

**भारत सरकार**  
वित्त मंत्रालय/ राजस्व विभाग  
केंद्रीय अप्रत्यक्ष कर एवं सीमाशुल्क बोर्ड भारतीय सीमाशुल्क, I-मुंबई अंचल -  
**आयुक्त सीमाशुल्क (आयात-II) का कार्यालय**  
द्वितीय मंजिल, नवीन सीमा शुल्क भवन, शूरजी वल्लभदास मार्ग, बेलाई एस्टेट,  
मुंबई-400001.

दूरध्वनि-022-22757457

ई-मेल: [adjncell-imp2nch@gov.in](mailto:adjncell-imp2nch@gov.in)

फा. सं. : F. No. GEN/ADJ/COMM/22/2022-ADJN

के द्वारा जारी किया गया : श्री कुमार अमरेन्द्र नारायण  
आयुक्त सीमाशुल्क (आयात-II)

आदेश दिनांक: 18.07.2025  
जारी दिनांक: 18.07.2025

सी.ए.ओ. क्रमांक : 58/2025-26/CAC/CC/IMPORT-II/KAN/Adjn(IMP-II)  
DIN- 20250777000000444ED5

**मूल आदेश**

- 1- प्रति उस व्यक्ति के प्रयोग के लिए निः शुल्क है, जिसके लिए यह पारित किया है।
- 2- इस आदेश के विरुद्ध क्षेत्रीय पीठ, सीमाशुल्क, उत्पाद एवं सेवाकर अपीलीय अधिकरण, जय सेन्टर, चौथा एवं पांचवा तल, 34 पी. डी. मेलो रोड, पूना स्ट्रीट, मस्जिद बन्दर (पूर्व) मुंबई 400 009 को अपील की जा सकती है।
- 3- सीमाशुल्क (अपील) नियमों 1982 के नियम 6 के आधार पर अपील फॉर्म सी ए-3 में जैसा कि उक्त नियम में संलग्न है के आधार पर की जानी चाहिए। अपील चार प्रतियों में की जानी चाहिए एवं 90 दिनों के अन्दर दायर की जानी चाहिए एवं उसके साथ उस आदेश की चार प्रतियां संलग्न होनी चाहिए जिसके विरुद्ध अपील की गई हो )इन प्रतियों में कम से कम एक प्रति अभिप्रमाणित प्रति होनी चाहिए। अपील के साथ सीमाशुल्क अधिनियम 1962 की धारा 129A की उपधारा (6) के अन्तर्गत लागू रु.1,000/-, रु.5,000/- अथवा रु.10,000/- का, क्रास किया हुआ बैंक ड्रॉफ्ट अधिकरण की पीठ के सहायक रजिस्ट्रार के नाम जारी किया होना चाहिए। यह बैंक ड्राफ्ट ऐसे राष्ट्रीय बैंक का होना चाहिए जिसकी शाखा उस जगह स्थित हो जहां अधिकरण पीठ स्थित है।
- 4- अपील अधिकरण पीठ के सहायक रजिस्ट्रार अथवा इस संबंध में उनके द्वारा अधिकृत किसी भी अधिकारी के कार्यालय में प्रस्तुत की जानी चाहिए अथवा सहायक रजिस्ट्रार या ऐसे अधिकारी के नाम पंजीकृत डाक द्वारा भेजी जानी चाहिए।
- 5- जो व्यक्ति इस आदेश के विरुद्ध अपील करना चाहता है वह इस अपील के लंबित रहने तक दंडराशि या अपेक्षित शुल्क की साढ़े सात प्रतिशत धनराशि को जमा करे और ऐसे भुगतान का साक्ष्य प्रस्तुत करे। ऐसा न करने पर यह अपील सीमा शुल्क अधिनियम, 1962 की धारा 129E के प्रावधानों के अनुपालन न करने के आधार पर निरस्त मानी जाएगी।



**GOVERNMENT OF INDIA**  
**MINISTRY OF FINANCE/ DEPARTMENT OF REVENUE**  
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS, INDIAN CUSTOMS - MUMBAI ZONE - I  
**OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT-II)**  
2<sup>nd</sup> FLOOR, NEW CUSTOM HOUSE, SHOORJI VALLABHDAS ROAD, BALLARD ESTATE,  
MUMBAI - 400001.

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F. No.: GEN/ADJ/COMM/22/2022-ADJN

Passed by: Shri Kumar Amrendra Narayan  
COMMISSIONER OF CUSTOMS (IMPORT-II)

Date of Order: 18.07.2025  
Date of Issue: 18.07.2025

C.A.O. No.: 58/2025-26/CAC/CC/IMPORT-II/KAN/Adjn(IMP-II)  
DIN- 20250777000000444ED5

**ORDER-IN-ORIGINAL**

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies to the Regional Bench, Customs, Excise and Service Tax Appellate Tribunal, Jai Centre, 4th & 5th Floor, 34 P. D'Mello Road, Poona Street Masjid Bunder (East), Mumbai 400 009.
3. The appeal is required to be filed as provided in Rule 6 of the Customs (Appeals) Rules, 1982 in form C.A.3 appended to said rules. The appeal should be in quadruplicate and needs to be filed within 90 days and shall be accompanied by four copies of the order appealed against (at least one of which should be certified copy). A crossed bank draft drawn in favour of the Asstt. Registrar of the Bench of the Tribunal on a branch of any nationalized bank located at a place where the bench is situated for Rs. 1,000/-, Rs. 5,000/- or Rs. 10,000/- as applicable under Sub Section (6) of the Section 129A of the Customs Act, 1962.
4. The appeal shall be presented in person to the Asstt. Registrar of the bench or an Officer authorized in this behalf by him or sent by registered post addressed to the Asstt. Registrar or such Officer.
5. Any person desirous of appealing against this decision or order shall pending the appeal deposit seven and a half per cent of the duty demanded or the penalty levied therein and produce proof of such payment along with the appeal failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act, 1962.





**Sub: Adjudication in respect of Show Cause Notice No. S/10 31/07 Gr. VII DRI/MZU/D/INV-04/2005-06 dt. 19.06.98 issued to M/s Amrut Traders, Gujarat and M/s Khodiyar Polymers P. Ltd., Gujarat for suppression of brand and other relevant details and by undervaluation of the goods - reg.**

**BRIEF FACTS OF THE CASE**

The facts of this case have been detailed in the Show Cause Notice issued by the DRI Mumbai Zonal Unit vide F.No. DRI/MZU/D/INV-04/2005-06 dated 12.03.2007. However, to recapitulate, the brief facts are as follows:

2. Specific information was received to the effect that M/s Amrut Traders, 132, Mona Estate, opp. Anil Starch Mill, Safed Chali Road, Saraspur, Ahmedabad were engaged in the import of cosmetics like perfumes, deodorants, body lotions etc.; that the said address was fictitious and no firm by name M/s Amrut Traders was operating from the declared address; that the imports were being effected in the name of dummy firms like M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd., Gujarat The information further indicated that M/s Amrut Traders had cleared four containers of cosmetics from CFS-Mulund on 17.10.2005 through CHA firm namely M/s PC India Ltd., wherein the value declared was only 10% of actual value; that subsequently three containers of M/s Amrut Traders had arrived at CFS-Mulund, which would be cleared by 19.10.2005.

The details of the three containers were given in the information as follows;

Sr.	Container No.	Bill of Lading No.	Importer
1.	IALU 2247970	DXBNSA 00894	Amrut Traders
2.	CRXU 2814410	DXBNSA 001894	Amrut Traders
3.	MLCU 3463321	DXB BOM 001893	Amrut Traders

The information further indicated that low values, as given in table below would be declared in respect of these consignments and that amendment was being filed to shift the containers to a suitable place.

Sr.	Container No.	Cartons	Description	Value
1.	IALU 2247970	602	Toiletries	\$8003.52
2.	CRXU 2814410	917	Toiletries	\$221.16
3.	MLCU 3463321	560	Toiletries	\$10497.60



The information also indicated that another Bill of Entry had been filed in the name of M/s Khodiyar Polymers Pvt. Ltd. for 3634 cartons of 'Toiletries' by showing value as \$8285.92. It was stated in the information that the brand names of the perfumes/deodorants/shampoos had not been declared with a view to suppress the value. Copies of brand wise details of goods in the above said Containers were also enclosed to the said information.

3. Pursuant to the receipt of the above information, dockets pertaining to Bills of Entry No. 615116 dated 18.10.2005, 615117 dated 18.10.2005 and 616107 dated 20.10.2005 filed in the name of M/s Amrut Traders (IEC No. 0804008051) and Bill of Entry No. 616108 dated 20.10.2005 filed in the name of M/s Khodiyar Polymers P. Ltd. (IEC No. 0802000690) were obtained from the concerned CHA firm, M/s Global Services (CHA No. 11/1170). Scrutiny of the documents in the said dockets revealed that in none of the Invoices/Packing List/Bs/E showed any brand name of the cosmetics/toiletries that have been imported. It was seen that (a) B/E No. 615116 dated 18.10.2005 had been filed for clearance of goods covered by Container No. IALU 2247970 under IGM No. 19212 of 2005, which was lying at Frere Basin, MbPT, Mumbai (b) that B/E No. 615117 dated 18.10.2005 had been filed for clearance of goods covered by Container No. CRXU 2814410 under IGM No. 19212 of 2005, which was lying at Haji Bunder, MbPT, Mumbai. As regards goods contained in Container Nos. MLCU 3463321 and CRXU 2831531, both under IGM No. 19212 of 2005, lying at Haji Bunder, the Customs generated Check List had been issued, indicating Bs/E Nos. as 616107 and 616108 both dated 20.10.2005 respectively.

4. The goods, covered by Bs/E Nos. 616107 and 616108 both dated 20.10.2005 were examined under Panchnama dated 22.10.2005. The results of the examination are given in Annexure A to this Show Cause Notice. The examination of the aforesaid goods revealed that the product described as 'Deodarant Spray', 'After Shave.' and 'EDT Tester.' in the Invoice No. 124885 dated 19.09.2005 and Packing List dated 19.09.2005 raised by M/s Hassan Mukthar & Brothers, Dubai and contained in Container No. CRXU 2831531 covered by Bill of Entry number 616108 dated 20.10.2005 were having markings of various brands such as Brut Original, Brut - Musk, Brut Identity, Brut - Instinct, Denim - Original, Denim Black, Denim Musk and EDT Tester on individual packs. With regard to the goods described as "Body Spray." in the Invoice No. SC/EXP/AT/02 dated 24.09.2005 and Packing List dated 24.09.2005 raised by M/s Sun City Electronics (L.L.C), Dubai covered by Bill of Entry No. 616107 dated 20.10.2005 and contained in Container No. MLCU 3463321, it was seen that these were having markings of various brands such as 'Just call me Maxi', 'Lomani', 'El Paso', 'Do It', 'Cigar', 'France 2000', 'Santiago', 'Si Bleue', 'Best' and 'Network' on individual packs.

5. The goods imported in the name of M/s Amrut Traders and covered by B/E Nos. 615116 and 615117 both dated 18.10.2005 were contained in the Container Nos. IALU 2247970 and CRXU2814410 respectively, were examined and two separate Panchnamas both dated 22.10.2005 were drawn. The results of the examination are given in Annexure





B to this Show Cause Notice. The examination revealed that the product described as 'Shampoo & Conditioner and Cream.' in the Invoice No. GTL/EXP/081-05 dated 20.09.2005 and Packing List dated 20.09.2005 raised by M/s Gardens House Textiles LLC covered by Bill of Entry No. 615116 dated 18.10.2005 and contained in Container No. IALU 2247970 were having markings of well established brands such as 'L'Oreal' and 'Nivea' on individual packs. As regards the product described in the Invoice No. GTL/EXP/083-05 dated 24.09.2005 and Packing List dated 24.09.2005 raised by M/s Gardens House Textiles LLC as 'EDT., Deodorant Roll on, Deo Stick. Cream, Shampoo, After Shave Lotion and Hair Gel covered by Bill of Entry No 615117 dated 18.10.2005 and contained in Container No. CRXU 2814410 were found to have markings of various well-known brands such as Lomani, Hedich Tehrani, Storia Lomani, Arome Absolu, Volcano (Lomani), Next World Extension, Chairman, Executive, Lomax, Regatta, KL Men's, Brut, Cigar, Shalis, Remy, Volcano, Cruiser, Marquis etc. on individual packs.

6. Scrutiny of the IEC details of M/s Amrut Traders (IEC No. 0804008051), revealed that the address of the firm was shown as 132, Mona Estate, opp. Anil Starch Mill, Safed Chali Road, Saraspur, Ahmedabad with branch addresses at B/16, M. K. Aminar Marg, Patel Building, Room No. 30, Bora Street, Fort, Mumbai 400001 and 43, Shardanand Marg, Delhi 110006. The proprietor of the said firm was shown as Shri. Vithalbhai Gajera with address as 5, Sunrise Flats, opp. Bhagwati school, Bapunagar, Ahmedabad-382345.

7. Scrutiny of the IEC details of M/s Khodiyar Polymers P. Ltd. (IEC No. 0802000690), revealed that the registered office address of the company was shown as Vijapur Road, Mansa, North Gujarat - 382845 with corporate office address shown as D. K. House, 4th Floor, Nr. Mithakali Underbridge, Ellisbridge, Ahmedabad 380006 and branch address shown as 8/16, M. K. Aminar Marg, Patel Building, Room No. 30, Bora Street, Fort, Mumbai 400001. The directors of the said company were shown as Shri. Ramniklal Manjibhai Patel and Smt. Dalasukhbhai Devshibhai Patel both having address as 1, Ambica Nagar, SO block, near 39, Mansa Vijapur Road, Mansa - 382845.

8. The declared branch address of M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd. at B/16, M. K. Aminar Marg, Patel Building, Room No. 30, Bora Street, Fort, Mumbai - 400001 was searched under Panchanama dated 22.10.2005. The room admeasuring about 40 sq. feet was found empty and therefore nothing was taken over from the said premises. During the course of the said Panchanama dated 22.10.2005, enquiries were made with one person namely Shri. Kamal Bose, who revealed that he was caretaker of the said room for the last 22 years but he did not know any company namely M/s Amrut Traders. During the course of the Panchnama dated 22.10.2005, in respect of M/s Khodiyar Polymers P. Ltd., he stated that one, Shri. Ramesh Patel had taken the premises of the last cabin on the 3rd floor on rent and he came to know that Shri. Ramesh Patel was the owner of M/s Khodiyar Polymers P. Ltd. and he (Shri. Ramesh Patel) had informed that he was dealing in plastics and scrap. He also stated that as Shri. Ramesh Patel was





found to be dealing in shares, he was asked to vacate and accordingly, Shri. Ramesh Patel had vacated the premise in April 2005.

9. Enquiries were caused with regard to the premises of M/s Khodiyar Polymers P. Ltd. at premises near Ridrol Village on Mansa-Vijapur Road, Mansa, North Gujarat - 382845 and it was learnt that the said company had closed down its operations around 3-4 years back. Further, the premises of M/s Khodiyar Polymers P. Ltd. at D. K. House, 4th Floor, Nr. Mithakali Underbridge, Ellisbridge, Ahmedabad - 380006, had been found sealed by Debt Recovery Tribunal. With regard to the premises of M/s Amrut Traders at 132, Mona Estate, opp. Anil Starch Mill, Safed Chali Road, Saraspur, Ahmedabad, enquiries caused revealed that M/s Anukul Diary was operating from the declared premises.

10. During investigations, statement of Shri. Arvind Kumar R. Dubey, Manager, M/s Global Services (CHA No.11/1170) was recorded under Section 108 of the Customs Act, 1962 on 21.10.2005, wherein he, interalia, stated that:

- (i) The clearance work of the aforementioned three import consignments in the name of M/s Amrut Traders and one import consignment in the name of M/s Khodiyar Polymers P. Ltd., pending clearance at Frere Basin and Haji Bunder Mumbai Port Trust Area, were given to them by one, Shri. Kirti Doshi having office phone no. 23428967 and 23449251.
- (ii) That he knew Shri. Kirti Doshi for the last one year, since he (Shri. Kirti Doshi) was giving them jobs in respect of import consignments of M/s Amrut Traders, M/s Khodiyar Polymers P. Ltd., M/s Kirti Impex and M/s Kirti Bearings; that the proprietor of M/s Kirti Bearings is Shri. Kirti Doshi himself; that he did not know the proprietors/partners of M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd.; that however, Shri. Kirti Doshi had given them authority letter of these firms, whereby they were authorized to act on behalf of the said firm/company for clearance of their import consignments; that he was submitting a journal copy of authority letter from M/s Amrut Traders authorizing them to act as their authorized clearing and forwarding agents for clearance of their import/export consignments at JNPT, Mumbai port, Mulund CFS & Ali Cargo Complex; that this authority letter bears stamp duly payment on 19.07.2005; that this authority letter had been given to them by Shri. Kirti Doshi. That the office of Shri. Kirti Doshi was located at 44, Nagdevi X lane, 4th Floor, Room No. 38, Mumbai-3.
- (iii) That with regard to the three import consignments of M/s Amrut Traders and one import consignment of M/s Khodiyar Polymers P. Ltd., he stated that these were consignments of perfumes, creams, shampoo, detergents.

11.1 Statement of Shri. Kirti Doshi was recorded on 22.10.2005 under Section 108 of the Customs Act, 1962, wherein he interalia stated that he used to assist M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd. for import of fabrics, cosmetics, toiletries and furniture; that he had cleared three consignments of import cargo of fabrics





and toiletries in the name of M/s Amrut Traders and had cleared around 3-4 consignments of synthetic fabrics in the name of M/s Khodiyar Polymers (I) P. Ltd.; that he had filed three Bills of Entry no. 615116 and 615117 both dated 18.10.2005 and Bill of Entry No. 616107 dt. 20.10.2005 in the name of M/s Amrut Traders and one Bill of Entry No. 616108 dated 20.10.2005 in the name of M/s 'Khodiyar Polymers (I) P. Ltd. for customs clearance of assorted toiletries/cosmetics imported from Dubai; that he had been duly authorized to operate as coordinator for the purpose of clearance of all import consignments in the name of the aforesaid two firms on the consideration of his profit of 50% of net profit on sale of the goods in the domestic market.

11.2 In his further statement, recorded on 25.10.2005 under Section 108 of the Customs Act, 1962, Shri. Kirti Doshi, interalia stated that he had received all the import documents such as Bills of Lading, Invoices etc. in respect of the Bills of Entry no. 615116 and 615117 both dated 18.10.2005 and Bill of entry No. 616107 and 616108 both dt. 20.10.2005 directly by post and no import documents had been received through banking channels; that he had got good relations with three suppliers of the goods namely, Shri. Sudhakaran Kutty, owner of M/s Garden House Textiles LLC, Dubai, Shri. Raja Mirchandani of M/s Sun City Electronics LLC, Dubai and Shri. Anjum Raja of M/s Hasan Mukhtar & Brothers, Dubai (the suppliers) for the last 12-15 years.

11.3 On being asked about the brands and country of origin of the goods imported in the name of M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd., he has stated that no specific brand or country of origin was declared with a view to facilitate clearance of the goods at the declared prices. He further stated that he was present during the examination of the goods imported in the name of M/s Amrut Traders under Bills of Entry No. 615116 and 615117 both dated 18.10.2005 under Panchnama dated 22.10.2005 and found that the goods are of France, Algeria, Germany, Saudi Arabia and Italian origin and had reputed brands such as Lomani, Executive, Nivea, Head and Shoulders, L'Oreal, Do It, El Paso etc.; that the goods covered by the Bills of entry Nos. 616107 dt. 20.10.2005 and 616108 dt. 20.10.2005 had been examined under Panchnama dated 24.10.2005 in presence of his representative M/s Global Services, Custom House Agents, which were also of UK and Italian origin and all the goods were found to be of reputed brands like Brut, Lomani, Cigar etc.

11.4 On being asked about the true and correct transaction values of the said consignments, Shri. Kirti Doshi stated that that the true and correct transaction value of the two consignments contained in Container Nos. MLCU 3463321 and CRXU 2831531 (covered by Bill of Entry No. 616107 and 616108 both dated 20.10.2005) was three times the declared value on the basis of the findings of aforesaid brands/grades and country of origin of the goods; that therefore the true and correct transaction value of the said two consignments contained in Container Nos. MLCU 3463321 and CRXU 2831531 was US \$ 56,350.56 equivalent to Rs. 24,87,877/- as against the declared value of US \$ 18,783.52 equivalents to Rs. 8,29,292.41.





12.2 On being asked he stated that the cosmetics and toiletries imported in the name of M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd. under Bill's of Entry No. 615116 dated 18.10.2005, 615117 dated 18.10.2005 and 616107 dated 20.10.2005 (filed by M/s Amrut Traders) and Bill of Entry No. 616108 dated 20.10.2005 (filed by M/s Khodiyar Polymers P. Ltd.) were of reputed manufacturers such as M/s Lever Feberge, M/s Remy Lefebvre, M/s Lomani, M/s Wellaoxon, M/s Proctor and Gamble, M/s Gatsby etc. However, on being asked he stated that he was not aware of the manufacturer's price





in respect of the goods imported in the name of the above said firm/company. With regard to the receipt of import related documents through post, he stated that this was normal practice adopted by the foreign supplier as per his instructions and the mutual understanding which was not reflected in the Invoices was that the payment towards the consignment received in India was to be made within 90 days. On being asked he stated that the brands had not been mentioned in the Invoices as per his requirement to facilitate clearance through Customs and also because the FDA clearance at the port of import in respect of branded cosmetics used to take lot of time and numerous samples were used up.

