


DIN-20200371MO00008X19C9

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62
A. File No.	: F. No. VIII/48-17/Adj./ADC/MCH/2018-19
B. Order-in- Original No.	: MCH/ADC/AK/118/2019-20
C. Passed by	: Shri Ajay Kumar Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra.
D. Date of order /Date of issue	: 12.03.2020/ 12.03.2020
E. Show Cause Notice No. & Date	: DRI/AZU/GRU/CHAMPION/INT-1/2018 Dated 04.02.2019
F. Noticee(s)/Party/ Importer	: 1.Saba Yusuf, C-15, 2 nd Floor, Street No.5, Johri Farm, Jamia Nagar, New Delhi-110025 2.M/s Champion Impex Pvt. Ltd., B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132 Ft. Ring Road, Satellite, Ahmedabad-380015 3.Mr. Pundrik Trivedi, Director, M/s Champion Impex Pvt. Limited, Ahmedabad, residing at C-304, Ishwarcharan Complex, Opp. Lotus School, Jodhpur Gam, Satellite, Ahmedabad-380015 4.Mr. Pankaj Gohil(Service by affixing on the notice board of the Custom House, Adani Port and SEZ, Mundra as provided under Section 153(1)(e) of the Customs Act, 1962) 5. Mr. Rashid Rehman, C-15, 2 nd Floor, Street No.5, johri Farm, Jamia Nagar, New Delhi-110025. 6. Mr. Dillerao Narayan Barri, 78, S.H.X., Janta Colony, Gandhidham, Gopalpuri, Kachchh, Gujarat-370240 7.Mr. Ramaswamy N. Iyer, 1304, Springhill, Hiranandani Estate, Ghodbunder Road, Near Hiranandani Foundation School, Patlipada, Sandozbaugh, Thane, Maharashtra-400607

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

**“ सीमा शुल्क आयुक्त (अपील), कांडला
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS), KANDLA
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Sub.:- Show Cause Notice F. No. DRI/AZU/GRU/CHAMPION/INT-1/2018/ dated 04.02.2019 issued to M/s Champion Impex Pvt. Ltd., B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132 Ft. Ring Road, Satellite, Ahmedabad-380015 and others.

BRIEF FACTS OF THE CASE

Intelligence gathered by officers of Directorate of Revenue Intelligence indicated smuggling of huge quantity of cigarettes in container nos. EMCU3282219 and WHLU2580260 covered under bill of entry No. 5147743 dated 09.02.2018 filed at Custom House, Mundra. The said containers were discharged from vessel MV SSL Delhi; Voyage No.- 014E (IGM No. 2186810 dated 07.02.2018) at AP&SEZ Mundra. The bill of entry no. 5147743 dated 09.02.2018 was filed by Customs Broker M/s. ASR Logistics India Private Ltd., on behalf of the importer M/s. Champion Impex Pvt. Ltd., B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132 Ft. Ring Road, Satellite, Ahmedabad-380015 wherein goods were declared as "Gypsum Powder (Building Material)" (hereinafter also referred to as "import goods" / "subject goods" / "subject consignment").

1.1 Based on the above intelligence, subject goods imported in container Nos. EMCU3282219 and WHLU2580260 were examined by officers of DRI, Ahmedabad under Panchnama dated 10.02.2018. In both the containers, the front side was found stuffed with PP bags containing white colour powder. However, in each of the two containers cigarettes of foreign origin (Gudang Garam Brand) were found concealed behind the PP bags containing white powder. The cartons of cigarette were not visible until PP bags were not unloaded from containers. Representative samples cigarettes and that of white colour powder were drawn under same Panchnama dated 10.02.2018. The quantity of White powder material in PP bags and that of cigarettes found in the containers is summarized as under: -

TABLE-1

Description / details	Quantity	Unit of quantity
PP Bags containing white powder	1594 (800 in one container and 794 in another)	Number
Carton packed with cigarettes	100 (50 cartons in each of two containers)	Number
Cigarette sticks in 100 cartons	14,40,000	Number
Total weight of consignment	38940	Kilograms
Total weight of 100 cartons containing cigarettes	3018 (30.18 * 100)	Kilograms
Total weight of PP Bags containing white powder material	35922 (38940 minus 3018)	Kilograms

1.2 Since the above mentioned 14,40,000 cigarette sticks were not declared in the bill of entry no. 5147743 dated 09.02.2018, there existed reasonable belief that the same were liable for confiscation under the provisions of the Customs Act, 1962, the said 14,40,000 cigarettes sticks along with 1594 bags of 'white colour powder' used for concealment were placed under seizure under section 110(1) of the Customs Act, 1962 vide Seizure Memorandum dated 10.02.2018 Representative samples of the above mentioned brand of Cigarettes and 'Gypsum Powder' were obtained. The seized consignment was handed over to the custodian M/s Mundhra CFS, AP&SEZ, Mundra under Supartnama dated 10.02.2018.

2. During investigation, statements of following persons were recorded, which are briefly discussed herein-below:

2.1 Statement of **Shri Mukesh Madhubhai Makwana**, Branch Manager (Gandhidham Branch) of Custom Broker M/s. ASR Logistics India Private Limited, was recorded under Section 108 of the Customs Act, 1962 on 13.02.2018 wherein he stated, inter alia that one Shri Pundrik Trivedi who introduced himself as Director cum Owner of M/s. Champion Impex Pvt. Ltd. called him on phone and offered customs clearance work of import shipment of Gypsum Powder. He further stated that on the basis of import documents and copies of IEC, company PAN card and GST Registration, Bank AD Code letter, received on e-mail, bill of entry was filed. He further stated, inter alia that original set of import documents i.e. BL, invoice, Packing List, COO was received on 12.02.2018 through courier. He further stated that on 11.02.2018, one Shri Rehman called him on phone and asked him about receiving of original documents. He also provided address of Rashid Rehman which was mentioned on envelope received in courier containing original import documents. On being asked he stated that he received calls from one Mr. Rao (mobile No. 77779 56271) resident of Gandhidham on 11.02.2018 who had called him to enquire if he (Mukesh) had received original documents of consignment; that on 11th and 12th February 2017 he received whatsapp calls from international mobile No. +971 565695216 who wanted to get it confirmed, if cigarettes had been seized from the subject consignment of gypsum.

2.2 Statement of **Shri Ghanshyam Darji**, G card Holder of Custom Broker M/s. ASR Logistics India Private Limited, was recorded under Section 108 of the Customs Act, 1962 on 21.03.2018 wherein he stated, inter alia, that he was not in contact with importer as Shri Mukesh Makwana was in contact with the importer and checking antecedents of importer and KYC compliance was done by Shri Mukesh Makwana. He further stated that he prepared checklist of the bill of entry and the checklist was also digitally signed by him.

2.3 Set of original import documents of the import consignment was received by Customs Broker from one **Mr. Rashid Rehman**. Summons were served to him at the address Jamia Nagar, New Delhi mentioned in courier. He appeared in response to summons and his statement was recorded under Section 108 of the Customs Act, 1962 on 26.06.2018. He, inter alia, stated that the documents sent by him to M/s. ASR Logistics India Private Limited were received by him from one person named Shri Tahoor who lived in Dubai. He further stated that Shri Tahoor used to come to their family super market in Dubai; that he was their regular customer. He stated that Shri Tahoor sent the documents to his (Rashid's) address in Delhi as there was no direct service of concerned courier from Dubai to Gandhidham.

2.4 Statement of **Shri Dillerao Narayan Barri alias Kapil**, resident of 78, S.H.X., Janta Colony, Gandhidham, Gopalpuri, Kachchh, Gujarat-370240 was recorded under Section 108 of the Customs Act, 1962, on 28.11.2018, wherein he inter-alia stated that he was working as Branch Manager in M/s. Able Shipping since September 2018 at Gandhidham. On being asked as to why he had contacted Shri Mukesh Makwana of M/s. ASR Logistics India Private Limited (CHA) to enquire about consignment imported in the name of M/s. champion Impex Pvt Limited, he narrated the events behind said enquiry. He stated that earlier he was working in M/s. OPUS DEI Logistics, Gandhidham;

that his director Shri Ramaswamy Iyer (9820896401) during a visit to Gandhidham enquired if any party was ready for clearance of cigarettes to which he responded that he knew one such person named Mr. Pankaj known to him through common friend Shri Mahesh Chauhan of Bhachau; that in the month of January, Shri Ramaswamy informed him that one Mr. Saba will visit Ahmedabad and asked him to arrange his (saba's) meeting with Shri Pankaj; that according said meeting of Mr. Saba with Mr. Pankaj was took place on 31st October 2017 at Ahmedabad. He further stated that, after some days, he received phone call from Mr. Saba who told that Shri Pankaj was not picking his phone and asked me to contact Mr. Pankaj; that on being contacted by him, Mr. Pankaj told him that goods had been seized by DRI which he informed to Mr. Saba; that Mr. Saba provided him contact number of clearing agent (Customs Broker) Mr. Mukesh of M/s ASR Logistics and also told him (Dillerao) to ask him whether documents have been received by him or not; that then he contacted Mr. Mukesh to enquire about consignment. On being asked further he stated that after seizure of cigarettes Mr. Saba and his father informed him that they had given Rs. Sixteen Lakhs to Mr. Pankaj for clearance and after receiving the amount, he was not picking their phone; that on instructions of Mr. Saba and Mr. Shri Ramaswamy he contacted Mr. Pankaj many times and also met him once at a hotel at Ahmedabad to ask him to return money back to Mr. Saba.

2.5 Statement of **Mr. Ramaswamy Narayan Iyer**, Director of M/s. Opus Dei Logistics Private Limited, 610-611, Nirmal Galaxy Avior, L.B.S. Marg, Mulund, Mumbai - 400080 was recorded under Section 108 of the Customs Act, 1962, on 06.12.2018, wherein, he, inter-alia, stated that he was Managing Director of M/s. Opus Dei Logistics Private Limited, an NVOCC (i.e. Non vessel owning common carrier) agency. He was shown a photograph of a person whom he identified as Mr. Saba Yusuf of Delhi. On being asked about him, he stated that Mr. Saba Yusuf was engaged in work of import and exports; that his family owns a Departmental store in Dubai; that he met Mr. Saba in Dubai and got acquainted with him; that probably during the months of August September 2017, he enquired him if he (Ramaswamy) could arrange import of illegal items like cigarettes into India which he flatly denied. That on being constantly persisted he asked his (Ramaswamy) employees at Gandhidham if any person could arrange illegal customs clearance of cigarettes; that Mr. Dillerao, Assistant Manager (Sales) responded positively and thereafter meeting of the person who could arrange illegal clearance of cigarettes was arranged with Mr. Saba at Ahmedabad by Mr. Dillerao. He further stated that later, probably in the month of February 2018, Mr. Dillerao called him and informed that Mr. Saba had shipped a container of cigarettes and that he had come to know through the Ahmedabad person that said container of cigarettes had been seized by DRI at Mundra Port. He informed me that Mr. Saba had made payment of around 16-17 Lakhs to the Ahmedabad Person whose name he told Mr. Pankaj; that Mr. Saba repeatedly called him to get the money back; that Mr. Saba also called him (Ramaswamy) and informed similar facts and asked for help to get back his money back. He further stated that he asked Mr. Dillerao to try and sort out the matter for return of money to Mr. Saba.

