



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/48-19/Adj./Pr.Commr./MCH/2018-19 & F. No. VIII/48-36/Adj/ADC/MCH/2017-18
B. Order-in- Original No.	:	MUN-CUSTM-000-COM-05&06-19-20
C. Passed by	:	Shri Sanjay Kumar Agarwal Principal Commissioner of Customs, Custom House, AP & SEZ, Mundra.
D. Date of order / Date of issue	:	19.06.2019/19.06.2019
E. SCN No. & Date	:	DRI/AZU/GRU/Sai-PUF/INT-32/2017 dated 27.09.2018 & DRI/AZU/GRU/Sai-PUF/INT-32/2017 dated 12.12.2017 read with Corrigendum dated 02.04.2019
F. Noticee(s)/Party/ Importer	:	1. M/s. Sai Exports, 877, Ground Floor, Ashoka Palace, Joshi Lane Karol Bagh, New Delhi- 110 005 2. M/s. Aman Impex, Delhi Residing at C 4/6, Model town, 1st Floor, Backside, Delhi- 110 009 3. M/s. Pradeep Impex, Delhi Residing at KP-87, Pithampura, Nr. City Park Hotel, Delhi, 4. Mr. Shri Simran Singh Barmi, Prop. Of M/s. Sai Exports,877, Ground Floor, Ashoka Palace, Joshi Lane, Karol Bagh, New Delhi 5. Shri Aman Anand Prop. Of M/s. Aman Impex, Delhi Residing at C 4/6, Model town, 1st Floor, Backside, Delhi- 110 009 6. Shri Pradeep Jindal Prop. Of M/s. Pradeep Impex, Delhi, Residing at KP-87, Pithampura, Nr. City Park Hotel, Delhi

- 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 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129 A (1) के अंतर्गत प्रपत्र सीए- 3 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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:  
**“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवा कर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2<sup>nd</sup> फ्लोर, बहुमाली भवन, मंजुश्रीमिल कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद 380 004”**  
“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2<sup>nd</sup> floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”
- उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।  
Appeal shall be filed within three months from the date of communication of this order.
- उक्त अपील के साथ 1000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो -/5000, रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड, व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्डपीठ बेंच आहरित ट्रिब्यूनल के सहायक रजिस्टार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।  
Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.
- उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत -/5 रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची 1, न्यायालय शुल्क अधिनियम, 1870 के मद सं 6-के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए। The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
- अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।  
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए। While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.
- इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा। An appeal against this order shall lie before the Tribunal 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: SCN F. No: DRI/AZU/GRU/Sai-PUF/INT-32/2017 dated 27.09.2018 & DRI/AZU/GRU/Sai-PUF/INT-32/2017 dated 12.12.2017 read with Corrigendum dated 02.04.2019 issued to **M/s. Sai Exports, Delhi & Others.**



## **BRIEF FACTS OF THE CASE:**

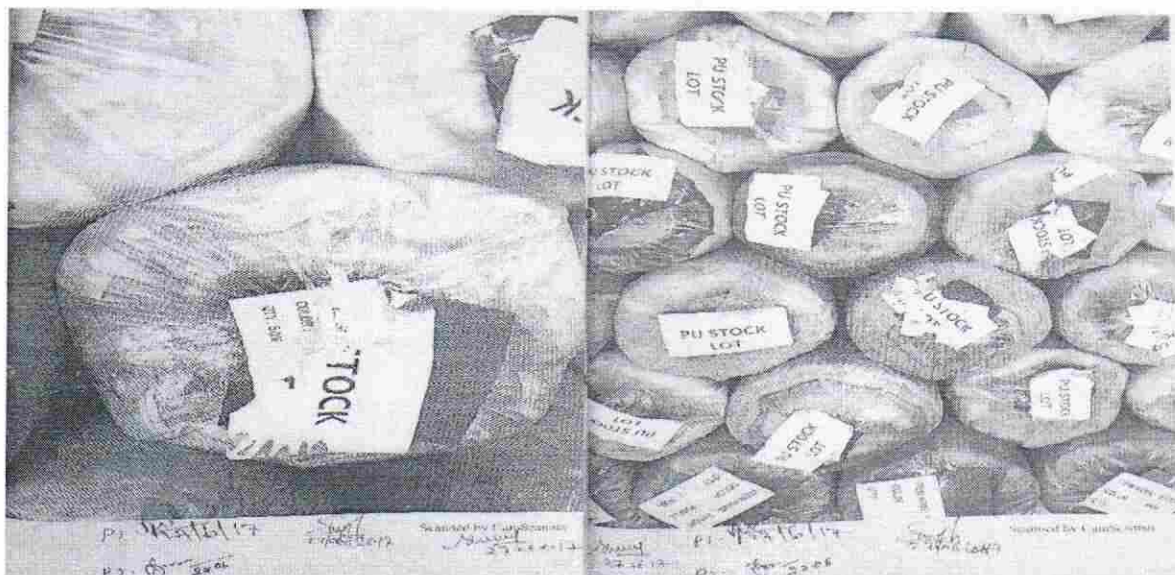
On the basis of intelligence that M/s. Sai Exports, 877, Ground Floor, Ashoka Palace, Joshi Lane, Karol Bagh, New Delhi - 110005 (IEC No. 0515040681) (hereinafter also referred to as "Importer") was involved in mis-declaration of description and value of goods being imported as '*stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%*', goods covered under Bill of Entry No. 2079599 dated 13.06.2017 imported in container bearing No. FSCU8891462 under the cover of Invoice No. SE-2904 dated 23.05.17, Packing List No. SE-2904 dated 23.05.17 and BL No. COAU7053996250 dated 26.05.2017, were examined under Panchanama dated 27.06.2017 by the officers of Directorate of Revenue Intelligence, Regional Unit, Gandhidham.

## **Examination and Seizure of Import Goods:**

2. As per examination, conducted under Panchanama dated 27.06.2017, the goods were found to be stuffed in form of rolls wrapped by transparent / semi transparent covering. A paper slip (hereinafter also referred to "*upper paper slip*") was found pasted on both the ends of the rolls, on which, "PU Stock Lot / Stock Lot" was found printed. On removing the said paper slips, another paper slip (hereinafter also referred to as "*lower paper slip*") was found, beneath each of the upper paper slips, on each of the rolls. On each of these lower paper slips (i.e. found beneath upper paper slip having marks "PU Stock Lot / Stock Lot") specific details viz. Item Name, Colour, and Qty were found mentioned. Two images, showing both type of paper slips, taken during Panchanama are appended below. The lower paper slips in the images are visible in parts where parts of upper paper slip have been removed.

### **Images 1 & 2**

#### **Photographs of goods during examination**



The goods were de-stuffed from container and stacked according to specific Item Name and Colour (within items) as found mentioned on lower paper slips. Item wise / Colour wise inventory of the goods was prepared during the proceedings of Panchanama as per quantity (in meters) mentioned on paper slips on each roll. The goods, during examination, were found to be of prime quality with each roll of goods tagged with Item Name, Colour and Quantity (in meters) of fabric in each roll. Moreover, lower paper slips on which specific details of Item, colour & quantity were mentioned were found hidden beneath upper paper slips on which wordings "PU Stock Lot / Stock Lot" were mentioned and such details mentioned on lower paper slips could only become visible after upper slip was torn off. It, therefore, appeared during proceedings of Panchanama, that the subject import goods were of prime quality but were mis-declared as "stock lot of PU leather cloth mixed of different sizes / thickness / colour width 56" +/- 10%" in import documents filed before Customs Department. As such, the goods covered under Bill of Entry No. 2079599 dated 13.06.2017 were placed under seizure vide seizure memo dated 27.06.2017 and handed over to Custodian CFS for safe custody vide Supratnama dated 27.06.2017.

**Statements of concerned persons recorded under Section 108 of Customs Act, 1962:**

3. During investigation statements of concerned persons were recorded which are discussed, briefly, as under:-

3.1. Statement of **Shri Simran Singh Barmi**, Proprietor of M/s. Sai Exports, Delhi, was recorded on 06.07.2017, wherein, he, inter alia, stated that his property business was not doing good and hence he was looking for alternate work; that Shri Pradeep Jindal used to help him in import of PU leather; he (Pradeep Jindal) used to place orders and arrange shipments to India; that 06 consignments (including one stopped by DRI at Mundra port) of PU Leather (Rexine) had been imported in name of M/s. Sai Exports, New Delhi; that he did not know suppliers and about costing / price of goods & as to how custom clearance of goods was arranged and that these things were looked after by Shri Pradeep Jindal and Shri Aman Anand; that one imported consignment was sold to Shri Pradeep Jindal and rest of the consignments were sold to Shri Aman Anand; that he used to get a fixed margin between 30,000/- to 50,000/- for each consignment. On being asked about search of premises of Shri Pradeep Jindal by DRI officers on 19.06.2017, he stated that Shri Pradeep Jindal told him that he used to receive actual invoices on his email IDs; that DRI officers had opened his (Pradeep's) email and taken printout of



emails and the actual invoices on 19.06.2017; that since actual value was more, as reflected in those invoices, they would have to pay differential duty. On being asked about manner of payment to Suppliers he stated that first Shri Pradeep Jindal or Shri Aman used to credit money in his account and then payment used to be made to Supplier from his account. On being asked about payment of differential amount to Suppliers, he stated that he was not aware and that Shri Pradeep Jindal must have paid the said amount to Suppliers. On being asked about the consignment covered under Bill of Entry No. 2079599 dated 13.06.2017 which was placed under seizure by DRI, he stated that he had sold said consignment to Shri Aman; that he (Aman) had given him Rs. 21 or 22 Lakhs for purchasing said consignment (i.e. covered under Bill of Entry No. 2079599 dated 13.06.2017). He re-iterated similar facts in his further statement recorded on 27.09.2017.

**3.2.** Statement of **Shri Pradeep Jindal**, Proprietor of M/s. Pradeep Impex, Delhi was recorded on 22.06.2017, wherein, he inter alia, stated that his email ID was [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com); that he was proprietor of M/s. Pradeep Impex, Delhi and handled all of its work; he was shown one set of documents which he confirmed as set of documents forwarded to Customs Broker for clearance of goods (i.e. for Bill of Entry No. 2088636 dated 14.06.2017) from Customs Department. He was shown other set of same documents which he confirmed to be the set of Invoices and Packing List received by him, in mail, from the supplier.

**3.3.** Further statement of **Shri Pradeep Jindal** was recorded on 24.07.2017, wherein, he inter-alia, stated that 3-4 people namely Tracy, Annia, Kevin and Tom of the supplier company often came to India and used to note their orders as per their demands. On being asked, he further stated that the agreements with Suppliers used to be mostly verbal and payment used to be on credit for 3-4 months; that he used to receive the details / documents of import goods viz. invoice & packing list in excel format and bill of lading and other documents in pdf format on his e-mail ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) from supplier's e-mail [tracy@hc-pu.com](mailto:tracy@hc-pu.com); that on receipt of custom cleared goods, they used to segregate and prepare inventory of items as per sticker of Item Name, Colour and Quantity pasted on each rolls. On being shown a black colour diary recovered under Panchanama dated 19.06.2017, he stated that in the said diary details, inter alia, of imported consignments received in godown were maintained with details of Item Name and number of rolls of each type of item and confirmed that the details are based on the actual goods imported. On being asked about difference in manner of description of goods and their value in Invoices received in mail on and that received through



courier or through Bank he stated that he knew that said goods were being cleared in terms of Kgs at Custom House Mundra at around USD 1.5 / Kgs; that he made the mistake of asking supplier to prepare invoices and packing list in terms of Kgs and at around similar rates. On being asked about payment of difference of amount between invoices received in excel sheets in mail (which are in terms of Item Name and quantity in Meters) and that sent to Customs Broker (which are in terms of stock lot and quantity in Kgs), he stated that payment of said differential amount was still pending. On being asked about Invoices and packing lists in respect of M/s. Sai Exports being received through his email ID, he stated that he helped Shri Simran S. Barmi in connecting to suppliers and thus invoices and packing lists (excel sheet format) were received in his email ID; that he had helped in selling his one consignment directly to buyers.

**3.4.** Statement of Shri Sabu George, G Card Holder and Power of Attorney Holder of Customs Broker Company **M/s. Lara Exim Private Limited**, was recorded on 23.11.2017, wherein, he, inter alia, stated that they received work of import of M/s. Pradeep Impex, Delhi-34 and that of M/s. Sai Exports, New Delhi through M/s. Falcon India; that Falcon India had CHA licence in Delhi but not in Mundra; Falcon India usually gave customs work to them. On being asked specifically he stated that Shri Shailesh Singh of M/s. Falcon India used to remain in contact with them on behalf of both M/s. Pradeep Impex, Delhi and M/s. Sai Exports, New Delhi; that copy of import documents i.e. Invoice, BL (House BL), Packing List, Country of Origin used to be received from Shri Shailesh Singh (ID [shailesh.singh@falconfreight.com](mailto:shailesh.singh@falconfreight.com)) in his mail ID [rainbowshipp@gmail.com](mailto:rainbowshipp@gmail.com); that they used to get confirmation of correctness of checklist from Importer through Shri Shailesh.

**3.5.** Statement of Shri Shailesh Kumar Singh, Authorised Signatory of **M/s. Falcon India**, was recorded on 27.11.2017, wherein he inter alia stated that he had handled all the work of M/s. Falcon India at Mundra in respect of imports of M/s. Pradeep Impex, Delhi and M/s. Sai Exports, New Delhi during January 2017 to June 2017 and had been authorized by M/s. Falcon India to appear before DRI for providing documents and recording of statement on behalf of M/s. Falcon India; that he used to receive scanned copy of import documents in respect of both Importers in email ID [shailesh.singh@falconfreight.com](mailto:shailesh.singh@falconfreight.com) from email ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) or [adnan24ahmed@gmail.com](mailto:adnan24ahmed@gmail.com); that he used to forward said documents by mail to Shri Sabu George of M/s. Lara Exim Private Limited (at email ID [rainbowshipp@gmail.com](mailto:rainbowshipp@gmail.com)); that he used to get confirmation of correctness of details in Checklist from Shri Pradeep Jindal or Adnan Ahmed (through email



IDs [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) or [adnan24ahmed@gmail.com](mailto:adnan24ahmed@gmail.com)) and used to intimate the same to Customs Broker. On being asked specifically he stated that correctness of checklist in respect of consignments of M/s. Sai Exports, New Delhi also used to be confirmed through same persons i.e. either Pradeep Jindal or Shri Adnan Ahmed through same email IDs i.e. [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) or [adnan24ahmed@gmail.com](mailto:adnan24ahmed@gmail.com). On being asked he stated that Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex, Delhi had informed him that he (Pradeep) used to import in the name of M/s. Sai Exports, New Delhi also.

**3.6.** Statement of Shri Vikram Bahadur Singh, G Card Holder and Exim Operations Manager in Custom Broker Company **M/s. Shivam Seatrans Private Limited**, was recorded on 04.07.2017, wherein, he, inter alia, stated that they got the work of M/s. Sai Exports, New Delhi through transporter named Praveen; that they had attended four consignments of PU Leather cloth on behalf of M/s. Sai Exports, New Delhi during May and June 2017; that they used to receive copy of import documents i.e. Invoice, BL (House BL), Packing List, Country of Origin in email ID [vikram@shivamseatrans.com](mailto:vikram@shivamseatrans.com) from email ID [praveen\\_co@hotmail.com](mailto:praveen_co@hotmail.com); that they used to get confirmation of correctness of checklist from Importer through Shri Praveen. On being asked about the goods he stated that the goods were in form of coated fabric which was smooth on one side; that the goods were in form of rolls; that on each end of rolls, Item Name, Colour and Quantity (Meters) used to be pasted; that "Stock Lot" also used to be found pasted on the rolls.

**3.7.** Statement of Shri Praveen Chand Kausik, Proprietor of **M/s. Praveen & Company** was recorded on 07.07.2017, wherein, he, inter alia, stated that he had requested Shri Pradeep Jindal to give him work related to transportation; that he (Pradeep) asked him if he could arrange custom clearance work at Mundra; that he roped in Shri Rajubhai for customs clearance work; that he used to receive import documents from Shri Pradeep Jindal via mail from email ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) or [adnan24ahmed@gmail.com](mailto:adnan24ahmed@gmail.com) which he used to forward to M/s. Shivam Seatrans Private Limited at email ID [vikram@shivamseatrans.com](mailto:vikram@shivamseatrans.com); that he used to receive checklist from email ID [vikram@shivamseatrans.com](mailto:vikram@shivamseatrans.com) of M/s. Shivam Seatrans Private Limited; that he used to check items mentioned in checklist and confirmed its correctness telephonically from Shri Pradeep and conveyed the same to M/s. Shivam Seatrans Private Limited. On being asked specifically, he stated that they used to receive scanned copy of documents in respect of imports of M/s. Sai Exports, New Delhi from email ID [adnan24ahmed@gmail.com](mailto:adnan24ahmed@gmail.com) which they forwarded to M/s. Shivam Seatrans Private Limited at email ID



[vikram@shivamseatrans.com](mailto:vikram@shivamseatrans.com). On being asked specifically he stated that in one or two cases, Shri Simran Barmi asked them to collect photocopy of documents from office of M/s. Pradeep Impex, Delhi; that one of their employee collected documents from office M/s. Pradeep Impex, Delhi in said cases and forwarded scanned copy to M/s. Shivam Seatrans Private Limited; that he used to receive checklist from email ID [vikram@shivamseatrans.com](mailto:vikram@shivamseatrans.com) of M/s. Shivam Seatrans Private Limited; that he used to check items mentioned in checklist and confirmed its correctness telephonically from Shri Simran Barmi and conveyed the same to M/s. Shivam Seatrans Private Limited.

