



OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE: MUNDRA, KUTCH
MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421

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OFFICE OF THE PRINCIPAL
COMMISSIONER OF CUSTOMS

A	File No.	VIII/48-23/Adj/ADC/MCH/2017-18
B	Order-in-Original No.	MCH/ADC/AS/85/2018-19
C	Passed by	Shri Amarjeet Singh Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra
D	Date of Order	09.01.2019
E	Date of Issue	09.01.2019
F	SCN NO. & Date	F.No. DRI/AZU/GRU/Vrishabh/INT-10/2017 dated 24.07.2017
G	Noticee / Party / Importer / Exporter	1. M/s Vrishabh Dyeing Mill, Block 260, Plot AB, Beside Baleshwar Khadi, Baleshwar, Palsana, Surat, Gujarat- 394315

10 JAN 2019

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10/01/19

- यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- 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.”

- 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.
- 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 –
 - उक्त अपील की एक प्रति और
A copy of the appeal, and
 - इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं- 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.
- 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.

Subject:- SCN F.No. F. No. DRI/AZU/GRU/Vrishabh/INT-10/2017 dated 24.07.2017 issued to M/s Vrishabh Dyeing Mill, Block 260, Plot AB, Beside Baleshwar Khadi, Baleshwar, Palsana, Surat, Gujarat-394315

Brief facts of the case:

An intelligence gathered by officers of Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter referred to as "DRI") indicated smuggling of huge quantity of cigarettes, in Container No. HLBU1727730 covered under Bill of Lading No. HLCUDX2170106116 dated 25.01.2017. As per the said Bill of Lading HLCUDX2170106116 dated 25.01.2017, the consignee name was M/s Vrishabh Dyeing Mill, Block 260, Plot AB, Beside Baleshwar Khadi, Baleshwar, Palsana, Surat, Gujarat-394315. The goods imported in container no. HLBU1727730 were declared in the IGM as "636 Cartons Baby Footwear" (**RUD No. 1 of the SCN**). The said container was loaded from Jebel Ali, UAE and destined to ICD Tughlakabad.

2. Based on the above intelligence, officers of DRI intercepted the container no. HLBU1727730 and was brought to container freight station of M/s TG Terminals Pvt. Ltd., AP & SEZ, Mundra Port on 03.02.2017 for examination. The above mentioned container pertained to container line M/s. Hapag-lloyd India Pvt. Ltd. Thereafter, the goods was examined by officer of DRI Gandhidham under Panchnama dated 03.02.2017 (**RUD No. 2 of the SCN**). In the said container, the front side was found containing 100 cartons of 'Baby Footwear', behind those 120 empty cartons were found and behind those empty cartons in the container, 97 cartons of cigarettes were found concealed. Total 13,96,800 sticks of Gudang Garam brand cigarettes were found packed in 97 cartons. Each carton of 'Baby Footwear' contained 70 pairs of 'Baby Footwear - Chappals' which in total come as 7000 pairs. The said cigarettes sticks were not declared in the bill of lading no. HLCUDX2170106116 dated 25.01.2017 and also not declared in the Import General Manifest No. 2157093 dated 31.01.2017 filed at AP&SEZ Mundra.

3. Since the above mentioned 13,96,800 cigarette sticks were not declared in the Import General Manifest No. 2157093 dated 31.01.2017, there existed reasonable belief that the same were liable for confiscation under the provisions of the Customs Act, 1962. Thus the 13,96,800 cigarette sticks along with 'Baby Footwear - Chappals' used for concealment were placed under seizure under section 110(1) of the Customs Act, 1962 vide the said Panchnama. Representative samples of the above mentioned brand of Cigarettes were obtained. The seized consignment was handed over to the custodian M/s TG Terminals Pvt. Ltd., AP&SEZ, Mundra under Supartnama dated 03.02.2017.

