, operated without a valid license, and showed gross negligence by dealing with unverified individuals. Therefore, their contention that the Department has failed to show a specific blameworthy act is untenable, and they remain fully liable under Sections 114 and 114AA of the Customs Act.

28.3 In the present case, there was a clear and substantial misdeclaration of both value and quantity in the Shipping Bills filed. The market value of the goods was found to be Rs. 7,50,000/-, as against the declared value of Rs. 3,69,31,868/-. Further, the actual quantity of goods was found to be 3,483.87 square meters as against the declared quantity of 46,875 square meters. The magnitude of the discrepancy clearly establishes deliberate inflation of both value and quantity.

28.4 I find that M/s. AESL Shipping Pvt Ltd is in business of Clearing and forwarding, simultaneously, they are working as Customs Broker by utilizing the license of M/s. C.P Logistics on mutual basis. I find that the role of a Customs Broker is not that of a mere document processor, but that of a vital link in the Customs clearance mechanism, entrusted with ensuring compliance with statutory requirements. The enormous gap between the declared and actual value and quantity was not a minor clerical error but a gross and evident misdeclaration which ought to have raised serious suspicion and prompted verification and it became more significant when invoices were prepared and checked by Director of M/s. AESL Shipping Pvt Ltd himself and forwarded to employee of M/s Alfa and Sons. Had the alert not been triggered, they have succeeded in their unlawful attempt to export goods on the basis of highly inflated value and quantity, thereby potentially availing ineligible export benefits and causing substantial loss to the Government revenue.

28.5 I find that Regulation 10(a) clearly obligates a Customs Broker to obtain proper authorization from the company, firm, or individual by whom they are appointed to act as a Customs Broker. In the present case, it is observed that all communications between the Customs Broker and the exporter were conducted through M/s AESL Shipping Pvt. Ltd. M/s. AESL Shipping Pvt. Ltd. confirmed that neither their director nor any representative had ever interacted with any legally authorized personnel of

M/s. Alfa and Sons. Instead, their entire operations were managed purely via WhatsApp with an unverified individual namely "Ms. Suhani" (later identified as Ms. Vaibhavi Thakor). Further, it is evident that M/s. AESL Shipping Pvt Ltd did not possess any original authorization obtained directly from the exporter in respect of the impugned export consignment.

Further examination of the records reveals that M/s. AESL Shipping Pvt. Ltd. merely received a soft copy of an authorization letter dated 09.11.2024 via WhatsApp and that too for filing of Shipping Bills/Bills of Entry and clearance of cargo at ICD Khodiyar. However, no authorization specific to exports from ICD Sachana was obtained for filing the Shipping Bill in respect of the subject goods. Despite being fully aware that they lacked proper, legally valid authorization to execute customs clearances at ICD Sachana, M/s. AESL Shipping Pvt. Ltd. deliberately chose to share these unverified and port-incompatible documents with the Customs Broker for the purpose of filing the impugned Shipping Bills. This conscious act of bypassing statutory checks, combined with their active execution of documents for a non-existent entity, fully establishes their guilty mind (mens rea) and active collusion in facilitating this Customs fraud.

28.6 I further find that a bare scrutiny of the GSTN portal conclusively exposes the complete absence of due diligence by forwarder M/s. AESL Shipping Pvt Ltd. The statutory registrations on the portal reveal that the exporter, **M/s. Alfa and Sons**, was primarily registered as dealing in goods falling under **Chapter 6401** *(Waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging, or similar processes)* and **Chapter 6402** *(Other footwear with outer soles and uppers of rubber or plastics)* and ceramic tiles were nowhere mentioned in the column 'Dealing in Goods and Service. This severe oversight demonstrates a manifest failure on the part of M/s. AESL Shipping Pvt Ltd to verify the

fundamental *bona fides* and trade profile of the exporter. Had they executed the primary diligence expected of a licensed intermediary, they would have instantly noticed that the exporter's registered line of business was restricted to rubber and plastic footwear (Chapter 64), and completely unrelated to ceramic products. This gross omission proves that they failed to verify the client's operational credentials and completely abdicated their statutory duty to advise the exporter regarding the correct nature, description, and classification of the export goods.