2.6 Statement of **Mr. Pundrik R. Trivedi**, Director of M/s. Champion Impex Private Ltd. , B-9, Popular Centre, Someshwar Complex-I, Opp Jain Temple, 132 Feet Ring Road, Satellite, Ahmedabad -

380015 was recorded under Section 108 of the Customs Act, 1962, on 18.01.2019, wherein he inter alia, stated that one Mr. Pankaj Gohil with whom he was in contact with for last 2 to 3 years, enquired him about purchasing shirts, cigarettes etc in auction from Customs Department; that said enquiry was around a month prior to import of consignment of Bill of Entry No. 5147743 dated 09.02.2018; that earlier to it, in December, 2017, he had borrowed Rs. One Lakh Fifty Thousand from Shri Pankaj Gohil in cash out which he repaid Rs. One Lakh in January 2018; that regarding purchase in auctions he told Mr. Pankaj that he did not have contacts in Customs Department. He further stated that later Mr Pankaj came to his office in Palladium complex enquiring about import of gypsum; that he told him that he had supplier in Dubai and a customer in India and that there would be net profit of around 25 to 30 thousands per container of Gypsum; that he told Mr Pankaj that he was not interested in said business; that then Mr Pankaj asked him to let him use his IEC for import of gypsum; that he agreed and gave him copies of IEC, PAN Card, Bank Letter, GST Registration certificate by whatsapp; that it was in January or February 2018. He further stated that he did not negotiate about any amount from Shri Pankaj Gohil as Shri Pankaj Gohil was known to him and Rs. Fifty Thousand were still to be paid to him. He further stated that on being suggested by Mr. Pankaj he contacted Mr. Mukesh of M/s ASR Logistics (CHA) for custom clearance work and forwarded copies of KYC details and documents viz IEC, PAN Card etc; that about a week prior to arrival of the consignment, draft Bill of Lading and other import documents for consignments were received by him in email (pundriktrivedi2512@gmail.com) from one Mr. Saba which he forwarded to CHA (Mr. Mukesh of M/s. ASR Logistics India Private Limited). On being asked he stated that after seizure of cigarettes from consignment he filed police complained against Mr. Pankaj Gohil for misuse of his IEC. On being asked specifically he stated that he was not aware of the present status of complaint and he did not enquire about it; that he received four summons from DRI for appearing for statement but he did not honour the summons and that it was his mistake. Print out of word file containing KYC details of company were obtained during his statement. On being asked he stated that said KYC details were prepared for providing to CHA for clearance work. On being asked he stated that he did not know the address of Mr. Pankaj Gohil.

2.7 Statement of **Shri Jaymin Thakkar**, Branch Manager (Gandhidham) of M/s. Sarang Maritime Logistics Pvt. Limited, Gandhidham-Kutch was recorded under Section 108 of the Customs Act, 1962, on 22.11.2018, wherein he, inter alia, stated that M/s. Sarang Maritime Logistics Pvt. Limited was an NVOCC (non vessel owning common carrier) and that it has a Multimodal Transport Organization Licence; that they have had agency agreement with Rways Container Lines which is an NVOCC based in Karachi. *The container No. EMCU 3282219 and WHLU 2580260 were booked by the shipper with Rways and delivered to India through M/s. Sarang Maritime Logistics Pvt. Limited.* On being asked to provide copy of (i) complete chain of correspondence of Jebel Ali Shipping Agent / Forwarder with Shipper (2) KYC details / documents in respect of the Shipper he stated that he was continuously trying to get said details / documents from Dubai agents M/s. ZAF Shipping, Dubai and that the same would be provided immediately upon receipt.

3. Sample of the goods declared as 'Gypsum Powder' in bill of entry no. 5147743 dated 09.02.2018 filed at Custom House Mundra, drawn vide Panchnama dated 10.02.2018 were sent to Custom House Laboratory, Kandla for testing vide Test Memo No. 09/13.03.2018. As per Test Report No. 197 dated 23.03.2018 of Custom House Kandla Laboratory the goods have characteristic of Plaster of Paris (Calcium Sulphate Hemihydrate) and goods are other than gypsum.

4. **Planning and execution of smuggling of cigarettes:-**

4.1 From the statements of Mr. Dillerao N. Barri, Mr. Ramaswamy it is revealed that Mr. Saba Yusuf resident of Delhi (in India) is the actual owner of cigarettes smuggled into India in container No. EMCU 3282219 and WHLU 2580260, who through Mr. Ramaswamy and Mr. Dillerao met and engaged Mr. Pankaj Gohil of Ahmedabad for illegal custom clearance of cigarettes. Mr. Pankaj Gohil obtained IEC and other documents required for customs clearance relating to M/s. Champion Impex Private Limited from Mr. Pundrik Trivedi. He also engaged Mr. Pundrik Trivedi to appoint customs broker (earlier known as Customs Broker). Mr. Pundrik forwarded KYC details and documents and import documents to Customs Broker M/s. ASR Logistics India Private Limited on the basis of which Bill of Entry No. 5147743 dated 09.02.2018 was filed for clearance. The facts that Mr. Saba is the key conspirator and planner is confirmed from two different persons Mr. Dillerao and Mr. Ramaswamy. Mr. Ramaswamy not only knew Mr. Saba but also his father Mr. Hasibur Rahman and his work profile. He also identified Mr. Saba by his photograph. The whatsapp chats between Mr. Saba (Dubai Mobile No. +971565695216), Mr. Dillerao and Mr. Ramaswamy corroborate that Mr. Saba came to India and met with Mr. Pankaj Gohil at Ahmedabad on 31st October 2017; that Mr. Saba had been trying to take back money given to Mr. Pankaj by him for clearance work. The printout of whatsapp chat taken from mobile phone of Mr. Dillerao shows that Mr. Ramaswamy forwarded a mobile No. "9891540567" on 30.10.2017 (at 18.06. Hrs) which was followed by another message (at 18.06 Hrs) "Mr Sabah india no" indicating that the said number was of Mr. Saba. Another subsequent message from Dillerao to Ramaswamy on same day (at 20.05 Hrs) reads "tomorrow we have meeting at 12 O clock". After meeting, Mr. Dillerao confirmed to Mr. Ramaswamy on 31.10.2017 that meeting was done and he was returning back to Gandhidham with two messages "sir all done" (at 21.57 Hrs) & "now m also going to Gandhidham" at (21.57 Hrs).

4.2 Further, the person who sent courier of original documents to Customs Broker was summoned. In his statement, the said person identified himself as Mr. Rashid Rahman son of Mr. Hasibur Rahman and younger brother of Mr. Saba Yusuf. He also stated that their family had a Departmental store in Dubai. Moreover, Mr. Ramaswamy had given Indian mobile No. of Mr. Saba as 9891540567. Incidentally, the contact No. of Rashid Rahman given on envelope of courier of original documents was same i.e. 9891540567. The contact details of Mr. Rashid Rahman were concealed beneath courier slip which was pasted exactly over said details on envelope. Mr. Mukesh Makwana in his statement has confirmed that he received a call from mobile No. 9891540567 on 11th February 2017 from a person who introduced himself as Mr. Rehman and enquired if he had received courier of original documents. Still further, Mr. Pundrik Trivedi has stated in his statement that he received import documents in respect of smuggled consignment of cigarettes from one Mr. Saba in his email

ID email id pundriktrivedi2512@gmail.com which he forwarded to Customs Broker. Mr. Ghanshyam Darji during his statement provided copy of email correspondences dated 3rd February 2017 and dated 6th February 2017 show that documents were forwarded from email ID sabayusuf88@gmail.com to pundrik.trivedi2512@gmail.com. On both occasion the documents received by Mr. Pundrik Trivedi were forwarded to Customs Broker at email ID asrmundra.doc@gmail.com. Still further, Mr. Mukesh Makwana of M/s. ASR Logistics India Private Limited (Customs broker) has stated in his statement that on 11th and 12th February (i.e. just after seizure of cigarettes on 10th February 2017) he received whatsapp calls from a person introducing himself as Mr. Saba (*apparently wrongly comprehended as Samba by Mr. Mukesh*) from international mobile No. +971 565695216 and that said person enquired if cigarettes had been seized from consignment of gypsum. From the above it emerges that the real person behind smuggling of cigarettes in consignment covered under Bill of Entry No. 5147743 dated 09.02.2018 was Mr. Saba who planned conspiracy of smuggling of cigarettes taking help from Mr. Ramasway, Mr. Dillerao and Mr. Pankaj Gohil and executed the same with the help of Mr. Pankaj Gohil, Mr. Pundrik Trivedi, Mr. Rashid Rahman. He gave 16-17 Lakhs of money to Mr. Pankaj for the purpose of illegal clearance of cigarettes. Mr. Pankaj Gohil further approached Mr. Pundrik Trivedi and obtained documents pertaining to M/s. Champion Impex Private Limited for executing the act of smuggling of cigarettes in guise of gypsum. Mr. Pundrik Trivedi did not cooperate with the investigation first by not appearing for statement despite receiving four summons and then by giving evasive and misleading replies to questions put to him during his statement. However, the fact remains that he gave copies of IEC and other documents to Mr. Pankaj Gohil and KYC documents and details and that of import documents to Customs Broker thus enabling Mr. Saba execute the act of smuggling of cigarettes and its illegal custom clearance into India.

5. Value of Cigarettes and Plaster of Paris:

5.1 Bill of Entry No. 5147743 dated 09.02.2018 was filed seeking clearance of goods of description "*Gypsum Powder (Building Material)*". However, during examination cigarettes were found concealed behind white colour powder in PP bags. The Test Report has confirmed that said white material was 'plaster of paris'. None of the goods i.e. neither cigarettes nor 'plaster of paris' was declared in the bill of entry or other import documents. Therefore, the price of goods mentioned in the import documents is not the actual price of the goods imported illegally in the subject consignment and thus declared price / value thereof is liable to be rejected in terms of Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and is required to be determined in accordance with provisions of Section 14 of Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

6. Value of Cigarettes:-

6.1 For the purpose of the levying duty on import goods the value of the goods is determined in accordance with provisions of Section 14 of Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter also referred to as "Rules 2007"). Rule 3(1) of Rules 2007 provides that "*subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10*". Rule 3(4) *ibid* states that "*if*

the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9 of Custom Valuation Rules, 2007". Rule 4 (1) (a) of Rules 2007 stipulates determination of value of goods on the basis of value of identical goods. However, details of imports of identical goods are not available. Further going forward, Rule 5 (1) of Rules 2007 provides for determination of value on the basis of value of similar goods. On browsing the import data of cigarettes one consignment of cigarettes of Gudang Garam is noticed, the details of which are tabulated below.

TABLE-2

B/E No.	B/E Date	COO	Description of goods	CTH	Qty (thous ands)	ASS VALUE Rs.	Unit Ass Value Rs. per thousand
5333664	23.02.18	Indonesia	Gudang Garam International Filter Kretek Cigarettes 12s (60 Boxes X 20 Pkts X 12 Sticks)	24022090	2304	6582148	2856.835

The goods covered under above consignment have common brand name, length more than 75 MM and comparable commercial quantity. Samples of cigarettes drawn under Panchanama dated 10.02.2018 were got examined and valued by Chartered Engineer and Government approved Valuer Shri Anwar Kukad. Shri Anwar Kukad vide his Certificate AYK: VAL: 0597:2018 dated 25.07.2018 has found the length of cigarettes to be 80 MM including filter. Further market price of one cigarette stick is suggested as Rs. 7.50. Therefore, the consignment of cigarettes mentioned in Table 2 above has necessary ingredients to be similar goods to subject cigarettes imported illegally and sought clearance vide bill of entry No. 5147743 dated 09.02.2018. Therefore, applying the unit value of Rs. 2856.835 per thousand stick, the appropriate value of the subject 14,40,000 comes to Rs. 41,13,842/- , in terms of Rule 5 of Rules 2007. There have been many cases of smuggling of cigarettes of Gudang Garam brand in past and few imports by legal rout on payment of duty. It suggested there is likelihood of such cigarettes being smuggled into Indian market. Therefore, it appeared that the market price of cigarettes suggested by Chartered Engineer might be influenced by cigarettes which have escaped levy of applicable heavy rate of customs duties. Further, Rules 2007 have to be applied sequentially for value and thus Rule 5 has to be preferred over Rule 7 of deductive value based on market price.