12.3 On being asked he stated that he had admitted three times of the declared prices in respect of goods in MLCU 3463321 and CRXU 2831531 ( covered by Bill of Entry No. 616107 and 616108 both dated 20.10.2005) and four times the declared prices in respect of goods in CRXU 2814410 and IALU 2247970 (covered by Bill of Entry No. 615117 and 615116 both dated 18.10.2005), based on the prices at which the respective products were sold in local market; that he had given the admitted price by taking 60% discount on market prices and that the said 60 % comprised of 7.5% octroi, 12.5% vat, 40% marketing expenses including sampling, rent, market shows etc. On being asked he stated that he had sold such goods in past to various parties in open market i.e. Manish market, Mumbai and he had also entered into an agreement with M/s Pantaloon Retail for sale of the said goods through their 'Big Bazaar' malls at Lower Parel, Kandivali, Mukundabad, Thane, that is per the agreement, M/s Pantaloon Retail used to take 25% commission on the MRP, and he had to provide sales staff, free sampling and transportation of the goods and they would provide the space in their mall at rental charges of Rs. 6000/- per counter. On being asked about the evidence regarding the admitted higher value, which he had promised in his statement dated 25.10.2005, he stated that he had tried to obtain prices from the manufacturer's but they refused to give him the prices as he was not their agent. On being asked he stated that he had contacted M/s Lomani, Germany and France, M/s Unilever, U.K over phone in this connection.

13. Further statement of Shri Kirti Doshi was recorded on 19.02.2007, under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that he had gone through the samples of the cosmetics and toiletries drawn by the officers of DRI, Mumbai under Panchnama dated 22.10.2005 and 24.10.2005 in Mumbai Docks; that the details on the samples such as product name, batch no, manufacturer details, date of manufacture, capacity, brand, country of origin etc. were as given in the annexure to his statement dated 19.02.2007 and that he had put his dated signature on the said annexure in token of it being as seen on the said samples. On being asked, he stated that from these details, the actual transaction value of the above said consignments was five and a half times the values declared in the respective Invoices.





14.1 Statement of Shri. Ramniklal Manjibhai Patel, Director of M/s Khodiyar Polymers P. Ltd. was recorded on 25.11.2005 under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that in the year 1990, he had started the said company at Vijapur Road, Mansa, district Gandhinagar, Gujarat-382845 with himself and his wife as directors; that he had taken a loan from Gujarat State Finance Corporation and purchased plastic extruder and injection moulding machines and started production of PVC pipes, which were sold in Gujarat to wholesalers and Government bodies; that in the year 1998, due to price fluctuation of PVC resin, he had suffered a huge loss and in the same year his wife resigned as director and in her place his nephew took over; that their bankers had taken possession of their factory on account of their failure to pay their loan instalments; that in the year 2002, he had obtained Import Export Code in the name of his company showing the address of his factory and branch office at 4th Floor, Mithakali, Ellis bridge, Ahmedabad, Gujarat – 380006, which was purchased in the name of their company; that in the year 2004, he had come to Mumbai for developing business of import/export and trading of PVC pipes and doing import or export of such items that would be in demand; that in April 2004, he had taken the premises at Room No. 30, Patel building, 3rd Floor, M.K. Aminar Marg, Fort, Mumbai on monthly rent of Rs. 2000/-.

14.2 He further stated that around February-March 2005, he met Shri. Kirti Doshi, whom he knew as a person dealing in bearings; that Shri. Kirti Doshi had told him that he would negotiate with foreign based suppliers in Dubai and place orders for consignments of cosmetics/toiletries and fabrics in the name of M/s Khodiyar Polymers P. Ltd. and that he would ensure its clearance through Customs; that Shri. Kirti Doshi had also told him that he would be required to invest only to the extent of the Customs duty payable on the consignments and after clearance of the goods, he would sell it in market in Mumbai and he would take 30% of the profit earned as his share; that he agreed to the proposal and had left for Ahmedabad. On being asked, Shri. Ramniklal M. Patel stated that he had not given any written authority to Shri. Kirti Doshi for handling my imports in the name of his firm, M/s Khodiyar Polymers P. Ltd. nor was there any written agreement between him and Shri. Kirti Doshi regarding the above manner in which imports would be handled and profits would be shared; that as per instructions of Shri. Kirti Doshi, he had opened a Current Account in ICICI bank, Zaveri bazaar branch, Mumbai around a year back and he had signed on blank cheques and blank letter heads of M/s Khodiyar Polymers P. Ltd., which he had given to Shri. Kirti Doshi for running the business; that he was not aware of the exact nature of imports made in the name of his company by Shri. Kirti Doshi except that in the past, apart from the consignment of toiletries seized by DRI, around 5-6 consignments of fabrics and one consignment of toiletries had been imported in the name of M/s Khodiyar Polymers P. Ltd.; that as per instructions of Shri. Kirti Doshi, he had only arranged for funds for payment of the duty in respect of the consignments imported in the past.

15.1 Statement of Shri. Vithalbhai V. Gajera, proprietor of M/s Amrut Traders was recorded on 24.11.2005 under Section 108 of the Customs Act, 1962, wherein he, inter





alia, stated that in the year 2004 as per suggestion of his co-brother, Shri. Rannikbhai M. Patel, who was in the field of import and export, he had entered the same field; that his co-brother asked him to obtain an Import Export Code from JDGFT, Ahmedabad after which he would guide him regarding the goods to be imported, which were seasonal requirements in the market and Gujarat; that accordingly he applied for an IEC showing the address of factory of his friend, Shri. Kanubhai Patel i.e. M/s Sona Diary, 132, Mona Estate, opp. Anil Starch Mill, Safed Chail Road, Saraspur, Ahmedabad – 380018, as the office address of his proprietary firm, M/s Amrut Traders; that as per instructions of his co-brother, he had shown the address at B/16, M. K. Aminar Marg, Patel Building, Room No. 30, Bora Bazar Street, Fort, Mumbai – 400001 and 43, Sharadanand Marg, Delhi – 110006 as the two branch addresses of his proprietary firm; that out of the two branch addresses, he had never been to the Delhi address; that he was paying a monthly rent of \$1.12,000 per month upto the month he was occupying it i.e. September 2005, but there is no rent agreement or rent receipt in this regard; that he was also not paying any rent to the two said branch office addresses at Mumbai and Delhi.

15.2 Shri. Vithalbhai V. Gajera, further stated that on 30.09.2004 he received IEC certificate and informed his co-brother and as per his instructions gave a copy of the same to his co-brother; that his co-brother had told him at that time that there was one person, namely Shri. Kirti Doshi in Mumbai, who had experience in import/export business and who would help them; that in the month of June, 2005, he accompanied his co-brother to Mumbai and Shri. Kirti Doshi met them there; that Shri. Kirti Doshi gave a proposal to him that he would negotiate with the foreign based suppliers in Dubai and place the orders for three consignments of cosmetics and toiletries in the name of M/s Amrut Traders and he would ensure its clearance through Customs; that Shri. Kirti Doshi had also told him that he would be required to invest only to the extent of Customs duty payable on the consignments and after clearance of the goods, he would sell it in the market in Mumbai and he (Shri Kirti Doshi) would take 30 % of the profit earned as his share; that he agreed to the proposal and left for Ahmedabad; that he had not given any written authority to Shri. Kirti Doshi for handling his imports in the name of his firm, M/s Amrut Traders, nor was there any written agreement between him and Shri. Kirti Doshi regarding the above manner in which imports would be handled and profits would be shared; that around two months back, Shri. Kirti Doshi contacted him over his mobile and informed him that orders in respect of three consignments of cosmetics and toiletries had been placed and they are likely to be shipped shortly.

15.3 On being asked, Shri. Vithalbhai V. Gajera stated that he was not aware of the exact description of the goods being imported nor does he know the foreign suppliers or the Custom House Agent, who were to handle the import clearance work in respect of the said three consignments; that around a month back, Shri. Kirti Doshi and his co-brother had contacted over his mobile and informed him that the said three consignments had arrived at Mumbai port which had been stopped by Customs authorities and that efforts are on to get the goods cleared through Customs; that





subsequently he had received two summons from the Directorate of Revenue Intelligence, Ahmedabad, but he had not appeared before them. On being asked Shri. Vithalbhai V. Gajera stated that apart from the said three import consignments, no other imports had been made in the name of M/s Amrut Traders in the past; that so far his investment had been to the extent of duty paid towards clearance of these consignments, which he had kept his co-brother in the form of cash; that he was not aware of the fact as to under whose Invoice the imported goods would have been sold after clearance through Customs and how the remittances would be sent to the foreign suppliers; that as per the instructions of his co-brother, he had opened a Current account in ICICI bank, Zaveri Berman branch, Mumbai around a year back and he had signed blank cheques and blank letter heads of M/s Amrut Traders, which he had given to his co-brother for running the business and he was not aware whether his co-brother had given authority letter using these blank signed letter heads to Shri. Kirti Doshi, to operate the said bank accounts.

16. The scrutiny of the documents obtained from the CHA, M/s Global Services revealed that with respect to the Bill of Entry No. 615117 dated 18.10.2005, the assessment group VII of NCH, Mumbai had taking into consideration Invoice value of US 8003.52 (equivalent to Rs. 3,53,355/-). C & F and after loading the price assessed the duty as Rs. 1,85,256/- (excluding duty amount of Rs. 26,824.27 adjusted against DEPB licence no. 0310341881 dated 08.08.2005), which had been deposited in Government Treasury on 19.10.2005. Scrutiny of the CHA docket also revealed that a photocopy of the Invoice no. GTL/EXP/081-05 dated 20.09.2005 pertaining to consignment covered by Bill of Entry No. 615116 dated 18.10.2005 was available on the records which gave the brand name of Conditioner and Cream as L'oreal and 'Nivea' respectively. There also exists another Invoice bearing same no. and date, which is bereft of these details, which was submitted to Customs authorities for assessment purposes. Thus, it appears that the importers (M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd.), Shri. Kirti Doshi and the CHA (M/s Global Services) were aware that the toiletries imported by them were of reputed brands.

17.1 In order to ascertain the value of the various types of cosmetics and toiletries in question, market enquiry was undertaken. During the course of the same, M/s Akbarally's and M/s Shopper's Stop have informed that they have not sold any of the said items in question from their outlets. Therefore, enquiry under Section 107 of the Customs Act, 1962 was caused with Shri. Tayab J. Khatri, proprietor of M/s Alfa, 5/6, Dadi House, Irla Society, Vile Parle (West), Mumbai- 56. In his statement recorded under Section 107 of the Customs Act, 1962, Shri. T. J. Khatri stated that he had given the Retail sale price of the goods sold through his outlet in the List provided by the officer of DRI, Mumbai. He also stated that the said goods are not imported by them and that he purchases these goods from salesmen in small quantities in cash. The values arrived at on the basis of the retail prices provided by Shri. T. J. Khatri in respect of the Bills of Entry no. 615116 and 615117 both dated 18.10.2005 and 616107 and 616108 both dated 20.10.2005 are given in Annexure-C annexed to this Show Cause Notice.





17.2 Further, in order to ascertain prices, cash memos were obtained from M/s Sarvoday Emporium, 26/779, Ganesh Krupa, Pant Nagar, Ghatkopar (East), Mumbai- 77, M/s Rajul Stores, 322/9, Trimurti Housing Soc., Hingwala Lane, Ghatkopar (East), Mumbai- 77 and M/s Premal J. Doshi & Co., Gala No. 3, Ram Rahim Udyog Nagar, LBS Road, Sonapur, Bhandup (West), Mumbai. The values arrived at on the basis of the retail prices available in the said Cash memos in respect of the Bills of Entry no. 615116, 615117 both dated 18.10.2005 and 616107 and 616108 both dated 20.10.2005 are given in Annexure-D annexed to this Show Cause Notice.

18. On 27.10.2005, the consignment covered by B/E No. 616108 dt. 20.10.2005 filed in the name of M/s Khodiyar Polymers P. Ltd. and consignments covered by Bs/E No. 616107 dated 20.10.2005, 615117 dated 18.10.2005 and 615116 dated 18.10.2005, filed in the name of M/s Amrut Traders and valued at Rs. 18,65,699/-, Rs. 23,90,283/-, Rs. 19,07,616/- and Rs. 24,29,849/- (market value) respectively were placed under seizure under Section 110 of the Customs Act, 1962.

19. Pursuant to the seizure, letter dated 26.10.2005 was received on the letter head of M/s Amrut Traders, wherein, it was stated that the consignments covered by Invoice no. GTUEXP/83-05, GTUEXP/081-05 and SC/EXP/AT/02 had been purchased on lot basis and no individual price was determined or fixed while making and finalizing the deal with the suppliers. It was further stated that after inspection by Customs, it had come to their knowledge that the said consignments carry various brands, which considering the prevailing market conditions might have a value three times more than the value declared in invoice no. SC/EXP/AT/02 dated 24.09.2005 and four times than the value declared in the Invoice nos. GTUEXP/83-05 and GTUEXP/081-05 dated 20.09.2005. The letter further stated that the goods being highly perishable/inflammable and due to the festive season, the goods be allowed to be cleared on provisional basis after loading value as given above. Similar letter dated 26.10.2005 was also given on the letter head of M/s Khodiyar Polymers P. Ltd., wherein loading to the extent of three times the value declared in Invoice No. 12485 (i.e. 124885) dated 19.09.2005 was accepted. Both the letters bore handwritten endorsement of Shri. Kirti Doshi, requesting that the goods be assessed at three/four times the declared value as true and correct transaction value as stated in his statement dated 25.10.2005.

20. Vide letter dated 28.10.2005, M/s Khodiyar Polymers P. Ltd. submitted Pay Order No. 102661 and 102662 for Rs. 2,53,104/- and Rs. 1,37,907/- respectively, towards duty on the loaded value in respect of the consignment covered by B/E No. 616108 dt. 20.10.2005 (Invoice No. 124885 dated 19.09.2005). Similarly vide three letters dated 28.10.2005, M/s Amrut Traders submitted Pay order no. 102663, 102664 and 102665/102665 (for Rs. 2,97,163/-, Rs. 2,29,309/- and Rs. 3,24,443/Rs. 1,76,511/- resp) towards duty on the loaded value in respect of consignment covered by Bs/E No. 616107 dated 20.10.2005, 615117 dated 18.10.2005 and 615116 dated 18.10.2005. Invoice nos. GTL/EXP/83-05, GTL/EXP/081-05 both dated 20.09.2005 and SC/EXP/AT/02 dated 24.09.2005 respectively).



21. Pursuant to the above deposits and on reference by DRI, Mumbai to the Commissioner of Customs (EP), NCH, Mumbai, the seized goods were provisionally released after the Bills of Entry, filed manually, were subjected to provisional assessment of on execution of Bond and Bank Guarantee, details of which are given in table below;

Sr.	Bill of Entry No. and date	Importer	Bond value (in Rs.)	Bank Guarantee (in Rs.)
1	616108 dt. 20.10.2005	M/s Khodiyar Polymers P. Ltd.	11,03,726	2,71,982
2	616107 dt. 20.10.2005	M/s Amrut Traders	14,09,578	9,78,018
3	615116 dt. 18.10.2005		14,32,381	
4	615117 dt. 18.10.2005		11,12,768	

22.1 The prices admitted by Shri. Kirti J. Doshi in respect of the cosmetics and toiletries were in line with the prices obtained through market enquiries. However, Shri. Tayab J. Khatri, proprietor of M/s Alfa had stated in his statement recorded under Section 107 of the Customs Act, 1962 that the various types of cosmetics and toiletries for which he had provided the prices, had been purchased from traveling salesmen on cash basis. Further the cash memo of M/s Rajul Stores, M/s Premal J. Doshi and M/s Sarvoday Emporium are not corroborated by documents evidencing purchase of the various types of cosmetics and toiletries. Therefore, the prices do not appear to be truly representative of the retail selling price of the said goods.

22.2 In order to arrive at the correct CIF value of the said goods, letters were issued under Section 107 of the Customs Act, 1962 to M/s Procter & Gamble, M/s Hindustan Lever Ltd., M/s Nivea India P. Ltd., M/s L'oreal India P. Ltd. seeking details of contemporaneous imports and ex-factory selling price of brands owned by them/group company such as Brut, Denim ( M/s Hindustan Lever ), Head & Shoulders, Pert Plus, Pantene (M/s Procter & Gamble), Elvive (M/s L'oreal India P. Ltd.) and Nivea (M/s Nivea India P. Ltd. Also identical details were sought from M/s Pantaloon Retail (India) P. Ltd., owners of 'Big Bazaar' outlets in Mumbai in respect of all the goods in question. In response, M/s Pantaloon Retail (India) Ltd. vide their letter dated 19.02.2007 provided their Purchase price and MRP in respect of certain cosmetics and toiletries sold by them through their 'Big Bazaar' outlets during the year 2005 (detailed in table below). They also





confirmed that they had not transacted with M/s Amrut Traders, M/s Khodiyar Polymers P. Ltd. and Shri. Kirti Doshi since January 2005.

Details of B/E covering the said product			Details provided by M/s Pantaloon Retail (India) Ltd.		
Sr.	B/E No. and Date	Importer Name	Product	MRP as given by M/s Pantaloons Retail (India) Ltd. (In Rs.)	Ascertained CIF value per piece (i.e., 50% of MRP) – in Rs.
1.	616108 dated 20/10/2005	M/s Khodiyar Polymers P. Ltd.	Brut (Oceans, Original, Musk, Identity and Instinct)- 200 ml.	143.55	71
2.	--do--	--do--	Denim After Shave Lotion – 100 ml.	113.85	56
3.	616107 dated 20/10/2005	M/s Amrut Traders	Lomani-Best Deo-200 ml.	117.6	58
4.	--do--	--do--	El Paso-200 ml.	108.9	54
5.	--do--	--do--	Do It Deo-200 ml.	117.6	58
6.	--do--	--do--	Cigar Deo-200 ml.	117.6	58
7.	--do--	--do--	Network Deo-200 ml.	118.8	59

22.3 The CIF values arrived at on the basis of the Retail prices provided by M/s Pantaloon Retail (India) P. Ltd. were more or less in sync with the value admitted by Shri. Kirti J. Doshi in his statement dated 19.02.2007, i.e. five and a half times the declared value. Therefore, it appears that the said admitted values are the actual values at which Customs duties are leviable in respect of the goods imported under Bills of Entry no. 615116 and 615117 both dated 18.10.2005 and 616107 and 616108 both dated 20.10.2005.



23 Thus from the above facts and circumstances of the case, it appeared that:

(i) the Bills of Entry No. 615116 and 615117 both dated 18.10.2005 and Bill of Entry No. 616107 dated 20.10.2005 had been filed in the name of M/s Amrut Traders, Gujarat and Bill of Entry No. 616108 dated 20.10.2005 had been filed in the name of M/s Khodiyar Polymers P. Ltd. for the clearance of cosmetics and toiletries;

(ii) the imported goods of M/s Amrut Traders covered by Bills of Entry No. 615116 and 615117 both dated 18.10.2005 and Bill of Entry No. 616107 dated 20.10.2005 were contained in Container Nos. IALU 2247970, CRXU 2814410 and MLCU 3463321 respectively.

(iii) the imported goods of M/s Khodiyar Polymers P. Ltd. covered by Bill of Entry No. 616108 dated 20.10.2005 was contained in Container Nos. CRXU .2831531,

(v) Scrutiny of the dockets obtained from concerned CHA i.e. M/s Global Services (CHA No. 11/1170), revealed that the invoices submitted alongwith the Bill of Entry were not having any brand.

(v) The examination of the goods contained in the above said Containers revealed that all the goods were having markings of various well-known brands.

(vi) Statement of the CHA revealed that he did not know the importers i.e. M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd. and that the work of clearance of the above consignments through Customs was given to them by one person viz. Shri. Kirti Doshi,

(vii) In his statement recorded under Section 108 of the Customs Act, 1962 on 25.10.2005, Shri. Kirti Doshi accepted that the correct transaction value of the consignments covered by Bills of Entry No. 616107 dated 20.10.2005 filed in the name of M/s Amrut Traders and Bill of Entry No. 616108 dated 20.10.2005 filed in the name of M/s Khodiyar Polymers P. Ltd. were three times the declared values. He had also accepted that the correct transaction value of the said consignments covered by Bills of Entry No. 615116 and 615117 both dated 20.10.2005 filed in the name of M/s Amrut Traders were four times the declared values.

(viii) In respect of Bills of Entry no. 615116 and 615117 both dated 20.10.2005, the duty had been assessed at Rs. 1,85,256/- and Rs. 1,57,353/- respectively which had been paid and the goods were pending examination by Docks Customs authorities.

(x) In their statement recorded under Section 108 of the Customs Act, 1962 on 24.11.2005 and 25.11.2005, Shri. Vithalbhai V. Gajera and Shri. Ramniklal M. Patel had stated inter alia that the aforementioned imports were to be handled by Shri. Kirti Doshi and they had to invest only to the extent of the Customs duty payable on such consignments.

(x) On account of suppression of brand names and consequent misdeclaration of value the said consignments covered by B/E No. 616108 dt. 20.10.2005 filed in the name of M/s Khodiyar Polymers P. Ltd. valued at Rs. 18,65,699/- and consignments covered by Bs/E





No. 616107 dated 20.10.2005, 615117 dated 18.10.2005 and 615116 dated 18.10.2005, filed in the name of M/s Amrut Traders and valued at Rs. 23,90,283/-, Rs. 19,07,616/- and Rs. 24,39,840/- (market value) were placed under seizure on 27.10.2005.