4. The name of consignee was M/s. Vrishabh Dyeing Mill, Block 260, Plot AB, Beside Baleshwar Khadi, Baleshwar, Palsana, Surat, Gujarat-394315 as per the Bill of Lading HLCUDX2170106116 dated 25.01.2017. Shri Amitbhai Santrambhai Maggu was noticed as the proprietor of M/s. Vrishabh Dyeing Mill, Surat as per the IEC details. A search of the premises i.e, Block No. 260, Plot No. AB, Beside Baleshwar Khadi, Baleshwar, Palsna, Surat was conducted by the officers of DRI Surat on 03.02.2017. During the search, it came to notice that another firm M/s. Unique Coal Corporation engaged in trading of Coal was found working at the said address. The said premises belonged to one another company M/s Shagun Processors Pvt. Ltd. and were given on rent to M/s Unique Coal Corporation. Shri Amitbhai Santrambhai Maggu was found as concerned person of M/s Shagun Processors Pvt. Ltd. **(RUD No. 3 of the SCN)**

5. During the course of investigation, Statement of Shri Madan Singh, Operation Manager (Port & Terminal) in M/s. Hapag-lloyd India Pvt. Ltd., Gandhidham Branch was recorded on 06.02.2017 **(RUD No. 4 of the SCN)** wherein he stated that container no. HLBU1727730 covered under Bill of Lading No. HLCUDX2170106116 dated 25.01.2017 arrived through vessel MV San Felipe at Mundra port on 01.02.2017. The container was loaded from Jebel Ali Port, UAE and delivery place for said container was ICD Tughlakabad as per Bill of lading no. HLCUDX2170106116 dated 25.01.2017. He further stated that, on the basis of arrival discharge list received from previous port of the vessel, the IGM no. 2157093 dated 31.01.2017 was filed by his company in EDI system at Mundra Port. He stated that delivery order had not been issued for said bill of lading no. HLCUDX2170106116 dated 25.01.2017.

6. During the course of investigation, summons dated 07.02.2017 **(RUD No. 5 of the SCN)** and 17.02.2017 **(RUD No. 6 of the SCN)** were issued to Shri Amitbhai Santrambhai Maggu, Proprietor of M/s Vrishabh Dyeing Mill, Surat. Shri Amitbhai Santrambhai Maggu replied vide letter dated 21.02.2017 that he was not involved in any kind of import, export and/or smuggling of cigarettes **(RUD No. 7 of the SCN)**. Another summons dated 01.03.2017 **(RUD No. 8 of the SCN)**, and dated 15.03.2017 **(RUD No. 9 of the SCN)** was issued to him but it was returned undelivered with remarks of postal authorities as 'Refused' by him. As Shri Amitbhai Santrambhai Maggu has remained non-co-operative and has not turned up for recording of his statement, The DRI reserves its rights to further investigate/make discreet enquiries and initiate legal actions.

7. At the time of seizure of the subject consignment, the market price of the 13,96,800 sticks of cigarettes was estimated to be Rs. 1,04,76,000/-. The same value of the seized cigarettes were confirmed by the Chartered Engineer and Government approved valuer Shri Anwar Kukad vide certificate Ref.: AYK:VAL:0503:2017 dated 04.05.2017 (**RUD No. 10 of the SCN**). The value of 7000 pairs of Baby Footwear is estimated as Rs. 84,000/- on base of contemporary import values retrieved from NIDB data.

8 The goods imported in container bearing No. HLBU1727730 were mentioned in the Bill of lading no. HLCUDX2170106116 dated 25.01.2017 as '636 Cartons of Baby Footwear'. However, on examination 13,96,800 cigarette sticks of Gudang Garam brand having market price of Rs. 104.76 lakhs were found concealed behind 100 cartons of 'Baby Footwear - Chappals' containing total 7000 pairs of Baby Footwear - Chappals. These facts reveal that, the Cigarettes were smuggled into India without declaring in the bill of lading no. HLCUDX2170106116 dated 25.01.2017 and also not declaring in the Import General Manifest No. 2157093 dated 31.01.2017 filed at AP&SEZ Mundra. It appeared that, the above mentioned cigarettes were imported illegally into India which rendered them liable to confiscation under Section 111(d) and 111(o) of Customs Act, 1962. Further, as the subject cigarette sticks were not declared in bill of lading no. HLCUDX2170106116 dated 25.01.2017 and also not declared in the Import General Manifest No. 2157093 dated 31.01.2017, the same were rendered liable to confiscation under Section 111(f) *ibid* also. The said goods were also rendered liable to confiscation u/s 111(i) of the Customs Act as they were brought concealed in the container along with 'Baby Footwear'. The 100 cartons of 'Baby Footwear - Chappals' containing total 7000 pairs of 'Baby Footwear - Chappals' estimated approx value Rs. 84,000/- , were also rendered liable to confiscation under Section 119 of the Customs Act, 1962 as they were used for concealment of 13,96,800 sticks of Gudang Garam brand Cigarettes.