7. Value of Plaster of Paris:-

7.1 Similarly in case of plaster of paris i.e. white colour powder found in 1594 PP bags during examination of goods covered under Bill of Entry No. 5147743 dated 09.02.2018, identical goods are not available. The data of goods of same description i.e. plaster of paris (without any brand name) for the month of February 2018, the month during which Bill of Entry for the subject goods was filed, is retrieved and tabulated as under

TABLE-3

B/E No.	B/E Date	Description of Goods	CTH	Qty (MT)	Ass Value Rs.	Unit value Rs. / MT
5040685	02-03-18	Plaster Of Paris Ina3g (Packed In 25kgs/Bags)	25202090	45	909010	20200
5042505	02-03-18	Calcined Gypsum Powder (Plaster Of Paris)	25202090	10	67830	6783
5066708	02-05-18	Plaster Of Paris : Ceracast Hs-02 (Size 1050 Kg./Bag) (80 Ba	25202090	84	1088143	12954
5109153	02-07-18	Plaster Of Paris Hartformgips 1(Gypsum Plaster)	25202090	60	1019758	16996
5317440	22/02/18	Plaster Of Paris-Sanicast Vn (Size 1000 Kg./Bag)	25202090	100	1511418	15114
5325398	23/02/18	Plaster Of Paris-Sanicast Vn (Size 1000 Kg./Bag)	25202090	20	302284	15114
5335272	23/02/18	Plaster Of Paris-Ceil Nr In 1000 Kg/Bag (Fta No: Ai2018-0006	25202090	20	176803	8840
5381882	27/02/18	Gypsum Plaster Of Paris (Pop)	25202090	28	105316	3761
		Total		367	5180561	14116

As can be seen from above table containing import data of Plaster of Paris, the description and quantity is similar and comparable to subject goods for which value is to be determined. As there is wide variation in value, it makes more sense to consider average value. The weighted average value per MT of consignment of Plaster of Paris mentioned in Table comes to Rs. 14,116/- per MT. Therefore, on the basis of this unit value total value of 35922 Kg of goods found in the plaster of paris imported illegally and sought clearance under Bill of Entry No. 5147743 dated 09.02.2018 comes to **Rs. 5,07,075/-** in terms of Rule 5 of Rules 2007.

8. Duties of Customs leviable on Goods:-

8.1 Bill of Entry No. 5147743 dated 09.02.2018 was filed on behalf of M/s. Champion Impex Private Limited, Ahmedabad for clearance of Gypsum powder. However, the actual goods found stuffed in import containers were found to be 14,40,000 cigarette sticks of Gudang Garam brand and Plaster of Paris. As discussed at Paras below, many summons were sent to Shri Pundrik Trivedi to join the investigation but he has not come forward despite being aware of the fact that cigarettes have been found in the consignment imported by his company. Cigarettes attract very high rate of duties of customs. From the facts of the case it appeared that with a view to defrauding the revenue, the description of goods in the import documents, was willfully mis-stated as "Gypsum Powder" even though actual goods intended to be imported illegally in the container were Cigarettes. The length of the said Cigarettes was found to be 80 MM (including filter), therefore they are, classifiable under CTI 24022090. Various types of duties attracted in imported cigarettes are mentioned below:-

TABLE-4

Duties of Customs leviable on Cigarettes:-

BCD	30%
AED (Health Cess)	811 per thousand
SCD @ 10%	10%
NCCD	235 per thousand
IGST	28%
IGST Compensation Cess	36% plus 4170 per thousand sticks

8.2 Further, Plaster of Paris merits classification under CTI 2520 2090. The duties leviable on Plaster of Paris under CTI 2520 20 90 are mentioned below:

TABLE-5

Duties of Customs leviable on Plaster of Paris:-

BCD	5%
Social Welfare Surcharge	10%
IGST	5%
Edu Cess	2%
S & H Ed Cess	1%

8.3 Since cigarettes and Plaster of Paris were not declared in the import documents and Bill of Entry No. 5147743 dated 09.02.2018, provisions of Section 28(4) and Section 114 A of Customs Act, 1962 are liable to be invoked for levy duties of Customs and penalty on importer in respect of both cigarettes and Plaster Paris sought clearance under Bill of Entry No. 5147743 dated 09.02.2018. However, the these cigarettes have been imported illegally and were not declared in the import documents and further these smuggled cigarettes even did not bear mandatory pictorial warnings on their packets and thereby contravened provisions of Tobacco and Other Products (Packaging & Labeling) Rules 2008 & Tobacco and Other Products (Packaging & Labeling) Amendment Rules 2014. As such, as discussed at Para 8.1 below, subject smuggled Cigarettes, recovered under Panchanama dated 10.02.2018, are liable for confiscation as per provisions of Customs Act, 1962 and hence duty is not being demanded under this Notice. However for reference, duties of customs leviable, as per assessable value ascertained above, are shown in Annexure I and Annexure II attached with this Notice.

9. Confiscation:-

9.1 The goods imported in container bearing Nos. EMCU3282219 and WHLU2580260 covered under bill of entry No. 5147743 dated 09.02.2018 filed at Custom House, Mundra were declared as "Gypsum Powder (Building Material)". However, on examination 14,40,000 cigarette sticks of Gudang Garam brand were found concealed behind 1594 PP bags of 'Gypsum Powder. The subject cigarette sticks were also not declared in the Import General Manifest. The value of 14,40,000 subject cigarettes in terms of Section 14 of Customs Act, 1962 read with Rules 2007 has been determined as

Rs. 41,13,842/-. The facts reveal that the Cigarettes were smuggled into India without declaring the same in the import documents and bill of Entry no. 5147743 dated 09.02.2018 filed at AP&SEZ Mundra. In terms of General Note 13 of Schedule-I of Import Policy, the import of cigarettes or any other tobacco products are subject to the provisions contained in the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2009. Import of cigarettes is subject to provisions contained in Section 7(3) of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, as amended, read with Cigarettes and other Tobacco Products (Packaging and Labeling) Rules, 2008 and Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment Rules, 2014, as amended. In the light of these provisions all Tobacco products manufactured / packaged/ imported for sale into India have to bear the specified pictorial health warnings. However, examination of goods under Panchanama dated 10.02.2018 and report of Chartered Engineer (Ref.: AYK:VAL:0597:2018 dated 25.07.2018) based on examination of samples of cigarettes reveals that the packages of the subject cigarettes were not having specified pictorial health warnings. In view of the above, 14,40,000 cigarettes found in container No. EMCU3282219 and WHLU2580260 during Panchanama dated 10.02.2018, having value Rs. 41,13,842/-, are liable to confiscation under Section 111 (d), 111(f), 111(l) and 111(o) of Customs Act, 1962.

9.2 Further, Panchanama dated 10.02.2018, revealed that 1594 PP bags found stuffed with 35922 Kgs white colour powder were used to conceal the cigarettes. The description of these goods was declared as Gypsum Powder and quantity as 42350 Kgs, value as Rs. 1,91,210/- in the import documents. Said goods have been found to be "Plaster of Paris" upon chemical testing by Customs Laboratory, CH Kandla. The value of said Plaster of Paris in terms of Section 14 of Customs Act, 1962 read with Rules 2007, has been determined as Rs. 5,07,075/-. Therefore, said goods i.e. Plaster of Paris appear to be mis-declared with respect to description, quantity and value thereof mentioned in import documents and Bill of Entry. As such, i.e. 35922 Kgs of Plaster of Paris valued at Rs. 5,07,075/- imported in container Nos. EMCU3282219 and WHLU2580260 and sought clearance under Bill of Entry No. 5147743 dated 09.02.2018 is liable to confiscation under Section 111 (m) and Section 119 of the Customs Act, 1962.

10. Roles of various persons in smuggling of cigarettes:-

10.1 **Role of Mr. Saba Yusuf:-** Mr. Saba Yusuf is the key person behind the smuggling of cigarettes in container No. EMCU 3282219 and WHLU 2580260. He was looking for persons who could arrange illegal custom clearance of cigarettes in India and for said purpose he engaged Mr. Pankaj Gohil through Mr. Dillerao and Mr. Ramaswamy. Having established contact with Mr. Pankaj Gohil, he dispatched consignment of cigarettes in container No. EMCU 3282219 and WHLU 2580260 concealed in bags of gypsum which on testing was found to be plaster of paris. The events and his conversation with Mr. Dillerao and Mr. Ramaswamy after seizure of cigarettes by DRI, as stated by them in their respective statements, reveal that he had paid Mr. Pankaj Gohil huge amount of money to get the cigarettes illegally cleared concealed with gypsum. Further he emailed scanned import documents viz Bill of Lading, Invoice etc, wherein goods were declared as gypsum, to Customs Broker through Mr. Pundrik Trivedi to arrange for illegal clearance cigarettes. Through his younger brother

Mr. Rashid Rahman he got the courier of original documents delivered to Customs Broker. These documents show description of goods gypsum and thus were false and incorrect documents. It is on the basis of these false documents arranged by Mr. Saba Yusuf that Bill of Entry No. 5147743 dated 09.02.2018 was filed for clearance consignment in which cigarettes were concealed with bags of plaster of paris. Two different persons Mr. Dillerao and Mr. Ramaswamy have given account of his personal details as per which he is son of Mr. Hasibur Rahman and resident of Delhi. Mr. Ramaswamy and Mr. Dillerao identified him by his photograph. Further, from the basic details about his family, as stated by him in his statement confirm that Mr. Saba Yusuf (named after their grandfather) is his elder brother who handled their family super market (i.e. Nurture Zest Super market) in Dubai. The identity of Mr. Saba Yusuf and his relationship with Mr. Rashid Rahman is also revealed by the fact that he was using mobile No. 9891540567 when he came to India on 30.10.2017. Said mobile number of Mr. Saba Yusuf was forwarded to Mr. Dillerao by Mr. Ramaswamy. Later, on 11.02.2018, Mr. Rashid Rahman used said mobile No. 9891540567 to call Mr. Mukesh Makwana of M/s. ASR Logistics India Private Limited. Mr. Rashid Rahman also confirmed in his statement that his address details on envelope of courier were written in his own handwriting. He also confirmed that he did call Mr. Mukesh to inform that document pertaining to consignment had been couriered. Summons dated 29.11.2018, 12.12.2018 and dated 15.01.2019 were issued to Mr. Saba Yusuf at his delhi family home address as well as at email id (sabayusuf88@gmail.com) but he neither joined investigation nor responded to summons. From the above discussed facts it appears that Mr. Saba Yusuf has deliberately committed the illegal act of smuggling of cigarettes to evade huge amount of applicable duty. He has played the role of a kingpin. He planned the conspiracy and engaged different persons at different stages with the clear motive of smuggling cigarettes into India concealed in bags of plaster of paris. The above discussed acts on part of Mr. Saba Yusuf have rendered total 14,40,000 sticks of cigarettes of Gudang Garam brand, having value of Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35922 Kgs of Plaster of Paris valued at Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962 and have rendered himself liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, Mr. Saba Yusuf has involved himself in causing to be prepare false import documents and used the same in illegal clearance of goods under Bill of Entry No. 5147743 dated 09.02.2018 and thus have rendered himself liable to penalty under Section 114AA ibid also.