(xi) The Bills of Entry were provisionally assessed and the goods were provisionally released upon execution of Bond for Rs. 11,03,726/- and & Bank Guarantee of 2,71,982/- in respect of import consignment of M/s Khodiyar Polymers P. Ltd. and Bond for Rs. 39,54,727/- and Bank Guarantee of Rs. 9,78,018/- in respect of import consignments of M/s Amrut Traders.

(xii) Market survey was conducted to ascertain the actual value of the above said consignments and the results were as follows.

Sr.	Bill of Entry No. and date	Source of market survey	Value (in Rs.)
1.	615116 dated 18.10.2005	M/s Sarvoday Emporium	27,15,648
2.	615117 dated 18.10.2005	M/s Sarvoday Emporium and M/s Premal J. Doshi	21,60,294
3.	616107 dated 20.10.2005	M/s Rajul Stores and M/s Sarvoday Emporium	28,10,880
4.	616108 dated 20.10.2005	M/s Sarvoday Emporium	22,50,900
5.	615116 dated 18.10.2005	M/s Alfa	16,32,030 (excluding value of certain items)
6.	615117 dated 18.10.2005	M/s Alfa	18,45,090 (excluding value of certain items)
7.	616107 dated 20.10.2005	M/s Alfa	26,44,320
8.	616108 dated 20.10.2005	M/s Alfa	24,06,000 (excluding value of certain items)

(xiii) In his further statement recorded under Section 108 of the Customs Act, 1962 on 19.02.2007, Shri. Kirti Doshi stated that the correct transaction value of the consignments covered by Bills of Entry No. 616107 dated 20.10.2005, 615116 and 615117 both dated 20.10.2005 filed in the name of M/s Amrut Traders and Bill of Entry No. 616108 dated 20.10.2005 filed in the name of M/s Khodiyar Polymers P. Ltd. were five and a half times the declared values.



(xiv) - The CIF values arrived at on the basis of the Retail prices provided by M/s Pantaloon Retail (India) P. Ltd. were found to be more or less in sync with the value admitted by Shri. Kirti J. Doshi in his statement dated 19.02.2007, i.e. five and a half times the declared value.

(xv) - On account of the foregoing it appears that said cosmetics and toiletries had been imported by suppression of brand and other relevant details with a view to clear the goods by undervaluing and to evade payment of appropriate amount of Customs duty.

24. From the foregoing, it appeared that among others following provisions of law will be applicable in this case.

(i) As per Section 2(33) of the Customs Act, 1962, means any goods, the import or export of which is subject to any prohibition under the Customs Act, 1962 or any law for the time being in force...

(ii) As per Section 2(41) of the Customs Act, "value", in relation to any goods, means the value thereof determined in accordance with the provisions of subsection (1) of section 14.

(iii) As per Section 14 of the Customs Act, 1962, valuation of goods for purposes of assessment, where a duty of Customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where -

(a) the seller and the buyer have no interest in the business of each other; or

(b) one of them has no interest in the business of the other, and the price is the sole consideration for the sale or offer for sale.

(iv) As per Rule 3 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988, the value of the imported goods, subject to Rule 9 and 10A shall be the transaction value and if there is no transaction value, then the value shall be determined by proceeding sequentially through rules 5 to 8 of the said rules.

(v) As per Rule 4 of the Customs Valuation (Determination of Price of Imported goods) Rules, 1988, "the transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export to India". Further, as per proviso to Rule 4 of the said Rules, transaction value of imported goods under sub-rule (1) above shall be accepted, if the sale is in the ordinary course of trade under fully competitive conditions; and does not involve any abnormal discount or reduction from the ordinary competitive price.

(vi) As per Rule 5 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988, the value of imported goods shall be the transaction value of identical goods





sold for export to India and imported at or about the same time as the goods being valued, subject to certain conditions and parameters.

(vii) As per Rule 6 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued, subject to certain conditions and parameters.

(viii) As per Rule 7 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of the imported goods shall be based on the unit price at which the imported goods/identical goods/similar goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India subject to certain deductions.

(ix) As per Rule 8 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988, the value of imported goods shall be determined using reasonable means consistent with the principles and general provisions of these rules and sub-section (1) of Section 14 of the Customs Act, 1962 and on the basis of data available in India.

(x) As per Rule 11 of the Foreign Trade (Regulation) Rules, 1993, owner of the imported goods shall in the Bill of Entry or any other documents prescribed under the Customs Act, 1962 state the value, quality and description of such goods to the best of his knowledge and belief and certify to its truthfulness.

(xi) As per Rule 12 of the Foreign Trade (Regulation) Rules, 1993, on importation of any goods, the importer is required to state the Importer-Exporter Code no. allotted to him by the competent authority in the Bill of Entry or any other documents prescribed under the said Rules or Customs Act, 1962.

(xii) As per Rule 14(1) of the Foreign Trade (Regulation) Rules, 1993, no one shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purpose of importing and goods knowing or having reason to believe that the same is false in any material particular.

(xiii) As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1952, no import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and then export and import policy for the time being in force.

(xiv) As per the provisions of Section 46 of the Customs Act, 1962, the importers are required to declare and certify the correctness of the material particulars, including the prices of the imported goods furnished in the respective Bills of Entry, which are under reference.





(xv) As per Section 111(d) of the Customs Act, 1962, any goods which are imported or attempted to be imported or are brought within the Indian Customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation.

(xvi) As per Section 111(m) of the Customs Act, 1962, any goods which do not correspond in respect of value or in any other particular with the entry made under this Act .... shall be liable to confiscation.

25(a) With respect to the above said three consignments imported in the name of M/s Amrut Traders and one consignment imported in the name of M/s Khodiyar Polymers P. Ltd., Shri. Kirti Doshi had admitted to five and a half times the values declared to Customs, which is more or less in sync with the CIF value worked back from the retail selling price provided by M/s Pantaloon Retail (India) P. Ltd., Mumbai. Shri. Vithalbhai V. Gajera, proprietor of M/s Amrut Traders and Shri. Ramniklal M. Patel, Director of M/s Khodiyar Polymers P. Ltd. had admitted that the negotiations in respect of the consignments imported in the name of their firm/company were being handled by Shri. Kirti Doshi only. Besides, from the Invoices furnished at the time of clearance of the consignments imported under the said Bills of Entry, there is no mention of the terms of payment and apart from cryptic reference to the origin of the cosmetics of toiletries and no brand names and other relevant particulars were given. On account of the above, the declared values do not appear to be in the nature of transaction values under Rule 4 of the Customs Valuation (Determination of Price of Imported goods) Rules, 1988 read with Section 14 of the Customs Act, 1962.

25(b) As per Rule 10 of the Customs Valuation Rules (Determination of Price of imported goods), the importer his agent is required to furnish a declaration disclosing full and accurate details relating to value of the imported goods and any other statement, information document including invoice of the manufacturer or producer of the imported goods where the goods are imported from or through person other than manufacturer or producer as considered necessary by the proper officer for determining the value of the imported goods under the said Rules. Neither the importers nor Shri. Kirti Doshi have been able to produce the manufacturer's invoice in respect of the above said imported consignments. Therefore, it appears that the value declared in respect of the above said consignments are liable to be rejected under Rule 10 A of the Customs Valuation Rules, 1988 and the correct transaction value is as admitted by Shri. Kirti Doshi in his statement dated 19.02.2007.

25(c) As there are no details of identical or similar imported goods sold in India at the same time, Rule 5, 6 and 7 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988 cannot be applied for arriving at the transaction value of the above said seized goods. Therefore, the residual method provided under Rule 8 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988 is being adopted for arriving at the transaction value of the seized goods.





25(d) The CIF values arrived at on the basis of the Retail prices provided by M/s Pantaloon Retail (India) P. Ltd. were more or less in sync with the value admitted by Shri. Kirti J. Doshi in his statement dated 19.02.2007, i.e. five and a half times the declared value. Therefore, if the said admitted values appear to be the actual values at which Customs duties are leviable in respect of the goods imported under Bills of Entry no. 615116 and 615117 both dated 18.10.2005 and 616107 and 616108 both dated 20.10.2005 under Rule 8 of the Customs Valuation (Determination of Price of imported goods) Rules, 1988.

26(a) Thus from the aforesaid investigations it appeared that in this case the entire scheme of import was based on fraudulent means and method adopted by the concerned persons, where the IEC was obtained on the strength of misdeclared particulars and the imports were arranged in the name of the said firm/company, who were not found to be the actual importer. On the strength of such manipulation and fabrication of documents the aforesaid import was arranged in the name of floated and non-existent firm by abusing the IEC facility. The said abuse i.e. obtaining IEC code in the name of a front person who were neither the actual importers nor the owners of the imported goods amounts to contravention of Rule 12 of Foreign Trade (Regulations) Rules, 1993. Similarly, the said front persons as proprietor or director of the said importing firm on record had filed declaration by way of Bill of Entry certifying the correctness of the material particulars declared in the capacity of an importer and thereby abusing the facility of bonafide import clearance by furnishing the incorrect details in contravention of the provisions of Section 46 of Customs Act, 1962, which is violative of Rule 11 of the Foreign Trade (Regulations) Rules, 1993. Besides, the aforesaid fraudulent and corrupt practices adopted in relation to the said import, are found to be in contravention of Rule 12 and Rule 14 of the Foreign Trade (Regulations) rules, 1993 read with the provisions of Section 16(1) of the Foreign Trade (Development and Regulations) Act, 1992.

26(b) On account of the aforesaid violations, the import consignments in question of an ascertained CIF value of Rs. 19,65,319/- under Bill of Entry number 615116 dated 18.10.2005, Rs.15,27,649/- under Bill of Entry No. 615117 dated 18.10.2005, Rs. 25,77,757/- under Bill of Entry No. 616107 dated 20.10.2005 and Rs. 20,34,664/- under Bill of Entry No. 616108 dated 20.10.2005 fall under the category of prohibited goods as given in Section 2(33) of the Customs Act, 1962 and are thus liable to confiscation under the provisions of Section 111(d) of the Customs Act, 1962.

27. As brought out above, it has been found that the said consignments of cosmetics and toiletries had been imported by suppression of the brand and other relevant particulars in the Invoices and Bills of Entries. Further, the values declared to Customs in these documents appear to have been undervalued. Thus the imported goods are found to be not corresponding in respect of value and material particulars under the Customs Act, 1962 and therefore are liable to confiscation under Section 111(m) of the Customs Act, 1962.





28. Thus it appeared that the importers, M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd. as well as Shri. Kirti Doshi have resorted to mis-statement and mis-represented the details while making declaration and claiming assessment and clearance of the subject imports and resultantly the duty actually chargeable on the said imports could not be levied. Further, investigations initiated by this Directorate have revealed the willful suppression of actual values and mis-statement/mis-representation on the part of importers leading to evasion of duty amounting to Rs. 17,94,711/- and Rs. 7,16,345/-, in respect of imports in the name of M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd. respectively, which are liable to be recovered along with interest under the proviso to Section 28 of the Customs Act, 1962, read with the provisions of Section 28AB of the Customs Act, 1962.

29. On account of the aforesaid acts of omission and commission, which have rendered the above said imports liable to confiscation and also led to evasion of Customs duty, it appears that M/s Amrut Traders, Shri. Vithalbhai V. Gajera, proprietor of M/s Amrut Traders, M/s Khodiyar Polymers P. Ltd. and Shri. Ramniklal M. Patel, Director of M/s Khodiyar Polymers P. Ltd. have rendered themselves liable to penalty under Section 114A and/or Section 112(a) of the Customs Act 1962.

30. Further, with reference to the imports in question admittedly negotiated with the foreign suppliers and arranged executed in the name of M/s Amrut Traders and M/s Khodiyar operations of which he was controlling, Shri. Kirti Doshi has admitted to have arranged for the said imports in the name of M/s Amrut Traders, M/s Khodiyar Polymers P. Ltd., which has been corroborated by Shri. Vithalbhai V. Gajera and Shri. Ramniklal M. Patel in their statements both dated 24.11.2005 and by Shri. Arvind Kumar Dubey, Manager, M/s Global Services (CHA No.11/1170) in his statement dated 21.10.2005. Shri. Kirti Doshi has also admitted in his statement dated 25.10.2005 that brands and other relevant particulars had been suppressed by the foreign suppliers as per his instructions. He also admitted that the actual value is five and a half times the values declared in respect of the said imports and thus he has not only assisted actively in misdeclaration of values but on account of said suppression, appropriate amount of Customs duty could not be levied which is liable to be recovered under the proviso to Section 28 of the Customs Act, 1962. On account of such suppression and mis-declaration, it appears that Shri Kirti Doshi has rendered himself liable to penal action under the provisions of Section 112(a) and 114A of the Customs Act, 1962.

31. Further, with reference to the imports in question, M/s Global Services (CHA No. 11/1170) are found to have suppressed the Invoice no. GTL/EXP/081-05 dated 20.09.2005 pertaining to consignment covered by Bill of Entry No. 615116 dated 13.10.2005, which gave the brand name of Conditioner and Cream as L'Oreal and 'Nivea' respectively and furnished another Invoice bearing same no. and date to Customs authorities for assessment purposes, which was bereft of these details, which had significant effect on the value of the goods. Further, they had provided CHA services in respect of imports in the name of M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd., on the basis of

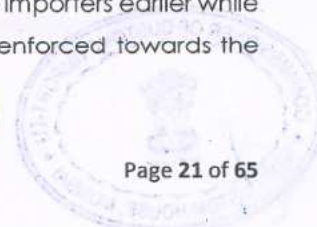




instructions of Shri. Kirti J. Doshi, who had no locus standi with respect to the said company/firm. Thus the said CHA has assisted actively in misdeclaration of values and on account of the same, appropriate amount of Customs duty could not be levied which is liable to be recovered under the proviso to Section 28 of the Customs Act, 1962. On account of such suppression and mis-declaration, it appears that M/s Global Services (CHA No. 11/1170) have rendered themselves liable to penal action under the provisions of Section 112(a) and/or Section 114A of the Customs Act, 1962.

32. Therefore, the Show Cause Notice dated 12.03.2007 Vide F.No. DRI/MZU/D/INV-04/2005-06/2374 to 2381 was issued, inter alia asking M/s. Khodiyar Polymers (P) Ltd., its Director Shri Ramniklal M. Patel; Shri Kirti Doshi and M/s. Global Services (CHA 11/170) to Show Cause to Commissioner of Customs (EP) as to why:

- a) The declared C&F value of USD 8285.92 (Rs. 3,65,823/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home Consumption under Bill of Entry No. 616108 dated 20.10.2005 should not be rejected for the purpose of assessment of the goods to duty in terms of the provisions of section 14(1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under and the Bill of Entry be finally assessed at ascertained CIF value of USD 46085.26 (Rs. 20,34,664/-)
- b) The above goods of an aggregate admitted CIF value of Rs. 20,34,664/- as given in Annexure "E" to this Notice, should not be held liable to confiscation in terms of the provisions of Section 111(m) and 111(d) of Customs Act, 1962, read with the provisions of Foreign Trade (D&R) Act, 1992 and Foreign Trade (Regulations) Rules 1993.
- c) The Customs duty of Rs. 7,16,345/- computed on the basis of the above admitted transaction value, should not be demanded and recovered by invoking extended period available under the proviso to Section 28 (1) of the Act, in respect of the goods covered under said Bill of Entry number 616108 dated 20.10.2005 and why the amount of Rs. 3,91,011/- deposited by M/s. Khodiyar Polymers P. Ltd. should not be appropriated against the said duty assessed finally on the basis of said ascertained CIF value.
- d) Interest on the above differential duty amount should not be recovered under Section 28 AB of the Customs Act 1962.
- e) Penalty under the provisions of Section 112(a)/Section 114 A of Customs Act 1962 should not be imposed on M/s. Khodiyar Polymers P. Ltd., its director, Shri Ramniklal M. Patel, Shri Kirti Doshi and M/s. Global Services (CHA No. 11/1170) with regard to the evasion of Customs duty on account of under valuation of imports by resorting to mis-representation and willful suppression of facts.
- f) The aforesaid Bank Guarantee and the Bond furnished by the importers earlier while availing the provisional release should not be invoked and enforced towards the



aforesaid liabilities including duty and penal liabilities involved and invoked under the provisions of the Customs Act, 1962 in respect of aforesaid import consignment.

33. Show Cause Notice also issued to M/s. Amrut Traders, Shri Vithal bhai V. Gajera, Shri Kirti Doshi and M/s. Global Services to Show Cause as to why:

- a) The declared C & F value of USD 10497.60 (Rs. 4,63,469/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home consumption under Bill of Entry No. 616107 dated 20.10.2005 should not be rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14(1) of Customs Act, 1962, read with the Customs Valuation (Determination of price of imported goods) Rules, 1988 made there under the Bill of Entry be finally assessed at ascertained CIF value of USD 58386.35(Rs. 25,77,757/-).
- b) The above goods of an aggregate admitted CIF value of Rs. 25,77,757/- as given in Annexure "F" to this Notice, should be held liable to confiscation in terms of the provisions of Section 111(m) and 111(d) of Customs Act, 1962, read with the provisions of Foreign trade (Development & regulation) Act, 1992 and Foreign trade (Regulations) Rules 1993.
- c) The Customs duty of Rs. 9,07,551/- computed on the basis of the above correct admitted transaction value, should not be demanded and recovered by invoking extended period available under the proviso to Section 28(1) of the Act, in respect of the goods covered under said Bill of Entry number 616107 dated 20.10.2005 and why the amount of Rs. 5,00,954/- deposited by M/s. Amrut Traders should not be appropriated against the said duty assessed finally on the basis of said ascertained CIF value.
- d) The declared C & F value of USD 6221.16 (Rs. 2,74,664/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home consumption under Bill of Entry No. 615117 dated 18.10.2005 should not be rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14(1) of Customs Act, 1962, read with the Valuation Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under and the Bill of Entry be finally assessed at ascertained CIF value of USD 34,601.31(Rs. 15,27,648/-).
- e) The above goods of an aggregate admitted CIF value of Rs. 15,27,648/- as given in Annexure "G" to this Notice, should not be held liable to confiscation in terms of the provisions of Section 111(m) and 111(d) of the Customs Act, 1962, read with the provisions of Foreign Trade (Development & Regulation) Act, 1992 and Foreign Trade (Regulations) Rules 1993.
- f) The Customs duty of Rs. 5,37,839/- computed on the basis of the above admitted transaction value, should not be demanded and recovered by invoking extended period available under the proviso to Section 28 (1) of the Act., in respect of the





goods covered under said Bill of Entry number 615117 dated 18.10.2005 and why the amount of Rs. 1,57,353/- deposited by M/s. Amrut Traders upon initial assessment and the amount of Rs.2,29,305/- deposited pursuant to action initiated by DRI, Mumbai, should not be appropriated against the said duty assessed finally on the basis of said ascertained CIF value.

- g) The declared C&F value of USD 8003.52 (Rs. 3,53,355/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home Consumption under Bill of Entry No. 615116 dated 18.10.2005 should not be rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14 (1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under and the Bill of Entry be finally assessed at ascertained CIF value of USD 44,514.58 (Rs. 19,65,319/-)
- h) The above goods of an aggregate admitted CIF value of Rs.19,65,319/- as given in Annexure "H" to this Notice, should not be held liable to confiscation in terms of the provisions of Foreign Trade (Development & Regulation) Act, 1992 and Foreign Trade (Regulations) Rules 1993.
- i) The Customs duty of Rs. 6,91,930/-, computed on the basis of the above correct admitted transaction value, should not be demanded and recovered by invoking extended period available under the proviso to Section 28 (1) of the Act, in respect of the goods covered under said Bill of Entry number 615116 dated 18.10.2005 and why the amount of Rs. 1,85,256/- deposited by M/s. Amrut Traders upon initial assessment and the amount of Rs. 2,97,163/- deposited pursuant to action initiated by DRI, Mumbai, should not be appropriated against the said duty assessed finally on the basis of said ascertained CIF value.
- j) Interest on the above differential duty amount should not be recovered under Section 28 AB of the Customs Act 1962.
- k) Penalty under the provisions of Section 112 (a)/ Section 114 A of Customs Act 1962 should not be imposed on M/s. Amrut Traders, its proprietor, Shri Vithalbhair V. Gajera, Shri Kirti Doshi and M/s. Global Services (CHA No. 11/1170) with regard to the evasion of Customs duty on account of under valuation of imports by resorting to mis-representation and willful suppression of facts.
- l) The aforesaid Bank Guarantee and the Bond furnished by the importers earlier while availing the provisional release should not be invoked and enforced towards the aforesaid liabilities including duty and penal liabilities involved and invoked under the provisions of the Customs Act, 1962 in respect of aforesaid import consignment.

34. Accordingly, the then Commissioner of Customs (EP), New Custom House, Mumbai vide Order-in-Original CAO No. 2008/CAC/CC (IMP) dated 30.04.2008 (issued on 27.05.2008) passed the following order:



"(a) The declared C&F value of USD 8285.92 (Rs. 3,65,823/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home Consumption under Bill of Entry No. 616108 dated 20.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of section 14(1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under and the Bill of Entry is ordered to be assessed finally at CIF value of USD 46085.26 (Rs. 20,34,664/-)

(b) The above goods of an aggregate admitted CIF value of Rs. 20,34,664/- is confiscated under the provisions of Section 111(m) and 111(d) of Customs Act, 1962, read with the provisions of Foreign Trade (D&R) Act, 1992 and Foreign Trade (Regulations) Rules 1993. As the goods are not available for confiscation, a fine of Rs. 10,00,000/- (Ten lakhs only) is imposed in lieu of confiscation.