9. Action for disposal of the Cigarettes seized under Panchanama dated 03.02.2017 was initiated by the DRI. An application was filed before the Executive Magistrate, Mundra (Kutch) on 15.02.2017 (**RUD No. 11 of the SCN**) as provided under Section 110(1B) of the Customs Act, 1962 for initiation of disposal proceedings of seized cigarettes. Inventory of the seized 13,96,800 sticks of cigarettes was prepared in presence of Executive Magistrate on 04.03.2017 (**RUD No. 12 of the SCN**). Consequently, the customs authorities at Custom House, AP&SEZ, Mundra were requested to initiate proceedings for disposal of seized cigarettes.

10. From the above discussed facts, it emerges that total 13,96,800 sticks of cigarettes of 'Gudang Garam' brand were smuggled in to India in container No. HLBU1727730. The said cigarettes were not declared in IGM No. 2157093 dated 31.01.2017. The manner of smuggling indicates it to be a well-planned conspiracy in utmost defiance of the law. It appeared that the involved persons have intentionally done the smuggling activity. Shri Amitbhai Santrambhai Maggu, Proprietor of M/s Vrishabh Dyeing Mill, Surat and/or some other persons may be involved in said smuggling activity. In the absence of whereabouts of the persons involved in this smuggling activity, their statement could not be recorded by the DRI till date. However, from the above discussed facts it appeared that such persons have deliberately committed the illegal act of smuggling to evade huge amount of applicable duty. The persons involved in the subject smuggling have contravened various provisions of the Customs Act, 1962 and other laws, as discussed above. Evasion of duty and circumventing of prohibition appeared to be the ill-motive of persons involved in this smuggling. The said act of smuggling of cigarettes by way of concealment has rendered total 13,96,800 sticks of cigarettes of Gudang Garam brand, having market price of Rs. 1,04,76,000/- liable to confiscation under Section 111(d), 111(f), 111(i) and 111(o) of the Customs Act, 1962 and have rendered themselves liable to penalty under Section 112 of the Customs Act, 1962. Apart from above, as they prepared/cause to be prepared false Bill of lading No. HLCUDX2170106116 dated 25.01.2017 which does not show true details of the import goods. For this act such involved persons are liable to penalty under Section 114AA ibid also. Since the persons involved in the subject smuggling are not traceable till date, this notice is being issued without prejudice to legal actions which may be initiated in future against such persons.

11. Therefore, M/s Vrishabh Dyeing Mill, Block 260, Plot AB, Beside Baleshwar Khadi, Baleshwar, Palsana, Surat, Gujarat-394315 and any persons having claim over the said 13,96,800 cigarette sticks were called upon vide show cause Notice No. DRI/AZU/GRU/Vrishabh/INT-10/2017 dated 24.07.2017 answerable to the Additional/Joint Commissioner of Customs, Mundra as to why:

- (i) the seized 13,96,800 sticks of foreign origin cigarettes, having market price of Rs. 104.76 Lakhs, smuggled in container no. HLBU1727730 covered under bill of lading no. HLCUDX2170106116 dated 25.01.2017, should not be confiscated under the provisions of 111(d), 111(f), 111(i) and 111(o) of the Customs Act, 1962;

- (ii) the seized 7000 pairs of 'Baby Footwear - Chappals' valued at Rs. 84,000/- should not be confiscated under the provisions of 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.

12. Defense Submission and Personal Hearing:

Despite providing sufficient time, none of the noticees have replied to the charge mentioned against them in the SCN.