10.2 Role of Mr. Pankaj Gohil:- Statements of Mr. Dillerao and Mr. Ramaswamy corroborated by circumstantial evidences inform of whatsapp messages of relevant dates reveal that Mr. Pankaj Gohil had a meeting with Mr. Saba Yusuf on 31.10.2017 at Ahmedabad. He was tasked with the work of arranging illegal clearance of cigarettes by Mr. Saba Yusuf. This fact is confirmed by Mr. Pundrik Trivedi in his statement. He stated in his statement that Mr. Pankaj Gohil obtained from him copies of IEC, PAN Card, GST Registration Certificate which were used in illegal import and seeking illegal clearance of cigarettes vide Bill of Entry No. 5147743 dated 09.02.2018 in the name of M/s. Champion Impex Private Limited. He had received from Mr. Saba Yusuf, around Rs. 16-17 Lakhs for arranging illegal clearance of cigarettes. The above discussed acts on part of Mr. Pankaj Gohil have rendered total 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable

to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35922 Kgs of Plaster of Paris valued at Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962, and thus, he has appeared to have rendered himself liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, Mr. Pankaj Gohil despite being aware of actual nature of the goods in the consignment asked Mr. Pundrik Trivedi to forward false and incorrect documents to Customs Broker and thus causing said false import documents to be used in illegal clearance of goods under Bill of Entry No. 5147743 dated 09.02.2018 and thus have rendered himself liable to penalty under Section 114AA of the Customs Act, 1962. Since his whereabouts are yet to be traced, this notice is being issued without prejudice to legal actions, including supplementing or amending this notice or issuing further notice under provisions of Customs Act, 1962 or any other action under Customs Act, 1962 or any other law for the time being in force consequent to his statement or upon receiving any other evidence.

10.3 Role of M/s. Champion Impex Private Limited, Ahmedabad and Mr. Pundrik Trivedi:- Bill of Entry No. 5147743 dated 09.02.2018 for clearance of goods imported in container Nos. EMCU3282219 and WHLU2580260 was filed by Customs Broker M/s. ASR Logistics India Private Limited on behalf of M/s. Champion Impex Pvt. Ltd. Consequent to seizure of cigarettes officers of DRI visited available addresses of M/s. Champion Impex Pvt. Ltd. and its Director Mr. Pundrik Trivedi i.e. (1) B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132 Ft. Ring Road, Satellite, Ahmedabad-380015, (2) M/1, Santnath Apptt, Opp. Vejalpur Bus Stop, Vejalpur, Ahmedabad-380051 and (3) C-304, opposite Lotus School, Nr. Prenathirth Jain Derasar, Jodhpur Gam, Satellite, Ahmedabad to serve summons dated 13.02.2018 but 1st and 3rd premises were found locked and 2nd premises occupied by some other person. Subsequently, a letter dated 19.02.2018 purportedly of Shri Pundrik Trivedi was received in the office of DRI Gandhidham wherein it was, inter alia, mentioned that he had nothing to do with the smuggling of cigarettes. Summons, inter alia, dated 16.03.2018, 27.03.2018, 13.04.2018 and dated 16.05.2018 were issued to Shri Pundrik Trivedi on the address mentioned in the letter dated 19.02.2018, i.e. at A-1, 601, Palladium, Opp Vodafone Office, Corporate Road, Makarba Ahmedabad, but the summons returned undelivered from said address also. Summons dated 27.03.2018 and 13.04.2018 were also served to Shri Pundrik Trivedi through email and dated 16.05.2018 through whatsapp on mobile number apparently being used by him. However he did not honour the summons and did not appear for statement in the office of DRI. Finally summons were served to him by officers of DRI on his premises on 18.01.2019 and his statement was recorded in DRI Ahmedabad office on 18.01.2019. Firstly he did not co-operate with investigation by repeatedly not honoring summons for almost one year and later he did not co-operate during recording of statement by giving evasive and misleading replies to questions put to him. However, the fact remains that Mr. Pundrik Trivedi provided to Mr. Pankaj Gohil the copies of IEC and other documents viz Bank Account Verification, GST registration certificate, PAN Card for use in import of consignment. He stated that he did not have the knowledge that Mr. Pankaj was going to use it for import and clearance of cigarettes. However, this claim of Mr. Pundrik appear to be incorrect and contrary to common logic in view of the facts that being aware of the procedure of imports and exports he knew that for import he had to make payment through banking channels but

his bank account linked to IEC was closed since 2017. He had knowledge that any payment in respect of import or export is illegal by any means other than through banking channel. If Mr. Pankaj was to handle everything he ought to have given authorization in this behalf. However this was not the case. It was he who was in contact with Customs Broker and forwarded KYC details and documents to Customs Broker. He also forwarded import documents to Customs Broker for filing bill of entry and seeking clearance of consignment that contained cigarettes. These facts indicate that Mr. Pundrik Trivedi was aware of the fact that cigarettes were being smuggled concealed in consignment which was attempted to be cleared as gypsum. If he was not aware of the exact nature of goods, he should not have forwarded KYC details / documents to Customs Broker for filing bill of entry. These acts of commission and omission on part M/s. Champion Impex Private Limited, Ahmedabad and Shri Pundrik Trivedi have rendered total 14,40,000 sticks of cigarettes of Gudang Garam brand, having value of Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35,922 Kgs of Plaster of Paris value at Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962 and appear to have rendered themselves liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, in view of the same facts, Shri Pundrik Trivedi has involved himself in using false and incorrect import documents in illegal clearance of goods under Bill of Entry No. 5147743 dated 09.02.2018 and thus appeared to have rendered himself liable to penalty under Section 114AA ibid also.

10.4 Role of Mr. Dillerao N. Barri:- Mr. Dillerao N. Barri has stated in his statement that he Mr. Ramaswamy managing director of M/s. OPUS DEI Logistics Private Limited asked him and other employees of company if they could find someone who could arrange illegal clearance of cigarettes. For the said purpose of illegal clearance of cigarettes he suggested Mr. Pankaj Gohil and later arranged meeting of Mr. Saba Yusuf, the person who wanted to smuggle cigarettes into India, with Mr. Pankaj Gohil, the person who he believed could arrange illegal customs clearance of cigarettes. These facts have been corroborated by Mr. Ramaswamy in his statement. Therefore right from the act of suggesting name of Mr. Pankaj Gohil to Mr. Ramaswamy and through him to Mr. Saba and arranging meeting of Mr. Saba Yusuf and Mr. Pankaj Gohil it was clear to Mr. Dillerao that his action were going to lead to smuggling of cigarettes into India. Further, after seizure of cigarettes he called Customs Broker enquiring about receipt of original documents. This shows that he was aware of the fact the consignment containing cigarettes was being attempted to be illegally cleared and that original documents pertained the very said consignment. Therefore Mr. Dillerao N. Barri has clearly abetted acts which have rendered 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35922 Kgs of Plaster of Paris valued at Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962 and thus appeared to have rendered himself liable to penalty under Section 112 (a) of the Customs Act, 1962.

10.5 Role of Mr. Ramaswamy N. Iyer: Mr. Ramaswamy has stated in his statement that on being constantly persisted by Mr. Saba Yusuf, he asked employees of M/s. OPUS DEI Logistics Private Limited if they could find someone who could arrange illegal clearance of cigarettes. Further on being

suggested the name of Mr. Pankaj Gohil he asked Mr. Dillerao to arrange meeting of Mr. Saba Yusuf and Mr. Pankaj Gohil and even coordinated in arranging said meeting by forwarding contact details and journey details of Mr Saba to Mr. Dillerao. Therefore not only he involved himself in abetting actions that led to smuggling of cigarettes but also impressed upon employees of his company by asking them to find person of capable of smuggling and to arranging meeting between such persons. Right from the beginning he was aware that he was to aid in smuggling and knowingly abetted the acts which have rendered 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35922 Kgs of Plaster of Paris valued Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962 and thus appeared to have rendered himself liable to penalty under Section 112 (a) of the Customs Act, 1962.

10.6 Role of Mr. Rashid Rahman: Mr. Rashid Rahman is the younger brother of Mr. Saba Yusuf. In his statement he claimed that one person named Tahoor who used to come to their Super Market in Dubai as customer, had asked him to send original copy of documents to Customs Broker in Gandhidham. However on being asked he could not provide any further details of said Mr. Tahoor. Letter F. No. DRI/AZU/GRU/CHAMPION/INT-1/2018 dated 30.10.2018 were written to him, by DRI, to provide said details but he did not even respond. However, after statements of Mr. Dillerao and Mr. Ramaswamy supported by corroborative evidences it has been revealed that it was Mr. Saba Yusuf who was actual person who shipped the consignment that contained smuggled cigarettes. Therefore, facts narrated about some Mr. Tahoor were false. The fact that he narrated concocted story implies that he was aware of the actual fact that the said consignment contained smuggled cigarettes and hence the need for presenting wrong facts and hiding actual facts. After the actual facts about role of Mr. Saba Yusuf and Mr. Pankaj Gohil were uncovered in statements of Mr. Dillerao and Mr. Ramaswamy, Summons dated 29.11.2018, 12.12.2018 and dated 15.01.2019 were issued to him but he did not appear for statement. Therefore it appeared that Mr. Rashid couriered the documents to customs broker for the purpose of illegal clearance of cigarettes. His acts contributed to actions that have rendered 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35922 Kgs of Plaster of Paris valued Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962 and he, thus, appeared to have rendered himself liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above Mr. Rashid has involved himself in casing use of false and incorrect import documents in illegal clearance of goods under Bill of Entry No. 5147743 dated 09.02.2018 and thus appeared to have rendered himself liable to penalty under Section 114AA ibid also.

11. Therefore, a Show Cause Notice F.No. DRI/AZU/GRU/CHAMPION/INT-1/2018 dated 04.02.2019 was issued by the Joint Director, Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad whereby;

11.1 (1) Mr. Saba Yusuf, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 110025,
(2) M/s. Champion Impex Pvt. Ltd., B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132

Ft. Ring Road, Satellite, Ahmedabad-380015, (3) Mr. Pankaj Gohil, and any persons having claim over 14,40,000 cigarette sticks and 35922 Kgs of Plaster of Paris seized vide seizure memo dated 10.02.2018 were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Mundra having his office situated at Customs House, AP& SEZ, Mundra (Kutch) – 370421, within thirty days from the receipt of the notice as to why:

- (i) 14,40,000 cigarette sticks, having value of Rs. 41,13,842/-, should not be confiscated under the provisions of 111(d), 111(f), 111(l) and 111(o) of the Customs Act, 1962;
- (ii) 35922 kgs of 'Plaster of Paris', found packed in 1594 PP bags, having value Rs. 5,07,075/- should not be confiscated under the provisions of Section 111(m) and Section 119 of the Customs Act, 1962;
- (iii) Penalty should not be imposed upon them under Section 112 (a) of the Customs Act, 1962;
- (iv) Penalty should not be imposed upon them under Section 114AA of the Customs Act, 1962.

11.2 (1) Mr. Pundrik Trivedi Director of M/s. Champion Impex Private Limited, residing at C-304, Ishwar Charan Complex, Opp. Lotus School, Jodhpur Gam, Satellite, Ahmedabad-380015 and (2) Mr. Rashid Rehman, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 11002 were thereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Mundra having his office situated at Customs House, AP& SEZ, Mundra (Kutch) – 370421, within thirty days from the receipt of this notice as to why penalty should not be imposed upon them under Section 112 (a) and Section 114AA of the Customs Act, 1962;

11.3 (1) Mr. Dillerao Narayan Barri, 78, S.H.X., Janta Colony, Gandhidham, Gopalpuri, Kachchh, Gujarat-370240 and (2) Mr. Ramaswamy N. Iyer, 1304, Springhill, Hiranandani Estate, Ghodbunder Road, Near Hiranandani Foundation School, Patlipada, Sandozbaugh, Thane, Maharashtra- 400607 were thereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Mundra having his office situated at Customs House, AP& SEZ, Mundra (Kutch) – 370421, within thirty days from the receipt of this notice as to why penalty should not be imposed upon them under Section 112 (a) of the Customs Act, 1962;

DEFENCE SUBMISSION

12. Mr. Saba Yusuf (Noticee No.1), M/s Champion Impex Pvt. Ltd., Ahmedabad (Noticee No.2), Mr. Pundrik Trivedi, Director of M/s Champion Impex Pvt. Ltd. (Noticee No.3), Mr. Pankaj Gohil (Noticee No.4) and Mr. Rashid Rehman (Noticee No.5) did not file any reply to the Show Cause Notice.