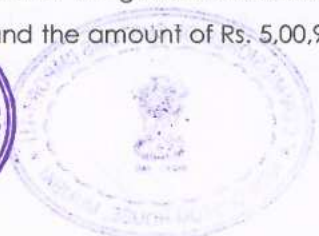
(c) The Customs duty of Rs. 7,16,345/- computed on the basis of the above admitted transaction value, is demanded under proviso to Section 28 (1) of the Act, in respect of the goods covered under said Bill of Entry no. 616108 dated 20.10.2005, from Shri Ramniklal M. Patel and Shri Kirti Doshi jointly and severally. The amount of Rs. 3,91,011/- deposited by M/s. Khodiyar Polymers P. Ltd. is ordered to be appropriated against the said duty assessed finally on the basis of said ascertained CIF value.

(d) Interest on the above differential duty amount is to be paid under Section 28 AB of the Customs Act 1962.

(e) The declared C & F value of USD 10497.60 (Rs. 4,63,469/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home consumption under Bill of Entry No. 616107 dated 20.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14(1) of Customs Act, 1962, read with the Customs Valuation (Determination of price of imported goods) Rules, 1988 made there under the Bill of Entry to be finally assessed at ascertained CIF value of USD 58386.35 (Rs. 25,77,757/-).

(f) The above goods of an aggregate admitted CIF value of Rs. 25,77,757/- is confiscated in terms of the provisions of Section 111(m) and 111(d) of Customs Act, 1962, read with the provisions of Foreign trade (Development & regulation) Act, 1992 and Foreign trade (Regulations) Rules 1993. As the goods are not available for confiscation; a fine of Rs. 12,50,000/- (rupees twelve lakh fifty thousand only) is imposed in lieu of confiscation.

(g) The Customs duty of Rs. 9,07,551/- computed on the basis of the above correct admitted transaction value, is demanded and ordered to be recovered from Shri V.V. Gajera and Shri Kirti Doshi jointly and severally, under proviso to Section 28(1) of the Act, in respect of the goods covered under said Bill of Entry number 616107 dated 20.10.2005 and the amount of Rs. 5,00,954/- deposited by M/s. Amrut Traders





is appropriated against the said duty assessed finally on the basis of said ascertained CIF value.

(h) It is also ordered for payment of interest at the appropriate rate in terms of Section 28 AB of the Customs Act 1962.

(i) The declared C & F value of USD 6221.16 (Rs. 2,74,664/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home consumption under Bill of Entry No. 615117 dated 18.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14(1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under and the Bill of Entry to be finally assessed at ascertained CIF value of USD 34,601.31 (Rs. 15,27,648/-).

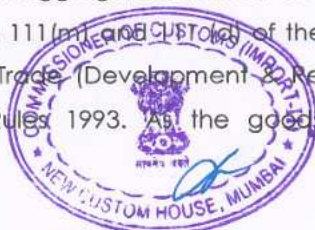
(j) The above goods of an aggregate admitted CIF value of Rs. 15,27,648/- is confiscated, in terms of the provisions of Section 111(m) and 111(d) of the Customs Act, 1962, read with the provisions of Foreign Trade (Development & Regulation) Act, 1992 and Foreign Trade (Regulations) Rules 1993. As the goods are not available for confiscation, a fine of Rs. 7,50,000/- (rupees seven lakh fifty thousand only) is imposed in lieu of confiscation.

(k) The Customs duty of Rs. 5,37,839/- computed on the basis of the above admitted transaction value, is demanded and ordered to be recovered from Shri V.V.Gajera and Shri Kirti Doshi jointly and severally, under proviso to Section 28 (1) of the Act, in respect of the goods covered under said Bill of Entry number 615117 dated 18.10.2005 and the amount of Rs. 1,57,353/- deposited by M/s. Amrut Traders upon initial assessment and the amount of Rs.2,29,305/- deposited pursuant to action initiated by DRI, Mumbai, is appropriated against the said duty assessed finally on the basis of said ascertained CIF value.

(l) Interest at the appropriate rate shall also be payable in terms of 28 AB of the Customs Act, 1962.

(m) The declared C&F value of USD 8003.52 (Rs. 3,53,355/-) in respect of the consignment of cosmetics and toiletries imported and cleared for Home Consumption under Bill of Entry No. 615116 dated 18.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14 (1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under and the Bill of Entry to be finally assessed at ascertained CIF value of USD 44,514.58 (Rs. 19,65,319/-)

(n) The above goods of an aggregate admitted CIF value of Rs. 19,65,319/- is confiscated in terms of Section 111(m) and 111(d) of the Customs Act 1962 read with the provisions of Foreign Trade (Development & Regulation) Act, 1992 and Foreign Trade (Regulations) Rules 1993. As the goods are not available for



confiscation, a fine of Rs. 9,50,000/- (rupees nine lakh fifty thousand only) is imposed in lieu of confiscation.

(o) The Customs duty of Rs. 6,91,930/-, computed on the basis of the above correct admitted transaction value, is demanded and under the proviso to Section 28 (1) of the Act, in respect of the goods covered under said Bill of Entry number 615116 dated 18.10.2005 and the amount of Rs. 1,85,256/- deposited by M/s. Amrut Traders upon initial assessment and the amount of Rs. 2,97,163/- deposited pursuant to action initiated by DRI, Mumbai, is appropriated against the said duty assessed finally on the basis of said ascertained CIF value.

(p) Interest on the above differential duty amount is ordered to be recovered under Section 28 AB of the Customs Act 1962.

(q) I also impose the following penalties:

1. M/s. Khodiyar Polymers P. Ltd. - Rs. 7,16,000/- (rupees seven lakh sixteen thousand only) in terms of section 114 A of the Customs Act 1962.
2. Shri Ramniklal M. Patel - Rs. 2,50,000/- (rupees two lakh fifty thousand only) in terms of Section 112 of the Customs Act 1962.
3. Shri Vithalbhair V. Gajera - Rs. 21,38,000/- (rupees twenty-one lakh thirty-eight thousand only) under Section 114 A of the Customs Act 1962.
4. Shri Kirti Doshi - Rs. 30,00,000/- (rupees thirty lakhs only) under Section 112 read with Section 114A of the Customs Act.

Further proceedings are dropped against the CHA M/s. Global Services.

(r) The Bank Guarantees furnished by the importers earlier while availing the provisional release shall be encashed and appropriated towards the aforesaid liabilities. I also order that if amounts are still outstanding after the encashment and adjustment, the Bonds executed shall be invoked to recover the duties".

35. Aggrieved by the above-mentioned Orders-in-Original CAO No. 97/2008/CAC/CC/KAP dated 30.04.2008, importers M/s Amrut Traders and M/s. Khodiyar Polymers Pvt. Ltd. filled and appeal before the Hon'ble CESTAT, WZB, Mumbai vide Appeal No. C/899 to 902/08, -Mum. The Hon'ble CESTAT, WZB, Mumbai vide Order No. A/89688- 89690/17/CB dated 13.09.2017 remanded the matter back to the Original Authority for consideration in the fresh adjudication on the basis of outcome of Apex Court Decision. The Relevant Para No. 4, 5 and 6 of the said order is re-produced as under:

"4. As a rule of consistency, this matter will also go back to the adjudicating authority for appropriate decision on the basis of outcome of the Apex Court judgment in the case of Mangali Impex (supra).

5. As we have not touched the merit of the case, while the matter of jurisdiction comes up before adjudicating authority for consideration on the basis





*of outcome of Apex Court decision, the appellant shall be given reasonable opportunity of hearing to argue both on facts and law as well as on merit before the learned authority. That authority recording pleading as well as evidence, shall pass appropriate order*

*6. In the result, appeals are remanded to the adjudicating authority with above direction".*

36. In pursuance of Hon'ble CESTAT, WZB, Mumbai's Order No.A/89688- 89690/17/CB dated 13.09.2017 , wherein it was directed to decide the case on the basis of outcome of the Apex Court judgment in the case of Mangli Impex, which was pending in the Hon'ble Supreme Court. the subject case was transferred to Call-Book and the same was intimated to importer M/s. Amrut Traders and M/s. Khodiyar Polymers Pvt. Ltd. vide letter F.No. S/10-31/2007 GR. II dated 11.04.2018. It was also intimated to the importer that intimation would be sent to the noticees as and when, the case is removed from Call-Book and adjudication proceedings are resumed. Also, letter dated 11.11.2019 was also issued to the said importers in this regard.

37. Hon'ble Supreme Court vide its common order dated 07.11.2024 in the matter of bunch of cases comprising following three cluster of matters, has ruled in favour of union of India.

(i) The Review Petition in the Canon India (supra) batch

(ii) The Mangali Impex (supra) appeal and other pending before this court on the issue of whether officer of DRI would be proper officer in light of Section 28(11); and

(iii) The petition challenging the constitutional validity of Section 97 of Finance Act, 2022

38. Accordingly, the instant case kept in the call book was reviewed and taken out for the purpose of adjudication of the impugned Show Cause Notice dated 12.03.2007 Vide F.No. DRI/MZU/D/INV-04/2005-06/2374 to 2381.

39. A Personal Hearing Memo vide letter 20.05.2025 was issued to all noticees to attend personal hearing fixed on 27.05.2025.

#### **PERSONAL HEARING AND WRITTEN SUBMISSION**

40.1 All the noticees were provided with opportunities for a personal hearing via virtual modes to present their case. However, all noticees except Noticee No. 6, M/s. Global Service requested for physical hearing on the given dates and the same was considered. Accordingly, all notices attended the personal hearing and submitted their written replies and authorizations for attending the hearing.

40.2 Records of the personal hearing conducted on 27.05.2025. The personal hearing was conducted on 27.05.2025 at 04.00 PM in the matter of M/s. Amrut Traders & M/s.



Khodiyar Polymers Pvt. Ltd. as per the provisions of the Customs Act, 1962, and in accordance with the principles of natural justice. The party/authorized representative appeared before the Commissioner of Customs (Import-II) and was given an opportunity to present their case. The following persons were present during the hearing:

Noticee No. 5: Shri Kirti Doshi & his authorised representative Adv. Anil Balani. The authorized representative/party submitted the following:

The Noticee reiterated that he had already submitted his written submissions dated 07.05.2007, 30.07.2007, 15.04.2008 & 04.04.2025 and requested to drop the proceedings based on their written submission.

**41.1 Written submissions on behalf of Shri Kirti J. Doshi:**

He attached his earlier three replies dated 07.05.2007, 30.07.2007, 15.04.2008 and 04.04.2025. Gist of the same is re-produced below:

- He requested for cross-examination of Assistant/Deputy Director of DRI under whose supervisions the investigations were carried out.
- He requested for cross-examination of officers who can give replies on various aspects that is investigations as well as assessment.
- He further requested for cross-examination of Assistant /Deputy Director who was concerned with the investigations and the Assessing Officer.
- Shri Doshi is not the importer though he facilitated the imports. The importers were to invest roughly 30% towards customs duty and were eligible to enjoy profits to the extent of 70 % which indicated that Shri Doshi only facilitated the transactions. If he is not the importer, then the charge against him treating him as the importer has to fail.
- During the investigation, statements of Shri Vithalbhai V. Gajera, proprietor of M/s.Amrut Traders and Shri Ramniklal M. Patel, Director of M/s. Khodiyar Polymers P. Ltd. were recorded by the DRI. In their respective statements, as relied by the Department, they have inter alia, stated that they were required to invest only to the extent of customs duty payable on the consignments which were to be handled by Shri Doshi. From these statements, there cannot be any manner of doubt that they were the actual importers, who have been required, to pay customs duty, on the goods. Therefore, the allegation that they were not the real importers is baseless and frivolous. At their request, he had negotiated with the foreign suppliers and orders were placed with them on behalf of the importer. He was also requested by the importers to arrange clearance of the goods through customs. For this service, he was to get usual commission after sale of the goods. For the commission, he had no other interest in the goods. The allegation





of active assistance in mis-declaring the value of the goods, is therefore, incorrect and unacceptable.

- The Notice states that in his statement dated 25.10.2005, he had allegedly stated that the actual value of the goods is give and half times the declared value. Several statements were recorded from him by the DRI from time to time by force and inducement. None of the said statements was correct and voluntary. Various values worth force by the officer to be written in statement. The said statements have no evidentiary value and the said statements cannot be used against him or any other person. The values are declared as per the invoices which shows the negotiated price arrived for the transaction. Shri Kirti D. Doshi further requested for cross-examination of Shri Jankinandan Pandey of Global Services, Shri Gajera and Shri Ramniklal Patel.
- The manner in which enquiries were conducted with M/s. Pantaloons was also questioned to state that the information was obtained by issuing a letter and no efforts were made to conduct enquiries with the suppliers of goods to Pantaloons. The reliability of prices of Alfa was raised to state that Shri Doshi or his representative was not present and that in the absence of any enquiry with the suppliers, no credence should be given. The market enquiry cannot form the basis for arriving at or revising the MRP declared.
- Legally, there was no requirement for declaration of brand name in the Invoices or Bill of Entry under Customs Act and that what is required to be declared is the country of origin, which they have done. This is because, goods are examined by the officers, who come to know of the brands in any case. Regarding valuation of the product, it was stated that based on certain parameters, they cannot be subject to assessment once again. Further, it was stated that the two firms were not fictitious, but existed and that the case has been made out to justify the so-called information, when in fact there was no case. In support of this argument he enclosed copies of Bills of Entry of identical goods with same or lower values cleared by the Department.
- He requested for cross examination of persons whose statements are relied upon against Shri Kirti Doshi, two importers viz. M/s. Amrut Traders and M/s. Khodiyar Polymers Pvt. Ltd., the officers who were concerned with investigations of the case and officers who were concerned with recording of the statements.
- Cross-examination of Shri Shanmugam, one of the officer of DRI was conducted, however, he was not in position to give any details regarding the market inquiry or with reference to any inquiry with assessing officers who were concerned with the particular Bill of Entry.
- Cross examination of Shri J. K. Naidu and Shri R. S. Nair, both intelligence officers of DRI who were concerned with market inquiry, revealed that the market inquiry was conducted in an improper manner.





- Shri J. K. Naidu was concerned with the purported market inquiry conducted with M/s. Pantaloon. M/s Pantaloon has submitted certain information by their letter dated 19.02.2007. This, therefore, cannot have an evidential value unless and until said persons are examined. No inquiry is conducted with the suppliers to know and understand the CIF value at which such goods have been imported that is to know and understand the CIF value and the Retail Sale Price declared by such people when imported. Shri J. K. Naidu categorically informed that no inquiries with the suppliers of Pantaloon was conducted. No verification of the prices shown in the information provided by Pantaloon was carried out with the products available on the shelf of Pantaloon. The said officer did not go to the place. The letter received from M/s. Pantaloon Retail India and the evidence given by Shri J. K. Naidu, Intelligence Officer, clearly shows that no verification of any kind whatsoever is carried out. In other words, some letter has been sent, and some information has been provided. Physical verification in any manner is not conducted. This is despite the fact that the suppliers to Pantaloon were made known, and yet no inquiry is made to identify the importers of such goods, so that the prices at which the goods are being imported in accordance with the International Market could be ascertained. Without making any such verification, the information provided by Pantaloon is taken as the basis for making the allegations of undervaluation.
- Submissions in respect of Cross-examination of Shri Girish Nair - Since the proceedings contained thereunder are not witnessed by any independent person and do not contain specific details regarding the source of procurement by Alpha nor any documents to show that the goods are being sold for prices mentioned therein, Shri Girish Nair, whose report is being relied upon in the show cause notice, was apparently produced for cross-examination. Shri Girish Nair was questioned, when he said that no inquiry regarding sources of purchase of goods was made. No details regarding the persons from whom the goods are purchased are given in the said document. Purchase price is mentioned, but no further documents showing the purchase prices are given. On the contrary, it is their case that M/s. Alpha purchases the goods on a cash basis from people who come and sell the goods at their premises. However, no purchase vouchers or books of accounts are verified, taken on record, or produced before Your Honour for the purpose of making such allegations. Therefore, during the cross-examination, Shri Girish Nair was inquired, to which he said that no goods of the kind that are mentioned and values of which are given by M/s. Alpha were seen by him in the premises, and no such verification was carried out. No goods containing the labels of the importers in question were available. According to him, the goods dealt with by M/s. Alpha were purchased by them from salesmen who sell the goods at their premises on cash. This sufficiently implies that there is no evidence regarding the value at which such goods are purchased by M/s. Alpha or by the purported suppliers.





nor are they relied upon in the show cause notice, it is clear that no evidence regarding the price at which such goods were sold by M/s. Alpha is available, yet these prices are taken on record as evidence against importers as well as Shri Kirti Doshi.

- The market inquiry is required to be in accordance with the Customs Valuation (Determination of Price of Imported Goods) Rules 1988. However, the rules are applicable only with reference to the value that could be determined in terms and for the purpose of Section 14 of the Customs Act, 1962, and not for the purpose of determination of the Retail Sale Price at which the importers intend to sell the goods under import. Since the Retail Sale Price is the price at which the goods imported by an individual importer are intended to be sold, the price at which similar or identical goods are sold by someone else has no relevancy for the purpose of making allegations of mis-declaration of value at the time of import. The Retail price of an individual importer may differ from consignment to consignment. Similarly, the Retail Sale Price of one importer may differ from the Retail Sale Price of another importer. Therefore, the value at which an individual importer is importing the goods or selling such goods cannot be challenged or re-determined on the basis of the value of another importer.
- no evidence in the form of contemporary values is brought on record by the department. The results of the cross-examination clearly indicate that no inquiry of any kind is even made in this direction, and further, that the officers who had conducted the market inquiry have not even verified whether any such goods are being sold at the prices mentioned by the two firms with whom the market inquiry is said to have been conducted.
- While there is no requirement under the Customs Act for declaration of brand name, there is a specific requirement that the country of origin is required to be declared, and therefore, there cannot be any allegation that there is a mis-declaration or non-declaration of brand name. Furthermore, in this case, all the goods contained in a container are of some brand. Examination of even one package would reveal the brand of the commodity. In this case, goods relating to two Bills of Entry Nos. 615116 and 615117, both dated 18-10-2005, have been assessed, and the values of the goods under import are enhanced, and the duty assessed accordingly. This indicates that the goods relating to said Bills of Entry have been assessed with reference to the documents and the details that are available on the said documents, namely invoices and packing lists. While the documents, that is, the packing list and invoice, do not contain a specific brand name, the documents do contain details regarding the country of origin of the goods in question. (Declaration of brand name is not a legal/essential requirement, while declaration regarding country of origin is mandatory). The origin of the brands is of the country, which is specifically available on the invoice and the packing list. These goods would have been examined in whatever manner they are examined by the proper officers of the Customs, which would





have been on the basis of the details that are available on the documents. Further verification of hundreds of Bills of Entry relating to such goods would show that while the country of origin is specifically available and stated, the brands are not declared.

- With reference to the goods which have already been assessed, it was submitted that the goods have been assessed, and apparently due to some factor, the values of the goods have been unilaterally enhanced. No order giving reasons for such enhancement is enclosed with the notice, cross-examination of the officer concerned with the assessment was requested. Shri K. G. Saseedharan was cross-examined on 30-10-2007. Reference was made to question Nos. 6, 7, & 8, which relate to the reasons and basis for loading of values. It is stated by the said officer that though he does not recollect the basis for loading of the values, yet he was very categorical that the loading of values is based on different parameters like country of origin, brand, capacity, and contemporary values as are available in the system, NIDB Data, etc. It is also his averment that in respect of the said Bills of Entry, invoices and packing lists were available before the officers. Both the invoice and packing list give the details regarding the country of origin of the goods, which were already assessed and cleared. The parameters stated by the said officers are available in the document, and apparently, on the basis of those documents, re-determination of value is resorted to by way of loading.
- The notice does not indicate the source of these pieces of evidence. However, perusal of the values of some of the goods contained therein shows that the goods in question are being sold at different rates by different people. Therefore, rejecting the import value on the basis of the incorrect and involuntary statements and further proposing re-determination of the value on the basis of such illegal market inquiry is absolutely illegal and baseless. Re-determination of the value on the basis of the prices as are indicated, which are not cohesive or comparable and when they do not relate to the goods imported by the same importers and, more so, in the same consignment, is not permitted. No allegation of mis-declaration of Retail Sale Price can survive. Retail Sale Price cannot, in any case, be made the basis for rejecting the transaction value or for re-determining the value.
- The Notice proposes further loading of value even though values were already loaded for 2 out of 3 Bills of Entry. This is violation of the settled law.
- Fines and Penalties cannot be imposed for goods which were provisionally assessed and released.
- Valuation under Rule 7 mandates that the first sale price after import would be used for determining the assessable value. In this case, the first sale price is not disclosed.
- In case of Hindustan Coca-Cola Beverages P. Ltd. [2006 (199) ELT 718 (Tri. – Del)] and ITC Ltd. [2004 (17) ELT 433 (S.C.)] it was held that RSP cannot be re-determined





by the Department on a plain reading of Section 3 of the Customs Tariff Act, 1975 with 4A(1) of the Central Excise Act, 1944.