**3.8.** Statement of **Shri Aman Anand**, Proprietor M/s. Aman Impex, New Delhi, was recorded on 05.12.2017, wherein, he stated, inter alia, that he came to know that Shri Pradeep Jindal and some others were importing PU leather from China which were being cleared from Mundra Customs at around USD 1.5 / Kgs; that he approached Shri Pradeep Jindal to help in arranging imports from China; that he, with the help of Shri Simran Barmi, started import in the name of M/s. Sai Exports, New Delhi; that Shri Pradeep Jindal used to place orders on behalf of M/s. Sai Exports, New Delhi; that actual import documents used to be received by Shri Pardeep in his email account; that for the purpose of custom clearance other set of documents used to be received through Banks or through DHL courier; that value of goods used to be at rates similar to rates at which PU leather was imported at Mundra Port; that actual value as per invoices received in mail used to be around twice the value shown in documents filed before Customs Department. He further stated that total six consignments were imported by M/s. Sai Exports, New Delhi; that out that one consignment was imported on behalf of Shri Pradeep Jindal and 5 consignments were imported on behalf of him (Aman). He submitted purchase invoices and transaction details pertaining to these five consignments. He further stated that he used to transfer amount to account of M/s. Sai Exports, New Delhi for purchasing / importing goods. On being asked specifically about payment of amount equal to difference in value of goods as per actual invoices received in mail by Shri Pradeep Jindal and that shown in documents submitted to Mundra customs, he stated that that said differential amount was to be paid but how it was to be paid was not finalized; that said amount has not yet been paid; that even the amount shown in the invoices submitted to customs has not been paid to suppliers. He further stated that Shri Simran Barmi used to get around Rs. 30,000/- to 50,000/- per container; that Shri Pradeep Jindal had arranged Customs Brokers and used to help whenever needed for customs related



work; that either he or Shri Simran Barmi used to give confirmation of correctness of checklist of Bills of Entry.

**3.9.** Further statement of **Shri Pradeep Jindal**, Proprietor of M/s. Pradeep Impex, Delhi was recorded under Section 108 of the Customs Act, 1962, on 28.03.2018. On being shown his earlier statements dated 22.06.2017 and 24.07.2017, he confirmed the correctness of said statements. On being asked he reiterated that invoices and packing lists, in respect of imports in the name of M/s. Sai Exports, used to be in his email ID (excel sheet format); that he used to download and get prints of the invoices and packing lists and gave to Shri Simran Barmi. On being shown statement dated 05.12.2017 of Shri Aman Anand and asked about one consignment being imported by him (Pradeep) in the name of M/s. Sai Exports, New Delhi, he agreed that one consignment consisting of two containers imported in the name of M/s. Sai Exports, New Delhi was received directly by him; that initially Shri Simran and Shri Aman had asked him to place order, however, they were facing some difficulty in finding buyers. Therefore, the said consignment was directly received by him. On being shown the black coloured diary (state bank of India) recovered by officers of DRI under Panchanama conducted at his godown premises on 19.06.2017, he confirmed that it was same diary which used to be maintained by them at godown; that details, inter alia, of imported consignments received in godown used to be noted in the said diary. On being shown Page No. 49, (numbering done during Panchanama), of diary on which date is printed as 10 (Monday) he stated that said details pertained to one import container in which 1163 rolls were imported; that on the next two pages of diary, there were details of another container in which 1241 rolls were imported. He confirmed that said details i.e. two containers in which 1163 and 1241 rolls were imported, respectively, pertained to consignment imported in the name of M/s. Sai Exports, New Delhi under Invoice No. G193 and G194. On being asked about payment of difference of amount between invoice prices (i.e. invoices received in excel sheet format in mail, which are in terms of Item Name and quantity in Meters) and that sent to Customs Broker for Customs clearance (which are in terms of stock lot and quantity in Kgs), he stated that payment of said differential amount was still pending; that he had not met the representative of suppliers; that even full amount in case of some consignments are still pending. He further stated that he was ready to pay differential duty in respect of above stated one consignment imported under Invoice No. G193 and G194 in the name of M/s. Sai Exports, New Delhi.



**Facts and Evidences revealing mis-declaration of value and description of import goods:**

4. From the scrutiny of documents pertaining to import PU leather coated fabric and statement of concerned persons, it was found that total six consignments of coated fabric / PU leather were imported in the name of M/s. Sai Exports, New Delhi and got cleared through CH Mundra between February 2017 to June 2017. Last consignment sought clearance under Bill of Entry No. 2079599 dated 13.06.2017 was examined by DRI vide Panchanama dated 27.06.2018. It appeared from the investigation that invoices and packing list, with true and correct details, used to be received in the mail ID of Shri Pradeep Jindal ([piindal16@yahoo.com](mailto:piindal16@yahoo.com)) Proprietor of M/s. Pradeep Impex, Delhi. However, for custom clearance of import goods, other set of invoices showing less value and description as stock lot and quantity in Kgs used to be presented to Customs Department. The facts and document evidencing above modus operandi are narrated in foregoing Paras.

**4.1. Facts and evidences from documents resumed in searches and examination of one live consignment imported by M/s. Sai Exports, New Delhi:**

4.1.1. The premises of M/s. Pradeep Impex, Delhi situated at KP-87, Pithampura, Nr. City Park Hotel, Delhi, was searched by officers of DRI under Panchanama dated 19.06.2017 under which documents / printouts of email correspondence were, inter alia, withdrawn. The documents withdrawn under the said Panchanama included printouts of Invoices and Packing lists (hereinafter also referred to as "*parallel Invoices / Packing List*") in respect of consignment of PU Leather imported and got cleared through Mundra Port in the name of M/s. Sai Exports, New Delhi and that in the name of M/s. Pradeep Impex, Delhi. Further, some more Invoices / Packing List pertaining to import of PU leather/coated fabric in the name of these two parties were retrieved from the same email ID of Shri Pradeep Jindal during recording of his statement in the office of DRI, Gandhidham. Later, in his statement recorded under Section 108 of Customs Act, 1962, Shri Simran Singh Barmi, Proprietor of M/s. Sai Exports, New Delhi, admitted that Shri Pradeep Jindal used to place orders for him and Invoices used to be received by him in his mail. It was noticed that value and description of goods mentioned in these parallel invoices was different from the value and description mentioned in the Invoices and Packing List (hereinafter also referred to as "*first Invoices / Packing List*") submitted to Customs Department for clearance of goods



imported by M/s. Sai Exports, New Delhi and M/s. Pradeep Impex, Delhi. Images of one such parallel invoice (retrieved from email ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com)) and first invoice (presented to Customs seeking clearance) are appended below:-

**Image 1**

**First Invoice bearing No. SE-2904 dated 23.05.2017 presented to Customs seeking clearance**

ZHEJIANG INTERNATIONAL BUSINESS GROUP WENZHOU CO., LTD.					
NO. 60, GE AN ROAD, WENZHOU, CHINA					
INVOICE					
TO: SAI EXPORTS 877, GROUND FLOOR, ASHOKE PALACE, JOSHI LANE, KAROL BAGH, NEW DELHI - 110005 IEC: 0515040681				INVOICE NO. : SE-2904 DATE : 23rd.MAY, 2017	
FROM : NINGBO, CHINA				TO : MUNDRA	
Marks	Description of Goods	Quantity (KGS)	Rolls	Unit Price (USD/KG)	Amount (USD)
N/M	STOCK LOT OF PU LEATHER CLOTH MIXED OF DIFFERENT SIZES / THICKNESS / COLOUR WIDTH 56"+/- 10	22192.00	1004	\$1.50	\$33,288.00
TOTAL :		22192.00	1004		\$33,288.00
TOTAL AMOUNT (in words) : THIRTY THREE THOUSAND TWO HUNDRED EIGHTY EIGHT DOLLAR ONLY.					

**Image 2**

**Parallel Invoice bearing No. G17HBB29004 dated 23.05.2017 retrieved from email ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com)**

浙江省国际贸易集团温州有限公司				
ZHEJIANG INTERNATIONAL BUSINESS GROUP WENZHOU CO.,LTD.				
NO.60 GEAN ROAD WENZHOU CHINA				
COMMERCIAL INVOICE				
TO:SAI EXPORTS ADD:877 GROUND FLOOR ASHOKE PALACE JOSHI LANE KAROL BAGH NEW DELHI 110005 IEC CODE---0515040681			No:	G17HBB29004
			Date:	23th,May,2017
Marks	Description & Specification	Quantity (M)	Unit Price	Amount
	COATED FABRIC			
	NEW MF 0.7	2693.5	1.55	USD 4,174.93
	ROVER 0.7	7346	2.2	USD 16,161.20
	ROVER 0.7	3708	2.2	USD 8,157.60
	MAFIA 0.7	12876	2.05	USD 26,395.80
	TR NAPA 0.6	8268	2	USD 16,536.00
	SHEESHA 0.5	999	1.26	USD 1,258.74
	SHEESHA 0.5	4563	1.34	USD 6,114.42
	PATENT 0.5	4646	1.05	USD 4,878.30
	SHINING NAPA 0.5	5226	1.05	USD 5,487.30
TOTAL:		50325.50		USD 89,164.29



As can be seen from the above images, goods in first invoice (presented to Customs) are described as stock lot, whereas the goods in parallel invoice are described as item name wise. Further the quantity in the first invoice is declared in Kilograms, whereas that in parallel invoice it is mentioned in meters. Further, on examination, the actual goods were found to be matching with description and quantity given in parallel invoice. Therefore, it appeared that the importer has tried to portray the goods as stock lot (not prime goods) by declaring description as 'stock lot of PU leather cloth' and quantity in Kgs but the truth was the goods were of prime quality as declared in parallel invoices retrieved from email ID of Shri Pradeep Jindal and said parallel invoices were true and correct invoices of goods imported by M/s. Sai Exports, New Delhi as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%'.

**4.1.2.** The goods imported under declared Invoice No SE-2904 dated 23.05.17 (Parallel Invoice No. G17HBB29004 dated 23<sup>rd</sup> May 2017 retrieved from email ID) were examined by DRI under Panchanama dated 27.06.2017. On comparing the details of goods mentioned in parallel packing list (No. G17HBB29004 dated 23<sup>rd</sup> May 2017) retrieved from email ID of Shri Pradeep Jindal with the inventory of goods covered under Bill of Entry No. 2079599 dated 13.06.2017 prepared as per Panchanama dated 27.06.2017, it was seen that quantity of goods mentioned in *parallel* packing list, accurately matched, even item wise and colour wise, with actual quantity found during Panchanama. Whereas, in the first Invoice and Packing List presented by Importer to Customs Department, for same consignment, the quantity of goods was mentioned in Kilograms and description was declared as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%'. For ready comparison, the images of said Parallel Packing List and relevant portion of Panchanama dated 27.06.2018 showing inventory of goods imported under invoice No. G17HBB29004 dated 23<sup>rd</sup> May 2017 (Bill of Entry No. 2079599 dated 13.06.2017), are appended below.

**Image 3 & 4**

**Parallel Packing List No. G17HBB29004 dated 23<sup>rd</sup> May 2017 (for Bill of Entry No. 2079599 dated 13.06.2017)**



浙江省国际贸易集团温州有限公司		ZHEJIANG INTERNATIONAL BUSINESS GROUP WENZHOU CO.LTD.	
PACKING AND WEIGHT LIST			
TO SALESPOINT		NO: G17HBB2904	
ADDRESS: QIANGJIANG ROAD WENZHOU CITY		Date: 23/06/2017	
BY: CONTACT: ERIK			
DESCRIPTION	Colour	Quantity	Net Weight (KG)
COATED FABRIC			
NEW MF 0.7	BLACK	30	40
		32	1
		48	2
NEW MF 0.7	BROWN	50	12
		51.5	1
		81.5	1
ROVER 0.7	BLACK	50	27
		45	2
		45	1
		51	1
ROVER 0.7	BROWN	50	30
		51	1
ROVER 0.7	TAN	50	29
		80	1
ROVER 0.7	SULTAN	50	27
		50	1
		42	1
ROVER 0.7	BLUE	50	9
		88	1
ROVER 0.7	CHECKED	50	14
		40	1
ROVER 0.7	BLACK	50	35
ROVER 0.7	BROWN	50	16
		53	1
		59	1
ROVER 0.7	TAN	50	15
ROVER 0.7	SULTAN	50	14
		49	1
ROVER 0.7	CHECKED	50	14
		45	1
MAFIA 0.7	BLACK	50	15
		80	1
MAFIA 0.7	BROWN	50	18
		82	1
		48	1
MAFIA 0.7	CAMEL	50	50
		71	1
MAFIA 0.7	SULTAN	50	50
		47	1
		45	1
MAFIA 0.7	YELLOW	50	48
		48	1
		62	1
MAFIA 0.7	BLUE	50	22
		57	1
		45	1
		67	1
TR NAPAO 0.7	BLACK	50	32

Received (initials)  
Handwritten  
27/9/17

Received (initials)  
Handwritten

27/9/17  
Handwritten

Images 5 to 7

Relevant portion of Panchanama dated 27.06.2018 showing inventory of goods imported under invoice No. G17HBB29004 dated 23rd May 2017 (Bill of Entry No. 2079599 dated 13.06.2017)

Item Name	Colour	Quantity			Item wise Total Quantity	
		No. of Rolls	Meter /Roll	Total		
SHINING NAPA	RANI	19	50	950	5205	
	RANI	1	78	78		
	RED	31	50	1550		
	TAN	14	50	700		
	TAN	3	45	135		
	TAN	1	32	32		
	B. BROWN	11	50	550		
PATENT	B. BROWN	1	47	47	1546	
	CHEERRY	20	50	1000		
	PURPLE	30	50	1500		
	PURPLE	1	34	34		
SHEESHA	RANI	11	60	660	5562	
	RANI	1	62	62		
	GOLD	19	50	950		
	GOLD	1	49	49		
	COPPER	40	50	2000		
	COPPER	1	40	40		
NEW MF	CHEERRY	49	50	2450	2683.5	
	CHEERRY	1	73	73		
	BLACK	62	50	3100		
	BLACK	1	31	31		
	BROWN	22	50	1100		
MAFIA	BROWN	1	51.5	51.5	1287.6	
	BLACK	13	50	650		
	BLACK	1	80	80		
ROVER	BROWN	48	50	2400	11054	
	BROWN	1	62	62		
	BROWN	42	30	1260		
	BROWN	1	49	49		
	TR NAPAO 0.5	BROWN	50	37		1850
			59	1		59
			44	1		44
			41	1		41
TR NAPAO 0.6	LTAN	50	8	400		
		58.5	1	58.5		
		50.5	1	50.5		
TR NAPAO 0.6	TAN	50	10	500		
		46	1	46		
SHEESHA 0.5	GOLD	50	19	950		
		49	1	49		
SHEESHA 0.5	COPPER	50	40	2000		
		40	1	40		
SHEESHA 0.5	CHEERRY	50	49	2450		
		73	1	73		
PATENT 0.5	PURPLE	50	50	2500		
		34	1	34		
PATENT 0.5	RED	50	11	550		
PATENT 0.5	RANI	50	30	1500		
		62	1	62		
SHINING NAPA 0.5	RANI	30	19	950		
		78	1	78		
SHINING NAPA 0.5	RED	50	31	1550		
SHINING NAPA 0.5	TAN	50	15	950		
		49	1	49		
		52	1	52		
SHINING NAPA 0.5	B. BROWN	50	11	550		
SHINING NAPA 0.5	CHEERRY	50	30	1500		
		42	1	42		
		50	30	1500		

Further, Invoice & Packing List presented to Customs Department bear Sr. No. SE-2904 whereas Invoice & Packing List retrieved from email ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) bear Sr. No. G17HBB29004. As per the Certificate of Country of Origin No. 17C3303A0001/00199 in respect of the goods covered under Bill of Entry No. 2079599 dated 13.06.2017 imported in container No. FSCU8891462, the Invoice No. is G17HBB29004, which matches with the Invoice retrieved from the email ID of Shri Pradeep Jindal. Therefore, it appeared from the above facts that the Invoice and Packing List (including G17HBB29004 dated 23<sup>rd</sup> May 2017) retrieved by the officers of DRI from email ID ([pjindal16@yahoo.com](mailto:pjindal16@yahoo.com)) of Shri Pradeep Jindal are actual Invoices and actual Packing Lists in respect of the consignments of PU leather/coated fabric imported in the name of M/s. Sai Exports, New Delhi.