13. Shri Dillerao Narayan Barri (Noticee No.6) vide his letters dated 05.03.2019 and, further dated 04.01.2020 submitted his reply, wherein he has mainly contended as under-

13.1 At the outset he strongly deny all the allegations and charges made against him in the Notice. He has not abetted any act which rendered the goods liable to confiscation under Section 111. The allegation to the contrary is totally false, baseless and unsubstantiated.

13.2 In his statement there is no admission of his involvement in the said import. In fact it is evident from his statement that he was not at all involved at any stages of the said import starting from procurement of the goods to submission of documents to Customs.

13.3 He was not aware about the shipment and or arrival of the said goods. He became aware about the said import only after the DRI seized the said consignment.

13.4 Although Iyer was asking for a person for clearance of gypsum powder, he was compelled to write cigarette instead of gypsum powder by the DRI. Because of fear and pressure he could not retract the said statement.

13.5 Assuming without admitting that he was aware that cigarettes were to be imported, such awareness alone does not make me liable to penalty under the Customs Act because the mere awareness does not amount to an act or omission rendering the goods liable for confiscation under Section 111. He has no connection with the said goods. There was no positive act from his side. Undisputedly, he is not the importer or shipper or forwarder or transporter.

13.6 The alleged act of suggesting the name of Pankaj to Ramaswamy and arranging the meeting of Saba Yusuf & Pankaj or enquiring with the Customs Broker about receipt of original documents did not render the goods liable to confiscation.

13.7 He did not participate in the discussions nor did he meet Saba or Pankaj after the alleged meeting. They never revealed anything about their discussion to him. Pankaj informed him about the said import only after the DRI seized the said consignment. Thereafter, he contacted the Customs Broker only to find out the truth about the said import.

13.8 He was not a party to any conspiracy. He has not played any role in the import of the said consignment. Nobody has blamed that he was involved in any manner in the said import.

13.9 He did not earn anything or supposed to gain anything. Significantly the notice also does not make any such allegations.

13.10 Penalty is proposed against him solely on the basis of assumption and presumption. It is settled law that penalty cannot be imposed merely on assumption and presumption. It is also well settled that penalty cannot be imposed merely for suggesting and introducing a person to another or for arranging their meeting.

13.11 None of his act rendered the goods liable for confiscation under Section 111. Consequently, he is not liable for penalty under Section 112(a) of the Act. Accordingly, he prayed that all the proceedings against me kindly be dropped.

13.12 If it is still proposed to continue with the penal proceeding against me, it is prayed that examination and cross-examination of Shri Ramaswamy Iyer and Mukesh Makwana may kindly be arranged as per Section 138B to enable him to further prove his innocence. Opportunity should also be given to make further submissions after the examination and cross-examination.

14. **Shri Ramaswamy N. Iyer (Noticee No.7)**, through his authorized representative Shri Anil L. Balani, Advocate, filed his written defence reply dated 03.01.2020, received to the department on 07.01.2020, wherein he made submissions as under-

14.1 The SCN is issued on the basis of his statement dated 6.12.2018 and the statement dated 28.11.2018 of Shri Dillerao N. Bhatt (ex-employee of M/s. Opus Dei Logistics) recorded by the DRI.

However, from a reading of the said statements it is amply clear that he (Shri Ramaswamy N. Iyer) had no connection whatsoever with the illegal import of the said consignment of cigarettes and Plaster of Paris. He was not involved in any manner with the acquisition, shipment, preparation or filing of any documents. He was not even aware about the shipment or arrival of the said goods. He has not aided or abetted the instant import or any illegal acts of the main accused.

14.2 In fact the inquiry was about import of gypsum powder. However, in the statement the word 'cigarettes' was interpolated forcibly. He was not in a position to retract the statement due to intense pressure and fear.

14.3 Even if it is assumed that he was aware that cigarettes were to be imported, the awareness alone does not make him liable for penalty because the mere awareness does not amount to an act or omission rendering the goods liable for confiscation. He was neither the importer nor the shipper or forwarder or transporter. He never came in contact with the consignment. The exact act of him which rendered the goods liable to confiscation under Section 111 is not specified in the notice. He has not committed any act rendering the goods liable to confiscation under any of the provisions of Section 111. Therefore he is not liable to penal action under Section 112(a).

14.4 He further submitted that his role is limited to providing contact details of Saba Yusuf to Dillerao and vice versa. He was not a party to the alleged meeting between Saba and Pankaj Gohil. In his statement he has clearly mentioned that he informed Saba that he cannot arrange import of any illegal items. He did not even want his employee to become part of any such illegal acts and also instructed Dillerao not to involve in the same. Neither his statement nor the statements of any other person have shown any direct or indirect involvement of my client in the said import.

14.5 He further submitted that he is not a beneficiary. The notice does not even allege that any motive or gain is attributable to him.

14.6 Penalty under Section 112(a) cannot be imposed on him merely for introducing or providing contact numbers of two persons to each other. The said act did not in any manner rendered the goods liable to confiscation under Section 111. The department is well aware about the innocence of him. Hence he is not even called upon to show cause on the issue of confiscation.

14.7 He has relied upon the following judgements wherein the Hon'ble CESTAT has held that penalty under the Customs Act cannot be imposed for introduction of one person to another:

(a) Shafeek P.K. 2015 (325) E.L.T. 199 (Tribunal)

Introduction of one person to another person who subsequently found in smuggling, cannot be considered to be an offence to impose penalty under Customs Act, 1962 - Section 112 of Customs Act, 1962.

(b) Surinder Khosla – 2010 (260) ELT 179 (Bom.)

Penalty Abatement - Penalty set aside by Tribunal after holding respondent as not remotely connected with import or diverting goods in local market - Tribunal's observation that arranging office on rent and introduction of certain persons not an act of omission rendering imported goods liable to confiscation - Finding of fact by Tribunal, sustainable - Question of law not arises - Section 112 of Customs Act.

(c) Abdulla K. Munshi – 1991 (52) ELT 264(T)

Mere introduction of two persons at some stage in the past without any proof or even indication of his own involvement in the nefarious activities that those two persons might have undertaken at any subsequent stage, cannot make that person liable to any penalty under Sec. 112 of the Customs Act, for such activity.

(d) Abubackar H. Desai -1994 (74) ELT 334(T)

Mere introducing someone to unauthorised money-exchanger at Navsari whereas illicit export of currency attempted at Bombay cannot be said to be abetment - No penalty imposable under Section 114 of the Customs Act, 1962.

14.8 As per the notice the main accused have not appeared and cooperated in the investigation.

14.9 In his letter dated 4.3.2019 it was prayed that cross-examination of all persons whose statements are relied upon in the Noticee be granted. If necessary, further submissions will be made after examination and cross-examination. In the circumstances, it is prayed that the proceedings against him be dropped and kindly grant personal hearing.

PERSONAL HEARING

15. The personal hearing was fixed on 07.01.2020. This office letter dated 16.12.2019 for personal hearing scheduled on 07.01.2020, meant for Mr. Pankaj Gohil (Noticee no.4) [whose whereabouts are yet to be traced] was served upon him by affixing that on the notice board of the Custom House, Mundra under Section 153(1)(e) of the Customs Act,1962. Further, the said letter for personal hearing in respect of remaining 06 Noticees scheduled on 07.01.2020 were sent to each of them through Speed Post, however the letters in respect of M/s Champion Impex Pvt. Ltd. (Noticee No.2) and Mr. Ramaswamy N. Iyer (Noticee No. 7) were returned undelivered by the postal authorities with remarks " left", hence the same were also served upon them by affixing on the notice board of the Custom House, Mundra under Section 153(1)(e) of the Customs Act,1962. Mr. Dilerao Narayan Barri (noticee no.6) vide his letter dated 04.01.2020, received to the department on 07.01.2020, submitted an interim reply. The Noticees viz. Mr. Saba Yusuf (noticee no.1), Mr. Pundrik Trivedi (noticee no.3), Mr. Rashid Rehman (noticee no.5) and Mr. Dilerao Narayan Barri (noticee no.6) did not turn up for the personal hearing on 07.01.2020. Further, the personal hearing was fixed on 17.01.2020. The letter dated 08.01.2020 meant for personal hearing of Mr. Pankaj Gohi scheduled on 17.01.2020, was served upon him by affixing that on the notice board of the Custom House, Mundra under Section 153(1)(e) of the Customs Act,1962. This time the letters in respect of aforesaid Noticee No.2 and 7 were returned undelivered by the postal authorities with remarks " left", hence the same were also served upon them by affixing on the notice board of the Custom House, Mundra under Section 153(1)(e) of the Customs Act,1962. The letter in respect of Mr. Pundrik Trivedi (noticee no. 3) were not returned undelivered. Mr. Dilerao Narayan Barri (noticee No. 6) vide his letter dated 17.01.2020 and Shri Priyadarshi Manish, authorized representative of Noticee No. 1 and Noticee No.5 vide his letter dated 13.01.2020 sought adjournment of the second personal hearing on 17.01.2020. The third and final hearing was fixed on 28.01.2020. The letter meant for personal hearing of Mr. Pankaj Gohil scheduled on 28.01.2020, was served upon him by affixing that on the notice board of the Custom House, Mundra under Section 153(1)(e) of the Customs Act,1962. Further, the letters for personal hearing scheduled on 28.01.2020 in respect of noticee no. 2, 6 and 7 were returned undelivered by the postal authorities with remarks " left", were also served upon them by affixing on the notice board of the Custom House, Mundra under Section 153(1)(e) of the Customs

Act, 1962. However, none of the other remaining noticees appeared for personal hearing scheduled on 28.01.2020. Since, all letters of the three scheduled personal hearings on 07.01.2020, 17.01.2020 and 28.01.2020 meant for Importer M/s Champion Impex Pvt. Ltd. (Noticee No.2) were returned undelivered by the postal authorities with remarks "left", hence one more opportunity of personal hearing on 06.03.2020 was granted to them and their Director Mr. Pundrik Trivedi (noticee no. 3) and this time the intimation letter of personal hearing fixed for 06.03.2020 was sent at the new office address of the importer viz. M/s Champion Impex Pvt. Ltd., A1, 601, Palladium, Corporate Road, Opp. Vodafone Office, Makraba Cross Road, Ahmedabad-380051, however, again they did not turn up for the same on 06.03.2020.

DISCUSSION AND FINDINGS

16. I have carefully gone through the facts of the case and the relevant records viz., Show Cause Notice dated 04.02.2019 and the relied-upon documents mentioned therein. The impugned SCN is issued by the Joint Director, DRI, Zonal Unit, Ahmedabad, vide F.No. DRI/AZU/GRU/CHAMPION/INT-1/2018 dated 04.02.2019 and the same is made answerable to the Additional/Joint Commissioner of Customs, Mundra for the purpose of adjudication. I find that in the present case despite being given sufficient time, none of the noticees, except the Noticees No. 6 and 7, have submitted any written reply to the charges made against them in the SCN. I also find that they, even after sufficient opportunity of personal hearing, did not appear for any of the scheduled hearings and they have consciously chosen not to attend the same. The adjudication process cannot go indefinitely waiting for the Noticees to turn up for personal hearing. Therefore, I find that the principle of Natural Justice, as prescribed in Section 122A of the Customs Act, 1962 has been completed. Hence, I am going to proceed to decide the case on the basis of documentary evidences available with the department. I find that the following issues are involved in the impugned Show Cause Notice, which are required to be decided:-

- (i) Whether 14,40,000 cigarette sticks, having value of Rs. 41,13,842/-, are liable for confiscation under the provisions of 111(d), 111(f), 111(l) and 111(o) of the Customs Act, 1962;
- (ii) Whether 35922 kgs of 'Plaster of Paris', found packed in 1594 PP bags, having value Rs. 5,07,075/- are liable for confiscation under the provisions of Section 111(m) and Section 119 of the Customs Act, 1962;
- (iii) Whether Penalty is imposable upon Mr. Saba Yusuf, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 110025, under Section 112 (a) and Section 114 AA of the Customs Act, 1962;
- (iv) Whether Penalty is imposable upon M/s. Champion Impex Pvt. Ltd., B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132 Ft. Ring Road, Satellite, Ahmedabad- 380015 and its director Mr. Pundrik Trivedi, residing at C-304, Ishwar Charan Complex, Opp. Lotus School, Jodhpur Gam, Satellite, Ahmedabad-380015, under Section 112(a) and Section 114AA of the Customs Act, 1962.
- (v) Whether Penalty is imposable upon Mr. Pankaj Gohil (whose whereabouts are to be traced), under Section 112(a) and Section 114AA of the Customs Act, 1962.