- Pantaloon's letter dated 19.02.2007 indicates the names of 7 different suppliers. It is not disclosed whether the said suppliers were the importer or not. The RSP declared in the import document is not revealed. However, this proves that contemporary imports of identical goods were being made. Yet the data is not brought on record.
- Pantaloon's evidence is only for 65 items while 123 items were imported in this case.
- In case of Mahindra & Mahindra Ltd. [(2023) 3 Centax 261 (Bom.)] Hon'ble Bombay High Court has held that interest and penalty cannot be demanded on CVD. This judgement was upheld by the Supreme Court [2023 (386) E.L.T. 11 (S.C.)]
- He has not violated any provision of the Customs Act by arranging or placing of orders with the foreign suppliers and/or arranging for the CHA for clearance of the goods through customs on behalf of the importers. The said acts on his part do not render the goods liable to confiscation under any provisions of Section 111 of the Customs Act, 1962. He is not liable to any penalty under Section 112(a) of the Customs Act, 1962. He is neither the importer nor is he the owner of the goods. He may, therefore, not liable to pay duty. Consequently, he is not liable to any penalty under Section 114A which has been wrongly invoked against him.

**41.2 The Noticee No. 8 CHA, M/s Global Services (CHA No. 11/1170) has submitted**  
**Written submissions:**

As far as the Custom House Agent is concerned, it was stated that the CHA has been charged with reference to only Invoice (invoice bearing No. GTL/EXP/081-05) and the charge is that, there were two invoices bearing the same invoice number, one with the brand name and another without the brand name. And that filing of the Invoice without the brand name was a deliberate act on the part of the CHA. Strongly contesting the allegation, it was stated that the documents were not seized by the agency, but were handed over voluntarily by the CHA. The CHA had merely acted as an agent and was in no way concerned with the importer's or Shri Doshi's activity. Denying the allegation that the CHA deliberately filed an Invoice without mentioning the brand name, it was stated that the Bill of Entry contained the brand name and hence there was no motive on the part of the CHA as the officers could always check with reference to the declaration in the Bill of Entry. Besides, it was stated that even assuming that filing of the Invoice without brand name was deliberate and there was no benefit to be derived by the CHA as the prices in the Invoice with the brand name and one without the brand name was same. The CHA had acted only on an authorization (copies filed) and that there was no prohibition from undertaking the job entrusted by Shri Doshi, as the latter was working on behalf of the importers and this has not been denied by the importers also. According to the defense, neither has the person in charge of the CHA nor any other person even remotely implicated the CHA in any manner, to warrant a penalty against





them. Besides, as the CHA was not the importer, no penalty can be imposed. Case laws were also cited, to state why the CHA cannot be penalized in this case.

**41.3 The authorized representative, Adv. S.S Sekhon appeared for personal hearing on behalf of Noticee No 1,2,3 & 4.**

- He also reiterated previous submissions dated 30.07.2007, 15.04.2008 and 04.04.2025. He also reiterated Mahindra and Mahindra Vs Union of India decision dated 15.09.2022 and requested to drop the proceedings based on their written submission. Previous submission of the noticees are as under:
- Reading of the charges made out in the SCN, especially para 30 of the SCN (inner page 21/22) would reveal that Shri Kirti Doshi is a consultant engaged in advising/assisting various importers with the import of different products. In this case, in the course of his normal business venture orders were placed and clearances were arranged of the import of goods by M/s. Amrut Traders and M/s. Khodiyar Polymers Pvt. Ltd., the IEC holders; that declarations and import documents were handled by the CHA, M/s Global Services and the IEC holders have admitted and paid the amounts of duties and other Customs charges; that there is no written contract or agreement between the IEC holders and the consultant; that the goods are not for individual consumption but for trading purposes. The importer relied upon the decision of Hon'ble High Court, Karnataka in case of Proprietor, Carmel Exports & Imports -2012 (276) E.L.T. 505 (Ker.). The importers further submitted that Shri Kirti Doshi, even assuming but not admitting, that he is the beneficiary of the import, it would not be violation of Foreign Trade (Regulation) Act or the Regulations 1992 or 1993 respectively to call for confiscation under Section 111(d) of the Customs Act 1962.
- The mis-declaration of valuations, on the Bills of Entry, cannot be a cause to constitute liability to confiscation under Section 111(d) and (m) of the Act by Shri Kirti Doshi to call for penalty under Section 112(a) on him when the following law is considered.
- **Valuation (Customs) –Deemed value of imported goods- Penalty and redemption fine – Not always imposable when Invoice price rejected**

The importers relied upon following case laws:

- Jost's Engg. Co. Ltd. v. Collector [In Civil appeal No. 11404/95 filed by the Collector of Customs, Bombay against CEGAT Order No. 642/91-A, dated 16.09.1991.
- CC V/s M.R Associates – 2013 (297) ELT 504 (Mad)
- Kevin Infotech (P) Ltd. Versus Commissioner of Customs (Port), Kolkata reported in 2007 (216) E.L.T. 435 (Tri. - Kolkata)
- Importers submitted that similar identical imports have been made as it appears from the market enquiry reports relied upon in this SCN that such imported goods are freely available in the Mumbai retail market, indicating that there must be imports of such





like or identical goods in large numbers. Therefore, resort to the valuation methods adopted is not permissible in the facts of this case. The investigator should have found out the NIDB data which must be available with the department as imports are established from the market enquiries to be taking place.

- The market enquiries conducted are not complete in as much as M/s Pantaloon and others who have indicated the retail sale price, relied in the SCN have not been questioned as to their purchase/procurement price and whether it was at the first stage of purchase or procurement of the actual importers and thereafter the actual importers could be located and the valuations could be established. On such incomplete market enquiries reliance cannot be placed.
- There cannot be any mens rea on part of Shri Kirti Doshi as the position in the SCN para 16 (inner page 11) which reads as follows,

"...scrutiny of the CHA docket also revealed that a photocopy of the invoice No. GTL/EXP/081-05 dt.18.10.05 was available on the records which gave the Entry No. 615116 dated 18.10.2005 was available on the records which gave the brand name of Conditioner and cream as L'oreal and Nivea respectively....."

and the CHA statement recorded and placed as RUD 10 of Shri Arvind Kumar R Dubey, Manager of M/s Global Services (CHA No. 11/1170) dated 21.10.05 on a perusal would reveal that he only admits the clearance work for the impugned consignments herein were given by Shri Kirti Doshi and he has never met the Proprietors of M/s. Amrut Traders or M/s. Khodiyar Polymers Pvt. Ltd. and Shri Kirti Doshi had given him the authority letters of various firms. No other documents regarding this import have been given by Shri Kirti Doshi as per the statement. The deponent has not been questioned further on what other documents were given by Shri Kirti Doshi and identified them. He has not been questioned as to how an another 'invoice' having no brand names as alleged in para 16 of the impugned notice was found in the dockets. There is no Panchnama drawn on the said recovery to bring in an independent corroboration to the recovery of the said invoice as mentioned in the SCN. Therefore, there is no material of duplicate invoices being provided by Shri Kirti Doshi or such invoices existing as there is no Panchnama of the search of the premises of the CHA relied upon or supplied. The IEC holders also have not been questioned about the said 'another invoice'. There is no role of Shri Kirti Doshi brought out or admitted in making any declarations on the BoEs for clearances or of inducing anybody else to make declarations, as he was not concerned with actual declarations and clearance by CHA M/s Global Services. Since it is an admitted fact in the IEC holders statements that Shri Kirti Doshi was not liable to pay import duty he has made reckless statement regarding under valuation which is also corroborated by the fact that the first statement of Shri Kirti Doshi was 3 to 4 time under valuation and the subsequent statement recorded on or after the 'retail' price from M/s Pantaloon was obtained, it has been conveniently not admitted the under valuation



to be 5 and a half times to make it in sync with such data. This exhibits total lack of knowledge of valuation under Customs Act on part of KD, as he has not been questioned to explain why he is changing his statements. Therefore, KD's liability to penalty under Section 112(a) is not called for having not indulged in the actual process of declaration and clearance from Custom House Authorities.

- Penalty under Section 114A of the Customs Act is applicable on importer or his agent who is liable to pay duty. Shri Kirti Doshi cannot be held to be the importer or their Agent for clearance through Customs of imported goods on considering the following submissions. A perusal of Section 114A reveals that the penalty under the said Section is liable on such person who is determined under Section 28 of the Customs Act which mandates that after hearing the concerned person the amount of duty or interest from such person should be determined not being in excess of the amounts specified in the SCN. Therefore, determination of the person liable to duty is sin-qua-non.

The importers relied upon following case law:

- Bimal Kumar Mehra – 2011 (270) ELT 280 (T)
  - J.B. Trading Corporation v. Union of India — 1990 (45) E.L.T. 9 (Mad.),
  - Dhirubhai N. Sheth v. Collector — 1995 (75) E.L.T. 697 (Tribunal),
  - Ashwin Doshi v. Commissioner — 2004 (173) E.L.T. 488 (Tribunal),
  - Nalin Z Mehta – 2014 (303) ELT (267) (T).
- The term 'beneficial owner' was not in the definition of the term 'importer' in Section 2(26) of the Customs Act during the relevant period i.e. the disputed period in this case and was introduced by an amendment in 2017 and it cannot relate back and read retrospectively to cause an additional penal liability on Shri Kirti Doshi under the provisions of Section 114A. Therefore, the finding of 'real beneficial importer' is not relevant and permissible in law as it stood at the relevant time.
  - The adjudicator in the earlier order had imposed a penalty of Rs.30,00,000/- consolidated under Section 112 read with Section 114A of the Customs Act 1962. This order was not challenged by the Revenue Authorities even though the order is not correct in law on the following grounds, the 5th proviso of Section 114A stipulates that where any penalty has been levied under this Section no penalty shall be levied under Section 112 or Section 114. Therefore, the imposition as arrived and not challenged is not as per law.





- The allegation in the SCN was specifically for penalty under Section 112(a) and Section 114A in para 30 of the SCN. Section 112 proposes under different clauses (a) and (b) and thereafter the quantum of liability is provided under clauses (i) to (v). The law is well settled by the Apex Court in the case of Amrut Foods – 2005 (190) ELT 433 (SC) there in it was laid down,

".....Assessee to be put on notice as to exact nature of contravention for which assessee was liable under provisions of Rule 173Q ibid - Rule 25 of Central Excise Rules, 2002 - Tribunal's order upheld. [para 5]"

In this case the SCN is silent on which particular clause of liability to penalty it is being issued as the quantum of penalty would differ.

Therefore, the penalty as proposed in para 32A(e) and 32B(k) on KD as proposed under provisions of Section 112(a)/114A of Customs Act should not be imposed cannot be upheld.

- In spite of the role of M/s Global Services (CHA No. 11/1170) being an agent in law providing the services of a licensed agent of the importers for the clearance of the imported goods they have been left out from penal consequences under both the Sections i.e 112(a)/114A by the adjudicator in earlier round and Revenue has accepted that order against M/s Global Services to be legal and proper and not filed any review appeal against the said order. It is submitted that for the acts of KD who is not even an agent of importers under this or any Act and was only an advisor, cannot be held to be liable for any penalty under Section 114A of the Customs Act 1962 which is applicable only to person liable to pay duty and no duty can be demanded from KD he not being the importer.
- Vide Order **No. 40534/2024 dt 08.05.2024 (Tribunal) upheld in Supreme Court in the case of M/s Acer India (Pvt) Ltd** which settles the law on interpretation of levy of duty under Section 3 of CTA 1975, after regarding the back ground to RSP levy introduced through Section 4A of Central Excise Act MRP provisions vide Finance Act, 2003. However, the Rules to operationalise sub-section (4) of Section 4A were framed only with effect from 01.03.2008. Thus there was no Rules under RSP from 2003 to 2008. Imports by the present 2 IEC holders case had taken place as admitted and recorded in the SCN para 23 (xii) extracted above. Therefore, BEs filed in the present case and the RSP mentioned thereon cannot be disturbed.

- (i) Therefore, the other facts determined and settled vide this order of CESTAT, upheld by Supreme Court, would lead to the only conclusions that declared RSP has to be accepted and sacrosanct and cannot be disturbed by any comparison with the data obtained of retail sale prices by the Officers. The SCN and OIO also determine the demand duty on CIF prices which can be made under Section 14 of Customs Act read with Customs Valuation Rules.





- (ii) The Customs Valuation Rules for imported goods also do not permit the admissions of Market Value on Retail Sale, as recorded in all these cases including that of M/s Pantaloon since these levels have not been arrived be for the import at the first stage in the overt market where valuations under Customs Valuation Rules for imported goods have been applied for the said importers though brought on record. In the case of M/s Pantaloon detailed reasons have been given in our earlier submissions which are not repeated for sake of causing these submissions to verbose. On reading the same it would be abundantly clear that the valuations, as proposed to be arrived based on Pantaloon's Retail Sale prices being in sync with para 22(iii) read with 23 (xiii) & (iv) of SCN for the reasons that the Customs Valuation Rules for imported goods applicable for the arrival of CIF values in the following terms:

*"22(iii) The CIF values arrived at on the basis of the Retails prices provided by M/s Pantaloon Retail (india) P. Lt were more or less in sync with the value admitted by Shri Kirti J Doshi in his statement dated 19.02.2007, ....."*

- In any case statements of Mr. Kirti Doshi cannot be relied due to shifting changes of admissions of 3 times, 4 times and 5 and a half times in various statements in this case. He is obviously been induced to note his observations as alleged incorrectly as acceptance. It was the bounden duty to bring in the evidence of cost price of M/s Pantaloon from their buyers since the data on record does not show or confirm in any manner that such sellers or/ and M/s Pantaloon was the importer themselves. In any case Shri Kirti Doshi alleged admissions, even under Section 108 statements cannot be straight away relied. They can be admitted and relied as held in the case of **CC V/s Sainul Abideen Neelam – 2014 (300) ELT 342 (Mad)** in para 14 held:

14. The learned counsel for the Revenue relied on the decision of the Hon'ble Supreme Court in *Surjeet Singh Chhabra v. Union of India* [1997 (89) E.L.T. 646 (S.C.)] and the decision of this Court in *Roshan Beevi and Others v. Joint Secretary, Government of Tamil Nadu* - 1984 (15) E.L.T. 289 (Mad.) in support of his contention that statement made before the Customs Officer under Section 108 of the Customs Act, though retracted later is an admissible evidence and binding. Certainly, there is no quarrel about the said proposition. The admissibility of such statement as evidence is always there. However, the question is whether the authorities can act on such statement alone in the absence of any corroborating materials to substantiate the contents of such statement. Therefore, the admissibility of an evidence cannot and should not be taken to mean its acceptability as well. As we have already pointed out, the statement made by Abdul Razak, especially when retracted subsequently and reiterated the original statement thereafter, certainly raises a doubt with regard to the genuineness of its contents. Therefore, even though such statement made under Section 108 of the Customs Act is admissible in evidence, the authorities are not necessarily bound





to accept the same as such in the absence of further materials to substantiate the contents of such statement. Therefore, by applying the facts and circumstances of the present case, the reliance placed on those above two decisions by the Revenue will not help them in any way. (emphasis supplied)

There is therefore no material to disturb the CIF prices declared and have to be accepted as value and no duty demands as determined and consequent confiscation and penalties as ordered should be upheld. The SCN is therefore deserves to be withdrawn as re-assessments proposed cannot result in any confiscation, penalty or interest demands as held by Hon'ble Bombay High court in the case of Mahindra & Mahindra Ltd V/s UOI – 2022 (10) TMI 212 relied by the Hon'ble CESTAT **Order No. 40534/2024 dt 08.05.2024 upheld in Supreme Court.** Consequently, Bond, Bank Guarantees and any other deposits got made during the enquiries should be ordered to be refunded.

- The partial Cross Examination of the Officers who had conducted the so called 'Market Valuation Enquiries' granted and brought in reply dated April 15, 2008 on behalf of KD to the Ld. Commissioner adjudicating the matter from para 12 to 19 thereof would lead to the conclusion that any effort to arrive at upholding the Market Value Reports and thereafter for penalty on the Noticees i.e AT, KP & KD would amount to be 'mulcting' the same from the Noticees. For this purpose, reliance is placed on the decision in the case of N.R Sponge – 2020 (372) ELT 321 (Chattisgarh) wherein in para 20 the Ld. DB has held as follows:

"22. The mandate is crystal-clear from sub-section (1) of Section 9D of the Act, 1944 (to consider the extent and applicability). The statute makes it point blank that, it is for the purpose of proving, in any prosecution for an offence under the Act, before a Court. This clearly means that the statement given by a person can be accepted as relevant by a Court in a 'prosecution proceeding' for an offence either under clause (a) i.e. when the person who made statement is dead or cannot be found or incapable of giving evidence or such other circumstances as mentioned therein or under (b) i.e. when the person who made the statement is examined as witness in the case before the Court, when the Court having regard to the circumstances of the case, is of the opinion that the statement should be admitted in evidence in the interest of justice. To put it more clear, the rigor is more with regard to the circumstance when it relates to a 'prosecution for an offence' under the Act i.e. to punish the guilty. When sub-section (2) of Section 9D says that the provisions of sub-section (1) shall apply 'as far as may be' in relation to any proceedings under the Act other than a proceeding before a Court, as they apply in relation to proceedings before the Court, it is explicitly clear that it can have extended application only in relation to an instance of inflicting the punishment for the offence and not for the quantification of the duty or extent of evasion. In other words, fixation of duty evaded is one thing, and mulcting or penalty for the offence



*in respect of such evasion is a different thing. When the statement not recorded before the Adjudicating Authority cannot be relied upon to inflict penalty, it may still govern the field (if supported by other materials to reach the conclusion) insofar as fixation of quantum of duty evaded is concerned."* (emphasis supplied)

Though arrived in the case of Central Excise Act 1944 Section 9(D) the provisions thereof being parimateria Section 138B of the Customs Act 1962 would be applicable and no penalty under any provision of Customs Act 1962 can be inflicted on any Noticee in this case.

#### **DISCUSSION AND FINDINGS**

42. I have carefully gone through the records viz. Show Cause Notice, Orders-in-Original passed by previous adjudicating authority, and Order passed by the Hon'ble CESTAT in this case, written submissions made by the authorised representatives of the importers/CHA, records of the personal hearing etc.

43. I find that aggrieved by the above-mentioned Orders-in-Original CAO No. 97/2008/ CAC/CC/KAP dated 30.04.2008, importers M/s Amrut Traders and M/s. Khodiyar Polymers Pvt. Ltd. filled and appeal before the Hon'ble CESTAT, WZB, Mumbai vide Appeal No. C/899 to 902/08,-Mum. The Hon'ble CESTAT, WZB, Mumbai vide Order No. A/89688- 89690/17/CB dated 13.09.2017 remanded the matter back to the Original Authority for consideration in the fresh adjudication on the basis of outcome of Apex Court Decision. The Relevant paras No. 4, 5 and 6 of the said order is re-produced as under:

"4. As a rule of consistency, this matter will also go back to the adjudicating authority for appropriate decision on the basis of outcome of the Apex Court judgment in the case of Mangali Impex (supra).

5. As we have not touched the merit of the case, while the matter of jurisdiction comes up before adjudicating authority for consideration on the basis of outcome of Apex Court decision, the appellant shall be given reasonable opportunity of hearing to argue both on facts and law as well as on merit before the learned authority. That authority recording pleading as well as evidence, shall pass appropriate order

6. In the result, appeals are remanded to the adjudicating authority with above direction".

44. In pursuance of Hon'ble CESTAT, WZB, Mumbai's Order No.A/89688- 89690/17/CB dated 13.09.2017 , wherein it was directed to decide the case on the basis of outcome of the Apex Court judgment in the case of Mangli Impex, which was pending in the Hon'ble Supreme Court. the subject case was transferred to Call-Book and the same was intimated to importer M/s. Amrut Traders and M/s. Khodiyar Polymers Pvt. Ltd. vide





letter F.No. S/10-31/2007 GR. II dated 11.04.2018. It was also intimated to the importer that intimation would be sent to the noticees and when, the case is removed from Call-Book and adjudication proceedings are resumed. Also, letter dated 11.11.2019 was also issued to the said importers in this regard.

45. I find that the instant case was reviewed and taken out for the purpose of adjudication of the impugned Show Cause Notice. A Personal Hearing Memo vide letter 20.05.2025 was issued to noticees to attend personal hearing fixed on 27.05.2025 via virtual modes to present their case. However, all noticees except Noticee No. 6, M/s. Global Service requested for physical hearing on the given dates and the same was considered. Accordingly, all notices attended the personal hearing and submitted their written replies and authorizations for attending the hearing.

46. I find that the Government of India has effected retrospective amendment in the Customs Act, 1962 by Finance Act, 2022 to overcome the effect of decision of Hon'ble Supreme Court in Canon India (Private) Ltd. (supra), which was challenged before Hon'ble Supreme Court.

I find that Hon'ble Supreme Court on 07.11.2024 passed the Review Order in the Review Petition No. 400/2021 titled Commissioner of Customs v. M/s Canon India Pvt. Ltd. and the connected Review Petition Nos. 401/2021, 402/2021 and 403/2021 insofar as the issue of jurisdiction of the proper officer to issue show cause notice under Section 28 is concerned.