**4.1.3.** As discussed above, the quantity of each type of Item and each Colour (within Item) in meters matched with the quantity thereof mentioned in parallel Packing List. Since only lump sum quantity of PU leather in Kilograms was mentioned in the first Packing List presented to Customs, therefore it was not possible to ascertain quantity of subject import goods covered under Bill of Entry No. 2079599 dated 13.06.2017 and imported in container No. FSCU8891462, accurately, on the basis of said first Packing List. A brief comparison of description and quantity of goods, covered under Bill of Entry No. 2079599 dated 13.06.2017, as mentioned in first Invoices / Packing List presented to Customs and that actually found during examination dated 27.06.2017 and that mentioned in Parallel Invoices / Packing Lists, is illustrated below:-

**Table - 1**

		<b>In Invoices / Packing List presented to Customs</b>	<b>Actual goods found during Examination on 27.06.2017</b>	<b>In parallel Invoices / Packing Lists found in email ID of proprietor</b>
<b>Description</b>	<b>Invoice</b>	Goods described as "Stock Lot of PU Leather"	<i>Paper slip having details of Item Name, Colour, Meters found affixed on each roll. Goods were segregated and quantity tallied as per Item Name and Colour.</i>	Goods described by Item Names
	<b>P. List</b>	Goods described as "Stock Lot of PU Leather"	<i>Paper Slips of words "PU stock Lot" were affixed over above slips to hide the details of Item Name, Colour and quantity.</i>	Further categorised by colour within Item Name and quantity of goods of each Item and Colour (within Item) mentioned.



<b>Item Names</b>	<b>Invoice</b>	Not mentioned	<i>New MF, Mafia, Rover, TR Napa, Sheesha, Patent and Shining Napa</i>  <i>There were goods of different colours within each item</i>	Item Names in Invoice: New MF, Mafia, Rover, TR Napa, Sheesha, Patent and Shining Napa  Different colours within each Item were mentioned in Packing List
	<b>P. List</b>	Not mentioned		
<b>Quantity</b>	<b>Invoice</b>	Only total No. of rolls and total weight in Kgs mentioned	<i>Item Wise / Colour wise quantity in Meters was ascertained during Examination. Details of thickness were not found in Paper Slips pasted on rolls.</i>  <i>Further, quantity in Kilograms was not mentioned on paper slips or on rolls.</i>	Item wise quantity in Meters and Total Quantity in Meters was mentioned
	<b>P. List</b>	Only total No. of rolls and gross weight and net weight in Kgs mentioned		Items wise and colour wise (within Item) quantity i.e. No. of Rolls and quantity (in meters) for each roll mentioned. Thickness of each item also mentioned.  Total quantity in meters also mentioned.

Further, it was also noticed during examination of import goods of live consignment that last two stacks / rows (i.e. towards container gate) had rolls of different type of Items and in stack / rows thereafter goods were uniformly arranged Item Wise. Therefore, had examination of 10% of goods been carried out by customs as per prevailing norms, the last two stack / rows would have given the impression of goods being of mixed lot / stock lot. This fact, and the fact that paper slips of Stock Lot were pasted totally covering paper slips on which specific Item Name, Colour and quantity in meters were mentioned, it became clear that the attempt was to portray and present the goods as Stock Lot before Customs. It, therefore, emerged that first Invoice and Packing List, presented to Customs, did not mention the actual description and packing of goods imported in container No. FSCU8891462 and thus, apparently, were not the true and correct Invoice and packing list thereof. Instead, the parallel set of documents retrieved from email ID of Shri Pradeep were the true and correct Invoice / packing list of said goods imported in the name of M/s. Sai Exports, New Delhi as the examination of under Panchanama dated 27.06.2018 revealed that the actual goods matched in description and quantity mentioned in parallel documents. Similar parallel invoices / packing list, in respect of five more consignments imported in past in the name of M/s. Sai Exports, New Delhi were also retrieved from email ID of Shri Pradeep Jindal. Description of in the said parallel invoices / packing lists was mentioned item wise and colour wise and quantity in meters. However, in the corresponding first invoices and packing lists on the basis of which clearance of said five consignments was obtained from Customs, the description of goods is declared as 'stock lot of PU leather cloth mixed of different sizes /

thickness / width 56" +/- 10%', quantity in Kilograms and value @ rates similar to USD 1.3 to 1.5 per Kg. Thus, it appeared that the goods covered under said five consignments were also prime quality coated fabric / PU leather and parallel invoices & packing lists retrieved from email ID of Shri Pradeep Jindal were the true and correct invoices thereof.

#### **4.2. Facts and evidences from statements recorded and documents collected:**

**4.2.1.** In his statement recorded under Section 108 of Customs Act, 1962, Shri Simran Singh Barmi, Proprietor of M/s. Sai Exports, Delhi, stated that he did not know suppliers and about costing / price of goods and as to how Customs clearance of goods was arranged and that these things were looked after by Shri Pradeep Jindal and Shri Aman Anand; that Shri Pradeep Jindal told him that he (Pradeep) used to receive actual invoices on his email IDs; that Shri Aman had given money to purchase consignment covered under Bill of Entry No. 2079599 dated 13.06.2017 and the said consignment had already been sold to Shri Aman. Further, Shri Pradeep, in his statement, has admitted that invoices, including that pertaining to goods imported in the name of M/s. Sai Exports, New Delhi, used to be received in his email ID. The documents retrieved from email ID of Shri Pradeep Jindal included mail correspondence between Suppliers and Shri Pradeep Jindal. The emails dated 24.04.2017 and 23.05.2017 from email ID [bessie@vipwzhs.com](mailto:bessie@vipwzhs.com) to Shri Pradeep Jindal reveal that documents pertaining to consignments 2901/2902 and 2904 were received under those emails. Consequent to email dated 24.04.2018 consignments imported under invoice No. G17HBB29001 & G17HBB29002 were cleared in the name of M/s. Sai Exports, New Delhi under Bill of Entry Nos. 9575143 dated 05.05.2017 and 9696336 dated 15.05.2017. Similarly, consequent to email dated 23.05.2018, consignment imported under invoice No. G17HBB29004 was sought clearance under Bill of Entry No. 2079599 dated 13.06.2017. These emails received from suppliers had been forwarded by Shri Pradeep Jindal to email ID of Shri Aman Anand ([amanimpex2007@gmail.com](mailto:amanimpex2007@gmail.com)) within next one or two days. Seen in light of statements of Shri Simran Barmi and Shri Pradeep Jindal and that of Shri Aman Anand, it is clear that Shri Pradeep Jindal arranged for placing, confirming orders, receiving documents and further forwarded these documents to Shri Aman Anand on behalf of whom said consignments were imported. Still further, in mail dated 24.04.2018, supplier has asked Shri Pradeep Jindal as to how to make documents for 2901 (i.e. consignment under invoice No. G17HBB29001) to be sent by courier indicating that



documents to be presented to Customs were prepared on the instructions of Shri Pradeep Jindal.

**4.2.2.** Further, statement of Shri Aman Anand was recorded and he, in his statement, has admitted that Shri Pradeep Jindal used to place orders on behalf of M/s. Sai Exports, New Delhi; that actual import documents used to be received by Shri Pardeep in his email account; that for the purpose of custom clearance other set of documents used to be received through Banks or through DHL courier; that value of goods used to be at rates similar to rates at which PU leather was imported at Mundra Port; that actual value as per invoices received in mail used to be around twice the value shown in documents filed before Customs Department; that out of total six consignments, one consignment was imported on behalf of Shri Pradeep Jindal and 5 consignments were imported on behalf of him (Aman); that said differential amount was to be paid to suppliers. The same facts have been corroborated by Shri Pradeep Jindal in his statement dated 28.03.2018 and from the diary resumed, under Panchanama dated 19.06.2017, from the premises of Shri Pradeep Jindal. He stated, inter alia, that one consignment imported in the name of M/s. Sai Exports, New Delhi covered under Invoice No. G193 and G194, was directly received by him. He admitted that entries available at Page No. 49 of the diary {in which date is printed as 10 (Monday)} pertained to the said import consignment and expressed his willingness to pay differential duties of customs in respect of said consignment imported under Invoice No. G193 and G194 in the name of M/s. Sai Exports, New Delhi. In his earlier statement Shri Pradeep Jindal also admitted that he used to make entries in the same diary relating to goods imported by M/s. Pradeep Impex, Delhi when said goods used to be received in his godown after clearance from Customs. The relevant pages of the said diary reveal similar entries of tallying number of rolls items wise / colour wise for goods imported in the name of M/s. Pradeep Impex, Delhi. Further, the parallel invoice bearing Nos. G193 dated 06.03.2017 and G194 dated 09.03.2017 along with respective packing lists were also retrieved from email ID of Shri Pradeep Jindal under Panchanama dated 19.06.2017, both of which are issued in the name of M/s. Pradeep Enterprises and M/s. Sai Exports, New Delhi. The above facts indicate that said consignment cleared under Bill of Entry No. 9202350 dated 06.04.2017 was imported on behalf of Shri Pradeep Jindal and the remaining five consignments on behalf of Shri Aman Anand.

**4.2.3.** Shri Pradeep Jindal and Shri Aman Anand have admitted in their respective statements that goods were being cleared in terms of Kgs at

Customs House Mundra at around USD 1.5 / Kg using import documents showing value at rates around USD 1.5/Kg and that actual invoices were being received in email ID of Shri Pradeep Jindal. Shri Pradeep Jindal has stated in his statement that he was trying to get discount on the amount mentioned in the parallel invoices (excel sheet). However it does not seem convincing as in one of email correspondence dated 02.06.2017 from email ID [tracy@hc-pu.com](mailto:tracy@hc-pu.com), suppliers have asked Shri Pradeep for declaration in respect of payments made by some companies to M/s. Lishui Haihe International Enterprise Co. Ltd., indicating that differential amount was being arranged by him. Further, there are clear remarks in the parallel invoices "this contract is made out by the buyer as per following terms and conditions mutually confirmed", which show that rate of goods mentioned in said invoices were mutually confirmed, ruling out any scope of discount. It is known fact that discount is given on quoted / offered price and not in finalised contracts. An image of one such invoice is appended below:

### Image 8

#### Parallel Invoice No. G 193 showing remarks of confirmation of contract

ITEM NO.	Description	Specification	QUANTITY (MTRS)	UNIT PRICE USD	TOTAL AMOUNT USD
FOB NINGBO, CHINA					
MICRO FIBER	MICRO FIBER	1.2	8660	6.2	53816
HT-824 IM	HT-824 IM	0.7	454	1.70	847
BRUSH OFF	BRUSH OFF	0.7	3506	1.87	6556.22
MINI DOT	MINI DOT	0.7	1836	1.9	3488.4
PATENT	PATENT	0.5	23619	1.06	25036.14
WRINKLE FREE TPU	WRINKLE FREE TPU	0.8	10876	4	43504
Remarks:			TOTAL: 49001 Meters		133247.76 USD
TOTAL :					
SHIPPING MARKS: ADVISE FOLLOW					
DELIVERY:					
PORT OF LOADING :			NINGBO, CHINA		
PACKING:					
PAYMENT:			T/T		

1. Terms of payment: TT, from the DL shipment date 60 days.  
 2. Time of delivery: 15-20 days.  
 3. Packing term: IN ROLL, with two decks plastic bag with cutting samples and shipping mark, 40m/roll.  
 4. All disputes arising from the execution of, in connection with this Sales Confirmation, shall be settled amicably through friendly negotiation.  
 5. Consignee name for this shipment: Parth Overseas.

Shri Pradeep also admitted that the difference in value of goods as shown in parallel invoices and that in first invoices, was to be paid to the supplier. From the above discussed facts it clearly emerges that the parallel invoices / packing lists received in mail [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) and retrieved by DRI were the true and correct invoices of the consignments of PU leather/coated fabric and that invoices / packing list presented to Customs



department prepared to show value of goods in terms of weight @ USD 1.5 per Kg or 1.3 per Kg were not true and correct documents.

**4.2.4.** Upon being requested by DRI, the Office of Commissioner of Customs, CH Mundra, vide letter F. No. VIII/48-695/GR-III/MCH/Misc/17-18 dated 18.10.2017, forwarded to DRI, copies of Bills of Entry and that of import documents viz. Invoices, Packing Lists etc. presented by importer to Customs Department for clearance of all six consignments of PU Leather / Coated Fabric. On comparing first Invoices received from Customs Department with parallel invoices retrieved from email ID of M/s. Pradeep Impex, Delhi, it was noticed that in all six parallel Invoices, goods are described by specific Item Name and Colour and value of goods is much more than that mentioned in first invoices presented to Customs.

### **4.3 Facts and evidences from examination of live consignment of similar goods imported by M/s. Pradeep Impex, Delhi:**

**4.3.1.** One live consignment of goods imported as "stock lot of PU leather cloth mixed of different sizes / thickness / colour width 56" +/- 10%" under Bill of Entry No. 2088636 dated 14.06.2017, by M/s. Pradeep Impex, Delhi (*proprietor firm of Shri Pradeep Jindal*) was also examined by officers of DRI under Panchanama dated 29.06.2017. As in the case of examination of goods imported in the name of M/s. Sai Exports, New Delhi under Bill of Entry No. 2079599 dated 13.06.2017, the goods imported by M/s. Pradeep Impex, Delhi and sought clearance under Bill of Entry No. 2088636 dated 14.06.2017 were also found matching with the respective parallel invoices and packing lists (No. G405 and G 406 both dated 19.05.2017) retrieved from email ID (*i.e. [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com)*) of Shri Pradeep Jindal with respect to description and quantity item wise and colour wise. Whereas quantity of goods in the corresponding first Invoices / Packing List presented to Customs was mentioned vaguely in Kilograms (*i.e. neither in meters nor item wise and colour wise*) and description of goods as "stock lot of PU leather cloth mixed of different sizes / thickness / colour width 56" +/- 10%". Examination of the consignment imported by M/s. Pradeep Impex, Delhi revealed that goods imported by him as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%' was of prime quality as per description and quantity thereof mentioned in parallel invoices received in email ID of Shri Pradeep Jindal. Further, in the manner similar to that adopted in case of imports in the name of M/s. Sai Exports, New Delhi, imported goods were sought clearance on the basis of false and incorrect invoices showing goods as

stock lot and very less value compared to that shown in parallel invoice. The above discussed facts indicated that same procedure of getting goods cleared as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%' at very less value was adopted in case of both M/s. Pradeep Impex, Delhi and M/s. Sai Exports, New Delhi.

**4.3.2.** A separate Show Cause Notice F. No. DRI/AZU/GRU/Pradeep-PUF/Int-31/2017 dated 11.12.2017 was issued in respect of consignments of PU Leather / Coated Fabric imported and cleared in the name of M/s. Pradeep Impex, Delhi.

**Conclusions from facts and evidences discussed at Para 4.1 to 4.3:**

**4.4.** From the facts and evidences discussed at Para 4.1 to 4.3 above, it appeared that the actual Invoices, in respect of consignments imported as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%' in the name of M/s. Sai Exports, New Delhi, were the *parallel* invoices received by Shri Pradeep in his email ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com). The said parallel Invoices reflected actual value and description of import goods and that invoices / packing list (first invoices / packing lists) presented to Customs department seeking clearance of goods as "stock lot of PU leather cloth" had been prepared on the instructions of Importers to show false description and false value of goods in terms of weight @ USD 1.5 or 1.3 per Kgs. The said first Invoices presented to Customs Department were not true and correct documents and the said invoices and packing lists were used to mis-declare import goods in respect of value, description and other material particulars before Customs Department. It was also revealed that five of the six consignments in the name of M/s. Sai Exports, New Delhi were imported on behalf Shri Aman Anand and one consignment under Invoice Nos. G193 dated 06.03.2017 and G194 dated 09.03.2017, which was cleared under Bill of Entry No. 9202350 dated 06.04.2017, was imported on behalf of Shri Pradeep Jindal.

**Payment of differential import duties during investigation:**

**5.** During the course of investigation, M/s. Sai Exports, New Delhi, made payment / cash security of following amounts towards differential duties and other dues in respect of consignments of PU leather/coated fabric imported and cleared under Bill of Entry No. 2079599 dated 13.06.2017 vide under two separate TR-6 Challans:-



**Table-2**

Sr. No.	TR6 Challan No.	Date	Amount (Rs.)	Amount paid against
1	Import/MPSEZ 2305/2017-18	26.07.17	10,86,000/-	Differential duties of customs
2	Import/MPSEZ 2306/2017-18	27.06.17	2,71,500/-	Cash Security
3	1384	04.10.17	6,00,000/-	Differential duties of customs

**Rejection of value declared before Customs and re-determination of value of Import goods and demand of differential duties:**

**6.1.** Section 14 of Customs Act, 1962, stipulates that the value of the imported goods shall be the transaction value of such goods, i.e. the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation. As discussed above at Para 4.1 to 4.4, it appeared that the *first* invoices presented to Customs Department were prepared to show value of imported PU leather/coated fabric at around USD 1.5 / Kgs and were not the true and correct invoices; that transaction values of import goods mentioned in said first invoices was not correct transaction value of the import goods; that *parallel* Invoices retrieved from mail ID [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com) of Shri Pradeep Jindal by officers of DRI were the actual Invoices; that transaction value reflected in such *parallel* Invoices was the actual transaction value of import goods. As such, value of import goods declared in the Bills of Entry filed by M/s. Sai Exports, New Delhi before Customs Department while seeking clearance of import goods is required to be rejected in terms of Section 14 of Customs Act, 1962, read with provisions of Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter also referred to as "*Rules 2007*") and re-determined on the basis of parallel invoice retrieved from email ID of Shri Pradeep Jindal in terms of Section 14 of Customs Act, 1962, read with provisions of Rule 3 of Rules 2007, as said parallel invoices reflected actual transaction value. The terms of sale as per prices shown in parallel Invoices is CIF Mundra, except in case of goods cleared under Bill of Entry No. 9202350 dated 06.04.2017. Importer, vide email dated 10.07.2018, forwarded copy of ocean freight certificate in respect of consignment covered under said Bill of Entry No. 9202350 dated 06.04.2017, in response to email dated 09.07.2018 of DRI. The details regarding consignments of PU leather/coated fabric including value thereof declared by M/s. Sai Exports, New Delhi in the Bills of Entry and assessable value re-determined on the basis of transaction value

reflected in parallel invoices retrieved from email ID of Shri Pradeep Jindal, were annexed to the SCN (Annexure-I).