13. Personal hearing in the said matter was offered to the noticee on 30.01.2018. In response to PH letter dated 17.01.2018, a letter was received from M/s. Vrishabh Dyeing Mill on 31.01.2018 under which they have requested to supply the copy of Show Cause Notice as they have not received any Show Cause Notice from the Department. Accordingly, this office was written a letter to the Deputy Director, DRI, Regional Unit, Gandhidham on 07.02.2018 to provide the copy of Show Cause Notice to the above said Noticee but no reply was received after laps of one month time. Accordingly, another P.H in the matter was fixed on 27.02/07.03.2018 but no one appeared before the Adjudicating Authority. However, another letter dated 07.03.2018 of Shri Anandodaya Mishra, Advocate of M/s. Vrishabh Dyeing Mill was received on 08.03.2018 regarding non-receipt of captioned Show Cause Notice. Accordingly, reminder letters dated 09.03.2018 and 13.04.2018 were issued to the Deputy Director, DRI, Regional Unit, Gandhidham by this office regarding provide the copy of Show Cause Notice to the above said Noticee. The DRI, Gandhidham has served the subject Show Cause Notice to the above said Noticee vide their letter F. No. DRI/AZU/GRU/Vrishabh/INT-10/2017 dated 02.05.2018. Thereafter, another PH was fixed on 23.05.2018. In response to the said PH letter, a letter dated 22.05.2018 of Shri Rohit Lalwani, Advocate of M/s. Vrishabh Dyeing Mill was received for adjournment the PH and requested to fix PH for another date as the subject Show Cause Notice was received by them on 8th May, 2018 and due to scrutiny of time the reply to the said SCN could not be filed. Again PH was fixed on 26.07.2018 but no one appeared before the adjudicating authority. Thereafter, adjudicating authority has been changed and new adjudicating authority has fixed PH in the matter on 30.10.2018, 28.11.2018 and 12.12.2018 but again no one appeared before the adjudicating authority. Despite providing sufficient time and opportunity, the noticees have not submitted any reply to the charges mentioned against

them in the SCN. Hence, i proceed to decide the case on the basis of available records.

DISCUSSION AND FINDINGS:

14. I have carefully gone through the facts of the case. From the records, it is seen that during the course of investigation, summons were issued to Shri Amitbhai Santrambhai Maggu, Proprietor of M/s Vrishabh Dyeing Mill, Surat at address 195/8, Shivaji Colony, Rohtak, Haryana. Despite giving him the opportunity repeatedly to come out with the truth, he has chosen not to present their case before the investigating officers.

15. No concerned person/representative of M/s. Vrishabh Dyeing Mill have chosen not to present their case even during the course of adjudication. They were given sufficient opportunity to file written submissions and appear for personal hearing on 30.01.2018, 27.02/07.03.2018, 23.05.2018, 26.07.2018 and further on 30.10.2018, 28.11.2018 and 12.12.2018. Despite these communications having been acknowledged, no defense has been advanced by them against the allegations levelled in the SCN. Therefore, I have no option but to proceeding with the adjudication proceedings based on the facts available on record.

16. As there is no defense submission, I would like to straight away refer to two panchnama both were drawn on 03.02.2017 whereby it was revealed that (i) M/s. Vrishabh Dyeing Mill had smuggled 97 cartons of foreign origin cigarettes containing 13,96,800 stick concealed behind 100 cartons of Baby Footwear and 120 empty cartons. And (ii) During the search of the premises of M/s. Vrishabh Dyeing Mill, Block No. 260, Plot AB, Beside Baleshwar Khadi, Baleshwar, Palsana, Surat, Gujarat-394315 conducted by the officers of DRI, Surat on 03.02.2017, it come to notice that another firm M/s. Unique Coal Corporation engaged in trading of Coal was found working at the said address. The said premises belonged to one another company M/s Shagun Processors Pvt. Ltd. and were given on rent to M/s Unique Coal Corporation. Shri Amitbhai Santrambhai Maggu was found as concerned person of M/s Shagun Processors Pvt. Ltd., but no documents pertaining to M/s. Vrishabh Dyeing Mill were found/recovered. These panchnama are made as RUDs 2 and 3 of the SCN whereby details regarding the containers, examination of goods, recovery of cigarettes etc. were exhaustively depicted.

17. I find that, both the said panchnamas were drawn by the investigating officers in presence of two independent witnesses. Besides, these panchanama proceedings were witnessed by Shri Jitendra Sing, Assistant Manager(Operation) of the container freight station of M/s. TG Terminal Pvt. Ltd. and Shri Madan Singh, Operation Manager (Port & Terminal) of M/s. Hapag-lloyd India Pvt. Ltd., Gandhidham Branch. I find that, neither the panchas nor any of the responsible persons who witnessed the panchnama have disputed the facts and the manner of the verification of the container. All the representatives present during the panchnama proceedings have unanimously agreed with the facts of concealment of cigarettes behind 100 cartons of Baby Footwear.