Relevant para 168 of the aforesaid Review Order is re-produced as below:

"168. In view of the aforesaid discussion, we conclude that:

- (i) DRI officers came to be appointed as the officers of customs vide Notification No. 19/90-Cus (N.T.) dated 26.04.1990 issued by the Department of Revenue, Ministry of Finance, Government of India. This notification later came to be superseded by Notification No. 17/2002 dated 07.03.2002 issued by the Department of Revenue, Ministry of Finance, Government of India, to account for administrative changes.
- (ii) The petition seeking review of the decision in **Canon India** (supra) is allowed for the following reasons:
  - a. Circular No. 4/99-Cus dated 15.02.1999 issued by the Central Board of Excise & Customs, New Delhi which empowered the officers of DRI to issue show cause notices under Section 28 of the Act, 1962 as well as Notification No. 44/2011 dated 06.07.2011 which assigned the functions of the proper officer for the purposes of Sections 17 and 28 of the Act, 1962 respectively to the officers of DRI were not brought to the notice of this Court during the proceedings in **Canon India** (supra). In other words, the judgment in **Canon India** (supra) was rendered without taking into account the circular and the



notification referred to above thereby seriously affecting the correctness of the same.

- b. The decision in **Canon India** (supra) failed to consider the statutory scheme of Sections 2(34) and 5 of the Act, 1962 respectively. As a result, the decision erroneously recorded the finding that since DRI officers were not entrusted with the functions of a proper officer for the purposes of Section 28 in accordance with Section 6, they did not possess the jurisdiction to issue show cause notices for the recovery of duty under Section 28 of the Act, 1962.
- c. The reliance placed in **Canon India** (supra) on the decision in **Sayed Ali** (supra) is misplaced for two reasons – first, **Sayed Ali** (supra) dealt with the case of officers of customs (Preventive), who, on the date of the decision in **Sayed Ali** (supra) were not empowered to issue show cause notices under Section 28 of the Act, 1962 unlike the officers of DRI; and secondly, the decision in **Sayed Ali** (supra) took into consideration Section 17 of the Act, 1962 as it stood prior to its amendment by the Finance Act, 2011. However, the assessment orders, in respect of which the show cause notices under challenge in **Canon India** (supra) were issued, were passed under Section 17 of the Act, 1962 as amended by the Finance Act, 2011".
- (iii) This Court in **Canon India** (supra) based its judgment on two grounds: (1) the show cause notices issued by the DRI officers were invalid for want of jurisdiction; and (2) the show cause notices were issued after the expiry of the prescribed limitation period. In the present judgment, we have only considered and reviewed the decision in **Canon India** (supra) to the extent that it pertains to the first ground, that is, the jurisdiction of the DRI officers to issue show cause notices under Section 28. We clarify that the observations made by this Court in **Canon India** (supra) on the aspect of limitation have neither been considered nor reviewed by way of this decision. Thus, this decision will not disturb the findings of this Court in **Canon India** (supra) insofar as the issue of limitation is concerned.
- (iv) The Delhi High Court in **Mangali Impex** (supra) observed that Section 28(11) could not be said to have cured the defect pointed out in **Sayed Ali** (supra) as the possibility of chaos and confusion would continue to subsist despite the introduction of the said section with retrospective effect. In view of this, the High Court declined to give retrospective operation to Section 28(11) for the period prior to 08.04.2011 by harmoniously construing it with Explanation 2 to Section 28 of the Act, 1962. We are of the considered view that the decision in **Mangali Impex** (supra) failed to take into account the policy being followed by the Customs department since 1999 which provides for the exclusion of jurisdiction of all other proper officers once a show cause notice by a particular





proper officer is issued. It could be said that this policy provides a sufficient safeguard against the apprehension of the issuance of multiple show cause notices to the same assessee under Section 28 of the Act, 1962. Further, the High Court could not have applied the doctrine of harmonious construction to harmonise Section 28(11) with Explanation 2 because Section 28(11) and Explanation 2 operate in two distinct fields and no inherent contradiction can be said to exist between the two. Therefore, we set aside the decision in **Mangali Impex** (*supra*) and approve the view taken by the High Court of Bombay in the case of **Sunil Gupta** (*supra*).

- (v) Section 97 of the Finance Act, 2022 which, inter-alia, retrospectively validated all show cause notices issued under Section 28 of the Act, 1962 cannot be said to be unconstitutional. It cannot be said that Section 97 fails to cure the defect pointed out in *Canon India* (*supra*) nor is it manifestly arbitrary, disproportionate and overbroad, for the reasons recorded in the foregoing parts of this judgment. We clarify that the findings in respect of the vires of the Finance Act, 2022 is confined only to the questions raised in the petition seeking review of the judgment in *Canon India* (*supra*). The challenge to the Finance Act, 2022 on grounds other than those dealt with herein, if any, are kept open.
- (vi) Subject to the observations made in this judgment, the officers of Directorate of Revenue Intelligence, Commissionerates of Customs (Preventive), Directorate General of Central Excise Intelligence and Commissionerates of Central Excise and other similarly situated officers are proper officers for the purposes of Section 28 and are competent to issue show cause notice thereunder.....

I find that in aforesaid Sayed Ali case, it was held that only such officer who had been assigned the functions of assessment/re-assessment could issue a notice demanding duty; the context being a notice issued by the Commissioner of Customs (Preventive) in a case where the assessment had been done by another officer in Bombay Customs House. I find that aforesaid Review Order has delinked the provisions relating to assessment from the provisions relating to demand of duty and in effect held that the two officers could be different and the emphasis placed on the definitive article 'the' in the Original Order was not valid.

47. The issue involved in the subject matter is to decide whether the goods viz. cosmetics and toiletries covered under the Bills of Entry No. 615116 and 615117, both dated 18.10.2005, and Bill of Entry No. 616107 dated 20.10.2005 had been filed in the name of M/s. Amrut Traders, Gujarat and goods covered under the Bill of Entry No. 616108 dated 20.10.2005 had been filed in the name of M/s. Khediyar Polymers P. Ltd. were undervalued in order to evade payment of appropriate amount of Customs duty.





48. I find that the charge in this case is that vide three Bills of Entry, M/s. Amrut Traders and vide one Bill of Entry M/s. Khodiyar Polymers, imported consumer goods like body spray, creams, perfumes etc. of international brands and that in doing so, the goods were grossly undervalued, thereby attempting to evade duties of Customs. The Notice seeks to charge, the two firms, Shri Kirti Doshi, the person allegedly behind the transactions and the CHA. Before examining the evidence let in the Notice, it is necessary to consider the defense arguments that are common or referred to by the two firms and by Shri Kirti Doshi.

49. It is observed that any reference to prices of M/s. Alfa, M/s. Rajul Stores, M/s. Premal Joshi and M/s. Sarvodaya Sangh are concerned, the Show Cause Notice itself vide Para 22.1 concedes that the prices obtained through market enquiries from these entities are not representative prices. Therefore, any argument with reference to these prices, would be an exercise in futility.

50. Secondly, on behalf of Shri Kirti Doshi, it was stated that the cross-examination of the Assistant Director on market enquiry should have been considered. It is common knowledge that generally market enquiry is conducted only by the IO or SIO and not by the Assistant Director. Therefore, cross-examination of the Assistant Director was not allowed and instead, the two IO's and the SIO were permitted to be cross-examined. Cross-examination is a limb of principles of natural justice and its purpose is to ensure that nothing is done behind the scene and brought out against an alleged offender. Cross-examinations of the persons so concerned will ensure that the truth comes out. In the present case, no statement of the Assistant Director has been relied upon, nor is it known in what way his cross-examination will bring out, which is not available already. More so, after the cross-examination that was allowed of the officers concerned. The Hon'ble CESTAT's decision in the case of *Surender Kumar Bhatia V/s Commissioner of Customs, New Delhi* [1999 (III)ELT 549 Trib] is a pointer in this regard.

51. As regards the other arguments, the common one is regarding the valuation of the goods under consideration. Section 14 of the Customs Act read with the Customs Valuation Rules, provide for the manner in which assessable value is to be determined in cases where goods are chargeable to duty with reference to their values.

52. In terms of Rule 4 of the Valuation Rules, the Transaction value, that is, the price actually paid or payable for the goods when sold for export to India as adjusted, in accordance with the provisions of Rule 9, has to be accepted, except where situations as provided in Rule 4(2) and 4(3) exist. If none of these circumstances exist, the rules did not provide for rejection of the declared value, if such a value is supported by an invoice from the seller.

53. Several instances came to light wherein invoices produced in support of the declared values were found to be manipulated, but on the face of it, the transaction value (invoice price) is projected to be true and correct. In some cases, even manufacturer's price was found to be substantially lower than the prevailing international market price. Thus, in order to ensure that where there are reasons to doubt the declared





values, the department has an option to reject such values, in the absence of any evidence to contrary, Rule 10 A of the Valuation Rules was introduced in 1998.

54. Rule 10 A reads:

" 10 A. Rejection of declared value:-

- 1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the value of such imported goods cannot be determined under the provisions of sub-rule (1) of Rule 4.
- 2) At the request of an importer, the proper officer, shall intimate the importer in writing, the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1)."

55. In the present case, the declared prices (invoice prices – which in itself did not look or contain details of a Regular Invoice) were ridiculously low. Some of the prices, so declared were:

Sr. no.	B/E No. Date	Product Name	Price per piece	Exporter
1.	616108 20.10.2005	Deodorant spray 200ml (Brand Brut original, Musk, etc)	8/60	M/s. Khodiyar Polymers P. Ltd.
2.	616107 20.10.2005	Body spray (200 ml) Brand Just Call Me, El Paso, etc.	7/95	M/s. Amrut Traders.
3.	615117 18.10.2005	EDT 100ml Tester, Brand Volcano, Brut etc.	9/27	M/s. Amrut Traders.
4.	615116 18.10.2005	Shampoo & Conditioner 250 ml, L'Oreal	9/71	M/s. Amrut Traders.

56. The declared prices, by any stretch of imagination, even including Customs duties, taxes plus MOP can only be "dream rates". Therefore, there was every justification to doubt these values. In such a situation, Rule 10 A of the Valuation Rules clearly states that the importer has to justify the accuracy of the rates declared. The importer failed to do this. Instead, the defense went off at a tangent questioning the market survey, method adopted etc. which were not relevant. So, in the first stage, in the absence of a proper justification, rejection of Transaction values under Rule 10 A of the Valuation Rules is correct.

57. The next step, then is, how to arrive at the correct values.



Rule 5 speak of value of identical goods and Rule 6 refers to value of similar goods. The importers as well as Shri Kirti Doshi argued that during the material period, import of similar goods had taken place, at the same value or even lower, and therefore, there can be no revision of values, resorting to Rule 8 of the Valuation Rules.

58. It is observed that the Bills of Entry referred to by the defense are spread over a period of one year, on either side and are not necessarily contemporaneous. Even assuming that these prices can be the reference value, it is necessary to conclude that such other transactions took place in almost identical conditions. Mere Bills of Entry will not throw light on several factors. For instance, price depends upon the genuineness of the product (even if fake products attract penal provisions under a different law in India), the Country of Origin, the year of manufacture, payment terms and conditions, the relationship between the buyer and seller etc. Unless all these factors match, there can be no contemporaneous prices. More so, in view of the fact that the goods under consideration were an assorted lot, claim of similar/identical/goods cannot be conceded.

59. Rule 7 (deductive method) and Rule 7 A (Computed Value) cannot be resorted to for obvious reasons, and there was no alternative except to go to Rule 8 of the Valuation Rules or the Residual method. This method provides for arriving at the values, by reasonable and consistent means within the frame work of Section 14 of the Customs Act, 1962 and the Valuation Rules.

60. In this case, market enquiry was resorted to, which is an accepted method and within the frame work of Customs Law. Enquiries were made with several traders, including Pantaloons. The price list provided by Pantaloons matched with the deposition of the person behind the activity, namely, Shri Kirti Doshi. Therefore, these prices had to be adopted (not the one's ascertained from various dealers) to determine the assessable values. The methodology, therefore, is consistent with the provisions of valuation law on Customs.

61. A related argument was raised in that while considering the prices of Pantaloons, the purchase prices were not investigated upon. It is not clear as to the relevancy of this argument in this case. In any case, the assessable values in this case have been arrived at by resorting to Rule 8 of the Valuation Rules. This rule provides for taking recourse to the Provisions rules 1 to 7 and by reasonable means and consistent with the provisions of section 14 of the Act. The results of the market enquiry are only one of the means resorted to, and so long as it is consistent with the Valuation Law, enquiring with the purchase price is not required.

62. On behalf of the two importers, and also Shri Kirti, it was stated that the market enquiry and consequent revision of MRP for charging CV Duty was not permissible and that these can be no revision of MRP.

63. In this connection, it is observed that proviso to Section 3(2) of the Customs Tariff Act, has been enacted in pari materia with Section 4 A of the Central Excise Act 1944, in





purpose of levy of such duties on such goods, MRP alone will form the basis. Nothing more can be read into Section 3 of the Customs Tariff Act. Besides, these provisions will apply only when the goods are sold at the MRP declared/affixed. It is nobody's argument that the importers intend to sell the products at the declared prices stated elsewhere in this order, however so one may wish. In such a situation, there is every justification for ascertaining the MRP of identical/similar goods that is sold in the market in India, give abatement as provided for and levy CVD. There can be one other way of looking at the issue. Earlier in respect of B/E Nos. 615116 and 615117, the values were revised (with importer's consent) and duty was paid. What then happens to the MRP? Will it be what was declared or what has been agreed upon. The MRP argument therefore, has no relevance, in the circumstances of this case and is so held. The importer has given Bank Guarantee of Rs. 12,50,000/- and paid the differential duty of Rs. 17,61,042/- which is tabulated as below;

S r .	Bill of Entry No. and date	Importer	Bond value (in Rs.)	Bank Guarante e (in Rs.)	Declared C&F Value	Re- determine d Value	Re- determine d duty	Duty deposited
1	616108 dt. 20.10.2005	M/s Khodiyar Polymers P. Ltd.	1103726	271982	365823	2034664	716345	391011
2	616107 dt. 20.10.2005	M/s Amrut Traders	1409578	978018	463469	2577757	907551	500954
3	615116 dt. 18.10.2005	M/s Amrut Traders	1432381		353355	1965319	691930	482419
4	615117 dt. 18.10.2005	M/s Amrut Traders	1112768		274664	1527648	537839	386658
			<b>5058453</b>	<b>1250000</b>	<b>1457311</b>	<b>8105388</b>	<b>2853665</b>	<b>1761042</b>

64. A useful reference can be made to the decision of CESTAT in the case of Planet Sports (P) Ltd. V/s. Commissioner of Customs, New Delhi [2005(180) ELT 2006 Trib Del] wherein the Tribunal held that when MRP is altered subsequently, duty is to be paid on the enhanced value.

65. The two importers also raised an issue that where values in Bill of Entry have been enhanced, they are awaiting speaking orders and hence, there cannot be enhancement of values once again. Primarily, the argument of speaking orders awaited, cannot be accepted; for in a case where enhancement of values is done with the consent of the importer, no speaking order is required, as stated in Board's circular 91/2003 dated 14.10.2003. Board's circular is binding on departmental authorities, is now a well settled proposition. As regards loading values on products initially loaded, it is observed that when new facts are brought in or come to light, there is no bar in loading or enhancing the values. In this case, investigations have clearly brought out that even the accepted values, in respect of the two B/E's and also the others, the prices declared were far below the prevailing ones. The decision by the Hon'ble Tribunal in the case of





Hitaishu Fine Crafts V/s. Commissioner of Customs [2002 (148) ELT 364 Trib] relied upon will also not apply, for in the CESTAT's decision, after Commissioner loaded values, Addl. Commissioner wanted to load it further. Going by the fact that, Commissioner was the head of the department, the Tribunal held that such enhancement is nor permissible. The facts, here are totally different and hence the decision will not apply.

66. On behalf of the importers, another argument was raised that in this case, goods were released provisionally, assessed provisionally and therefore, there can only be finalization of assessments and not an offence case.

67. In this connection, it is observed that in this case, the goods were seized and on the request of the importers, they were released provisionally, upon execution of a Bond and Bank Guarantee. When the goods are released provisionally, it need not necessarily mean that they have to be cleared. And apparently no one will seek provisional release, unless he wants to clear the same. When he/she clears the goods, they have to be assessed at same values. At the time of provisional release, investigations are not complete and it may (or may not) throw some fresh inputs. If the values declared by the importer are taken and assessed, then Section 28 of the Customs Act will come into play. It is just possible that the investigations may not be completed in time. In order to ensure that a situation does not arise, whereby, upon investigation the actual values are much higher and the Government is deprived or prevented from issuing a notice, assessments are done provisionally at declared or accepted values. While such a situation may arise in a normal case of provisional assessment, in cases such as the one under consideration, where the act of the importer firms is born out of deceit, not only there will be a case for finalizing the assessments at proper values (as stated in the notice) so arrived at, but also a case for penal action. As far as the case laws cited are concerned, it is seen that the case of **ITC Ltd. V/s. Commissioner of Central Excise [2004 (171) ELT 433 SC]** only confirms the fact that there can be a short levy only after final assessment. This is not relevant to the proceedings here.

68. While the arguments of the two importers and to a substantial extent that of Shri Kirti Doshi have been answered in the earlier paragraphs; on behalf of the importers, it was also stated that declaring the Brand names in the Invoices was never the practice in this Custom House, as goods were assessed only after examination. A more or less similar argument was put forth by Shri Kirti Doshi.

69. It is true that goods are examined by the officers, but at the same time, the necessity of declaring the brand name in the Invoice cannot be wished away. There has to be some document giving the brand, which will enable the assessing and examining officer in doing their duties.

70. As regards Shri Kirti Doshi, one another argument is that he is not the importer, but only a facilitator and hence there can be no duty deemed or penalty imposed on him. In this regard, it is observed that Section 2 (26) of the Customs Act, defines an importer to





include any owner or any person holding himself out to be the importer. But at the same time, liability and penal action will rest not on the importer, but on "any person", who does the fraudulent activity. A person, after doing all the acts, cannot simply escape, by stating he is not the importer, because the definition states so.

71. As far as the CHA is concerned, it is seen that his name appears only in few places. Para 2 of the Notice refers to documents obtained from his premises. Para 9 of the Notice is the statement of Shri A.K. Dubey, manager of the CHA and he states:

- (i) "the clearance work of the aforementioned three import consignments in the name of M/s. Amrut Traders and one import consignment in the name of M/s. Khodiyar Polymers Pvt. Ltd., pending clearance at Frere Basin and Haji Bunder, Mumbai Port Trust Area, were given to them by one, Shri Kirti Doshi having office phone no. 23428967 and 23449251.
- (ii) that he knew Shri Kirti Doshi for the last one year, since he (Shri Kirti Doshi) was giving them jobs in respect of import consignments of M/s. Amrut Traders, M/s. Khodiyar Polymers Pvt. Ltd., M/s. Kirti Impex and M/s. Kirti Bearings; that the proprietor of M/s. Kirti Bearings is Shri Kirti Doshi himself; that he did not know the proprietors/partners of M/s. Amrut Traders and M/s. Khodiyar Polymers Pvt. Ltd.; that however, Shri Kirti Doshi had given them authority letter of these firms, whereby they were authorized to act on behalf of the said firm/company for clearance of their import consignments; that he was submitting original copy of authority letter from M/s. Amrut Traders authorizing them to act as their authorized clearing and forwarding agents for clearance of their import/export consignments at JNPT, Mumbai port, Mulund CFS & Air Cargo Complex; that this authority letter bears stamp duty payment on 19.07.2005; that this authority letter had been given to them by Shri Kirti Doshi, that the office of Shri Kirti Doshi was located at 44, Nagdevi X lane, 4th Floor, Room No. 38, Mumbai -3.
- (iii) That with regard to the three import consignments of M/s. Amrut Traders and one import consignment of M/s. Khodiyar Polymers P. Ltd., he stated that these were consignments of perfumes, creams, shampoo, detergents".

72. And again, when Shri Kirti Doshi states that the job of clearing was given to the CHA. In conclusion vide Para 16, where the CHA has been charged with suppression or failure to give Invoice No. GTL/EXP/081-05 with the brand name and instead filing one bearing the same number, but without the brand name. The charge therefore, is that the CHA is also jointly and severally responsible in the fraud committed. He is liable for penal action also.

73. The CHA, on the other hand, states that both the Invoices, one with the brand name and one without, has the same value. Besides the B/E. pertaining to the Invoice, gives the brand names. There was nothing for him to gain by not giving the brand name, when values were same and as the goods are released only after examination and





assessment, where the officers come to know the brands. Besides no one else have implicated him directly or indirectly in the transaction in any manner.

74. Apparently, there were 2 Invoices is not in dispute. At the same time, it is seen from the documents relied upon, that Invoices pertaining to other Bills of Entry also does not give the brand name, only the Bills of Entry does. The offence, therefore, is that while in respect of the impugned Invoice there was another with the Brand name, therefore, the CHA is liable. Though it is possible to argue that an Invoice without brand name declared is only to ensure that values are not suspected, in the face of the record that the concerned Bill of Entry gives the brand name, takes the sting out of the charge. Further the values/prices declared in both the invoices are same. It is also observed that neither the CHA's employee nor the CHA himself or any other person even remotely alleges that the CHA had a role to play in the under valuation.