**6.2.** As discussed at Para 4.1 to 4.4 and Para 6.1 above, value of the import goods declared in the Bills of Entry (as detailed in Annexure-I) filed before the Customs Department was much less than the actual transaction value thereof. Since duties on the subject import is required to be paid as percentage of their value, duties have been short levied and short paid in respect of consignments covered under 6 Bills of Entry listed in Annexure-I. The duties on the PU leather/coated fabric imported and cleared under above mentioned Bills of Entry is required to be levied on the value of said goods re-determined on the basis of actual transactions reflected in *parallel* invoices, as discussed in foregoing Para 6.1. Accordingly, the duties of Customs leviable and differential duties as compared to duties levied and paid at the time of clearance of import goods were ascertained in Annexure-I. Parallel Invoices reflecting actual transaction value were recovered from email ID of proprietor of M/s. Pradeep Impex, Delhi Shri Pradeep Jindal under Panchanama proceedings. Shri Aman Anand has admitted in his statement that he, with the help of Shri Simran Barmi, started import in the name of M/s. Sai Exports, New Delhi; that Shri Pradeep Jindal used to place orders on behalf of M/s. Sai Exports, New Delhi; that actual import documents used to be received by Shri Pardeep in his email account; that for the purpose of custom clearance other set of documents used to be received in which value of goods used to be at rates similar to rates at which PU leather was being cleared at Mundra Port; that actual value as per invoices received in mail used to be around twice the value shown in documents filed before Customs Department. He further stated that out of six consignments imported in the name of M/s. Sai Exports, New Delhi, one consignment was imported on behalf of Shri Pradeep Jindal and other 5 consignments were imported on behalf of him (Aman). Further, Shri Pradeep Jindal in his statement has corroborated the same fact that one consignment covered under Invoice Nos. G193 and G194 (mentioned at Sr. 2 of Annexure-I) was directly received by him. He had also stated in his earlier statement that he committed the mistake of asking supplier to prepare invoices showing prices in the range of USD 1.5/Kgs. He was regularly receiving parallel invoices showing actual transaction value in mail, which both Shri Simran Barmi and Shri Aman Anand were aware of. The mail under parallel invoices (correct invoices) used to be received by Shri Pradeep Jindal were also forwarded to Shri Aman Anand. Despite being aware of actual facts, they did not present said *parallel* invoices to Customs Department for clearance of goods. The first Invoices



presented to Customs through Customs Brokers reflected false value of goods in the range of USD 1.5 / Kgs. As such, value of import goods was mis-stated in the import documents filed before Customs Department and actual transaction value was deliberately suppressed from Department with apparent motive of evading of duties of Customs. Further the description of goods was mis-declared in the import documents to show the goods as stock lot and not prime goods. Therefore, provisions of Section 28(4) of Customs Act 1962 are attracted for demanding duties of customs aggregating to **Rs.81,43,821/-** leviable on the consignments (detailed in Annexure-I) but not levied and not paid at the time of clearance. Five consignments (mentioned at Sr. No. 1 and Sr. No. 3 to 6 of Annexure-I) were imported on behalf of Shri Aman Anand, the proprietor of M/s. Aman Impex, Delhi. He has categorically admitted this fact in his statement and that Shri Simram Barmi used to received Rs.30,000/- to Rs.50,000/- for each consignment. As such, differential duties of customs in respect of consignments mentioned at Sr. 1 and at Sr. No. 3 to 6 of Annexure-I were found liable to be demanded and recovered under provisions of Section 28(4) of Customs Act, 1962, along with applicable interest in terms of Section 28 AA of Customs Act, 1962, jointly and severally from Shri Aman Anand, Proprietor of M/s. Aman Impex and M/s. Sai Exports, New Delhi. Consignment mentioned at Sr. No. 2 of Annexure-I was imported on behalf of Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex, Delhi. Therefore, differential duties of customs in respect of consignment mentioned at Sr. 2 of Annexure-I appeared to be liable to be demanded and recovered under provisions of Section 28(4) of Customs Act, 1962, along with applicable interest in terms of Section 28 AA of Customs Act, 1962, jointly and severally from Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex, Delhi and M/s. Sai Exports, New Delhi.

**Confiscation of goods:**

7. From the facts and evidences discussed above at Para 4.1 to 4.4 and Para 6.2, it emerged that actual invoices in respect of PU leather/coated fabric imported in the name of M/s. Sai Exports, New Delhi, were being received by Shri Pradeep Jindal in his email account [pjindal16@yahoo.com](mailto:pjindal16@yahoo.com). However, said invoices were not being presented to Customs Department for seeking clearance of goods. Instead Bills of Entry for clearance of import goods were being filed on the basis of incorrect and false Invoices showing less value and false description of goods as "Stock Lot of PU leather". In the Bills of Entry and in the Invoice and Packing List presented to Customs, the description of goods was declared as "Stock Lot of PU leather" and quantity in kilograms.

The examination of one of the consignment covered under Bill of Entry No. 2079599 dated 13.06.2017 revealed that the goods were not stock lot and quantity of goods, accurately matched, Item wise and Colour wise, with the quantity mentioned in parallel Invoice and Packing List No. G17HBB29004 dated 23<sup>rd</sup> May 2017 retrieved from email ID of Shri Pradeep Jindal. The parallel invoices / packing lists, in respect of other five consignments, retrieved from mail ID of Pradeep Jindal also mention goods by specific name, colour and quantity in meters. The value of goods shown in parallel invoices is much higher than the value of goods declared in the Bills of Entry, revealing mis-declaration of value in the Bill of Entry and import documents filed before Customs. By these acts of mis-declaration of value and description of subject import goods, listed at Sr. No. 1 to 5 of Annexure-I, in the Bills of Entry and in import documents, have rendered subject import goods, i.e. PU leather/coated fabric, valued at **Rs.3,94,71,412/-** (details as per Annexure-I) appeared to be liable for confiscation as per the provisions of Section 111(m) of the Customs Act, 1962. Also, the acts of mis-declaration of value and description of subject import goods covered under Bill of Entry No. 2079599 dated 13.06.2017, has rendered subject import goods i.e., PU leather/coated fabric, valued at **Rs.58,85,155/-** (Sr. No. 6 of Annexure-I), liable for confiscation as per the provisions of Section 111(m) of the Customs Act, 1962.

**Roles of various persons and liability to penalty:**

**M/s. Sai Exports, New Delhi and its proprietor Shri Simran Singh Barmi**

**8.1.** M/s. Sai Exports, New Delhi, is a proprietary concern and Shri Simran Singh Barmi is its Proprietor. As discussed above at Para 3.1 and 4.2.1, he has stated that he was aware that Shri Pradeep Jindal used to receive actual invoices on his email IDs; that value of the import goods used to be declared less in the Invoices presented to Customs Department; that he used to get between Rs.30,000/- to Rs.50,000/- per consignment. These facts were also corroborated by Shri Pradeep Jindal and Shri Aman Anand in their respective statements. As discussed at Para 4.1 to 4.4, it has been revealed that goods imported as stock lot of PU leather in the name of M/s. Sai Exports, New Delhi, were mis-declared with respect to value, description and other material particulars. Shri Simran Singh Barmi has allowed IEC of M/s. Sai Exports, New Delhi, to be used for import and clearance of goods by mis-declaration of value and other material particulars in the Bills of Entry and import documents. He also acquired possession of the goods and sold them to Shri Aman Anand and Shri Pradeep Jindal despite knowing that the said goods



were imported by way of multiple mis-declarations. By the above acts of commission and omission, Shri Simran Singh Barmi (Proprietor of M/s. Sai Exports, New Delhi) has rendered subject import goods i.e., PU leather/coated fabric, having re-determined assessable value of **Rs.3,94,71,412/-** (details at Sr. 1 to 5 of Annexure-I) and liable for confiscation as per provisions of Section 111(m) of Customs Act, 1962 and himself liable to penalty as per provisions of Section 112(a) & Section 112(b) of the Customs Act, 1962. Further, he has allowed use of invoices showing false value for clearance of said goods. As such, he has rendered himself liable to penalty as per provisions of Section 114AA of Customs Act, 1962. Still further, as discussed at Para 6.2 above, duties of Customs in respect of all consignments (as detailed in Annexure-I) have been short levied and short paid by reasons of mis-statement and suppression of facts. The value of import goods was mis-declared in the Import Invoices presented to Customs Department and actual invoices reflecting correct transaction value were not submitted to Customs department at the time of seeking clearance of goods. Therefore, M/s. Sai Exports, New Delhi, is liable for penalty under provisions of Section 114A of Customs Act, 1962. Also, by the above acts of commission and omission, Shri Simaran Singh Barmi (proprietor of M/s. Sai Exports, New Delhi) has rendered subject import goods, i.e. PU leather/coated fabric, covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined assessable value of **Rs.58,85,155/-** (Sr. No. 6 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and himself liable to penalty as per provisions of Section 112(a) of Customs Act, 1962. Further, he has allowed use of invoices showing false value for clearance of goods covered under Bill of Entry No. 2079599 dated 13.06.2017. As such he has rendered himself liable to penalty as per provisions of Section 114AA of Customs Act, 1962.

**Shri Pradeep Jindal (Proprietor of M/s. Pradeep Impex, Delhi)**

**8.2.** Shri Simran Barmi has stated in his statement that Shri Pradeep Jindal used to remain in contact with suppliers and placed orders on behalf of M/s. Sai Exports, New Delhi; that actual invoices used to be received by Shri Pradeep in his email account; that out of the six consignments imported in the name of M/s. Sai Exports, New Delhi one consignment was sold to him. Shri Aman has also corroborated the fact that said one consignment was imported on behalf of Shri Pradeep. Shri Pradeep Jindal has also accepted in his statement that actual invoices, including that pertaining to consignments imported in the name of M/s. Sai Exports, New Delhi used to be received by

him in his email account; that value of goods used to be declared less in terms of USD / Kgs before Customs. As discussed at Para 4.1 to 4.4 above, it has been revealed that actual (parallel) invoices for goods to be cleared in the name of M/s. Sai Exports, New Delhi used to be received by him in his email ID and he forwarded said documents to Shri Aman Anand. Further, one consignment (Sr. No. 2 of Annexure-I) under Invoice Nos G 193 and G 194 was imported on behalf of him in the name of M/s. Sai Exports, New Delhi. Shri Pradeep Jindal also engaged in acquiring possession and further selling of goods imported in the name of M/s. Sai Exports, New Delhi, despite knowing that the said goods were being imported by declaring less value and being mis-declaration in other relevant particulars. By the above acts of commission and omission, Shri Pradeep Jindal has rendered subject import goods, i.e. PU leather/coated fabric, listed at Sr. No. 1 to 5 of Annexure-I, having re-determined assessable value of **Rs.3,94,71,412/-** (Col No. 12 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and himself liable to penalty as per provisions of Section 112(a) & Section 112(b) of the Customs Act, 1962. Further, from the mail correspondence with supplier, as discussed at Para 4.2.1 above, it appeared that documents to be presented to Customs used to be prepared on the instruction of himself and Shri Aman Anand. Therefore, he is liable for penalty as per provisions of Section 114AA of the Customs Act, 1962, for causing to make false and incorrect invoices for use in clearance of goods from Customs. Still further, as discussed at Para 6.2 above, duties of customs in respect of all consignments (as detailed in Annexure-I) have been short levied and short paid by reasons of mis-statement and suppression of facts. Therefore, Shri Pradeep Jindal (Proprietor of M/s. Pradeep Impex, Delhi) is liable for penalty under provisions of Section 114A of the Customs Act, 1962, in respect of the consignment mentioned at Sr. 2 of Annexure-I. Also, by the above acts of commission and omission, Shri Pradeep Jindal has rendered subject import goods, i.e. PU leather/coated fabric, covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined assessable value of **Rs.58,85,155/-** (Sr. No. 6 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and himself liable to penalty as per provisions of Section 112(a) of Customs Act, 1962. Since, first Invoice and Packing List, in respect of Bill of Entry No. 2079599 dated 13.06.2017, showing false value and description was also found in his email account revealing that the said documents had been forwarded to Customs Brokers or Simran Barmi or Shri Aman, for use in clearance of goods. Therefore, he is liable for penalty as per provisions of Section 114AA of



Customs Act, 1962, in respect of goods covered under Bill of Entry No. 2079599 dated 13.06.2017.

**Shri Aman Anand (Proprietor of M/s. Aman Impex, New Delhi)**

**8.3.** Shri Aman Anand has stated in his statement that actual import documents used to be received by Shri Pardeep in his email account; that for the purpose of custom clearance other set of documents used to be received through Banks or through DHL courier; that value of goods used to be at rates similar to rates at which PU leather was imported at Mundra Port; that actual value as per invoices received in mail used to be around twice the value shown in documents filed before Customs Department; that out of total six consignments, one consignment was imported on behalf of Shri Pradeep Jindal and 5 consignments were imported on behalf of him (Aman); that said differential amount was to be paid to suppliers; that confirmation of correctness of details in checklist used to be confirmed by either him or Shri Simran or Shri Pradeep. Shri Simran has stated that money for purchasing consignments used to be received from Shri Aman. Further mails of actual parallel invoices received from suppliers used to be forwarded to him by Shri Pradeep Jindal. Therefore, Shri Aman Anand was aware that actual price of goods was much more than that shown in the Bills of Entry and the description of goods was also mis-declared which were filed in the name of M/s. Sai Exports, New Delhi. Shri Aman Anand was also engaged in acquiring possession and further selling of goods imported in the name of M/s. Sai Exports, New Delhi despite knowing that the said goods were being imported by declaring less value and being otherwise mis-declared. By the above discussed acts of commission and omission, Shri Aman Anand has rendered subject import goods, i.e. PU leather/coated fabric, cleared under Bills of Entry listed at Sr. No. 1 to 5 of Annexure-I, having re-determined assessable value of **Rs.3,94,71,412/-** (Col No. 12 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of the Customs Act, 1962 and himself liable to penalty as per provisions of Section 112(a) & Section 112(b) of the Customs Act, 1962. Since, he used to authorise use of invoices showing false value and description in clearance of goods, he is also liable to penalty as per provisions of Section 114AA of the Customs Act, 1962. Still further, as discussed at Para 6.2 above, duties of customs in respect of all consignments (as detailed in Annexure-I) have been short levied and short paid by reasons of mis-statement and suppression of facts. Therefore, Shri Aman Anand (Proprietor of M/s. Aman Impex, New Delhi) is liable for penalty under provisions of Section 114A of the Customs Act, 1962, in respect of

consignments mentioned at Sr. 1 and 3 to 6 of Annexure-I. Also, by the above discussed acts of commission and omission, Shri Aman Anand has rendered the subject import goods, i.e. PU leather/coated fabric, covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined assessable value of **Rs.58,85,155/-** (Sr. No. 6 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and himself liable to penalty as per provisions of Section 112(a) of Customs Act, 1962. Since, he used to authorise use of invoices showing false value and description in clearance of goods, he is also liable to penalty as per provisions of Section 114AA of Customs Act, 1962, in respect of goods covered under Bill of Entry No. 2079599 dated 13.06.2017.

9. Therefore, in respect of the goods covered under Bill of Entry No. 2079599 dated 13.06.2017 and placed under seizure vide seizure memo dated 27.06.2017, Show Cause Notice F.No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 12.12.2017 was issued by the Joint Director, DRI, Ahmedabad Zonal Unit, Ahmedabad, wherein:

9.1. Shri Simaran Singh Barmi, Proprietor of M/s. Sai Exports, 877, Ground Floor, Ashoka Palace, Joshi Lane, Karol Bagh, New Delhi – 110005 (IEC No. 0515040681) and Shri Aman Anand residing at C 4/6, Model Town, 1<sup>st</sup> Floor, Back Side, Delhi – 110009, were jointly and severally, called upon to Show Cause to the Additional/Joint Commissioner of Customs, O/o Principal Commissioner of Customs, Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch - 370421, as to why:-

- (i) The value of import goods i.e. 'PU leather/coated fabric' declared in Bill of Entry No. 2079599 dated 13.06.2017 should not be rejected under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007, read with Section 14 of Customs Act, 1962 and re-determined as **Rs.58,85,155/-** as per provisions of Section 14 of Customs Act, 1962, read with Rule 3 (1) of the Customs valuation (Determination of value of imported goods) Rules, 2007.
- (ii) The import goods i.e. 'PU leather/coated fabric' covered under Bill of Entry No. 2079599 dated 13.06.2017 having re-determined value as **Rs.58,85,155/-** should not be confiscated as per the provisions of Section 111(m) of Customs Act, 1962.



- (iii) Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962.
- (iv) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962.
- (v) Rs.2,71,500/- cash security deposited by them during the course of investigation should not be adjusted and appropriated against redemption / penalty that may be imposed on them.

**9.2.** Shri Pradeep Jindal, resident of KP 87, Pithampura, Nr. City Park Hotel, Delhi - 34, was called upon to Show Cause to the Additional/Joint Commissioner of Customs, O/o Principal Commissioner of Customs, Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch -370421, as to why:-

- (i) Penalty should not be imposed on him under Section 112(a) of the Customs Act, 1962.
- (ii) Penalty should not be imposed on him under Section 114AA of the Customs Act, 1962.