18. I find that, Shri Madan Singh, Operation Manager (Port & Terminal) of M/s. Hapag-lloyd India Pvt. Ltd., Gandhidham under his statement dated 06.02.2017 stated that, the container no. HLBU1727730 covered under Bill of Lading No. HLCUDX2170106116 dated 25.01.2017 arrived through vessel MV San Felipe at Mundra port on 01.02.2017. The container was loaded from Jebel Ali Port, UAE and as per above said Bill of Lading, delivery place for the said container was ICD Tughlakabad. He further confirmed that, on the basis of arrival discharge list received from previous port of the vessel, the IGM no. 2157093 dated 31.01.2017 was filed by his company in EDI system at Mundra Port. The delivery order had not been issued for said bill of lading no. HLCUDX2170106116 dated 25.01.2017.

19. I find that, M/s Vrishabh Dyeing Mill, Surat attempted to smuggle 97 cartons containing 13,96,800 sticks of Gudang Garam brand cigarettes valued at Rs.1,04,76,000/- (Market Value) in one container bearing no. HLBU1727730 under the guise of Baby Footwear, by concealing it behind 7000 pairs of Baby Footwear valued at Rs. 84,000/-. The documents collected by DRI during investigation revealed that the subject consignment of cigarettes was smuggled in the name of M/s Vrishabh Dyeing Mill, Surat. Further, in the bill of lading no. HLCUDX2170106116 dated 25.01.2017, the description of goods was mis-declared as Baby Footwear, while actually both Baby Footwear and cigarettes were found in the container No. HLBU1727730. As per Section 30 of the Customs Act, 1962, an IGM should be furnished containing true declaration of the goods in the vessel. As the description of goods has been mis-declared by declaring only Baby Footwear, but not cigarettes in Bill of Lading/IGM, there is a clear violation of Section 30 of the Customs Act, 1962. Therefore, I find that they have contravened the provisions of Section 30 of the Customs Act, 1962 read with Section 3 & 11 of

Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 & 14 of the Foreign Trade (Regulation) Rule, 1993.

20. Further, I find that at the time of seizure of the subject consignment, the market price of the 13,96,800 sticks of cigarettes was estimated to be Rs. 1,04,76,000/-. However, to ascertain fair market price of the subject seized cigarettes, opinion of Chartered Engineer and Government approved Valuer Shri Anwar Kukad was obtained. Vide certificate Ref.: AYK:VAL:0503:2017 dated 04.05.2017 he informed per stick market price of Gudang Garam brand cigarette to be "Rs. 7.50 per stick". Thus market price of 13,96,800 sticks of seized Gudang Garam brand cigarettes is estimated as Rs. 104.76 lakhs. The value of 7000 pairs of Baby Footwear is estimated as Rs. 84,000/- on the basis of contemporary import values retrieved from NIDB data.

21. I also 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. In the light of these provisions all Tobacco products should have health warning on all the packets for sale in India when imported. However, the packages of the subject cigarettes were not having specified pictorial health warnings as per certificate Ref.: AYK:VAL:0503:2017 dated 04.05.2017 given by Chartered Engineer and Government approved valuer Shri Anwar Kukad. Hence, I find that the said importer have contravened the said provisions.

22. Since the lawful condition of pictorial warning was not complied as discussed above, the subject 13,96,800 cigarettes sticks having market price Rs. 104.76 (Market Value) liable to confiscation under the provisions of Section 111(d) and 111(o) of Customs Act, 1962. Further, as the subject cigarette sticks were not declared in bill of lading no. HLCUDX2170106116 dated 25.01.2017 and also not declared in the Import General Manifest No. 2157093 dated 31.01.2017, the same were rendered liable to confiscation under Section 111(f) *ibid* also. The said goods were also rendered liable to confiscation u/s 111(i) of the Customs Act, as they were brought concealed in

the container along with 'Baby Footwear'. I also find that, the 100 cartons of 'Baby Footwear - Chappals' containing total 7000 pairs of 'Baby Footwear - Chappals' estimated approx value Rs. 84,000/-, were also rendered liable to confiscation under Section 119 of the Customs Act, 1962 as they were used for concealment of 13,96,800 sticks of Gudang Garam brand Cigarettes.