75. As regards the charge with the reference to undertaking the job of a CHA from Shri Kirti Doshi, instead of from the owners themselves, it is observed that there is no dispute regarding the relationship between Shri Kirti Doshi and the owners of the importers firms. The CHA had been clearing consignments of Shri Kirti Doshi, in the past and in the normal course, when an authorization from the importers was given to the CHA by Shri Kirti Doshi, the CHA had undertaken the job. There is no requirement under Customs law or any law for that matter that CHA has to do perform his functions only when directly authorized. Though one can make certain presumptuous arguments against the CHA, it does not substitute for evidence required to prove the charges. The following case laws support the CHA, where the Tribunal had held that the CHA is not liable, even in cases where he had been implicated. (here, there is no implication of CHA in any manner).

**(i) V.Essakia Pillai V/s. Commissioner of Customs, Chennai. [2001 (138) ELT-Trib-Chen]**

It was held in this case that neither confession of the CHA nor statement of exporter nor anybody else on record to show that Custom House Agent had knowledge or information or connived in surreptitious export and penalty on CHA was set aside.

**(ii) Success Engineering V/s. Commissioner of Customs, Kandla. [2007 (215) ELT 220 Trib]**

76. It was held there was no evidence showing knowledge/intention on appellant's part (CHA) in mis-declaration of lower price with a view to wrongly avail benefits, no intention to violate Customs law on appellant's part, is proved.

77. Based on the above findings, the charge against the CHA has to fail, in the absence of any findings and evidence in support.

78. Having examined the defense argument, it is now necessary to consider evidence let in the Notice. Examination of the cargo, brought out that the imported goods were of reputed brands and the values declared were unbelievably low.

79. The declared branch address of M/s. Amrut Traders and M/s. Khodiyar Polymers P. Ltd. was 001, Aminar Marg, Patel Building, Room No. 30, Bora Street, Fort, Mumbai

000 001 was searched under Panchnama dated 22.10.2205. The room measuring





about 40 sq. feet was found empty. During the course of the search, enquiries revealed that there was no company by name M/s. Amrut Traders operating from the said premises. As regards M/s. Khodiyar Polymers Pvt. Ltd., one Shri Bose stated that Shri. Ramesh Patel had taken the premises of the last cabin on the 3rd floor on rent and he came to know that Shri Ramesh Patel was the owner of M/s. Khodiyar Polymers P. Ltd. and he (Shri Ramesh Patel) had informed that he was dealing in plastics and scrap and that the said Shri Ramesh Patel had vacated the premise in April 2005.

80. Enquiries regarding the declared premises of M/s. Khodiyar Polymers Pvt. Ltd. at Mansa, North Gujarat – 382845 revealed that the said company had closed down its operations around 3-4 years back. Further, the premises of M/s. Khodiyar Polymers Pvt. Ltd. at Ahmedabad – 380006, was found sealed. As regards the premises of M/s. Amrut Traders at Saraspur, Ahmedabad, enquiries revealed that M/s. Anukul Diary was operating from the declared premises.

81. Statement of Shri Kirti Doshi, recorded on 22.10.2005 wherein he admitted that he had filed three Bills of Entry No.615116 and 615117 both dated 18.10.2005 and Bill of Entry No. 616107 dated 20.10.2005 in the name of M/s. Amrut Traders and one Bill of Entry No. 616108 dated 20.10.2005 in the name of M/s. Khodiyar Polymers (I) P. Ltd. for customs clearance of assorted toiletries/cosmetics imported from Dubai; that he had been duly authorized to operate as coordinator for the purpose of clearance of all import consignments in the name of the aforesaid two firms on the consideration of his profit of 50% of net profit on sale of the goods in the domestic market.

82. In his further statement, recorded on 25.10.2005 Shri Kirti Doshi, confessed that he had received all the import documents such as Bills of Lading, Invoices etc. in respect of the Bills of Entry No. 615116 and 615117 both dated 18.10.2005 and bill of Entry No. 616107 and 616108 both dated 20.10.2005 directly by post and no import documents had been received through banking channels; that he had got good relations with three suppliers of the goods. He further confessed that no specific brand or country of origin was declared with a view to facilitate clearance of the goods at the declared prices. And that the consignments were of reputed brands. As regards the true and correct transaction value of the said consignments would be three/four times the declared value on the basis of the findings of aforesaid brands/grades and country of origin of the goods. He also admitted that payment for the supplies were not made through banking channels or otherwise had been made in the name of M/s. Amrut Traders or M/s. Khodiyar Polymers Pvt. Ltd. and volunteered to deposit the duty on the true and correct value of Rs. 50 lakhs.

83. In his further deposition dated 08.01.2007, Shri Kirti Doshi stated with regard to the negotiation with foreign suppliers and the manner in which orders were placed. On being asked he further confessed that if the foreign suppliers offered on their own then they would send the fax addressed to his proprietary concern viz, M/s. Kirti Impex and if he sent a query for placing an order for cosmetics in the name of M/s. Amrut Traders or M/s. Khodiyar Polymers P. Ltd., he would get a fax from them in the names of these firm/company; that he would use the blank signed letter heads of these firm/companies





made available to him by S/Shri. Ramniklal Patel and Vithalbhai Gajera for sending the query. Shri Kirti Doshi went on to state that the cosmetics and toiletries imported in the name of M/s. Amrut Traders and M/s. Khodiyar Polymers P. Ltd. under Bills of Entry No. 615116 dated 18.10.2005, 615117 dated 18.10.2005 and 616107 dated 20.10.2005 (filed by M/s. Amrut Traders) and Bill of Entry No. 616108 dated 20.10.2005 (filed by M/s. Khodiyar Polymers P. Ltd.) were of reputed manufacturers such as M/s. Lever Feberge, M/s. Remy Latour, M/s. Parfums Lomani, M/s. Wellaoxon, M/s. Proctor and Gamble, M/s. Gatsby etc. (The genuine nature of the goods had not been disputed). He further stated that the brands had not been mentioned in the Invoices as per his requirement to facilitate clearance through Customs and also because the FDA clearance at the port of import in respect of branded cosmetics used to take lot time and numerous samples were used up.

84. In his further confession, Shri Kirti Doshi admitted three times of the declared prices in respect of goods in MLCU 3463321 and CRXU 2831531 (covered by Bill of Entry No. 616107 and 616108 both dated 20.10.2005) and four times the declared prices in respect of goods in CRXU 2814410 and IALU 2247970 (covered by Bill of Entry No. 615117 and 615116 both dated 18.10.2005), based on the prices at which the respective products were sold in local market' that he had given the admitted price by taking 60% discount on market prices and that the said 60% comprised of 7.5% octroi, 12.5% vat, 40% marketing expenses including sampling, rent, market shows etc.

85. Further Shri Kirti Doshi on 19.02.2007, stated that he had gone through the samples of the cosmetics and toiletries drawn by the officers of DRI, Mumbai under Panchnama dated 22.10.2005 and 24.10.2005 in Mumbai Docks; and stated that from these details, the actual transaction value of the above said consignments was five and a half times the values declared in the respective Invoices.

86. Besides, statements were also recorded from others:

Shri Ramniklal Manjibhai Patel, Director of M/s. Khodiyar Polymers P. Ltd. on 25.11.2005 stated that in the year 1990, he started the said company at Vijapur Road, Mansa, district Gandhinagar, Gujarat - 382845 with himself and his wife as directors; that their bankers had taken possession of their factory on account of their failure to pay their loan instalments; that in the year 2002.

87. He further confessed that he met Shri. Kirti Doshi, whom he knew as a person dealing in bearings; that Shri. Kirti Doshi had told him that he would negotiate with foreign based suppliers in Dubai and place orders for consignments of cosmetics/toiletries and fabrics in the name of M/s. Khodiyar Polymers P. Ltd. and that he would ensure its clearance through Customs; that Shri. Kirti Doshi had also told him that he would be required to invest only to the extent of the Customs duty payable on the consignments and after clearance of the goods, he would sell it in market in Mumbai and he would take 30 % of the profit earned as his share; that he agreed to the proposal and had left for Ahmedabad. He also stated that he had not given any written authority to Shri Kirti Doshi for handling the imports in the name of his firm, M/s. Khodiyar Polymers P. Ltd. nor





was there any written agreement between him and Shri Kirti Doshi regarding the above manner in which imports would be handled and profits would be shared; that as per instructions of Shri Kirti Doshi, he had opened a Current Account in ICICI bank, Zaveri bazaar branch, Mumbai around a year back and he had signed on blank cheques and blank letter heads of M/s. Khodiyar Polymers P. Ltd., which he had given to Shri Kirti Doshi for running the business; that he was not aware of the exact nature imports made in the name of his company by Shri Kirti Doshi.

88. Shri. Vithalbhai V. Gajera, proprietor of M/s. Amrut Traders on 24.11.2005 stated that in the year 2004 as per suggestion of his co-brother, Shri Ramniklal M. Patel, who was in the field of import and export, he had entered the same field; that his co-brother asked him to obtain an Import Export Code from Jr.DGFT, Ahmedabad after which he would guide him regarding the goods to be imported, which were seasonal requirements in the market and Gujarat; that accordingly he applied for an IEC showing the address of factory of his friend, Shri. Kanubhai Patel i.e. M/s. Sona Diary, 132, Mona Estate, opp. Anil Starch Mill, Safed Chali Road, Saraspur, Ahmedabad - 380018, as the office address of his proprietary firm, M/s. Amrut Traders; that as per instructions of his co-brother, he has shown the address at B/16, M.K. Aminar Marg, Delhi - 110006 as the two branch addresses of his proprietary firm; that out of the two branch addresses, he had never been to the Delhi address; that he was paying a monthly rent of Rs. 1000/- per month up to the month he was occupying it i.e. September 2005, but there is no rent agreement or rent receipt in this regard; that he was also not paying any rent for the two branch office addresses at Mumbai and Delhi.

89. Shri Vithalbhai V. Gajera, further stated that on 30.09.2004 he received IEC certificate and informed his co-brother and as per his instructions gave a copy of the same to his co-brother; that his co-brother had told him at that time that there was one person, viz. Shri Kirti Doshi in Mumbai, who had experience in import/export business and who would help them; that in the month of June 2005, he accompanied his co-brother to Mumbai and Shri Kirti Doshi met them there; that Shri Kirti Doshi gave a proposal to him that he would negotiate with the foreign based suppliers in Dubai and place the orders for three consignments of cosmetics and toiletries in the name of M/s. Amrut Traders and he would ensure its clearance through Customs; that Shri. Kirti Doshi had also told him that he would be required to invest only to the extent of Customs duty payable on the consignments and after clearance of the goods, he would sell it in the market in Mumbai and he would take 30 % of the profit earned as his share; that he agreed to the proposal and left for Ahmedabad; that he had not given any written authority to Shri Kirti Doshi for handling his imports in the name of his firm, M/s. Amrut Traders, nor was there any written agreement between him and Shri. Kirti Doshi regarding the above manner in which imports would be handled and profits would be shared.

90. Market enquiries were conducted in order to ascertain the actual values/prices of the goods seized. Shri T.J. Khatri of M/s. Alfa, Mumbai 56, furnished a Retail Sale Price list of the goods sold through his outlet. He stated that he purchases the goods from salesman in small quantities.





91. Enquiries were also conducted with M/s. Sarvodaya Emporium, M/s. Rajni Stores and M/s. Premal J. Doshi. The Notice itself admitted that the enquiries with the above stated traders were not representative and therefore decided to approach M/s. Pantaloon for the Retail Price of the goods.

92. On enquiry retail prices were provided by M/s. Pantaloon Retail (India) P. Ltd. were more or less in sync with the C.I.F. value arrived at and admitted by Shri Kirti J. Doshi in his statement dated 19.02.2007, i.e. five and a half times the declared value.

93. Both the firms/companies, made voluntary deposits towards the differential duty payable by them.

94. These overwhelming evidence and the fact that the defense arguments have been analyzed thoroughly clearly confirm the charges against the two firms and Shri Kirti J. Doshi.

95. As regards the persons concerned in the fraudulent activity, it is observed that Shri Vithalbhaj V. Gajera of M/s. Amrut Traders, Shri Ramniklal M. Patel of M/s. Khodiyar Polymers and Shri Kirti Doshi are jointly and severally responsible.

96. The owners of the two importer firms/company cannot get away by throwing the blame on Shri Kirti Doshi, thought the latter had planned and executed the entire transactions. Knowing fully well that what Shri Kirti Doshi was asking them to do was not legal, they consented to be parties to the fraud. The IEC Code obtained, the bank accounts opened, the blank signing of documents are all pointers towards their guilt. Besides, their own admission corroborated by the deposition of Shri Kirti Doshi. Though it is not known as to who financed the provisional release or it is their own funds, this also reveals that the gentlemen are not as innocent as made out.

97. As regards Shri Kirti Doshi, his role has been brought out in the earlier paragraphs. To reiterate or summarize it is observed that the Manager of the CHA firm M/s. Global Services, CHA No. 11/1170, Shri Arvindkumar R. Dubey has in his statement dated 21.10.2005 (para 9(i) & (ii) of the SCN) had inter alia stated that the clearance work of the subject four consignments were given to them by one, Shri Kirti Doshi having office phone no. 2348967 & 23449251. Shri Kirti Doshi was giving them jobs in respect of M/s. Amrut Traders, M/s. Khodiyar Polymers Pvt. Ltd., M/s. Kirti Impex & M/s. Kirti Bearings; that he did not know the proprietors/partners of M/s. Amrut Traders and M/s. Khodiyar Polymers P. Ltd.; that however Shri Kirti Doshi had given them authority letter of these firms, whereby they were authorized to act on behalf of the said firm/company for clearance of their import consignments; that their authority bearing stamp duty payment dated 19.07.2005 had given to them by Shri Kirti Doshi.

98. Further, Shri Kirti Doshi during his interrogation and while deposing evidence in the form of statement dated 25.10.2005 had submitted duly signed letter of authority (in original) on the letter head of the subject company/firm. He has further stated about the receipt of import documents from the suppliers and also about declaration of brands to Customs. (para 11(1) & 11(2) of the SCN).

99. Further, Shri Ramniklal M. Patel, Director of M/s. Khodiyar Polymers P. Ltd. in his statement dated 21.10.2005 had stated that he had not given any written authority to





Shri Kirti Doshi for handling his imports in the name of his firm. However, he had also stated that as per the instructions of Shri Kirti Doshi, he had opened a current account in ICICI Bank; Zaveri Bazaar branch, Mumbai around a year back and he had signed on blank letter heads and blank cheques of M/s. Khodiyar Polymers P. Ltd., which he had given to Shri Kirti Doshi for running the business and further stated that as per instructions of Shri Kirti Doshi he had arranged funds for payment of duty in respect of the consignments imported in the past. Further, Shri Ramniklal M Patel had agreed that 30% of the profit would be taken by Shri Kirti Doshi and rest will be kept by him after clearance and sale of the impugned goods.

100. Further, Shri Vithalbhai V. Gajera, proprietor of M/s. Amrut Traders in his statement dated 24.11.2005 had inter-alia stated that as per instructions of his co-brother, he had opened a current account in ICICI bank, and he had signed on blank cheques and blank letter heads of M/s. Amrut Traders, which he had given to his co-brother for running the business and he was not aware whether he had given authority letter using these blank signed letter heads to Shri Kirti Doshi to operate the said bank account. However, in the same statement, he has further stated that in the month of June 2005, he accompanied his co-brother to Mumbai & Shri Kirti Doshi met them there and discussed the issue of import of consignments of cosmetics and toiletries in the name of M/s. Amrut Traders. Further, Shri Vithalbhai V. Gajera had agreed that 30% of the profit would be taken by Shri Kirti Doshi and rest will be kept by him after clearance and sale of the impugned goods.

101.1 Shri Doshi's claim that he is not the importer and merely acted as a facilitator is untenable. The SCN establishes that Doshi was the mastermind behind the import scheme, orchestrating negotiations with foreign suppliers, instructing the Custom House Agent (CHA), and suppressing critical details to undervalue the goods. His statements dated 25.10.2005 and 19.02.2007 under Section 108 of the Customs Act, 1962, admit to coordinating the imports and deliberately omitting brand names to facilitate clearance at lower values.

101.2 The statements of Shri Vithalbhai V. Gajera (24.11.2005) and Shri Ramniklal M. Patel (25.11.2005) confirm that Doshi handled all aspects of the imports, including negotiations and clearance, while they acted as nominal importers, providing blank signed letterheads and cheques. This arrangement indicates that Doshi was the de facto importer, exercising control over the import process, rendering him liable under Sections 112(a) and 114A of the Customs Act, 1962, for abetting misdeclaration of goods and duty evasion.

101.3. Doshi's commission-based arrangement does not absolve him of liability. His active role in suppressing brand names and undervaluing goods, as admitted in his statements, directly contributed to the evasion of customs duty, making him complicit in the fraudulent import of the impugned goods.





102.1 Doshi's allegation that his statements were recorded under coercion is baseless and lacks corroboration. Statements recorded under Section 108 of the Customs Act, 1962, are admissible as evidence unless proven to be involuntary through concrete proof, which Doshi has failed to provide. His statements dated 25.10.2005 and 19.02.2007 were recorded in the presence of independent witnesses, and he signed them without objection at the time.

102.2 Doshi's admissions regarding the true transaction value (three to five and a half times the declared value) are corroborated by independent evidence, including market surveys and retail prices from M/s Pantaloon Retail (India) Ltd. His claim of coercion is an afterthought to evade liability. The Department opposes his request for cross-examination of DRI officers, as it is unnecessary and intended to delay proceedings. The statements of Gajera, Patel, and Shri Arvind Kumar Dubey (CHA) further corroborate Doshi's central role, rendering additional cross-examination redundant.

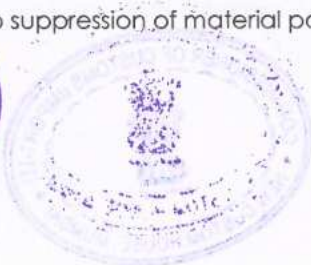
102.3. Doshi's reliance on the statements of Gajera and Patel to establish their importer status is misplaced. Both admitted to being nominal importers, unaware of the goods' details and relying entirely on Doshi, confirming the use of dummy firms to facilitate the fraud.

103.1. The deliberate suppression of brand names to undervalue goods constitutes misdeclaration under Section 46 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993. The invoices and packing lists omitted brand names (e.g., L'Oreal, Nivea, Brut, Lomani), which significantly impact valuation, as evidenced by market surveys showing higher values for branded goods.

103.2. Doshi in his statement dated 25.10.2005 admitted that brand names were suppressed at his instructions to expedite clearance and to avoid FDA scrutiny, demonstrating intent to evade duty. The physical examination under Panchnama dated 22.10.2005 and 24.10.2005 revealed branded goods, contradicting the invoices, which justifies the allegation of misdeclaration under Section 111(m) of the Customs Act, 1962.

103.3. The cross-examination of Shri K.G. Saseedharan dated 30.10.2007 confirms that assessments for B/E Nos. 615116 and 615117 both dated 18.10.2005 were based on available data, but the SCN seeks further enhancement due to mis-declaration of brand of the goods, which resulted in gross undervaluation uncovered during DRI investigations. The initial assessments do not preclude re-determination based on new evidence, as permitted under Section 28 of the Customs Act, 1962.

104.1. Doshi's contention that the market inquiries are flawed is incorrect. The inquiries conducted with M/s Pantaloon Retail, M/s Alfa, M/s Sarvoday Emporium, and others comply with Rule 8 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988, applied as a residual method after rejecting the declared transaction value in case to suppression of material particulars.





- M/s Pantaloon Retail: The letter dated 19.02.2007 provides retail prices for branded cosmetics (e.g., Brut, Lomani), which align with Doshi's admission that price of goods is more than five and a half times the declared value of the goods. The cross-examination of Shri J.K. Naidu confirms that the data was obtained lawfully, and the absence of supplier inquiries does not invalidate the retail prices, which are relevant for valuation under Rule 8. Doshi's claim that only 65 of 123 items were covered is irrelevant, as the sample is representative of the consignment's value.
- M/s Alfa: Shri Girish Nair's cross-examination clarifies that M/s Alfa provided retail prices based on market transactions. The absence of purchase vouchers is immaterial, as retail prices are a valid basis for valuation under Rule 8 when transaction values are unreliable. The SCN's reliance on Alfa's prices is supported by corroborative data from other retailers.
- Other Retailers: Cash memos from M/s Sarvoday Emporium, M/s Rajul Stores, and M/s Premal J. Doshi & Co. provide consistent retail prices, reinforcing the undervaluation. Doshi's demand for supplier details is a diversion, as Rule 8 permits valuation based on market data in India.

104.2. The declared transaction values were rejected under Rule 10A due to the absence of manufacturer invoices and suppression of brand details, as admitted by Doshi. Rules 5, 6, and 7 were inapplicable due to the lack of contemporaneous import data for identical or similar goods, necessitating the use of Rule 8. The CIF values derived from Pantaloon's retail prices (50% of MRP) are robust and align with Doshi's admissions, justifying the proposed valuation.

104.3. Doshi's submission of Bills of Entry for identical goods cleared at lower values is irrelevant, as those clearances may not have undergone DRI scrutiny. The SCN is based on specific evidence of fraud in this case, warranting re-determination of value.

105. The SCN proposes further loading of values based on Doshi admission in his statement dated 19.02.2007 and market survey data, which establish that the price of the impugned goods is five and a half times more than the declared value of the goods. This is lawful, as provisional assessments are not final, and re-determination is permissible under Customs law.