**10.** On conclusion of investigations regarding the remaining (past) consignments, Show Cause Notice F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 27.09.2018 was issued by the Additional Director General, DRI, Ahmedabad Zonal Unit, Ahmedabad, wherein:

**10.1.** Shri Aman Anand (Proprietor of M/s. Aman Impex, New Delhi) residing at C 4/6, Model Town, 1<sup>st</sup> Floor, Back Side, Delhi - 110009 and Shri Simran Singh Barmi, Proprietor of M/s. Sai Exports, 877, Ground Floor, Ashoka Palace, Joshi Lane, Karol Bagh, New Delhi - 110005 (IEC No. 0515040681) were jointly and severally, called upon to Show Cause to the Commissioner of Customs, Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch-370421, as to why:-

- (i) The value of import goods i.e. 'PU leather/coated fabric' declared in Bills of Entry listed at Sr. No. 1 and 3 to 6 of Annexure-I, should not be rejected under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007 read with Section 14 of Customs Act, 1962 and re-determined as mentioned in column No. 12 of Annexure-I,

in terms of provisions of Section 14 of Customs Act, 1962 read with Rule 3 (1) of the Customs valuation (Determination of value of imported goods) Rule, 2007.

- (ii) Differential duties of customs aggregating to **Rs.51,60,968/- (Rupees fifty one lakh sixty thousand nine hundred sixty eight only)** in respect of consignments, listed at Sr. No. 1 and 3 to 6 of Annexure-I, evaded by them on the said goods, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with interest applicable under provisions of Section 28 AA of Customs Act, 1962.
- (iii) **Rs.16,86,000/-** (Sr. No. 1 and 3 of Table 2 at Para 5) paid by them during course of investigation should not be adjusted and appropriated against differential duties of customs & other dues demanded from them at sub para (ii) above. *(Rs. 2,71,500/- cash security (Sr. No. 1 and 3 of Table 2 at Para 5) was proposed for adjustment under SCN F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 and date 12.12.2017).*
- (iv) The import goods i.e. 'PU leather/coated fabric' covered under Bills of Entry listed at Sr. No. 1 and 3 to 5 of Annexure-I having re-determined value as mentioned in column No. 12 of Annexure-I should not be confiscated as per the provisions of Section 111(m) of Customs Act, 1962.
- (v) Penalty should not be imposed on them under Section 114 A of the Customs Act, 1962.
- (vi) Penalty should not be imposed on them under Section 112(a) & Section 112(b) of the Customs Act, 1962.
- (vii) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962.

**10.2.** Shri Pradeep Jindal (Proprietor of Pradeep Impex, Delhi) residing at KP 87, Pithampura Nr City Park Hotel, Delhi - 34 and Shri Simran Singh Barmi, Proprietor of M/s. Sai Exports, 877, Ground Floor, Ashoka Palace, Joshi Lane, Karol Bagh, New Delhi - 110005 (IEC No. 0515040681) were jointly and severally, called upon to Show Cause to the Commissioner of Customs,



Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch-370421, as to why:-

- (i) The value of import goods i.e. 'PU leather/coated fabric' declared in Bills of Entry listed at Sr. No. 2 of Annexure-I, should not be rejected under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007 read with Section 14 of Customs Act, 1962 and re-determined as mentioned in column No. 12 of Annexure-I, in terms of provisions of Section 14 of Customs Act, 1962 read with Rule 3 (1) of the Customs valuation (Determination of value of imported goods) Rule, 2007.
- (ii) Differential duties of customs aggregating to **Rs.29,82,853/- (Rupees twenty nine lakh eighty two thousand eight hundred fifty three only)** in respect of consignments, listed at Sr. No. 2 of Annexure-I, evaded by them on the said goods, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with interest applicable under provisions of Section 28 AA of Customs Act, 1962.
- (iii) The import goods i.e. 'PU leather/coated fabric' covered under Bill of Entry listed at Sr. No. 2 of Annexure-I, having re-determined value as mentioned in column No. 12 of Annexure-I, should not be held liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962.
- (iv) Penalty should not be imposed on them under Section 114 A of the Customs Act, 1962.
- (v) Penalty should not be imposed on them under Section 112(a) & Section 112(b) of the Customs Act, 1962.
- (vi) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962.

**10.3.** Shri Pradeep Jindal (Proprietor of Pradeep Impex, Delhi) residing at KP 87, Pithampura, Nr. City Park Hotel, Delhi - 34, was called upon to Show Cause to the Commissioner of Customs, Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch-370421, as to why:-

- (i) Penalty should not be imposed on him under Section 112(a) & Section 112(b) of the Customs Act, 1962 for rendering the goods, listed at Sr. No. 1 and 3 to 5 of Annexure-I, liable for confiscation.
- (ii) Penalty should not be imposed on him under Section 114AA of the Customs Act, 1962, in respect of consignments listed at Sr. No. 1 and 3 to 5 of Annexure-I.

**10.4.** Shri Aman Anand (Proprietor of M/s. Aman Impex, New Delhi) residing at C 4/6, Model Town, 1<sup>st</sup> Floor, Back Side, Delhi - 110009, was called upon to Show Cause to the Commissioner of Customs, Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch-370421, as to why:-

- (i) Penalty should not be imposed on him under Section 112(a) & Section 112(b) of the Customs Act, 1962, for rendering the goods, listed at Sr. No. 2 of Annexure-I, liable for confiscation.
- (ii) Penalty should not be imposed on him under Section 114AA of the Customs Act, 1962, in respect of the consignment listed at Sr. No. 2 of Annexure-I.

**CORRIGENDUM TO THE SCN:**

**11.** A corrigendum to the SCN F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 12.12.2017 was issued vide F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 02.04.2019 by the Joint Director, DRI, Ahmedabad Zonal Unit, Ahmedabad, which is reproduced hereunder:-

*The words "the Additional/Joint Commissioner of Customs, O/o Principal Commissioner of Customs, Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch-370421", both, at Para 9.1, Page No. 12 and at Para 9.2, Page No. 13 of the Show Cause Notice F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 12.12.2017, shall be substituted with the words "the Principal Commissioner of Customs, Mundra Port & SEZ, Ground Floor & 1st Floor, 5AE, Port User Building, Custom House, Mundra Port, District Kutch-370421."*



## **DEFENCE SUBMISSIONS:**

**12.1.** In response to the SCN F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 12.12.2017, M/s. Sai Exports, New Delhi, vide their letter received on 01.03.2018, informed that they have decided to file application before the Settlement Commission and they are ready to pay the differential amount and also requested for issuance of full SCN so that they can go to Settlement Commission as soon as possible.

**12.2.** In response to the SCN F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 12.12.2017, Shri Pradeep Jindal, submitted written submissions through his advocate Seeddhan Associates, vide letter dated 21.01.2019, wherein they, *inter alia*, submitted as under:

- With regard to the allegations, as contained in the said Show Cause Notice, it is submitted that the same are false and baseless, since he, alongwith other co-noticees was forced/coerced to make some involuntary and incorrect statements. In fact, department was not even authorized to record those statements in view of section 104(5) of the Act, the alleged offences, if any, being non-cognizable in nature.
- It is further submitted that the whole basis of the impugned Show Cause Notice is the so called facts collected by the department, pursuant to the investigation/ inquiries, which the concerned officials were not empowered in the absence of any permission from the Court (the Magistrate) in view of section 104 (5) of the Customs Act, 1962, according to which the alleged offences are non-cognizable in nature. Accordingly, no cognizance of those facts could be taken. In this regard, reference is made to a recent judgment of Hon'ble Delhi High Court on the issue, namely Adesh Kumar Gupta vs. CBI (W.P. (CrI.) 725/2015 decided on 02.09.2015).
- It is submitted that in the abovementioned case though the procedure, as laid down in section 155 Cr.P.C., was followed to some extent in as much as that an order was also procured from the Ld. Magistrate, who ordered for investigation pursuant to the prayer of the investigating agency in this regard. However, that order was also held to be violative of the said provision of section 155 Cr.P.C. in the absence of any reasoned order to that effect. On the other hand, it is submitted that in the present case, the department did not even move any application before any court, whatsoever, for initiating the proceedings under the

Customs Act, 1962. Therefore, on this ground alone, the impugned show cause notice is liable to be dropped.

- On 30.09.2011, Hon'ble Supreme Court in *Om Prakash & Anr. vs. Union of India & Anr.*, (2011) 14 SCC 1, held that offences under section 135 of the Customs Act, 1962 were 'non-cognizable' and 'bailable', and that compliance with the provisions of section 155 of Cr.P.C was therefore mandatory for investigating the offences under section 135 of the Customs Act, 1962. Section 155 of Cr.P.C. requires order of jurisdictional Magistrate to investigate a 'non-cognizable' offence, and denudes the officer from even power to arrest unless under a warrant issued by Magistrate.
- That, to exclude the applicability of section 155 of Cr.P.C. as laid down in the said authoritative pronouncement of Hon'ble Supreme Court in *Om Prakash* (supra) only for some specified category of offences under section 135, vide section 126 of the Finance Act, 2012, w.e.f. 28.05.2012, sub-section (4) of section 104 of Customs Act, 1962 was amended. Therefore, the specific offences referred under clause (a) or (b) in sub-section (4) of section 104 of Customs Act, 1962, which were earlier 'non-cognizable' requiring compliance with section 155 of Cr.P.C. as held in *Om Prakash* (supra), were made 'cognizable' w.e.f. 28.05.2012. All offences however remained 'Bailable' irrespective of whether they were cognizable or non-cognizable. Consequently, w.e.f. 28.05.2012, a Customs Officer was not required to comply with mandatory procedural requirements of obtaining from a Magistrate (i) order granting permission to investigate and (ii) warrant to arrest a person, as prescribed in section 155 of Cr.P.C. in Chapter XII "information to the Police and their Powers to investigate". However, now only the other procedural requirements applicable for investigating a 'cognizable' case as laid down mainly in the said Chapter XII of Cr.P.C. were required to be followed in all those matters where no other specific procedure is prescribed under the Customs Act, 1962, viz -

- (i) Section 154 "Information in Cognizable Cases",
- (ii) Section 156 "Police officer's power to investigate cognizable case",
- (iii) Section 157 "Procedure for investigation"
- (iv) Section 158 "Report how submitted"



(v) Section 167(1) "Procedure when investigation cannot be completed in 24 hours"

(vi) Section 170 "Cases to be sent to Magistrate when evidence is sufficient",

(vii) Section 172 "Dairy of proceedings in investigation",

(viii) Section 173 "Report of police officers on completion of investigation".

- Therefore, compliance with the provision of Section 154 of the Code became mandatory and the officer concerned was thus duty bound to register the case on the basis of any information disclosing cognizable offence. The word "shall" appearing in Section 154, mandates entering the information about the commission of a cognizable offence in the book in such form commonly known as "First Information Report (FIR)". It is also unambiguous position of law that there can be no investigation without registering a case, as observed by the Hon'ble Supreme Court in *Mohindro vs. State of Punjab - (2001) 9 SCC 581*.
- The Hon'ble Supreme Court in the case of *Bhajan Lal (Supra)*, after examining the whole gamut and intricacies of the mandatory nature of Section 154 of the Code in a "cognizable" offence, held that compliance with the provision of Section 154 of the Code is mandatory and the officer concerned is duty bound to register the case on the basis of such information disclosing "cognizable" offence. The word "shall" appearing in Section 154 mandates entering the information about the commission of a cognizable offence in a book in such form commonly known as "First Information Report (FIR)".
- The "classification of offence" under section 135 of the Customs Act, 1962 was again amended w.e.f. 10.05.2013, and offences committed under section 135 of the Customs Act, 1962 on or after 10.05.2013 relating to four clauses under substituted sub-section (6) were made "non-bailable", and rest remained "bailable" under sub-section (7) of Section 104 of the Customs Act, 1962.
- That, therefore, it is reiterated that DRI investigated the matter illegally and without having any jurisdiction with malafide intention. In fact, entire proceedings emanating from illegal commencement of investigations without following the procedure under Cr.P.C., are illegal, null and void ab initio.

- Although in the Customs Act, 1962, there is no specific provision for seeking permission from Magistrate under Section 155 of Cr.P.C., and filing of any FIR under 154 of Cr.P.C., or filing report under Section 173(2) of Cr.P.C. or complaint under Section 190 of Cr.P.C., however, on the basis of whether the offence alleged is cognizable or non-cognizable, the relevant provisions of Cr.P.C. would be applicable in terms of section 4(2) of Cr.P.C.
- After amendment of section 104(4) w.e.f. 28.05.2012, in investigation of a 'cognizable' offence under Customs Act, instead of section 155, now section 154, 157 and Section 173 of Cr.P.C. shall apply necessarily in respect of specified category of offences. Even in amended Customs Act, 1962, there is no provision for filing complaint unlike other statutes relating to 'cognizable' offences specifically providing for filing of complaint, such as offence under Prevention of Money Laundering Act - PMLA, wherein second proviso to Section 45(1) of PMLA bars cognizance of the 'cognizable' offence under PMLA except upon a complaint in writing.
- It is relevant to note that as evident from 2010 CrLJ 1960 - Sanjay Kumar Choudhary Vs. Govt. of India, First Information Report-FIR (referred as Enforcement Case Information Report - ECIR) is being registered by Enforcement Directorate for investigating cognizable offences under PMLA, in absence of any provision to the contrary. Other proceedings such as seizure, adjudication and confiscation also run simultaneously after recording FIR under PMLA on the basis of material collected in such investigations. Similarly, the Customs department was also bound to register FIR under section 154 and to send report under section 157 of Cr.P.C., for valid investigation into a 'cognizable' offence under Customs Act, 1962.
- The powers conferred upon an officer of Customs under Chapter XIII- "Searches, Seizure and Arrest" of Customs Act; 1962, are for inquiry into the allegations, circumstances or relationships in order to obtain factual information and make certain whether or not a violation of any law has been committed. Consequently, the exercise of powers conferred vide the said Chapter amounts to "Investigation" into non-cognizable offence in light of para 115 of Judgment rendered by Hon'ble Apex Court in Directorate of Enforcement vs. Deepak Mahajan (1994) 3 SCC 440 r/w Section 104(4) of the Customs Act, 1962 (before amended vide Finance Act, 2012 w.e.f. 28.05.2012 by Section 126 thereof).



- The investigations not authorized by law, are being continued with intent to prosecute the present noticee for alleged offence under the Customs Act, 1962, without following the prescribed procedure under section 154, 155, 156, 157 and 172 of Cr.P.C.
- It is settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "*sublato fundamento cadit opus*" meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case. Since, the noticee has neither done nor omitted to do anything, which would render the seized goods liable to confiscation, he is not liable to any penalty.
- It is requested that the noticee may kindly be granted personal hearing in the matter, when all the co-noticees, panch witnesses and the departmental witnesses are available for the purpose of cross-examination.

**12.3.** In response to the SCN F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 27.09.2018, M/s. Sai Exports, New Delhi, vide their letters received on 14.11.2018 & 28.12.2018, informed that the issues involved in the SCN are quite complicated and voluminous and therefore, they sought extension upto 20.12.2018 & 25.01.2019, respectively, for submission of a written reply. However, till date, neither M/s. Sai Exports, nor any of the other noticees have submitted any written reply to the SCN dated 27.09.2018.

**PERSONAL HEARING:**

**13.1.** The personal hearing in the instant case was held on 29.04.2019, which was attended by Shri Ashutosh, Advocate on behalf of all the noticees, wherein he submitted that written submission in respect of the SCN dated 27.09.2018 will be made within 10 days and requested to grant Personal Hearing thereafter.

**13.2.** No further defence submissions were received from any of the noticees (or their advocate), thereby indicating that they had nothing further to add in their defence despite being given sufficient time and opportunity.

## DISCUSSION AND FINDINGS:

14. I have carefully gone through the records of the case, including the Show Cause Notice dated 12.12.2017 read with Corrigendum dated 02.04.2019, Show Cause Notice dated 27.09.2018, the written submissions dated 21.01.2019 and the record of Personal Hearing held on 29.04.2019.

15. I find that the Show Cause Notice dated 12.12.2017 issued under Section 124 of the Customs Act, 1962, in respect of the goods covered under Bill of Entry No. 2079599 dated 13.06.2017 and placed under seizure, vide seizure memo dated 27.06.2017, was made answerable to me vide Corrigendum dated 02.04.2019, alongside the Show Cause Notice dated 27.09.2018 issued under Section 28 of the Customs Act, 1962. As the facts, allegations and noticees in both the Show Cause Notices are overlapping, therefore I take up both the Show Cause Notices together for the purpose of adjudication.

16. I find that despite sufficient time and opportunity, none of the noticees except Shri Pradeep Jindal in the case of SCN dated 12.12.2017, submitted any written submissions in response to the allegation raised in the said Show Cause Notices. During the course of personal hearing held on 29.04.2019, the Advocate, on behalf all the noticees, sought 10 days' time to submit written submissions in respect of SCN dated 27.09.2018 and requested to grant PH thereafter. However, even after more than one and half months' time, they have failed to submit any further defence submission and did not even seek extension for the same. Hence, I consider that the requirements of principles of natural justice have been fulfilled and I proceed to adjudicate the case on the basis of material evidence available on record.