28.7 On the basis of whatsapp chat, I find that M/s. AESL Shipping in connivance of M/s. C.P Logistics prepared the checklists, filed the Shipping Bills, and submitted the supporting documents, including purchase invoices, without verifying their authenticity or correctness. As a result, incorrect particulars were knowingly placed before the Customs authorities, which did not correspond to the actual goods sought to be exported. This directly enabled an attempt to avail inadmissible IGST refund amounting to Rs. 66,65,793/-, thereby causing potential loss to the Government exchequer. Despite being fully aware of the fact that he had no authorization to file the Shipping Bills at ICD Sachana, M/s. AESL Shipping Pvt Ltd forwarded the documents to the Customs Broker for filing the Shipping Bills on the mere assurance and the authorization of ICD Khodiyar. This conduct is not only imprudent but indicative of conscious facilitation. A reasonable and prudent Customs Broker/forwarder, acting in accordance with law, would have withheld filing until satisfactory explanation and complete authorization was received or brought the matter to the notice of the Department. The failure to do so clearly establishes willful blindness, which in law is equivalent to knowledge and intent.

28.8 I further observe that the discrepancies were so apparent and substantial that failure to detect and act upon them cannot be attributed to oversight but amounts to gross negligence bordering on deliberate

complicity. By knowingly using false or fabricated documents in a material particular, M/s. AESL Shipping Pvt Ltd has rendered itself liable to penalty under Section 114AA of the Customs Act, 1962. It is a settled principle that use of forged or unreliable documents in customs transactions attracts stringent penal consequences.

28.9 Being a clearing and forwarding agent and mediator in facilitation of documents, M/s. AESL Shipping Pvt Ltd has a responsibility regarding verification of the documents with certain degree of diligence which is completely absent in the present case. The Hon'ble Principal Bench of Tribunal New Delhi in **Customs Appeal No. 52154 of 2024** in the case of **Sagar Shipping Services Vs. Commissioner of Customs (Preventive) Jodhpur** held that:-

> *"The above observed facts unrebutted, on record it becomes clear that appellant services received reference of the said importer through Shri Ghanshyam Meena who was handling a freight forwarding firm M/s Transglobe Shipping Services, Gandhidham never contacted the importer directly as they had received the work from a freight forwarder. They received all the documents of the importer through e-mail from M/s Transglobe Shipping services without even been signed by the importer Authority cum appointment letter dated 30.01.2024. These observations are sufficient for us to hold that the appellant has failed to fulfill the obligation of 10(d) and 10(e)."*

Further, the Hon'ble Double Bench CESTAT, Mumbai in the case of **Interport Impex Pvt. Ltd. Vs. Commissioner of Customs (General), Mumbai reported in 2015 (324) ELT 744 (Tri. Mumbai)** has observed that :-

"6.4……we find that the appellant did not verify the antecedents of the exporter. It would be very naive on the part of the exporter to believe any

person who comes forward with the IEC number of an exporter. Obviously any one can get hold of an exporter's name and IEC number, forge authorizations of the exporter and then present the papers to a CHA for Customs clearance. The CHA cannot be exonerated of the serious mistake committed by him in not making true efforts to verify the credentials of the exporter……"

Also, The Hon'ble Double Bench CESTAT Mumbai in the case of **Baraskar Brothers Vs. Commissioner of Customs (General), Mumbai reported in 2009 (244) ELT 562 (Tri. Mumbai)** has observed that :-

"6.4 The ld. JDR has also submitted that the CHA cannot find shelter in the submission that they had verified the IEC at the DGFT website. He submitted that this is not a substitute to physically verifying the existence of the exporter, when he acts as an agent for all purposes related to Customs. He also drew our attention to the fact that the ***CHA himself had admitted in his statement under Section 108 that he had not taken necessary precautions for identifying the exporters and such action/inaction has resulted in a huge loss to the exchequer****. We are in agreement with his contention and hold that physical verification cannot be dispensed with by the CHA, when he acts for and on behalf of the importer or the exporter for all Customs matters."*