- (vi) Whether Penalty is imposable upon Mr. Rashid Rehman, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 11002, under Section 112 (a) and Section 114 AA of the Customs Act, 1962;
- (vii) Whether Penalty is imposable upon Mr. Dillerao Narayan Barri, 78, S.H.X., Janta Colony, Gandhidham, Gopalpuri, Kachchh, Gujarat-370240, under Section 112 (a) of the Customs Act, 1962;
- (viii) Whether Penalty is imposable upon Mr. Ramaswamy N. Iyer, 1304, Springhill, Hiranandani Estate, Ghodbunder Road, Near Hiranandani Foundation School, Patlipada, Sandozbaugh, Thane, Maharashtra- 400607, under Section 112 (a) of the Customs Act, 1962;

16.1 I find that the facts of the case indicate that the goods imported under Bill of Entry No. 5147743 dated 09.02.2018 in Container nos. EMCU3282219 and WHLU2580260 by the importer M/s. Champion Impex Private Limited and declared as "*Gypsum Powder (Building Material)*" were examined by the officers of Directorate of Revenue Intelligence, under Panchnama dated 10.02.2018 whereby it was found that 14,40,000 cigarette sticks of foreign origin(Gudang Garam Brand) had been concealed behind 1594 PP bags containing 'white colour powder'. The above mentioned goods i.e. 14,40,000 cigarette sticks along with 1594 PP bags of 'white colour powder' used for concealment were placed under seizure under Section 110(1) of the Customs Act, 1962 vide Seizure Memorandum dated 10.02.2018, under reasonable belief that the same are liable for confiscation under the provisions of the Customs Act, 1962. During the course of further investigation conducted by the DRI, statements of concerned persons were recorded under Section 108 of the Customs Act, 1962. I find that Shri Pundrik Trivedi, Director of M/s Champion Impex Pvt. Ltd., in connivance with Mr. Saba Yusuf, Mr. Pankaj Gohil, Mr. Rashid Rehman, Mr. Dillerao Narayan Barri and Mr. Ramaswamy N. Iyer, has attempted to smuggle foreign origin cigarettes and willfully mis-stated the quantity, value, and description of goods before the Customs authority at the time of import with a intent to evade the applicable Customs duty. Further, with regards to the valuation of the impugned undeclared/mis-declared goods, I find that the Bill of Entry No. 5147743 dated 09.02.2018 was filed seeking clearance of goods of description "*Gypsum Powder (Building Material)*", however, during examination cigarettes were found concealed behind white colour powder in PP bags. I find that the Test Report has confirmed that said white material was 'plaster of paris'. I further find that none of the goods i.e. neither cigarettes nor 'plaster of paris' was declared in the bill of entry or other import documents, therefore, the declared price / value thereof is liable to be rejected in terms of Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and is required to be determined in accordance with provisions of Section 14 of Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I find that Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, provides the method of valuation for imported goods. Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, provides that "*Subject to Section 14 of Customs Act, 1962 read with Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10*". Rule 3(4) *ibid* states that "*if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007*". I find that Rule 4 (1) (a) of Rules 2007 stipulates determination of value of goods on the basis of value of identical goods. However, details of value of

goods identical to subject goods viz. Cigarette are not available in the import data. Further going forward, Rule 5 (1) of Rules 2007 provides for determination of value on the basis of value of similar goods. I find from an import data in respect of one consignment of similar goods having common brand name, length more than 75 MM viz. Gudang Garam brand of cigarettes (CTH 24022090), imported vide Bill of Entry No. 5333664 dated 23.02.2018, that the unit assessable value is Rs.2856.835 per thousand stick. Therefore, applying the unit value of Rs. 2856.835 per thousand stick, the appropriate value of the subject 14,40,000 cigarettes is ascertained to be **Rs. 41,13,842/-**, in terms of Rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since, Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, have to be applied sequentially for value, thus Rule 5 has been preferred over Rule 7 of determination of value by deductive method based on market price. Similarly in case of plaster of paris i.e. white colour powder found in 1594 PP bags during examination of goods covered under Bill of Entry No. 5147743 dated 09.02.2018, identical goods are not available. Further, considering the average value (Rs. 14,116/- per MT.) of import data of the goods of same description i.e. plaster of paris (without any brand name), as tabulated in TABLE -3 of the SCN, the total value of 35922 Kg of goods viz. the plaster of paris imported illegally and sought clearance under Bill of Entry No. 5147743 dated 09.02.2018 is ascertained as **Rs. 5,07,075/-** in terms of Rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. With regard to duties of Customs leviable on impugned goods, as discussed above, the Bill of Entry No. 5147743 dated 09.02.2018 was filed on behalf of M/s. Champion Impex Private Limited, Ahmedabad for clearance of Gypsum powder, however, the actual goods found stuffed in import containers were found to be 14,40,000 cigarette sticks of Gudang Garam brand and Plaster of Paris. Cigarettes attract very high rate of duties of customs. From the facts of the case, it is found that with a view to defrauding the revenue, the description of goods in the import documents, was willfully mis-stated as "Gypsum Powder" even though actual goods intended to be imported illegally in the container were Cigarettes. The length of the said Cigarettes was found to be 80 MM (including filter), therefore they are, classifiable under CTI 24022090. Further, Plaster of Paris merits classification under CTI 2520 2090. The detailed calculation of duties of customs not levied on Cigarettes, and Plaster of Paris is set out in the attached Annexure-I & Annexure-II respectively, to the Show Cause Notice . However, since subject smuggled Cigarettes and Plaster of Paris recovered under Panchanama dated 10.02.2018, are proposed for confiscation , therefore, no duty is demanded in respect of the subject goods in the Show Cause Notice. In regard to the proposal in SCN for the confiscation of the seized goods, I find that the facts of the case as discussed above clearly establish that the foreign origin Cigarettes of Gudang Garam Brand along were smuggled into India without declaring the same in the import documents and bill of Entry no. 5147743 dated 09.02.2018 filed at AP&SEZ Mundra. The impugned goods were also not declared in the Import General Manifest No. 2186810 dated 07.02.2018. Thus, I find that the said smuggled 14,40,000 Cigarette sticks, having market value of Rs.41,13,842/- are liable for confiscation under the provisions of Section 111 (f), and 111 (l) of the Customs Act, 1962. I further find that in terms of General Note 13 of Schedule-I of Import Policy, the import of cigarettes or any other tobacco products are subject to the provisions contained in the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2009. Import of cigarettes is subject to provisions contained in Section 7(3) of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, as amended,

read with Cigarettes and other Tobacco Products (Packaging and Labeling) Rules, 2008 and Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment Rules, 2014, as amended. Further, I find that as per the provisions of the Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008, as notified by the Ministry of Health & Family Welfare, that import of cigarettes which do not bear specified health warnings on their packages is prohibited as per Foreign Trade Policy and such cigarettes cannot be imported/allowed to be cleared from Customs. The subject Rules as amended by the Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment Rules, 2014, require that *the specified health warning should cover at least 85% of Principal Display Area of the package of which 60% shall cover pictorial health warning and 25% shall cover textual health warning and shall be positioned on the top edge of the package and in the same direction as the information on the principal display area.* However, it is evident from the Panchanama dated 10.02.2018 and report of Chartered Engineer (Ref.:AYK:VAL:0597:2018 dated 25.07.2018) based on examination of samples of cigarettes that the packages of the subject cigarettes were not having specified pictorial health warnings. In view of the above, 14,40,000 cigarettes found in container No. EMCU3282219 and WHLU2580260 during Panchanama dated 10.02.2018, having value Rs. 41,13,842/-, are covered under the definition of "prohibited goods" as per Section 2(33) of the Customs Act, 1962 and consequently, they are liable to absolute confiscation under Section 111 (d) and Section 111(o) of Customs Act, 1962. Accordingly, I hold that the said smuggled 14,40,000 Cigarette sticks, having market value of Rs.41,13,842/- are liable to absolute confiscation under the provisions of Section 111(d), 111 (f), 111 (l) and 111(o) of the Customs Act, 1962

16.2 With regards to proposal for confiscation of 35922 Kgs of "Plaster of Paris", I find that the Panchanama dated 10.02.2018, revealed that 1594 PP bags found stuffed with 35922 Kgs white colour powder were used to conceal the cigarettes. The description of these goods was declared as Gypsum Powder and quantity as 42350 Kgs, value as Rs. 1,91,210/- in the import documents, whereas the said goods have been found to be "Plaster of Paris" upon chemical testing by Customs Laboratory, Custom House, Kandla. The value of said Plaster of Paris in terms of Section 14 of Customs Act, 1962 read with Rules 2007, has been determined as Rs. 5,07,075/-. This clearly establishes that the said goods i.e. Plaster of Paris have been imported illegally into India without the same being declared with respect to description, quantity and value thereof in import documents and Bill of Entry. Therefore, I find that the said 35922 Kgs of Plaster of Paris, valued at Rs. 5,07,075/- imported in container Nos. EMCU3282219 and WHLU2580260 and sought clearance under Bill of Entry No. 5147743 dated 09.02.2018 is liable to confiscation under Section 111 (m) and Section 119 of the Customs Act, 1962. Also, the import of subject Plaster of Paris in the manner described above constitutes an act of "smuggling" as defined in Section 2(39) of the Customs Act, 1962 and the subject Plaster of Paris is required to be treated as smuggled goods under the provisions of Customs Act, 1962. In view of the blatant violation of the Customs Act and outright attempted smuggling of foreign origin cigarettes, I do not consider this case to be appropriate where the goods can be allowed to be redeemed on payment of redemption fine and hence, I hold that the seized goods viz., 35922 Kgs of Plaster of Paris, valued at Rs. 5,07,075/-, used for concealment of the smuggled cigarettes, is also required to be absolutely confiscated under the provisions of Section 111 (m) and Section 119 of the Customs Act, 1962.