17. I find that the following issues are involved in the subject Show Cause Notice, which are required to be decided:-

17.1. In respect of Show Cause Notice F.No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 12.12.2017:

- (i) Whether the value of import goods i.e. 'PU leather/coated fabric' declared in Bill of Entry No. 2079599 dated 13.06.2017 is required to be rejected under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007, read with Section 14 of Customs Act, 1962 and re-determined as **Rs.58,85,155/-** as per



provisions of Section 14 of Customs Act, 1962, read with Rule 3(1) of the Customs valuation (Determination of value of imported goods) Rules, 2007;

- (ii) Whether the import goods i.e. 'PU leather/coated fabric' covered under Bill of Entry No. 2079599 dated 13.06.2017 having re-determined value as **Rs.58,85,155/-** are required to be confiscated as per the provisions of Section 111(m) of Customs Act, 1962;
- (iii) Whether penalty is required to be imposed on the importer under Section 112(a) of the Customs Act, 1962;
- (iv) Whether penalty is required to be imposed on the importer under Section 114AA of the Customs Act, 1962;
- (v) Whether the cash security of Rs.2,71,500/- deposited by them during the course of investigation is required to be adjusted and appropriated against redemption fine / penalty imposable on them;
- (vi) Whether penalty is required to be imposed on Shri Pradeep Jindal under Section 112(a) of the Customs Act, 1962;
- (vii) Whether penalty is required to be imposed on Shri Pradeep Jindal under Section 114AA of the Customs Act, 1962.

**17.2.** In respect of Show Cause Notice F.No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 27.09.2018:

- (i) Whether the value of import goods i.e. 'PU leather/coated fabric' declared in Bills of Entry listed at Sr. No. 1 and 3 to 6 of Annexure-I, is required to be rejected under Rule 12 of the Customs Valuation (Determination of prices of the imported goods) Rules, 2007, read with Section 14 of Customs Act, 1962 and re-determined as mentioned in column No. 12 of Annexure-I, in terms of provisions of Section 14 of Customs Act, 1962 read with Rule 3(1) of the Customs valuation (Determination of value of imported goods) Rule, 2007;
- (ii) Whether the differential duties of customs aggregating to **Rs.51,60,968/- (Rupees fifty one lakh sixty thousand nine hundred sixty eight only)** in respect of consignments, listed at Sr. No. 1 and 3

to 6 of Annexure-I, evaded by them on the said goods, is required to be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with interest applicable under provisions of Section 28 AA of Customs Act, 1962;

- (iii) Whether the amount of **Rs.16,86,000/-** (Sr. No. 1 and 3 of Table 2 at Para 5) paid by them during course of investigation is required to be adjusted and appropriated against differential duties of customs & other dues recoverable from them;
- (iv) Whether the import goods i.e. 'PU leather/coated fabric' covered under Bills of Entry listed at Sr. No. 1 and 3 to 5 of Annexure-I, having re-determined value as mentioned in column No. 12 of Annexure-I, are required to be confiscated as per the provisions of Section 111(m) of Customs Act, 1962;
- (v) Whether penalty is required to be imposed on the importer in respect of Bills of Entry listed at Sr. No. 1 and 3 to 6 of Annexure-I, under Section 114 A of the Customs Act, 1962;
- (vi) Whether penalty is required to be imposed on the importer in respect of Bills of Entry listed at Sr. No. 1 and 3 to 6 of Annexure-I, under Section 112(a) & Section 112(b) of the Customs Act, 1962;
- (vii) Whether penalty is required to be imposed on the importer in respect of Bills of Entry listed at Sr. No. 1 and 3 to 6 of Annexure-I, under Section 114AA of the Customs Act, 1962;
- (viii) Whether the value of import goods i.e. 'PU leather/coated fabric' declared in Bills of Entry listed at Sr. No. 2 of Annexure-I, is required to be rejected under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007, read with Section 14 of Customs Act, 1962 and re-determined as mentioned in column No. 12 of Annexure-I, in terms of provisions of Section 14 of Customs Act, 1962 read with Rule 3 (1) of the Customs valuation (Determination of value of imported goods) Rule, 2007;
- (ix) Whether the differential duties of customs aggregating to **Rs.29,82,853/- (Rupees twenty nine lakh eighty two thousand eight hundred fifty three only)** in respect of consignment listed at Sr.



No. 2 of Annexure-I, evaded by them on the said goods, is required to be demanded and recovered from them under Section 28(4) of the Customs Act, 1962, along with interest applicable under provisions of Section 28 AA of Customs Act, 1962;

- (x) Whether the import goods i.e. 'PU leather/coated fabric' covered under Bill of Entry listed at Sr. No. 2 of Annexure-I, having re-determined value as mentioned in column No. 12 of Annexure-I, is required to be held liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962;
- (xi) Whether penalty is required to be imposed on the importer in respect of Bills of Entry listed at Sr. No. 2 of Annexure-I, under Section 114 A of the Customs Act, 1962;
- (xii) Whether penalty is required to be imposed on the importer in respect of Bills of Entry listed at Sr. No. 2 of Annexure-I, under Section 112(a) & Section 112(b) of the Customs Act, 1962;
- (xiii) Whether penalty is required to be imposed on the importer in respect of Bills of Entry listed at Sr. No. 2 of Annexure-I, under Section 114AA of the Customs Act, 1962;
- (xiv) Whether penalty is required to be imposed on Shri Pradeep Jindal under Section 112(a) & Section 112(b) of the Customs Act, 1962 for rendering the goods, listed at Sr. No. 1 and 3 to 5 of Annexure-I, liable for confiscation;
- (xv) Whether penalty is required to be imposed on Shri Pradeep Jindal under Section 114AA of the Customs Act, 1962, in respect of consignments listed at Sr. No. 1 and 3 to 5 of Annexure-I;
- (xvi) Whether penalty is required to be imposed on Shri Aman Anand under Section 112(a) & Section 112(b) of the Customs Act, 1962, for rendering the goods, listed at Sr. No. 2 of Annexure-I, liable for confiscation;
- (xvii) Whether penalty is required to be imposed on Shri Aman Anand under Section 114AA of the Customs Act, 1962, in respect of the consignment listed at Sr. No. 2 of Annexure-I.

**18.** After having framed the issues to be decided, now I proceed to deal with each of the issues individually. The foremost issue before me to be decided in the instant case is whether the importer M/s. Sai Exports, in connivance with Shri Pradeep Jindal and Shri Aman Anand, indulged in undervaluation of prime quality PU leather cloth by mis-declaring the same as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%' and also submitting false set of invoices showing less value and description as stock lot and quantity in Kgs to the Customs Department for the purpose of clearance of the impugned goods.

**19.** On going through the case records and the Show Cause Notices, I find that total six consignments of coated fabric/PU leather were imported in the name of M/s. Sai Exports, New Delhi and cleared through CH Mundra between February 2017 to June 2017. The last consignment sought clearance under Bill of Entry No. 2079599 dated 13.06.2017 was examined by DRI vide Panchanama dated 27.06.2018 and placed under seizure, vide seizure memo dated 27.06.2017, under the reasonable belief that the same are offending in nature and liable for confiscation under the provisions of Customs Act, 1962. The investigation carried out by the DRI revealed the modus operandi that the invoices and packing list, with true and correct details, used to be received in the mail ID of Shri Pradeep Jindal (pjindal16@yahoo.com), Proprietor of M/s. Pradeep Impex, Delhi. However, for custom clearance of the import goods, another set of invoices showing less value and description as stock lot and quantity in Kgs used to be presented to the Customs Department.

**20.** The investigating agency (DRI) has adduced the following evidences to substantiate the allegations of mis-declaration and under-valuation by the importer:

**20.1.** During the course of search at the premises of M/s. Pradeep Impex, Delhi situated at KP-87, Pithampura, Nr. City Park Hotel, Delhi, by officers of DRI under Panchanama dated 19.06.2017, printouts of parallel Invoices and Packing lists in respect of consignment of PU Leather imported and got cleared through Mundra Port in the name of M/s. Sai Exports, New Delhi, were recovered and withdrawn under Panchnama. Further, some more parallel Invoices/Packing List pertaining to import of PU leather/coated fabric in the name of M/s. Sai Exports, New Delhi, were retrieved from the same email ID of Shri Pradeep Jindal during recording of his statement in the office of DRI Gandhidham. Later, in his statement recorded under Section 108 of Customs Act, 1962, Shri Simran Singh Barmi, Proprietor of M/s. Sai Exports,



New Delhi, admitted that Shri Pradeep Jindal used to place orders for him and Invoices used to be received by him in his email. It was noticed that value and description of goods mentioned in these parallel invoices was different from the value and description mentioned in the Invoices and Packing List submitted to Customs Department for clearance of goods imported by M/s. Sai Exports, New Delhi. The goods in first invoice (presented to Customs) were described as stock lot, whereas the goods in parallel invoice are described as item name wise. Further the quantity in the first invoice is declared in Kilograms, whereas that in parallel invoice it is mentioned in meters. Therefore, the investigation revealed that the importer has tried to portray the goods as stock lot (not prime goods) by declaring description as 'stock lot of PU leather cloth' and quantity in Kgs but the truth was the goods were of prime quality as declared in parallel invoices retrieved from email ID of Shri Pradeep Jindal and said parallel invoices were true and correct invoices of the goods imported by M/s. Sai Exports, New Delhi.

**20.2.** The goods imported under declared Invoice No SE-2904 dated 23.05.2017 (Parallel Invoice No. G17HBB29004 dated 23.05.2017 retrieved from email ID) were examined by DRI under Panchanama dated 27.06.2017. On comparing the details of goods mentioned in parallel packing list (No. G17HBB29004 dated 23.05.2017) retrieved from email ID of Shri Pradeep Jindal with the inventory of goods covered under Bill of Entry No. 2079599 dated 13.06.2017 prepared as per Panchanama dated 27.06.2017, it was found that the quantity of goods mentioned in parallel packing list, accurately matched, even item wise and colour wise, with the actual quantity found during Panchanama. Further, Invoice & Packing List presented to Customs Department bear Sr. No. SE-2904 whereas Invoice & Packing List retrieved from email ID pjindal16@yahoo.com bear Sr. No. G17HBB29004. As per the Certificate of Country of Origin No. 17C3303A0001/00199 in respect of the goods covered under Bill of Entry No. 2079599 dated 13.06.2017 imported in container No. FSCU8891462, the Invoice No. is G17HBB29004, which matches with the Invoice retrieved from the email ID of Shri Pradeep Jindal. Therefore, it is established that the Invoice and Packing List (including G17HBB29004 dated 23.05.2017) retrieved from email ID (pjindal16@yahoo.com) of Shri Pradeep Jindal are actual Invoices and actual Packing Lists in respect of the consignments of PU leather/coated fabric imported in the name of M/s. Sai Exports, New Delhi.

**20.3.** Further, it was also noticed during examination of import goods of live consignment that last two stacks / rows (i.e. towards container gate) had rolls

of different type of Items and in stack / rows thereafter goods were uniformly arranged Item Wise. Therefore, had examination of 10% of goods been carried out by customs as per prevailing norms, the last two stack / rows would have given the impression of goods being of mixed lot / stock lot. Also, the paper slips of Stock Lot were pasted totally covering paper slips on which specific Item Name, Colour and quantity in meters were mentioned. These facts show that there was a deliberate attempt to present the imported goods as Stock Lot before Customs.

**20.4.** In his statement recorded under Section 108 of Customs Act, 1962, Shri Simran Singh Barmi, Proprietor of M/s. Sai Exports, Delhi, admitted that he did not know the suppliers and about costing/price of goods and as to how Customs clearance of goods was arranged and that these things were looked after by Shri Pradeep Jindal and Shri Aman Anand; that Shri Pradeep Jindal told him that he (Pradeep) used to receive actual invoices on his email IDs; that Shri Aman had given money to purchase consignment covered under Bill of Entry No. 2079599 dated 13.06.2017 and the said consignment had already been sold to Shri Aman. Further, Shri Pradeep Jindal, in his statement, has categorically admitted that invoices, including that pertaining to goods imported in the name of M/s. Sai Exports, New Delhi, used to be received in his email ID. The documents retrieved from email ID of Shri Pradeep Jindal included mail correspondence between Suppliers and Shri Pradeep Jindal pertaining to the consignments imported in the name of M/s. Sai Exports, Delhi. These emails received from suppliers had been forwarded by Shri Pradeep Jindal to email ID of Shri Aman Anand (amanimpex2007@gmail.com) within next one or two days. Hence, it is clear that Shri Pradeep Jindal arranged for placing, confirming orders, receiving documents and further forwarded these documents to Shri Aman Anand on behalf of whom said consignments were imported. Also, in the mail dated 24.04.2018, supplier has asked Shri Pradeep Jindal as to how to make documents for 2901 (i.e. consignment under invoice No. G17HBB29001) to be sent by courier indicating that documents to be presented to Customs were prepared on the instructions of Shri Pradeep Jindal.

**20.5.** Shri Aman Anand, in his statement, admitted that Shri Pradeep Jindal used to place orders on behalf of M/s. Sai Exports, New Delhi; that actual import documents used to be received by Shri Pardeep Jindal in his email account; that for the purpose of custom clearance other set of documents used to be received through Banks or through DHL courier; that value of goods used to be at rates similar to rates at which PU leather was imported at



Mundra Port; that actual value as per invoices received in mail used to be around twice the value shown in documents filed before Customs Department; that out of total six consignments, one consignment was imported on behalf of Shri Pradeep Jindal and 5 consignments were imported on behalf of him (Aman); that said differential amount was to be paid to suppliers. The same facts have been corroborated by Shri Pradeep Jindal in his statement dated 28.03.2018 and from the diary resumed, under Panchanama dated 19.06.2017, from the premises of Shri Pradeep Jindal. In his earlier statement, Shri Pradeep Jindal also admitted that he used to make entries in the same diary relating to goods imported by M/s. Pradeep Impex, Delhi when said goods used to be received in his godown after clearance from Customs. The above facts indicated that the consignment cleared under Bill of Entry No. 9202350 dated 06.04.2017 was imported on behalf of Shri Pradeep Jindal and the remaining five consignments on behalf of Shri Aman Anand.

**20.6.** Shri Pradeep Jindal and Shri Aman Anand have admitted in their respective statements that goods were being cleared in terms of Kgs at Customs House Mundra at around USD 1.5/Kg using import documents showing value at rates around USD 1.5/Kg and that actual invoices were being received in email ID of Shri Pradeep Jindal. In one of the email correspondence dated 02.06.2017 from email ID tracy@hc-pu.com, suppliers have asked Shri Pradeep for declaration in respect of payments made by some companies to M/s. Lishui Haihe International Enterprise Co. Ltd., indicating that differential amount was being arranged by him. Further, the remarks in the parallel invoices show that rate of goods mentioned in said invoices were mutually confirmed, ruling out any scope of discount. Shri Pradeep also admitted that the difference in value of goods as shown in parallel invoices and that in first invoices, was to be paid to the supplier.

**20.7.** On comparison of the first Invoices presented before the Customs Department with the parallel invoices retrieved from email ID of M/s. Pradeep Impex, Delhi, it was found that in all six parallel Invoices, goods are described by specific Item Name and Colour and value of goods was much more than that mentioned in the first invoices presented to Customs.

**20.8.** A live consignment of goods imported as "stock lot of PU leather cloth mixed of different sizes / thickness / colour width 56" +/- 10%" under Bill of Entry No. 2088636 dated 14.06.2017 by M/s. Pradeep Impex, Delhi (proprietor firm of Shri Pradeep Jindal) was also examined by officers of DRI under Panchanama dated 29.06.2017 and similar modus operandi was

uncovered, wherein the goods were found matching with the respective parallel invoices and packing lists retrieved from email ID (i.e. pjindal16@yahoo.com) of Shri Pradeep Jindal with respect to description and quantity item wise and colour wise. This indicated that the same procedure of getting goods cleared as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%' at very less value was adopted in case of both M/s. Pradeep Impex, Delhi and M/s. Sai Exports, New Delhi.

**20.9.** In light of the above facts and evidences on record, I find that it is clearly established that the actual Invoices, in respect of consignments imported as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%' in the name of M/s. Sai Exports, New Delhi, were the parallel invoices received by Shri Pradeep in his email ID pjindal16@yahoo.com. The said parallel Invoices reflected actual value and description of import goods and that invoices / packing list presented to the Customs department seeking clearance of goods described as "stock lot of PU leather cloth" had been prepared on the instructions of Importers to show false description and false value of goods in terms of weight @ USD 1.5 or 1.3 per Kgs. The said Invoices presented to the Customs Department were not true and correct documents and the same were used to mis-declare the imported goods in respect of value, description and other material particulars before the Customs Department. It is also revealed that five of the six consignments in the name of M/s. Sai Exports, New Delhi were imported on behalf of Shri Aman Anand and one consignment cleared under Bill of Entry No. 9202350 dated 06.04.2017, was imported on behalf of Shri Pradeep Jindal.

**21.** Now, I discuss the defence submissions made by Shri Pradeep Jindal, through his advocate Seeddhant Associates, vide letter dated 21.01.2019.