28.10 Further, I find that the Noticee M/s. AESL Shipping Pvt Ltd has quoted and relied on various case laws/judgments in their defense submission to support their contention on some issues raised in the Show Cause Notice. I am of the view that conclusions in those cases may be correct, but they cannot be applied universally without considering the hard realities and specific facts of each case. Those decisions were made in different contexts, with different facts and circumstances, and cannot apply here directly. Therefore, I find that while applying the ratio of one case to that of the other, the decisions of the Hon'ble Supreme Court are always

required to be borne in mind. The Hon'ble Supreme Court in the case of *CCE, Calcutta Vs Alnoori Tobacco Products [2004 (170) ELT 135(SC)]* has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of *Escorts Ltd. Vs CCE, Delhi [2004(173) ELT 113(SC)]* wherein it has been observed that one additional or different fact may make huge difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again in the case of *CC(Port), Chennai Vs Toyota Kirloskar [2007(2013) ELT4(SC)]*, it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to be understood in factual matrix involved therein and that the ratio of a decision has to be culled from facts of given case. Further, the decision is an authority for what it decides and not what can be logically deduced there from. In view of the judgments passed by the Hon'ble Courts, I find that every case has to be dealt on its own merits after considering the facts and evidences available on record and thus, I find that the ratio of case laws cited by M/s. AESL Shipping Pvt Ltd do not apply to the present case at hand.

28.11 The totality of evidence on record clearly establishes that M/s. AESL Shipping Pvt Ltd, by acts of commission as well as omission, actively facilitated the attempted overvaluation and mis-declaration of export goods. Accordingly, since the goods have been held liable for confiscation under Sections 113(d) and 113(i) of the Customs Act, 1962, I hold that M/s. AESL Shipping Pvt Ltd is liable to penalty under Section 114(iii) of the Customs Act, 1962 for abetment of improper export, and also under Section 114AA for knowingly using false and incorrect documents in the course of customs proceedings.

28.12 I find that Show Cause Notice also proposes Penalty under Section 117 of the Customs Act, 1962 upon M/s. AESL Shipping Pvt Ltd. Section 117 of the Customs Act, 1962 reads as under:

> ***117. Penalties for contravention, etc., not expressly mentioned****: Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees].*

I find that this is a general penalty which may be imposed for various contravention and failures where no express penalty is elsewhere provided in the Customs Act, 1962. In the present case, a specific and express penalty under Section 114(iii) and 114 AA of the Customs Act, 1962, has already been invoked against the noticee M/s. AESL Shipping Pvt Ltd. This penalty arises from actions that rendered the exported goods liable for confiscation under Sections 113(d) and 113(i) of the Act. As discussed and established hereinabove, the liability under this specific provision has already been determined as imposable. Furthermore, the record demonstrates that M/s. AESL Shipping Pvt Ltd has duly complied with the letters issued to them, appearing for a personal hearing before the predecessor adjudicating authority on 06.05.2026. Given that a specific penalty has already been found applicable for the infractions in question, the invocation of the general penalty under Section 117 is redundant. It is a settled principle of law that a general penalty cannot be imposed alongside a specific penalty for the same set of contraventions. Consequently, I hold that the proposal to levy a penalty under Section 117 of the Customs Act, 1962, is neither warranted nor legally sustainable.

29. Accordingly, I pass the following Order:

O R D E R

i. I hereby reject the declared FOB value Rs. 3,69,31,867.5/- (by the exporter M/s Alfa and Sons) of Goods intended for export vide Shipping Bills No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 under the provisions of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962 and order to re-determine the same at Rs. 7,50,000/- (as ascertained by Empaneled Chartered Engineer) under the provisions of Section 14 of Customs Act, 1962 read with Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;

ii. I order for confiscation of impugned goods entered for exportation covered under Shipping Bills No. 6182220, 6182333, 6182430 and 6182373 all dated 05-12-2024 in respect of M/s. Alfa and Sons having declared FOB value of Rs. 3,69,31,867.5/- and re-determined value of Rs. 7,50,000/- under Section 113(d) and Section 113(i) of Customs Act, 1962. However, I give an option to M/s. Alfa and Sons under Section 125 of Customs Act, 1962 to redeem the said goods on payment of Redemption Fine of **Rs. 2,00,000/-(Rupees. Two Lakh Only)** in lieu of confiscation of seized goods;

iii. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** upon M/s Alfa and Sons under section Section 114(iii) of the Customs Act, 1962;

iv. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** upon M/s Alfa and Sons under section Section 114AA of the Customs Act, 1962;

v. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** upon M/s Alfa and Sons under section Section 114AC of the Customs Act, 1962;

vi. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** under Section 114(iii) of the Customs Act, 1962, on **Ms. Vaibhavi Thakor**, C/o Girishbhai, House No. 3/2202, Pipradisheri, Salabatpura, Surat-