23. From the above discussed facts, I find that total 13,96,800 sticks of Gudang Garam brand cigarettes were smuggled into India in Container No. HLBU1727730 without declaration in IGM No. 2157093 dated 31.01.2017 which indicates it to be well planned conspiracy in utmost defiance of the law. I also find that, Shri Amitbahi Santrambhai Maggu, Proprietor of M/s. Vrishabh Dyeing Mill, Surat and/or some other persons may be involved in said smuggling activity. In the absence of whereabouts of the persons involved in this smuggling activity, their statement could not be recorded by the DRI officers till date. The persons involved in the subject smuggling have contravened various provisions of the Customs Act, 1962 and other laws, as discussed above. Evasion of duty and circumventing of prohibition appears to be the ill-motive of persons involved in this smuggling. The said act of smuggling of cigarettes by way of concealment has rendered total 13,96,800 sticks of cigarettes of Gudang Garam brand, having market price of Rs. 1,04,76,000/- liable to confiscation under Section 111(d), 111(f), 111(i) and 111(o) of the Customs Act, 1962 and have rendered themselves liable to penalty under Section 112 (a) of the Customs Act, 1962. Apart from above, as they prepared/cause to be prepared false Bill of lading No. HLCUDX2170106116 dated 25.01.2017 which does not show true details of the import goods. For this act, I find that such involved persons are liable to penalty under Section 114AA *ibid* also. Since the persons involved in the subject smuggling are not traceable till date, this order is being issued without prejudice to legal actions which may be initiated in future against such persons.

24. I find that, the said seized cigarettes (except representative samples) had been kept for disposal under the provisions of Section 110(1B) of the Customs Act, 1962. Further, I find that the Disposal Section, Customs House, Mundra has informed vide their letter F. No. S/Disp-04/MCH/DRI-Cigarettes/TG/2017-18 dated 04.01.2019 that, the Principal Commissioner, Customs House, Mundra have ordered for destruction of 13,96,800 seized foreign origin cigarette sticks on 02.05.2018 and the destruction procedure is under process.

25. In view of the above, I pass the following order:

ORDER

- (i) I order absolute confiscation of the seized 13,96,800 sticks of Gudang Garam brand cigarettes imported in the name of M/s. Vrishabh Dyeing Mill, Surat valued at Rs. 1,04,76,000/- smuggled in container No. HLB1727730 covered under bill of lading no. HLCUDX2170106116 dated 25.01.2017 under the provisions of Section 111(d), 111(f), 111(i) and 111(o) of the Customs Act, 1962.
- (ii) I order absolute confiscation of seized 7000 pairs of 'Baby Footwear - Chappals' valued at Rs. 84,000/- which was used for concealment of cigarettes under Section 119 of the Customs Act, 1962.
- (iii) I impose penalty of Rs. 5,00,000/- (Rupees Five Lakhs Only) on M/s. Vrishabh Dyeing Mill, Surat under Section 112(a) of the Customs Act, 1962.
- (iv) I impose penalty of Rs. 1,00,000/- (Rupees Two Lakhs Only) on M/s. Vrishabh Dyeing Mill, Surat under Section 114AA of the Customs Act, 1962.

26. This order is issued without prejudice to any action may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved under the provisions of the Customs Act, 1962 and/or other law for the time being in force in the Republic of India.



(Amarjeet Singh)

Additional Commissioner,
Customs House, Mundra

F. No. VIII/48-23/Adj/ADC/MCH/2017-18

Date: 09.01.2019

To:-

- (a) M/s. Vrishabh Dyeing Mill, Block 260, Plot AB, Beside Baleshwar Khadi, Baleshwar, Palsana, Surat, Gujarat-394315

Copy to:

- (1) Additional Director, Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, Unit No. 15, Magnet Corporate Park, S.G. Highway, Thaltej, Ahmedabad-380059
- (2) The Deputy Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (K).

- (3) The Deputy Commissioner, Import Assessment, Group-III, Customs House, Mundra.
- (4) The Deputy Commissioner (RRA), Customs House Mundra.
- (5) The Deputy/Assistant Commissioner (Recovery), Customs House Mundra.
- (6) The Deputy/Assistant Commissioner (Disposal), Customs House Mundra.
- (7) The Deputy/Assistant Commissioner (EDI), Customs House Mundra.
- (8) Guard File