106.1. The misdeclaration of value and suppression of brand details violate Section 46 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993, making the goods liable to confiscation under Section 111(m). Further, the impugned goods required FDA NOC at the time of import and the same was not available with the importers. Hence, in absence of FDA NOC the impugned goods become prohibited and is liable for confiscation under Section 111(d) of the Customs Act, 1962. The estimated duty evasion of Rs. 21,37,320 (M/s Amrut Traders) and Rs. 7,16,345 (M/s Khodiyar Polymers P. Ltd.) is recoverable with interest under Sections 28 and 28AA of the Customs Act, 1962.





106.2. Doshi's active role in orchestrating the fraud, as corroborated by his statements and those of Gajera, Patel, and the CHA, renders him liable to penalties under Sections 112(a) and 114A of the Customs Act, 1962. His claim that he is not liable as a non-importer is untenable, as abetting duty evasion attracts penalties regardless of ownership, as held in **ANIL KUMAR GOKULDAS KAMDAR Vs Commissioner of Customs 2007 (215) E.L.T. 172 (Bom.)**

106.3. The SCN is based on credible evidence, including Doshi's admissions, market surveys, and physical examination of goods, establishing undervaluation, misdeclaration, and fraudulent use of IECs. The declared values were correctly rejected under Rule 10A, and the transaction value determined under Rule 8 is lawful.

107.1. The importers' claim that Shri Kirti Doshi was merely a consultant engaged in advising importers, placing orders, and arranging clearances for M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd., is misleading. The investigation establishes that Doshi was the mastermind of the fraudulent scheme, orchestrating imports through dummy firms with fictitious addresses. In his statements dated 25.10.2005 and 19.02.2007, he has admitted to suppressing brand names (e.g., L'Oreal, Nivea) to undervalue goods and evade duty, corroborated by the statements of Shri V.V. Gajera dated 24.11.2005 and Shri R.M. Patel dated 25.11.2005, who have admitted to being nominal importers providing blank signed letterheads and cheques to Doshi.

107.2. The importers' reliance on case \*Proprietor, Carmel Exports & Imports [2012 (276) ELT 505 (Kar.)]\* is misplaced. In that case, the Karnataka High Court held that a consultant facilitating imports without ownership is not liable unless active abetment is proven. In the instant case investigation has proved Doshi as kingpin of the fraudulent import and the same is supported by Doshi's admissions and his control over the import process, including negotiations, document preparation, and instructions to CHA. His role renders him liable for penalties under Sections 112(a) and 114A of the Customs Act, 1962.

107.3. Supreme Court in **Om Prakash Bhatia v. Commissioner of Customs [2003 (155) ELT 423 (SC)]** held that the goods imported through fraudulent IECs or in violation of the Foreign Trade (Development and Regulation) Act, 1992, are prohibited under Section 2(33), liable to confiscation under Section 111(d) of the Customs Act, 1962.

In the present case, the investigation revealed that fictitious addresses and dummy importers were used to import the impugned goods which confirms the misuse of IEC and hence the impugned goods are liable for confiscation under Section 111(d) of the Customs Act, 1962. The goods, valued at Rs. 81,05,388 (CIF), are fraudulent imports, justifying confiscation and penalties on Doshi and the importers.

108.1. The importers' argument that misdeclaration of valuation does not constitute liability for confiscation under Sections 111(d) and 111(m) or penalties on Doshi under





Section 112(a) and 114A is incorrect. The SCN establishes that the invoices and Bills of Entry (B/E Nos. 615116, 615117, 616107, 616108) omitted brand names, leading to gross undervaluation. This violates Section 46 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993, rendering the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

108.2. Doshi in his statement dated 19.02.2007 admitted that the transaction value was 5.5 times the declared value, corroborated by market surveys (M/s Pantaloon Retail, M/s Alfa). His role in suppressing brand names facilitated duty evasion of Rs. 21,37,320 by M/s Amrut traders, making him liable for penalties under Section 112(a) for abetting misdeclaration.

108.3. The importers' cited cases are distinguishable:

- **Jost's Engg. Co. Ltd. v. Collector [Civil Appeal No. 11404/95]\*\*:** This case involved rejection of invoice price without evidence of fraud. Here, Doshi's admissions and market surveys provide concrete evidence of undervaluation.

- **CC v. M.R. Associates [2013 (297) ELT 504 (Mad.)]\*\*:** The court held that penalties are not automatic when invoice prices are rejected, but here importer and planned and manipulated documents to undervalue the goods and deliberate fraud is proven.

- **Kevin Infotech (P) Ltd. v. CC [2007 (216) ELT 435 (Tri. – Kolkata)]\*\*:** The Tribunal required evidence for valuation rejection, which the SCN provides through Doshi's statements and market data.

**108.4. Commissioner of Customs v. Atul Automation [2019 (365) ELT 465 (SC)]**

*The Supreme Court held that deliberate omission of material particulars (e.g., specifications impacting valuation) in Bills of Entry constitutes misdeclaration under Section 46, rendering goods liable to confiscation under Section 111(m) and penalties under Section 112(a) of the Customs Act, 1962.*

The SCN's evidence of brand suppression and undervaluation supports confiscation of impugned goods and penalties on Doshi and the importers. The misdeclaration of valuation, orchestrated by Doshi and facilitated by the importers, justifies confiscation and penalties.

109.1. The importers' claim that similar imports in the Mumbai retail market preclude the SCN's valuation methodology is baseless. The SCN rejected the declared values under Rule 10A of the Customs Valuation Rules, 1988, due to suppression of brand names and lack of credible invoices from manufacturers. Rules 5-7 were inapplicable due to the absence of contemporaneous import data, necessitating valuation under Rule 8 based on market surveys.

109.2. The importers' allegation that the Department failed to use NIDB data is unsubstantiated. The SCN details market inquiries with M/s Pantaloon Retail, M/s Alfa, and



others, which align with Doshi's admission of undervaluation of 5.5 times. The Department is not obligated to trace suppliers' procurement prices when transaction values are unreliable, as per Rule 8.

109.3. The importers' criticism of incomplete market inquiries is invalid. The cross-examinations of Shri J.K. Naidu and Shri Girish Nair confirm the reliability of retail prices from Pantaloon and Alfa, which are sufficient for Rule 8 valuation when corroborated by Doshi's statements. The SCN's CIF values (50% of MRP) are reasonable and lawful.

**109.4. Commissioner of Customs v. South India Television [2007 (214) ELT 3 (SC)]**

*The Supreme Court upheld market inquiries under Rule 8 when transaction values are rejected due to fraud or suppression, provided the data is reasonable.*

The market inquiries conducted by the investigation is valid for valuation under Rule 8. The same is corroborated by Doshi's admissions that the price of impugned goods is 5.5 times of declared value of the goods. The retail prices from Pantaloon (19.02.2007) and Alfa provide a robust basis for CIF values, justifying duty demands.

110.1. The importers' claim that Doshi lacked mens rea, citing the CHA's docket containing a branded invoice is untenable. Doshi in his statement dated 25.10.2005 admitted to suppressing brand names to expedite clearance and avoid FDA scrutiny, demonstrating intent to undervalue goods. The statement dated 21.10.2005 of Shri Arvind Kumar Dubey, Manager of CHA, confirms Doshi instructions to file documents without brand details, establishing Doshi role in misdeclaration.

110.2. The importers' argument that no Panchnama was drawn for the CHA's docket invoice is irrelevant. The SCN relies on the CHA's voluntary submission of records, corroborated by Dubey's statement, negating the need for a Panchnama. The importers' failure to disclose brand names in invoices and Bills of Entry, as per Panchnama dated 22.10.2005 and 24.10.2005 confirms misdeclaration.

110.3. The importers' allegation that Doshi's statements were induced to align with Pantaloon's data is baseless. Doshi in his statement dated 25.10.2005 admitted 3-4 times undervaluation and in his statement dated 19.02.2007 admitted 5.5 times undervaluation which reflect progressive disclosures during investigations, corroborated by market surveys. The importers' reliance on \*CC v. Sainul Abideen Neelam [2014 (300) ELT 342 (Mad.)]\* is misplaced, as Doshi's statements are supported by Panchnama, market data, and statements of Gajera, Patel, and Dubey, unlike the uncorroborated statement in that case.

**110.4. K.I. Pavunny v. Assistant Collector [1997 (90) ELT 241 (SC)]**





*The Supreme Court held that statements under Section 108 are admissible unless coercion is proven with concrete evidence, and corroboration strengthens their reliability.*

Doshi's statements, corroborated by multiple sources, are valid, countering the importers' coercion claim. The SCN reliance on Doshi admissions in his statements, supported by market surveys and Panchnama, establishes mens rea and liability.

111.1. The importers' argument that Section 114A applies only to importers or their agents liable to pay duty, excluding Doshi, is incorrect. Section 114A imposes penalties on any person who, by act or omission, causes short-levy or non-levy of duty, as determined under Section 28. Doshi's orchestration of the fraudulent scheme, as per his statements and corroborated evidence caused duty evasion, making him liable under Section 114A of the Customs Act, 1962.

111.2. The importers' cited cases are distinguishable:

- **Bimal Kumar Mehra** [2011 (270) ELT 280 (Tri.)]\*\*, **J.B. Trading Corporation** [1990 (45) ELT 9 (Mad.)]\*\*, **Dhirubhai N. Sheth** [1995 (75) ELT 697 (Tri.)]\*\*, **Ashwin Doshi** [2004 (173) ELT 488 (Tri.)]\*\*, **Nalin Z. Mehta** [2014 (303) ELT 267 (Tri.)]\*\*: These cases involve non-importers with no active role in fraud. Here, Doshi's control over the import process and suppression of brand names establish his role in whole process of fraudulent import and make him liable for penal action under Customs Act, 1962.

112.1. The importers' argument that the term "beneficial owner" in Section 2(26) was introduced in 2017 and cannot apply retrospectively is irrelevant. The SCN does not rely on "beneficial owner" but on Doshi's role as the de facto importer, controlling the import process. His liability under Sections 112(a) and 114A stems from abetting misdeclaration and duty evasion, not ownership.

113.1. The importers' claim that the earlier adjudication's consolidated penalty (Rs. 30,00,000 under Sections 112 and 114A) was unlawful due to the 5th proviso of Section 114A is premature. The SCN proposes penalties afresh and the adjudicator is empowered to impose penalties under either Section 112(a) or 114A, as per the evidence.

113.2. The importers' reliance on **Amrut Foods** [2005 (190) ELT 433 (SC)]\* is misplaced. The SCN (para 30-32) clearly specifies the contraventions (undervaluation, misdeclaration, IEC misuse) and invokes Sections 112(a) and 114A, providing sufficient notice. The quantum of penalty is for the adjudicator to determine, as per clauses (i)-(v) of Section 112.

114.1. The importers' reliance on **M/s Acer India (P) Ltd.** [CESTAT Order No. 40534/2024, upheld by SC]\* to argue that declared Retail Price is misconceived. The SCN (para 22) uses retail prices from **M/s Pantaloni Retail** and others to derive CIF values under Rule



8 of the Customs Valuation Rules, 1988, not to disturb RSP. The declared values were rejected under Rule 10A due to fraud (brand suppression), making Rule 8 valuation lawful.

114.2. The importers' claim that Customs Valuation Rules prohibit retail price-based valuation is incorrect. Rule 8 permits valuation based on market data when transaction values are unreliable, as held in \*South India Television [2007 (214) ELT 3 (SC)]\*. The valuation of the impugned goods was arrived as per applicable Customs Valuation Rules 1988.

115. The SCN is based on robust evidence, including Shri Kirti Doshi's statements, Panchnama dated 22.10.2005 and 24.10.2005, market surveys, and statements of Shri Vithalbhai V. Gajera and Shri Ramniklal M Patel, establishing undervaluation, misdeclaration. The goods are liable to confiscation under Sections 111(d) and 111(m), the evaded duty of Rs. 28,53,665/- is recoverable with interest under Sections 28, 28AB and 28AA of the Customs Act 1962, and penalties are imposable on Doshi and the importers M/s Amrut Traders and M/s Khodiyar Polymers. The evaded duty and applicable interest will be recovered as per their mutual understanding of profit sharing i.e. 30% of Shri Kirti Doshi and 70% of IEC holders.

116. In view of the above, it is clear that Shri Kirti Doshi is the key person, who had imported the impugned goods with the active connivance of Shri R.M. Patel, Director of M/s. Khodiyar Polymers and of Shri V.V. Gajera, proprietor of M/s. Amrut Traders.

117. In view of the foregoing discussions and findings and without prejudice to the previous adjudication order, which is deemed legal and proper, I pass the following order:

#### ORDER

##### (a) Rejection of Declared Values and Reassessment:

- (i) The declared C&F value of USD 8,003.52 (Rs. 3,53,355/-) for B/E No. 615116 dated 18.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14 (1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under and the Bill of Entry is finally assessed at ascertained CIF value of USD 44,514.58 (Rs. 19,65,319/-)
- (ii) The declared C&F value of USD 6,221.16 (Rs. 2,74,664/-) for B/E No. 615117 dated 18.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14 (1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under, and the Bill of Entry is finally assessed at a CIF value of USD 34,601.31 (Rs.

15,27,640/-)





- (iii) The declared C&F value of USD 10,497.60 (Rs. 4,63,469/-) for B/E No. 616107 dated 20.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14 (1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under, and the Bill of Entry is finally assessed at a CIF value of USD 58,386.35 (Rs. 25,77,757/-).
- (iv) The declared C&F value of USD 8,285.92 (Rs. 3,65,823/-) for B/E No. 616108 dated 20.10.2005 is rejected for the purpose of assessment of the goods to duty in terms of the provisions of Section 14 (1) of Customs Act, 1962, read with the Customs Valuation (Determination of Price of imported goods) Rules, 1988 made there under, and the Bill of Entry is finally assessed at a CIF value of USD 46,085.26 (Rs. 20,34,664/-).
- (b) **Confiscation and Redemption Fine:** The goods, with an aggregate admitted CIF value of Rs. 81,05,388/- across the four Bills of Entry, are confiscated under Sections 111(d) and 111(m) of the Customs Act, 1962, read with the Foreign Trade (Development & Regulation) Act, 1992, and Foreign Trade (Regulation) Rules, 1993, due to mis-declaration of goods and lack of required FDA NOC. As the goods are not available for confiscation, a consolidated redemption fine of **Rs. 39,50,000/-** (comprising Rs. 9,50,000/- for B/E 615116, Rs. 7,50,000/- for B/E 615117, Rs. 12,50,000/- for B/E 616107, and Rs. 10,00,000/- for B/E 616108) is imposed in lieu of confiscation under Section 125 under Customs Act, 1962.
- (c) **Demand of Duty and interest:**
- (i) For B/E No. 615116 dated 18.10.2005, Customs duty of Rs. 6,91,930/- is demanded under Section 28(1) of the Customs Act, 1962 along with applicable interest under Section 28AB & 28AA of the Customs Act, 1962 and recoverable Jointly and Severally **from Shri V. V. Gajera and Shri Kirti J. Doshi** (30% from Doshi and 70% from Gajera). The amounts of Rs. 1,85,256/- and Rs. 2,97,163/- deposited against the said BE is appropriated against this demand.
- (ii) For B/E No. 615117 dated 18.10.2005, Customs duty of Rs. 5,37,839 is demanded under Section 28(1) of the Customs Act, 1962 along with applicable interest under Section 28AB & 28AA of the Customs Act, 1962 and recoverable Jointly and Severally **from Shri V. V. Gajera and Shri Kirti J. Doshi** (30% from Doshi and 70% from Gajera). The amounts of Rs. 1,57,353/- and Rs. 2,29,305/- deposited against the said BE is appropriated against this demand.
- (iii) For B/E No. 616107 dated 20.10.2005, Customs duty of Rs. 9,07,551/- is demanded under Section 28(1) of the Customs Act, 1962 along with applicable interest under Section 28AB & 28AA of the Customs Act, 1962 and recoverable Jointly and Severally **from Shri V. V. Gajera and Shri Kirti J. Doshi** (30% from Doshi and 70% from Gajera). The amount of Rs. 5,00,954/- deposited against the said BE is appropriated against this demand.



(iv) For B/E No. 616108 dated 20.10.2005, Customs duty of Rs. 7,16,345/- is demanded under Section 28(1) of the Customs Act, 1962 along with applicable interest under Section 28AB & 28AA of the Customs Act, 1962 and recoverable Jointly and Severally **from Shri Ramniklal M Patel and Shri Kirti J. Doshi** (30% from Doshi and 70% from Patel). The amount of Rs. 3,91,011/- deposited against the said BE is appropriated against this demand.

**(d) Penalties:**

- i. I impose penalty equivalent to differential duty of Rs. 7,16,345/- (Rupees Seven Lakh Sixteen Thousand Three Hundred and Fourty Five only) and interest leviable thereon, on M/s Khodiyar Polymers Pvt. Ltd., under section 114A of the Customs Act, 1962.
- ii. I impose penalty of Rs. 2,50,000/- (Rupees Two Lakh Fifty thousand only) on Shri Ramniklal M. Patel, director of M/s Khodiyar Polymers Pvt. Ltd., under Section 112 of the Customs Act, 1962.
- iii. I impose penalty equivalent to differential duty of Rs. 21,37,320/- (Rupees Twenty-one lakh thirty-seven thousand three hundred and twenty only) and interest leviable thereon, on M/s Amrut Traders, under section 114A of the Customs Act, 1962.
- iv. I impose penalty equivalent to differential duty of Rs. 28,53,665/- (Rupees Twenty-eight lakh fifty-three thousand six hundred and sixty-five only) on Shri Kirti Doshi, under Section 112 of the Customs Act, 1962, for recognizing his role as the mastermind orchestrating undervaluation and brand suppression.
- v. Further proceedings against M/s Global Services are dropped, consistent with the previous order's acceptance by the Department.

**(e) Bonds and Guarantees:** The bank guarantees and bonds furnished by M/s Amrut Traders and M/s Khodiyar Polymers P. Ltd. during provisional release shall be encashed and appropriated towards the redemption fine, differential duty, and interest. Any outstanding amounts shall be recovered by invoking the executed bonds.

This order is passed without prejudice to any other action that may be taken against the above-mentioned firms and persons under the provisions of the Customs Act, 1962, or any other law for the time being in force.



  
**(Kumar Amrendra Narayan)**

Commissioner of Customs (Import-II)  
Mumbai Customs Zone - I

New Custom House, Mumbai - 400001.



To:

1. M/s Amrut Traders  
5, Sunrise Flats, Opp. Bhagwati School,  
Bapunagar, Ahmedabad – 382345
2. Shri. Vithalbhai V. Gajera, Prop. M/s Amrut Traders  
5, Sunrise Flats, Opp. Bhagwati School,  
Bapunagar, Ahmedabad – 382345
3. M/s Khodiyar Polymers P. Ltd.  
C/o Shri. Ramniklal M. Patel,  
Director. M/s Khodiyar Polymers P. Ltd.  
36, Ambica Nagar Society, Vijapur Road,  
Taluka Mansa- Gandhinagar 382845
4. Shri. Ramniklal M. Patel,  
Director. M/s Khodiyar Polymers P. Ltd.  
E-9, Murdhanya Apartment, Behind Bhumi Party Plot,  
Naranpura, Ahmedabad, Gujarat – 380013
5. Shri. Kirfi J. Doshi,  
Flat No. 44, 4th Floor, Gitanjali Co-operative Society,  
73/75, Walkeshwar Road, Opp. Gopi Birla School, Mumbai 400006
6. M/s Global Services (CHA No. 11/1170)  
Room No. 312, 3rd Floor, Birla House, 265,  
Bazargate Street, Fort, Mumbai – 400001



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सीमाशुल्क गृह अधिकांक कार्यालय  
CUSTOM HOUSE SUPPLY OFFICE

21 JUL 2025





Commissioner of Customs  
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**F.No. GEN/ADJ/COMM/22/2022-ADJN CC(IMP-II)**

**Date: 18.07.2025**

Sr.No.	Name and Address	Post office of destination	Remark
1.	M/s Amrut Traders, 5, Sunrise Flats, Opp. Bhagwati School, Bapunagar, Ahmedabad -382345	Ahmedabad - 382345	EM833665209IN
2	Shri Vithalbhai V. Gajera, Prop. M/s Amrut Traders, 5, Sunrise Flats, Opp. Bhagwati School, Bapunagar, Ahmedabad -382345	Ahmedabad - 382345	EM833665098IN
3	M/s Khodiyar Polymers Pvt. Limited C/o Ramnikbhai M Patel, Director, M/s Kohodiyar Polymers P. Ltd. 36, Ambica Nagar Society, Vijapur Road, Taluka Mansa, Gandhinagar-382845	Gandhinagar- 382845	EM833665107IN
4	Shri Ramnikbhai M Patel, Director, M/s Kohodiyar Polymers P. Ltd. Murdhanya Apartment,,, Behind Bhumi Party Plot, Naranpura, Ahmedabad, Gujrat-380013	Ahmedabad, Gujrat-380013	EM833664764IN
5	Shri Kirit J Doshi, Flat No. 44, 4 <sup>th</sup> Floor, Gitanjali Co-operative Society, 73/75, Walkeshwar Road, Opp Gopi Birla School, Mumbai-400006	Mumbai- 400006	EM833269004IN
6	M/s Global Services (CHA No. 11/1170) Room No. 312, 3 <sup>rd</sup> Floor, Birla House, 265, Bazargate Street, Fort, Mumbai - 400001	Mumbai - 400001	EM833665212IN
7	The Additional Director General, DRI, MZU 13, Vithaldas Thakersey Marg, New Marine Lines, Mumbai- 400020	Mumbai- 400020	EM833665115IN