16.3 With regards to the proposal for imposition of penalty on Mr. Saba Yusuf, I find that Mr. Saba Yusuf was looking for persons who could arrange illegal customs clearance of cigarettes in India and for said purpose he engaged Mr. Pankaj Gohil through Mr. Dillerao and Mr. Ramaswamy and dispatched consignment of cigarettes in container No. EMCU 3282219 and WHLU 2580260 concealed in bags of gypsum which on testing was found to be plaster of paris. Further, he arranged false documents and emailed scanned import documents viz Bill of Lading, Invoice etc., wherein goods were declared as gypsum, to Customs Broker (M/s. ASR Logistics India Private Limited) through Mr. Pundrik Trivedi to arrange for illegal clearance of cigarettes and through his younger brother Mr. Rashid Rahman he got the courier of original documents delivered to Customs Broker. It is on the basis of these false documents arranged by Mr. Saba Yusuf that Bill of Entry No. 5147743 dated 09.02.2018 was filed for clearance consignment in which cigarettes were concealed with bags of plaster of paris. The events and his conversation with Mr. Dillerao and Mr. Ramaswamy after seizure of cigarettes by DRI, as stated by them in their respective statements, reveal that he had paid Mr. Pankaj Gohil huge amount of money (15 to 16 lakhs) to get the cigarettes illegally cleared concealed with gypsum. Two different persons Mr. Dillerao and Mr. Ramaswamy have given account of his personal details as per which he is son of Mr. Hasibur Rahman and resident of Delhi. Mr. Ramaswamy and Mr. Dillerao identified him by his photograph. Further, from the basic details about his family, as stated by Mr. Rashid Rahman in his statement confirm that Mr. Saba Yusuf (named after their grandfather) is his elder brother who handled their family super market (i.e. Nurture Zest Super market) in Dubai. The identity of Mr. Saba Yusuf and his relationship with Mr. Rashid Rahman is also revealed by the fact that he was using mobile No. 9891540567 when he came to India on 30.10.2017. Said mobile number of Mr. Saba Yusuf was forwarded to Mr. Dillerao by Mr. Ramaswamy. Later, on 11.02.2018, Mr. Rashid Rahman used said mobile No. 9891540567 to call Mr. Mukesh Makwana of M/s. ASR Logistics India Private Limited. Mr. Rashid Rahman also confirmed in his statement that his address details on envelope of courier were written in his own handwriting. He also confirmed that he did call Mr. Mukesh to inform that document pertaining to consignment had been couriered. Summons dated 29.11.2018, 12.12.2018 and dated 15.01.2019 were issued to Mr. Saba Yusuf at his Delhi family home address as well as at email id (sabayusuf88@gmail.com) but he neither joined investigation nor honoured the summons. Though his statement could not be recorded, however, from the above discussed facts, his role of a kingpin in planning the conspiracy and engaging different persons at different stages with the clear motive of smuggling cigarettes into India concealed in bags of plaster of paris to evade huge amount of applicable duty, is conclusively established. The above stated acts of commission and omission on the part of Mr. Saba Yusuf have rendered the imported goods viz., (1) total 14,40,000 sticks of cigarettes of Gudang Garam brand, having value of Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and (2) 35922 Kgs of Plaster of Paris valued at Rs. 5,07,075/- liable to confiscation as per provisions of Section 111(m) and 119 of the Customs Act, 1962 and consequently Mr. Saba Yusuf, is liable for penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, I also find that Mr. Saba Yusuf has knowingly and intentionally caused to be prepared false import documents, which he knew were false/fabricated and incorrect in respect of the imported goods, and attempted to use the same in

illegal clearance of goods under Bill of Entry No. 5147743 dated 09.02.2018 . Consequently, for the said act of contravention on his part, I find that Mr. Saba Yusuf is also liable for penalty under Section 114AA of the Customs Act,1962.

16.4 In regard to the proposal for imposition of penalty on the importer **M/s. Champion Impex Private Limited, Ahmedabad** and its Director **Mr. Pundrik Trivedi**, I find that the case records reveal that consequent to seizure of cigarettes illegally imported in container Nos. EMCU3282219 and WHLU2580260 in the guise of "Gypsum Powder (Building Material)" declared in Bill of Entry No. 5147743 dated 09.02.2018 filed by Customs Broker M/s. ASR Logistics India Private Limited on behalf of M/s. Champion Impex Pvt. Ltd, the officers of DRI visited three available addresses of M/s. Champion Impex Pvt. Ltd. and its Director Mr. Pundrik Trivedi at Ahmedabad to serve summons dated 13.02.2018, but two premises were found locked and 3rd premises was occupied by some other person. Subsequently, a letter dated 19.02.2018 purportedly of Shri Pundrik Trivedi was received in the office of DRI Gandhidham wherein it was, inter alia, mentioned that he had nothing to do with the smuggling of cigarettes. Thereafter, Summons, inter alia, dated 16.03.2018, 27.03.2018, 13.04.2018 and dated 16.05.2018 were issued to Shri Pundrik Trivedi on the address mentioned in the letter dated 19.02.2018, i.e. at A-1, 601, Palladium, Opp Vodafone Office, Corporate Road, Makarba Ahmedabad, but the summons returned undelivered from the said address also. Summons dated 27.03.2018 and 13.04.2018 were also served to Shri Pundrik Trivedi through email and dated 16.05.2018 through whatsapp on mobile number apparently being used by him. However he did not honour the summons and did not appear for statement in the office of DRI. Finally summons were served to him by officers of DRI on his premises on 18.01.2019 and his statement was recorded in DRI Ahmedabad office on 18.01.2019. Firstly he did not co-operate in the investigation by repeatedly dishonoring summons for almost one year and later he did not fully co-operated during recording of statement by giving evasive and misleading replies to questions put to him. However, Mr. Pundrik Trivedi has admitted in his statement recorded under Section 108 of Customs Act, 1962 on 18.01.2019 that he provided to Mr. Pankaj Gohil the copies of IEC and other documents viz Bank Account Verification, GST registration certificate, PAN Card for use in import of consignment. In his said statement recorded under Section 108 of the Customs Act, 1962, he has stated that he did not have the knowledge that Mr. Pankaj Gohil was going to use it for import and clearance of cigarettes, however, this claim of Mr. Pundrik is not correct and contrary to common logic in view of the facts that being aware of the procedure of imports and exports he knew that for import he had to make payment through banking channels but his bank account linked to IEC was closed since 2017. He had knowledge that any payment in respect of import or export is illegal by any means other than through banking channel. If Mr. Pankaj Gohil was to handle everything he ought to have given authorization in this behalf, however this was not the case. It was he who was in contact with Customs Broker and also forwarded KYC details and import documents to Customs Broker for filing bill of entry and seeking clearance of consignments in container Nos. EMCU3282219 and WHLU2580260 from which smuggled cigarettes were recovered. These events clearly indicate that Mr. Pundrik Trivedi was aware of the fact that cigarettes were being smuggled concealed in consignment which was attempted to be cleared as gypsum. The above acts of commission and

omission on the part of M/s Champion Impex Private Limited, Ahmedabad and its director Shri Pundrik Trivedi have rendered the imported goods viz. (1) total 14,40,000 sticks of cigarettes of Gudang Garam brand, having value of Rs. 41,13,842/-, liable to confiscation as per provisions of Section 111(d), 111(f), 111(l), and 111(o) of the Customs Act, 1962; and (2) 35,922 Kgs of Plaster of Paris value at Rs. 5,07,075/- liable to confiscation as per provisions of Section 111(m) and 119 of the Customs Act, 1962 and consequently M/s. Champion Impex Private Limited, Ahmedabad and its Director Mr. Pundrik Trivedi, are liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, I find that the above mentioned act of mis-declaration was done by M/s. Champion Impex Private Limited, Ahmedabad and its Director Mr. Pundrik Trivedi with an intention to evade payment of appropriate customs duty on the impugned goods. The total duty amount of Rs.1,33,09,254/- was attempted to be evaded, on the smuggled cigarettes and total duty of Rs. 54,637/- on the smuggled Plaster of Paris by making false declarations in the import documents and the Bill of Entry No. 5147743 dated 09.02.2018. Hence, I find that the importer has knowingly and intentionally made, signed or caused to be made, signed and fabricated documents presented to the Customs authorities, which he knew were false/fabricated and incorrect in respect of the imported goods. Consequently, for the said act of contravention on the part of the importer, I find that M/s. Champion Impex Private Limited, Ahmedabad and its Director Mr. Pundrik Trivedi, are also liable for penalty under Section 114AA of the Customs Act, 1962.

16.5 With regards to the proposal for imposition of penalty on **Mr. Pankaj Gohil**, I find from the case records that he was tasked with the work of arranging illegal clearance of cigarettes by Mr. Saba Yusuf. Statements of Mr. Dillerao Narayan Barri and Mr. Ramaswamy N. Iyer recorded under Section 108 of the Customs Act, 1962, corroborated by circumstantial evidences inform of whatsapp messages of relevant dates reveal that Mr. Pankaj Gohil (whose whereabouts are to be traced) had a meeting with Mr. Saba Yusuf on 31.10.2017 at Ahmedabad. I find that Mr. Pundrik Trivedi has stated in his statement recorded under Section 108 of the Customs Act, 1962 on 18.01.2019, that Mr. Pankaj Gohil obtained from him copies of IEC, PAN Card, GST Registration Certificate which were used in illegal import and seeking illegal clearance of cigarettes vide Bill of Entry No. 5147743 dated 09.02.2018 in the name of M/s. Champion Impex Private Limited. Mr. Pankaj Gohil had received from Mr. Saba Yusuf, around Rs. 16-17 Lakhs for arranging illegal clearance of cigarettes. The above stated acts on part of Mr. Pankaj Gohil have rendered the imported goods viz. (1) total 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and (2) 35922 Kgs of Plaster of Paris valued at Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962, and consequently, Mr. Pankaj Gohil is liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, I also find that Mr. Pankaj Gohil despite being aware of actual nature of the goods in the consignment asked Mr. Pundrik Trivedi to forward false and incorrect documents to Customs Broker and thus causing said false import documents to be used in illegal clearance of goods under Bill of Entry No. 5147743 dated 09.02.2018. Consequently, for the said act of contravention on his part, I find that Mr. Pankaj Gohil (whose whereabouts are to be traced) is also liable for penalty under Section 114AA of the Customs Act, 1962.

16.6 With regards to the proposal for imposition of penalty on Mr. Rashid Rahman, I find that Mr. Rashid Rahman is the younger brother of Mr. Saba Yusuf (the key person behind the smuggling of cigarettes). I find that in his statement recorded under Section 108 of the Customs Act, 1962 on 26.06.2018, he claimed that one person named Tahoor who used to come to their Super Market in Dubai as a regular customer, had asked him to send original copy of documents to Customs Broker in Gandhidham. However on being asked he could not provide any further details of said Mr. Tahoor. Letter F. No. DRI/AZU/GRU/CHAMPION/INT-1/2018 dated 30.10.2018 were written to him, by DRI, to provide said details but he did not even respond. However, after statements of Mr. Dillerao Narayan Barri and Mr. Ramaswamy N. Iyer supported by corroborative evidences, it is revealed that it was Mr. Saba Yusuf who was the actual person who shipped the consignment that contained smuggled cigarettes. Therefore, facts narrated about some Mr. Tahoor were false and fabricated in imagination. The fact that he narrated concocted story implies that he was aware of the actual fact that the said consignment contained smuggled cigarettes and hence the need for presenting wrong facts and hiding actual facts. After the actual facts about role of Mr. Saba Yusuf and Mr. Pankaj Gohil were uncovered in statements of Mr. Dillerao and Mr. Ramaswamy, Summons dated 29.11.2018, 12.12.2018 and 15.01.2019 were issued requiring him to appear for recording of statement but he dishonor the summons. Though his statement could not be recorded, his active role in courier of the documents to customs broker for the purpose of illegal clearance of cigarettes is clearly evident on the basis of available documents, as discussed above. The above stated acts of commission on the part of Mr. Rashid Rahman have rendered the imported goods viz. (1) 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and (2) 35922 Kgs of Plaster of Paris valued Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962 and consequently, Mr. Rashid Rahman is liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, I find that Mr. Rashid has involved himself in casing use of false and incorrect import documents in illegal clearance of goods under Bill of Entry No. 5147743 dated 09.02.2018. Consequently, for the said act of contravention on his part, I find that Mr. Rashid Rahman, is also liable to penalty under Section 114AA of the Customs Act, 1962.