395003 for her acts of omission and commission in actively facilitating the attempted improper export of the impugned mis-declared and overvalued goods;

vii. I hereby drop the penalty imposed upon **Ms. Vaibhavi Thakor**, C/o Girishbhai, House No. 3/2202, Pipradisheri, Salabatpura, Surat-395003 under Section 114AA and Section 117 of Customs Act, 1962 as discussed foregoing paras;

viii. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** under Section 114(iii) of the Customs Act, 1962, on M/s. C.P Logistics for their acts of omission and commission in actively facilitating the attempted improper export of the impugned mis-declared and overvalued goods and discussed above in para supra;

ix. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** under Section 114AA of the Customs Act, 1962, on M/s. C.P Logistics for their acts of omission and commission in actively facilitating the attempted improper export of the impugned mis-declared and overvalued goods and discussed above in para supra;

x. I hereby drop the penalty imposed upon M/s. C.P Logistics under Section 117 of Customs Act, 1962 as discussed foregoing paras;

xi. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** under Section 114(iii) of the Customs Act, 1962, on M/s. AESL Shipping Pvt Ltd for their acts of omission and commission in actively facilitating the attempted improper export of the impugned mis-declared and overvalued goods and discussed above in para supra;

xii. I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** under Section 114AA of the Customs Act, 1962, on M/s. AESL Shipping Pvt Ltd for their acts of omission and commission in actively facilitating the attempted improper export of the impugned mis-declared and overvalued goods and discussed above in para supra;

xiii. I hereby drop the penalty imposed upon M/s. AESL Shipping Pvt Ltd under Section 117 of Customs Act, 1962 as discussed foregoing paras;

xiv. I hereby drop the proposal of imposing penalty upon Shri Shiv Kumar Bhaina, Prop. of M/s Alfa and Sons under Section 114(iii), 114AA of Customs Act, 1962 as discussed at Para 26 herein above;

xv. I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on Shri Shiv Kumar Bhaina, Prop. of M/s Alfa and Sons under Section 117 of the Customs Act, 1962.

30. Accordingly, the Show Cause Notice No. CUS/SIIB/MISC/216/2025-Prev-O/o PR-COMMR-CUS-Ahmedabad dated 24.12.2025 stands disposed of.

Digitally signed by
SHREE RAM VISHNOI
Date: 10-09-2026
16:57:12

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

F. No. GEN/ADJ/ADC/162/2026-ADJN-O/oPR-COMMR-CUS- AHD
Date:10.09.2026
DIN: 20260971MN000009B5AC

By SPEED POST A.D.

To,

1. **M/s. Alfa and Sons**, Shop No. 02 IN KH. No. 870, Block-E, G/F, Sarita Vihar, Aali Vihar, New Delhi, South East Delhi, 110076
2. **Shri Shiv Kumar Bhaina**, Proprietor of M/s Alfa and Sons, Sivlibadi South, Gadikhana, Panchmahli, Kumardhubi, Dhanbaad, Jharkhand, 828203.
3. **M/s C.P. Logistics**, 9th Floor, 910, Atlanta Tower, Opp. Satyam Complex, GulbaiTekra, Ahmedabad

4. **M/s AESL Shipping Pvt Ltd**, F-308, Vedmata Society IOC Road Chandkheda, Ahmedabad, Gujarat
5. **Ms. Vaibhavi Thakor** C/o Girishbhai, House No 3/2202, Pipradisheri, Salabatpura, Surat City-395003

Copy to :-

1. The Principal Commissioner of Customs, Ahmedabad (Kind Attn: RRA Section)
2. The Deputy/Assistant Commissioner of Customs, Preventive, Ahmedabad.
3. The Deputy Commissioner of Customs (Task Force), Ahmedabad.
4. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. http://www.ahmedabadcustoms.gov.in.
5. Guard File.