**21.1.** On going through the defence submissions, I find that the same is entirely based on the premise that the concerned officials (DRI) were not empowered, in the absence of any permission from the Court (the Magistrate) under Section 155 of the Cr.P.C., in view of section 104 (5) of the Customs Act, 1962, according to which the alleged offences are non-cognizable in nature and hence, no cognizance of those facts could be taken. They relied upon the recent judgment of Hon'ble Delhi High Court in the case of Adesh Kumar Gupta vs. CBI (W.P. (Crl.) 725/2015 decided on 02.09.2015). Further, they have submitted that even for investigating a 'cognizable' case, compliance with the provision of Section 154 of the Cr.P.C. was mandatory and the officer



concerned was thus duty bound to register the case on the basis of any information (FIR) disclosing cognizable offence and it is also unambiguous position of law that there can be no investigation without registering a case, as observed by the Hon'ble Supreme Court in *Mohindro vs. State of Punjab* - (2001) 9 SCC 581. In this regard, I find that the classification of offences as 'cognizable' or 'non-cognizable' has been mentioned in Section 104 of the Customs Act, 1962, which is only for purpose of arrest. The power to summon, record statement, conduct searches and investigation under the Customs Act, 1962, flow from the powers granted to Customs officers under the Customs Act, 1962 and the same are not bound by provisions of Cr.P.C. Hence, neither any permission is required from any Court/Magistrate in terms of Section 155 of the Cr.P.C., nor any FIR has to be registered in terms of Section 155 of the Cr.P.C., for initiating any investigation under the Customs Act, 1962. The case laws cited by the noticee pertain to the CBI and Police and are therefore, not applicable for Customs cases. There is a catena of judgements, wherein the Apex Court has held that Customs officers are not Police officers. In *State of Punjab v. Barkat Ram*, (1962) 3 SCR 338, it was held by the majority that Customs Officers were not police officers for the purpose of Section 25 of the Evidence Act and the statements to Customs Officers were admissible in evidence at the trial of persons accused of offences. It was also observed that the Customs Officer was not entitled to submit a report to a Magistrate under Section 190 of the Code with a view that cognizance of the offence be taken by a Magistrate. Hence, I find that the defence submission of the noticee are misconceived and out-of-place.

**21.2.** The noticee has further contended that he, alongwith the other co-noticees had been forced/coerced to make some involuntary and incorrect statements. In this regard, I find that the statements recorded before Customs officers under Section 108 of the Customs Act, 1962, are admissible in evidence. The allegation made by the noticee at the stage of adjudication that the statement had been obtained forcefully is nothing but an afterthought and cannot be given cognizance. There is a catena of judgments on the acceptability of a statement given to a Customs Officer. The Supreme Court's decisions in the case of *Romesh Chandra Mehta v. the State of West Bengal* [1999 (110) E.L.T. 324 (S.C.)] and in the case of *Percy Rustomji Basta v. the State of Maharashtra* [1983 (13) E.L.T. 1443 (S.C.)] can be cited. The provisions of Section 108 are judicial provisions within the meaning of Sections 193 & 228 of the Indian Penal Code and the person summoned has to give a correct and truthful statement. In the case of *Rajesh Tarachand*

Sajdeh Versus Collector of Customs, Bombay [1983 (12) E.L.T. 623 (C.E.G.A.T.)], it was held that:

*"If the Appellant was summoned under Section 108 of the Customs Act under which he is required to give a correct statement, it cannot be said that his statement was not voluntary and truthful when the statement was signed by him with the Certificate that the statement was read, correctly recorded and was made without force or coercion. [para 4]"*

**21.3.** The noticee, in their defence submission, had mentioned that all the co-noticees, panch witnesses and the departmental witnesses may be made available for the purpose of cross-examination. However, they have not given any grounds for seeking such cross-examination, nor mentioned anything about it at the time of personal hearing held on 29.04.2019. Hence, I find no merit in the request for cross-examination of all the co-noticees, panch witnesses and the departmental witnesses.

**22.** In view of the foregoing discussions, I find that the investigations have conclusively established that M/s. Sai Exports, in connivance with Shri Pradeep Jindal and Shri Aman Anand, indulged in undervaluation of prime quality PU leather cloth by mis-declaring the same as 'stock lot of PU leather cloth mixed of different sizes / thickness / width 56" +/- 10%' and also submitting false set of invoices showing less value and description as stock lot and quantity in Kgs to the Customs Department for the purpose of clearance of the impugned goods. Therefore, I find that the value of import goods declared in the Bills of Entry filed by M/s. Sai Exports, New Delhi, before the Customs Department, while seeking clearance of the import goods, is required to be rejected in terms of Section 14 of Customs Act, 1962, read with the provisions of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined on the basis of parallel invoice retrieved from email ID of Shri Pradeep Jindal in terms of Section 14 of Customs Act, 1962, read with provisions of Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, in as much as the said parallel invoices reflected the actual transaction value. Accordingly, I find that the Customs duties have been short levied and short paid in respect of consignments covered under the 05 Bills of Entry mentioned at Sr. No. 1 to 5 of Annexure-I and the differential Customs duties are recoverable from the importer. In light of the deliberate mis-declaration of description and value by resorting to modus operandi of parallel invoicing, I find that the provisions of Section 28(4) of the Customs Act, 1962, are



invokable for the demand and recovery of differential Customs duties totally amounting to **Rs.70,58,028/-** leviable on the 05 consignments (detailed at Sr. No. 1 to 5 of Annexure-I), along with applicable interest in terms of Section 28AA of Customs Act, 1962. In regard to the live consignment under Bill of Entry No. 2079599 dated 13.06.2017 and placed under seizure vide seizure memo dated 27.06.2017, I find that the differential Customs duty on the re-determined value, amounting to **Rs.10,85,793/-** (detailed at Sr. No. 6 of Annexure-I) shall be recoverable as and when the seized goods are redeemed by the importer.

**23.** Further, I find that in terms of Section 2(26) of the Customs Act, 1962, "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer. In the instant case, I find that the investigations have revealed that M/s. Sai Exports, Delhi, was a surrogate importer and their IEC was used for import of the impugned goods by Shri Pradeep Jindal and Shri Aman Anand, who were the financiers and beneficiaries of the said transactions. It is also revealed that five of the six consignments in the name of M/s. Sai Exports, New Delhi were imported on behalf of Shri Aman Anand and one consignment cleared under Bill of Entry No. 9202350 dated 06.04.2017, was imported on behalf of Shri Pradeep Jindal. However, in terms of Section 2(26) *ibid*, I find that the importer of all the consignments is M/s. Sai Exports, New Delhi, in as much as Shri Simran Singh Barmi (Proprietor of M/s. Sai Exports) consciously allowed the use of his IEC for the said imports and consequently, the differential duties, along with interest, is required to be recovered from M/s. Sai Exports, New Delhi. I also find that during the course of investigation, differential duty and cash security has been paid by M/s. Sai Exports, New Delhi. Also, in their letter received on 01.03.2018, M/s. Sai Exports, New Delhi, have informed that they are ready to pay the differential amount and also requested for issuance of full SCN so that they can go to Settlement Commission as soon as possible. In view of the above facts, I find that in the instant case, M/s. Sai Exports, New Delhi, is to be considered as the importer for all the consignments.

**24.** Further, I find that the amount of differential duties of Rs.16,86,000/- and cash security of Rs.2,71,500/- paid by M/s. Sai Exports, New Delhi, during the course of investigation, is required to be appropriated and adjusted against their said duty and interest liability.

**25.** Further, I find that imported goods covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined value as **Rs.58,85,155/-** and placed under seizure vide seizure memo dated 27.06.2017, had been mis-declared in material particulars in as much as the said Bill of Entry had been filed on the basis of incorrect and false Invoices showing less value and false description of goods as "Stock Lot of PU leather". The examination of the said consignment revealed that the goods were not stock lot and quantity of goods, accurately matched, Item wise and Colour wise, with the quantity mentioned in parallel Invoice and Packing List retrieved from email ID of Shri Pradeep Jindal. The parallel invoices/packing lists, in respect of other five consignments, having re-determined assessable value of **Rs.3,94,71,412/-** (details as per Annexure-I), retrieved from mail ID of Pradeep Jindal, also mention goods by specific name, colour and quantity in meters. The value of goods shown in parallel invoices is much higher than the value of goods declared in the Bills of Entry, revealing mis-declaration of value in the Bill of Entry and import documents filed before Customs. In light of these acts of mis-declaration of value and description of subject import goods in the Bills of Entry and import documents, I find that the subject import goods, i.e. PU leather/coated fabric, are liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962.

**26.** As the impugned goods are found to be liable for confiscation under Section 111(m) of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125(1) of the Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the five consignments (Sr. No. 1 to 5 of Annexure-I), which are not physically available for confiscation and had not been released provisionally under any Bond/BG executed under Section 110A of the Customs Act, 1962. The Section 125(1) *ibid* reads as under:

**Section 125.** *Option to pay fine in lieu of confiscation. — (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit.*



**26.1.** A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods, by paying redemption fine. First of all, I find that it is well settled legal position that when goods are not available for confiscation, redemption fine cannot be imposed. In the matter of Commissioner of Customs (Imp.), Nhava Sheva Vs. S.B. Impex [2017 (358) E.L.T. 358 (Tri. Mumbai)], it was held that:

*6. It is noticed that the goods on which the Revenue has sought imposition of redemption fine were cleared and disposed of by the appellant. The said goods are not available for confiscation. The said goods were also not seized and released under any bond or undertaking. In these circumstances, the same cannot be confiscated and therefore, no redemption fine could have been imposed.*

The above view has been consistently reiterated by various higher forums/courts in various cases.

**26.2.** Further, in the matter of Weston Components Ltd. Vs. Commissioner of Customs, New Delhi [2000 (115) E.L.T. 278 (SC)], it was held by the Hon'ble Supreme Court that:

*It is contended by the learned Counsel for the appellant that redemption fine could not be imposed because the goods were no longer in the custody of the respondent-authority. It is an admitted fact that the goods were released to the appellant on an application made by it and on the appellant executing a bond. Under these circumstances if subsequently it is found that the import was not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods, then the mere fact that the goods were released on the bond being executed, would not take away the power of the customs authorities to levy redemption fine.*

**26.3.** The above judgment was delivered on specific issue and facts of the case were not discussed in detail in the said judgment. The above judgment was delivered by the Hon'ble Supreme Court in Civil Appeal No. 7144 of 1999, filed against the order of Hon'ble Tribunal reported at 1999 (84) ECR 259 (Tri Delhi). In the said order, Hon'ble Tribunal discussed the issue in brief wherein it is mentioned that the goods involved in that case were provisionally released. Therefore, it emerges from the said judicial pronouncements that

redemption fine can be imposed against those goods also which are not physically available but were provisionally released against bond.

**26.4.** In the matter of Lubrizol Advanced materials India Pvt. Ltd. Vs. C.C.E. Vadodara-I [2013 (290) E.L.T. 453 (Tri.-Ahmd.)], it was held by the Hon'ble Tribunal that:

*Moreover, in the case of Weston Components reported in 2000 (115) E.L.T. 278 (S.C.), the goods had been released provisionally under a bond and it is nobody's case in this case that goods were seized and released provisionally under a bond. In the absence of seizure, the decision of the Hon'ble Supreme Court in the case of Weston Components cannot be applied.*

**26.5.** Further, in the matter of Commissioner of Central Excise, Surat-II Vs. Citizen Synthesis [2010 (261) E.L.T. 843 (Tri.Ahmd.)], it was held by the Hon'ble Tribunal that:

*Learned SDR on behalf of the Revenue submits that Revenue is in appeal against the conclusion of Commissioner that clandestinely cleared goods which are not available for confiscation, cannot be confiscated and setting aside redemption fine of Rs. 50,000/- imposed. He relies on the decision of Hon'ble Supreme Court in the case of M/s. Weston Components as reported in 2000 (115) E.L.T. 278 (S.C.), in support of his contention that redemption fine is imposable even when the goods are not available for confiscation. I find that the decision of Hon'ble Supreme Court in the case of M/s. Weston Components was rendered wherein the goods had been released to the appellant after execution of bond. Obviously, it was the case of provisional release. Learned SDR fairly admitted that in this case, the goods had not been provisionally released, but removed clandestinely. Therefore, the judgment cited by the learned SDR is not relevant.*

**26.6.** In the matter of Commissioner of Central Excise, Surat Vs. Gunjan Exports [2013 (295) E.L.T. 733 (Tri. Ahmd.)], it was held that:

*5. I have considered the submissions and I find myself unable to appreciate the submissions. The Hon'ble Supreme Court had clearly held in the case of Weston Components Limited that when the goods are*



released provisionally on execution of bond, confiscation can be affected even if the goods are not available. The natural conclusion is that the goods should have been released on bond which would mean that the goods have been taken possession of by way of seizure and subsequently released on execution of bond. Admittedly that is not the situation in this case also. In this case, respondents themselves have diverted the goods and after diversion, proceedings have been initiated. There is no seizure of the diverted goods and release of the same provisionally on execution of bond. Therefore, the issue is covered by the decision of the Hon'ble Supreme Court and in the absence of release on the basis of execution of a bond, goods could not have been confiscated. The decision of the Larger Bench of the Tribunal relied upon by the learned Commissioner is also applicable since in this case also there is no bond with a security is available. The B-17 Bond is a general purpose bond undertaking to fulfil the conditions of notification and other requirements and does not help the Revenue to confiscate the goods not available and impose the redemption fine in lieu of confiscation. Further, the confiscation always presumes availability of goods and presumption normally is that goods have been seized and thereafter the proceedings would culminate into confiscation or release. Confiscation would mean that seized goods become the property of the Government and the party to whom it is ordered to be released on payment of fine, will have to pay fine and redeem the goods. When the goods have been diverted and not released on execution of bond with conditions, the question of confiscation of the same does not arise since goods have already become someone else's property. Under these circumstances, I find no merits in the appeal filed by the Revenue and accordingly, reject the same.

**26.7.** In view of the above discussion and judicial pronouncements, I find that redemption fine can be imposed only in those cases where goods are either available or the goods have been released provisionally under Section 110A of the Customs Act, 1962, against appropriate bond binding concerned party in respect of recovery of amount of redemption fine as may be determined in the adjudication proceedings. In the instant case, the impugned goods in respect of the five consignments (Sr. No. 1 to 5 of Annexure-I) were neither seized, nor released provisionally. Hence, neither the goods are physically available nor bond for provisional release under Section 110A *ibid* covering recovery of redemption fine is available. Therefore, I find that redemption fine cannot be imposed in respect of these five consignments.

**27.** Now, I proceed to consider the proposal of penalty against the importer i.e., M/s. Sai Exports (Proprietor Shri Simran Singh Barmi). In this regard, I find that demand of differential Customs duty totally amounting to Rs.70,58,028/-, has been confirmed under Section 28(4) of the Customs Act, 1962, which provides for demand of duty not levied or short levied by reason of collusion or willful mis-statement or suppression of facts. Hence, as a natural corollary penalty is imposable on the respective importers under Section 114A of the Customs Act, 1962, which provides for penalty equal to duty plus interest in cases *where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts*. In the instant case, the ingredients of wilful mis-statement and suppression of facts by the importers has been clearly established as discussed in the foregoing paras and hence, I find that this is a fit case for imposition of quantum of penalty equal to the amount of duty plus interest in terms of Section 114A *ibid*.

**28.** Further, penalty has also been proposed on the importer i.e., M/s. Sai Exports (Proprietor Shri Simran Singh Barmi), under Section 112(a) and 112(b) of the Customs Act, 1962. In this regard, I find that proviso to Section 114A stipulates that *"where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114"*. Hence, I refrain from imposing penalty on the importer under Section 112(a) and 112(b) of the Customs Act, 1962.

**29.** Imposition of penalty under Section 114AA of the Customs Act, 1962, has also been proposed on the importer i.e., M/s. Sai Exports (Proprietor Shri Simran Singh Barmi). In this regard, I find that the importer deliberately used parallel invoices showing false description and value of the import goods in order to escape their duty liability. Hence, I find that the importer had knowingly and intentionally made, signed or caused to be made, signed and fabricated documents presented to the Customs authorities, which they knew were false/fabricated and incorrect in respect of the imported goods. Hence, for the said act of contravention on their part, the importer is liable for penalty under Section 114AA of the Customs Act, 1962.

**30.** Further, imposition of penalty has been proposed on M/s. Sai Exports, New Delhi and its proprietor Shri Simran Singh Barmi, under Section 112(a) & Section 112(b) of Customs Act, 1962 and also under Section 114AA of the Customs Act, 1962. In this regard, I find that Shri Simran Singh Barmi has



stated that he was aware that Shri Pradeep Jindal used to receive actual invoices on his email IDs; that value of the import goods used to be declared less in the Invoices presented to Customs Department; that he used to get between Rs.30,000/- to Rs. 50,000/- per consignment. These facts were also corroborated by Shri Pradeep Jindal and Shri Aman Anand in their respective statements. Investigation has revealed that goods imported as stock lot of PU leather in the name of M/s. Sai Exports, New Delhi were mis-declared with respect to value, description and other material particulars. Shri Simran Singh Barmi has allowed IEC of M/s. Sai Exports, New Delhi to be used for import and clearance of goods by mis-declaration of value and other material particulars in the Bills of Entry and import documents. He also acquired possession of the goods and sold them to Shri Aman Anand and Shri Pradeep Jindal despite knowing that the said goods were imported by way of multiple mis-declarations. By the above acts of commission and omission, Shri Simran Singh Barmi (proprietor of M/s. Sai Exports, New Delhi) rendered the subject import goods, i.e. PU leather/coated fabric, having re-determined assessable value of Rs.3,94,71,412/- (details at Sr. 1 to 5 of Annexure-I) liable for confiscation as per provisions of Section 111(m) of Customs Act, 1962 and therefore, I find that Shri Simran Singh Barmi is liable for penalty as per provisions of Section 112(a) & Section 112(b) of Customs Act, 1962. Further, he has allowed use of invoices showing false value for clearance of said goods. As such he has rendered himself liable to penalty as per provisions of Section 114AA of Customs Act, 1962. Also, by the above acts of commission and omission, Shri Simaran Singh Barmi (proprietor of M/s. Sai Exports, New Delhi) has rendered subject import goods, i.e. PU leather/coated fabric, covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined assessable value of Rs.58,85,155/- (Sr. No. 6 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and therefore, I find that Shri Simran Singh Barmi is liable for penalty as per provisions of Section 112(a) of Customs Act, 1962. Further, he has allowed use of invoices showing false value for clearance of goods covered under Bill of Entry No. 2079599 dated 13.06.2017. As such, he is liable to penalty as per provisions of Section 114AA of Customs Act, 1962. However, I find that M/s. Sai Exports is a proprietorship firm owned by Shri Simaran Singh Barmi and legally, a proprietorship firm & its proprietor are the same legal entity. As penalty under Sections 114A and 114AA have been imposed on M/s. Sai Exports, therefore I find that separate penalty is not imposable on M/s. Sai Exports (proprietor Shri Simran Singh Barmi), as per provisions of Section 112(a) & 112(b) and Section 114AA of Customs Act, 1962.