16.7 With regards to the proposal for imposition of penalty on **Mr. Dillerao Narayan Barri**, I find that Mr. Dillerao Narayan Barri in his statement recorded under Section 108 of the Customs Act, 1962 on 28.11.2018 has stated that Mr. Ramaswamy N. Iyer, managing director of M/s. OPUS DEI Logistics Private Limited asked him and other employees of company if they could find someone who could arrange illegal clearance of cigarettes. He has admitted in his statement that for the said purpose of illegal clearance of cigarettes he suggested Mr. Pankaj Gohil and later arranged meeting of Mr. Saba Yusuf, the person who wanted to smuggle cigarettes into India, with Mr. Pankaj Gohil, the person who he believed could arrange illegal custom clearance of cigarettes. These facts have also been corroborated by Mr. Ramaswamy N. Iyer in his statement recorded under Section 108 of the Customs Act, 1962 on 06.12.2018. Therefore, I find that right from the act of suggesting name of Mr. Pankaj Gohil to Mr. Ramaswamy and through him to Mr. Saba Yusuf and arranging meeting of Mr. Saba

Yusuf and Mr. Pankaj Gohil, it was quite clear to Mr. Dillerao Narayan Barri that his action were going to lead to smuggling of cigarettes into India. Further, after seizure of cigarettes he called Customs Broker enquiring about receipt of original documents. These events clearly indicate that he was aware of the fact the consignment containing cigarettes was being attempted to be illegally cleared and that original documents pertained to the very said consignment. Therefore, I find that Mr. Dillerao Narayan Barri has clearly abetted such illegal acts which have rendered 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35922 Kgs of Plaster of Paris valued at Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962., and consequently I find that Mr. Dillerao Narayan Barri is liable to penalty under Section 112 (a) of the Customs Act, 1962. I find that in their written defence submission Mr. Dilerao Narayan Barri has not produced any concrete evidence to counter the allegations raised in the SCN and has just asked for cross examination of persons whose statements are relied upon against them in the Show cause Notice. In this context, it is to be noted that primary objective of the cross examination is to seek information of any deviation on the part of the investigating officers and to ascertain whether the case is made out of genuine or malafide actions of the offenders or the case is just foisted without adequate justification. Generally, such cross examination is required under criminal cases for identification of certain facts. Further, in the case of Commissioner of Customs, Chennai Vs. D. Bhoormul, reported in 1993(13) ELT 1546(SC), the Hon'ble Supreme Court has held that the provisions of the Evidence Act as well as Code of Criminal Procedure, in terms are not applicable to the adjudication proceedings. Further, Hon'ble Madras High Court, in the case of K. Balan Vs. Govt. of India, reported in 1982(010) ELT (386) Madras has held that right to cross examination is not necessarily a part of reasonable opportunity and depends upon the facts and circumstances of each case. In the instant case, whole case lies upon the evidences which have already been provided to the noticees. Accordingly, I find that the cross-examination will be of no relevance as far as the issue covered in the Show Cause Notice is concerned.

16.8 In regards to the proposal for imposition of penalty on **Mr. Ramaswamy N. Iyer**, I find that Mr. Ramaswamy N. Iyer has stated in his statement dated 06.12.2018 that on being constantly persisted by Mr. Saba Yusuf, he asked employees of M/s. OPUS DEI Logistics Private Limited if they could find someone who could arrange illegal clearance of cigarettes. Further on being suggested the name of Mr. Pankaj Gohil he asked Mr. Dillerao Narayan Barri to arrange meeting of Mr. Saba Yusuf and Mr. Pankaj Gohil and even coordinated in arranging said meeting by forwarding contact details and journey details of Mr Saba Yusuf to Mr. Dillerao Narayan Barri. Therefore not only he involved himself in abetting actions that led to smuggling of cigarettes but also impressed upon employees of his company by asking them to find person capable of smuggling and to arranging meeting between such persons. I therefore find that right from the beginning Mr. Ramaswamy N. Iyer was aware that he was to aid in smuggling and knowingly he abetted the acts which have rendered 14,40,000 sticks of cigarettes of Gudang Garam brand, valued at Rs. 41,13,842/-, liable to confiscation under Section 111(d), 111(f), 111(l), and 111(o) and 35922 Kgs of Plaster of Paris valued Rs. 5,07,075/- liable to confiscation under provisions of Section 111(m) and 119 of the Customs Act, 1962, and consequently,

I find that Mr. Ramaswamy N. Iyer is liable to penalty under Section 112 (a) of the Customs Act, 1962. I find that in his written defence submission Mr. Ramaswamy N. Iyer has not produced any concrete evidence to prove his innocence and has just asked for cross examination of persons whose statements are relied upon against them in the Show cause Notice. In this context, it is to be noted that primary objective of the cross examination is to seek information of any deviation on the part of the investigating officers and to ascertain whether the case is made out of genuine or malafide actions of the offenders or the case is just foisted without adequate justification. Generally, such cross examination is required under criminal cases for identification of certain facts. Further, in the case of Commissioner of Customs, Chennai Vs. D. Bhoormul, reported in 1993(13) ELT 1546(SC), the Hon'ble Supreme Court has held that the provisions of the Evidence Act as well as Code of Criminal Procedure, in terms are not applicable to the adjudication proceedings. Further, Hon'ble Madras High Court, in the case of K. Balan Vs. Govt. of India, reported in 1982 ELT (386) Madras has held that right to cross examination is not necessarily a part of reasonable opportunity and depends upon the facts and circumstances of each case. In the instant case, whole case lies upon the evidences which have already been provided to the noticees. Accordingly, I find that the cross-examination will be of no relevance as far as the issue covered in the Show Cause Notice is concerned.

17. In view of the above discussions and findings, I pass the following order:-

ORDER

- (i) I order absolute confiscation of 14,40,000 cigarettes sticks, having value of Rs.41,13,842/-, seized vide seizure memo dated 10.02.2018, under the provisions of Sections 111 (d), 111 (f), 111 (l) and 111 (o) of the Customs Act, 1962.
- (ii) I order absolute confiscation of 35922 Kgs of 'Plaster of Paris" found packed in 1594 PP bags, having value of Rs.5,07,075/-, seized vide seizure memo dated 10.02.2018, under the provisions of Section 111 (m) and Section 119 of the Customs Act, 1962.
- (iii) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 112(a) of the Customs Act, 1962 on M/s. Champion Impex Pvt. Ltd., B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132 Ft. Ring Road, Satellite, Ahmedabad-380015.
- (iv) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 114AA of the Customs Act, 1962 on M/s. Champion Impex Pvt. Ltd., B-9, Popular Center, Someshwar Complex-I, Opp. Jain Temple, 132 Ft. Ring Road, Satellite, Ahmedabad-380015
- (v) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 112(a) of the Customs Act, 1962 upon Mr. Pundrik Trivedi, director of M/s Champion Impex Private Limited, residing at C-304, Ishwar Charan Complex, Opp. Lotus School, Jodhpur Gam, Satellite, Ahmedabad-380015.
- (vi) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 114AA of the Customs Act, 1962 upon Mr. Pundrik Trivedi, director of M/s Champion Impex Private Limited, residing at C-304, Ishwar Charan Complex, Opp. Lotus School, Jodhpur Gam, Satellite, Ahmedabad-380015.
- (vii) I impose penalty of Rs.25,00,000.00 (Rupees Twenty Five lakh Only) under Section 112(a) of the Customs Act, 1962 on Mr. Saba Yusuf, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 110025.

- (viii) I impose penalty of Rs.25,00,000.00 (Rupees Twenty Five lakh Only) under Section 114AA of the Customs Act, 1962 on Mr. Saba Yusuf, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 110025.
- (ix) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 112(a) of the Customs Act, 1962 on Mr. Pankaj Gohil (whose whereabouts are yet to be traced).
- (x) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 114AA of the Customs Act, 1962 on Mr. Pankaj Gohil (whose whereabouts are yet to be traced).
- (xi) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 112(a) of the Customs Act, 1962 on Mr. Rashid Rehman, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 110025.
- (xii) I impose penalty of Rs.20,00,000.00 (Rupees Twenty Lakh Only) under Section 114AA of the Customs Act, 1962 on Mr. Rashid Rehman, C-15, 2nd Floor, Street No. 5, Johri Farm, Jamia Nagar, New Delhi 110025.
- (xiii) I impose penalty of Rs.10,00,000.00 (Rupees Ten lakh Only) under Section 112(a) of the Customs Act, 1962 on Mr. Dillerao Narayan Barri, 78, S.H.X., Janta Colony, Gandhidham, Gopalpuri, Kachchh, Gujarat-370240.
- (xiv) I impose penalty of Rs.10,00,000.00 (Rupees ten lakh Only) under Section 112(a) of the Customs Act, 1962 on Mr. Ramaswamy N. Iyer, 1304, Springhill, Hiranandani Estate, Ghodbunder Road, Near Hiranandani Foundation School, Patlipada, Sandozbaugh, Thane, Maharashtra- 400607.

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


(AJAY KUMAR)

Additional Commissioner
Custom House, Mundra

F.No. VIII/48-17/Adj./ADC/MCH/2018-19

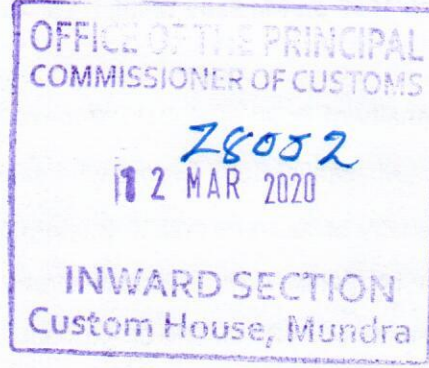
Dated 12.03.2020

BY SPEED POST

To:-

1. Mr. Saba Yusuf,
C-15, 2nd Floor, Street No. 5,
Johri Farm, Jamia Nagar, New Delhi 110025.
2. **(1)** M/s. Champion Impex Pvt. Ltd.,
B-9, Popular Center, Someshwar Complex-I,
Opp. Jain Temple, 132 Ft. Ring Road,
Satellite, Ahmedabad-380015
(2) M/s Champion Impex Pvt. Ltd.
New office address: A1, 601, Palladium,
Corporate Road, Opp. Vodafone Office,
Makraba cross Road, Ahmedabad-380051.
3. Mr. Pundrik Trivedi,
Director, M/s. Champion Impex Private Limited,
Residence address C-304, Ishwarcharan Complex,
Opp. Lotus School, Jodhpur Gam,
Satellite, Ahmedabad-380015.

4. Mr. Pankaj Gohil (Service by affixing on the notice board of the Custom House, Adani Port and SEZ, Mundra as provided under Section 153(1)(e) of the Customs Act, 1962.
5. Mr. Rashid Rehman,
C-15, 2nd Floor, Street No. 5,
Johri Farm, Jamia Nagar,
New Delhi 110025.
6. Mr. Dillerao Narayan Barri,
78, S.H.X., Janta Colony,
Gopalpuri, Gandhidham,
Kachchh, Gujarat-370240
7. Mr. Ramaswamy N. Iyer,
1304, Springhill, Hiranandani Estate,
Ghodbunder Road, Near Hiranandani Foundation School,
Patlipada, Sandozbaugh,
Thane, Maharashtra- 400607.



P.O.CED12

Copy to: -

- (i) The Commissioner of Customs, Custom House, Mundra.
- (ii) The Joint Director, Directorate of Revenue Intelligence, AZU, Ahmedabad.
- (iii) The Deputy Director, DRI, Regional Unit, Gandhidham.
- (iv) The Deputy/Assistant Commissioner (Gr-1), Custom House, Mundra
- (v) The Deputy/Assistant Commissioner (RRA), Custom House, Mundra.
- (vi) The Deputy/Assistant Commissioner (Disposal), Custom House, Mundra.
- (vii) The Deputy/Assistant Commissioner (TRC), Custom House, Mundra.
- (viii) The Deputy/Assistant Commissioner (EDI), Custom House, Mundra.
- (ix) Guard file.