**31.** Imposition of penalty on Shri Pradeep Jindal (proprietor of M/s. Pradeep Impex, Delhi) has been proposed under Section 112(a) & Section 112(b) of Customs Act, 1962 and also under Section 114AA of the Customs Act, 1962. In this regard, I find that Shri Pradeep Jindal used to remain in contact with suppliers and placed orders on behalf of M/s. Sai Exports, New Delhi; that actual invoices used to be received by Shri Pradeep in his email account; that out of the six consignments imported in the name of M/s. Sai Exports, New Delhi one consignment was sold to him. Shri Pradeep Jindal has also accepted in his statement that actual invoices, including that pertaining to consignments imported in the name of M/s. Sai Exports, New Delhi used to be received by him in his email account; that value of goods used to be declared less in terms of USD / Kgs before Customs. Investigation has established that actual (parallel) invoices for goods to be cleared in the name of M/s. Sai Exports, New Delhi used to be received by him in his email ID and he forwarded said documents to Shri Aman Anand. Shri Pradeep Jindal also engaged in acquiring possession and further selling of goods imported in the name of M/s. Sai Exports, New Delhi despite knowing that the said goods were being imported by declaring less value and being mis-declaration in other relevant particulars. By the above acts of commission and omission, Shri Pradeep Jindal has rendered subject import goods, i.e. PU leather/coated fabric, listed at Sr. No. 1 to 5 of Annexure-I, having re-determined assessable value of Rs.3,94,71,412/- (Sr. No. 1 to 5 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and therefore, I find that Shri Pradeep Jindal is liable to penalty as per provisions of Section 112(a) & Section 112(b) of Customs Act, 1962. Further from the mail correspondence with supplier, it was found that the documents to be presented to Customs used to be prepared on the instruction of Shri Pradeep Jindal and Aman Anand. Hence, I find that Shri Pradeep Jindal had knowingly and intentionally made, signed or caused to be made, signed and fabricated documents presented to the Customs authorities, which they knew were false/fabricated and incorrect in respect of the imported goods. Hence, for the said act of contravention on their part, Shri Pradeep Jindal is liable for penalty under Section 114AA of the Customs Act, 1962. Also, by the above acts of commission and omission, Shri Pradeep Jindal has rendered subject import goods, i.e. PU leather/coated fabric, covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined assessable value of Rs.58,85,155/- (Sr. No. 6 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and therefore, Shri Pradeep Jindal is liable to penalty as per provisions of Section 112(a) of Customs Act, 1962. Since, first Invoice and Packing List, in respect of Bill of



Entry No. 2079599 dated 13.06.2017, showing false value and description was also found in his email account revealing that the said documents had been forwarded to Customs Brokers/Shri Simran Barmi/Shri Aman Anand, for use in clearance of goods. Therefore, I find that Shri Pradeep Jindal is liable for penalty as per provisions of Section 114AA of Customs Act, 1962, in respect of goods covered under Bill of Entry No. 2079599 dated 13.06.2017.

**32.** Imposition of penalty on Shri Aman Anand (proprietor of M/s. Aman Impex, New Delhi) has been proposed under Section 112(a) & Section 112(b) of Customs Act, 1962 and also under Section 114AA of the Customs Act, 1962. In this regard, I find that Shri Aman Anand has stated in his statement that actual import documents used to be received by Shri Pardeep in his email account; that for the purpose of custom clearance other set of documents used to be received through Banks or through DHL courier; that value of goods used to be at rates similar to rates at which PU leather was imported at Mundra Port; that actual value as per invoices received in mail used to be around twice the value shown in documents filed before Customs Department; that out of total six consignments, one consignment was imported on behalf of Shri Pradeep Jindal and 5 consignments were imported on behalf of him (Aman); that said differential amount was to be paid to suppliers; that confirmation of correctness of details in checklist used to be confirmed by either him or Shri Simran or Shri Pradeep. Shri Simran has stated that money for purchasing consignments used to be received from Shri Aman. Further mails of actual parallel invoices received from suppliers used to be forwarded to him by Shri Pradeep Jindal. Therefore, Shri Aman Anand was aware that actual price of goods was much more than that shown in the Bills of Entry and the description of goods was also mis-declared which were filed in the name of M/s. Sai Exports, New Delhi. Shri Aman Anand was also engaged in acquiring possession and further selling of goods imported in the name of M/s. Sai Exports, New Delhi despite knowing that the said goods were being imported by declaring less value and being otherwise mis-declared. By the above acts of commission and omission, Shri Aman Anand has rendered subject import goods, i.e. PU leather/coated fabric, cleared under Bills of Entry listed at Sr. No. 1 to 5 of Annexure-I, having re-determined assessable value of Rs.3,94,71,412/- liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and therefore, I find that Shri Aman Anand is liable to penalty as per provisions of Section 112(a) & Section 112(b) of Customs Act, 1962. As he was very well aware and actively abetted the use of invoices showing false value and description in clearance of goods, therefore, I find that Shri Aman Anand is also liable to penalty as per

provisions of Section 114AA of Customs Act, 1962. Also, by the above discussed acts of commission and omission, Shri Aman Anand has rendered the subject import goods, i.e. PU leather/coated fabric, covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined assessable value of Rs.58,85,155/- (Sr. No. 6 of Annexure-I) liable for confiscation as per the provisions of Section 111(m) of Customs Act, 1962 and therefore, I find that Shri Aman Anand is liable to penalty as per provisions of Section 112(a) of Customs Act, 1962. Since, he actively abetted the use of invoices showing false value and description in clearance of goods, I find that Shri Aman Anand is also liable to penalty as per provisions of Section 114AA of Customs Act, 1962, in respect of goods covered under Bill of Entry No. 2079599 dated 13.06.2017.

**33.** In regard to the quantum of penalty to be imposed on Shri Pradeep Jindal and Shri Aman Anand, I find that sub-para (ii) of Section 112 of the Customs Act, 1962, stipulates the quantum of penalty in respect of improper importation of dutiable goods but the same is subject to the provisions of Section 114A, which provides for penalty equal to duty plus interest in cases where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts. Hence, I find that in cases where ingredients of collusion or willful mis-statement or suppression of facts are present, the quantum of penalty is not limited by the provisions of Section 112(ii) and the same can go upto the quantum as provided under Section 114A of the Customs Act, 1962. In the instant case, the ingredients of willful mis-statement and suppression of facts by Shri Pradeep Jindal and Shri Aman Anand have been clearly established as discussed in the foregoing paras and hence, I find that the quantum of penalty to be imposed on Shri Pradeep Jindal and Shri Aman Anand shall not be limited by the provisions of Section 112(ii) and can go upto the amount prescribed under Section 114A *ibid*.

**34.** In view of the forgoing discussions and findings, I pass the following order:-

**::: O R D E R :::**

**34.1.** In respect of Show Cause Notice F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 12.12.2017:



- (i) I hereby reject the value of import goods i.e. 'PU leather/coated fabric' declared in Bill of Entry No. 2079599 dated 13.06.2017, under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007, read with Section 14 of Customs Act, 1962 and order to re-determine the same as Rs.58,85,155/- in terms of the provisions of Section 14 of Customs Act, 1962, read with Rule 3(1) of the Customs Valuation (Determination of value of imported goods) Rules, 2007.
- (ii) I order to confiscate the import goods i.e. 'PU leather/coated fabric' covered under Bill of Entry No. 2079599 dated 13.06.2017, having re-determined value of Rs.58,85,155/-, as per the provisions of Section 111(m) of Customs Act, 1962. However, I give an opportunity to the importer, M/s. Sai Exports, New Delhi, to redeem the said confiscated goods on payment of redemption fine of Rs.12,00,000/- (Rupees Twelve Lakhs only) under Section 125 of the Customs Act, 1962. The differential duty of Rs.10,85,793/- on the re-determined value shall also be payable upon redemption of the impugned goods.
- (iii) I impose penalty of Rs.6,00,000/- (Rupees Six Lakhs only) on the importer, M/s. Sai Exports, New Delhi, under Section 112(a) of the Customs Act, 1962.
- (iv) I impose penalty of Rs.6,00,000/- (Rupees Six Lakhs only) on Shri Aman Anand (proprietor of M/s. Aman Impex, New Delhi), under Section 112(a) of the Customs Act, 1962.
- (v) I impose penalty of Rs.5,00,000/- (Rupees Five Lakhs only) on the importer, M/s. Sai Exports, New Delhi, under Section 114AA of the Customs Act, 1962.
- (vi) I impose penalty of Rs.5,00,000/- (Rupees Five Lakhs only) on Shri Aman Anand (proprietor of M/s. Aman Impex, New Delhi), under Section 114AA of the Customs Act, 1962.
- (vii) I order to appropriate the cash security of Rs.2,71,500/- deposited during the course of investigation against the redemption fine/penalty imposed above.
- (viii) I impose penalty of Rs.6,00,000/- (Rupees Six Lakhs only) on Shri Pradeep Jindal under Section 112(a) of the Customs Act, 1962;

(ix) I impose penalty of Rs.5,00,000/- (Rupees Five Lakhs only) on Shri Pradeep Jindal under Section 114AA of the Customs Act, 1962.

**34.2.** In respect of Show Cause Notice F. No. DRI/AZU/GRU/Sai-PUF/Int-32/2017 dated 27.09.2018:

- (i) I hereby reject the value of import goods i.e. 'PU leather/coated fabric' declared in Bills of Entry listed at Sr. No. 1 and 3 to 5 of Annexure-I, under Rule 12 of the Customs Valuation (Determination of prices of the imported goods) Rules, 2007, read with Section 14 of Customs Act, 1962 and order to re-determine the same as mentioned in column No. 12 of Annexure-I, in terms of provisions of Section 14 of Customs Act, 1962 read with Rule 3(1) of the Customs Valuation (Determination of value of imported goods) Rules, 2007.
- (ii) I confirm the demand of differential duties of customs aggregating to Rs.40,75,175/- (Rupees Forty lakh seventy five thousand one hundred seventy five only) in respect of consignments, listed at Sr. No. 1 and 3 to 5 of Annexure-I, evaded by the importer M/s. Sai Exports, New Delhi, on the said goods, under Section 28(4) of the Customs Act, 1962, along with interest applicable under provisions of Section 28AA of the Customs Act, 1962.
- (iii) I order to appropriate the amount of Rs.16,86,000/- (Sr. No. 1 and 3 of Table 2 at Para 5) paid by M/s. Sai Exports, New Delhi, during the course of investigation, against the differential duties of customs & other dues confirmed against them.
- (iv) I order to confiscate the import goods i.e. 'PU leather/coated fabric' covered under Bills of Entry listed at Sr. No. 1 and 3 to 5 of Annexure-I, having re-determined value as mentioned in column No. 12 of Annexure-I, as per the provisions of Section 111(m) of Customs Act, 1962. However, as the said import goods are not physically available for confiscation, therefore I refrain from imposing any redemption fine in lieu thereof.
- (v) I impose penalty equal to the duty i.e., Rs.40,75,175/- plus interest thereon, on the importer M/s. Sai Exports, New Delhi, in respect of Bills



of Entry listed at Sr. No. 1 and 3 to 5 of Annexure-I, under Section 114A of the Customs Act, 1962.

- (vi) I refrain from imposing penalty on the importer M/s. Sai Exports, New Delhi, under Section 112(a) & Section 112(b) of the Customs Act, 1962, in respect of Bills of Entry listed at Sr. No. 1 and 3 to 5 of Annexure-I as penalty is already imposed under Section 114A of Customs Act, 1962.
- (vii) I impose penalty of Rs.10,00,000/- (Rupees Ten Lakhs only) on the importer M/s. Sai Exports, New Delhi, in respect of Bills of Entry listed at Sr. No. 1 and 3 to 5 of Annexure-I, under Section 114AA of the Customs Act, 1962.
- (viii) I hereby reject the value of import goods i.e. 'PU leather/coated fabric' declared in Bill of Entry listed at Sr. No. 2 of Annexure-I, under Rule 12 of Customs Valuation (Determination of prices of the imported goods) Rules, 2007, read with Section 14 of Customs Act, 1962 and order to re-determine the same as mentioned in column No. 12 of Annexure-I, in terms of provisions of Section 14 of Customs Act, 1962 read with Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (ix) I confirm the demand of differential duties of customs aggregating to Rs.29,82,853/- (Rupees Twenty nine lakh eighty two thousand eight hundred fifty three only) in respect of consignment listed at Sr. No. 2 of Annexure-I, evaded by the importer M/s. Sai Exports, New Delhi, on the said goods, under Section 28(4) of the Customs Act, 1962, along with interest applicable under provisions of Section 28AA of Customs Act, 1962.
- (x) I order to confiscate the import goods i.e. 'PU leather/coated fabric' covered under Bill of Entry listed at Sr. No. 2 of Annexure-I, having re-determined value as mentioned in column No. 12 of Annexure-I, as per the provisions of Section 111(m) of Customs Act, 1962. However, as the said import goods are not physically available for confiscation, therefore I refrain from imposing any redemption fine in lieu thereof.
- (xi) I order to impose penalty equal to the duty i.e., Rs.29,82,853/- plus interest thereon, on the importer M/s. Sai Exports, New Delhi, in

respect of Bill of Entry listed at Sr. No. 2 of Annexure-I, under Section 114A of the Customs Act, 1962.

- (xii) I refrain from imposing penalty on the importer M/s. Sai Exports, New Delhi, under Section 112(a) & Section 112(b) of the Customs Act, 1962, in respect of Bill of Entry listed at Sr. No. 2 of Annexure-I.
- (xiii) I impose penalty of Rs.8,00,000/- (Rupees Eight Lakhs only) on the importer M/s. Sai Exports, New Delhi, in respect of Bill of Entry listed at Sr. No. 2 of Annexure-I, under Section 114AA of the Customs Act, 1962.
- (xiv) I impose penalty of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) on Shri Pradeep Jindal under Section 112(a) & Section 112(b) of the Customs Act, 1962.
- (xv) I impose penalty of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) on Shri Pradeep Jindal under Section 114AA of the Customs Act, 1962.
- (xvi) I impose penalty of Rs.20,00,000/- (Rupees Twenty Lakhs only) on Shri Aman Anand under Section 112(a) & Section 112(b) of the Customs Act, 1962.
- (xvii) I impose penalty of Rs.20,00,000/- (Rupees Twenty Lakhs only) on Shri Aman Anand under Section 114AA of the Customs Act, 1962.



(Sanjay Kumar Agarwal)  
Principal Commissioner,  
Custom House, Mundra.

**BY RPAD / HAND DELIVERY**

F.No. VIII/48-19/Adj/Pr.Commr./MCH/18-19

Dated: 19.06.2019

**To;**

1. M/s. Sai Exports (IEC No. 0515040681),  
877, Ground Floor, Ashoka Palace,  
Joshi Lane, Karol Bagh,  
New Delhi – 110005.



2. M/s. Aman Impex,  
C 4/6, Model Town, 1<sup>st</sup> Floor, Back Side,  
Delhi – 110009.
3. M/s. Pradeep Impex,  
KP-87, Pithampura, Nr. City Park Hotel,  
Delhi.
4. Shri Simran Singh Barmi, Proprietor of M/s. Sai Exports,  
(IEC No. 0515040681),  
877, Ground Floor, Ashoka Palace,  
Joshi Lane, Karol Bagh,  
New Delhi – 110005.
5. Shri Aman Anand, Proprietor of M/s. Aman Impex,  
C 4/6, Model Town, 1<sup>st</sup> Floor, Back Side,  
Delhi – 110009.
6. Shri Pradeep Jindal, Proprietor of M/s. Pradeep Impex,  
KP-87, Pithampura, Nr. City Park Hotel,  
Delhi.

**Copy to:**

- (i) The Chief Commissioner of Customs, CCO, Ahmedabad.
- (ii) The Additional Director General, DRI, Zonal Unit, Ahmedabad.
- (iii) The Deputy/Assistant Commissioner (RRA), Customs, Mundra.
- (iv) The Deputy/Assistant Commissioner (TRC), Customs, Mundra.
- (v) The Deputy/Assistant Commissioner (Disposal), Customs, Mundra.
- ✓(vi) The Deputy/Assistant Commissioner (EDI), Customs, Mundra.
- (vii) Guard file.

