



ऑफिस ऑफ द कमिशनर ऑफ कस्टम्स  
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V  
जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,  
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,  
ताल-ऊरण, डिस्ट-राइगड, महाराष्ट्र-४००७०७.  
TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.

F. No.: S/10-99/2025-26/ADC/GrVI/NS-V/CAC/JNCH

Date of Order: 28.11.2025

Date of issue: 28.11.2025

Passed By: **Shri Satish Kumar**

**Additional Commissioner of Customs, NS-V**

DIN- 20251178NX000000A7CA

**Order-In-Original No. 1240/2025-26/ADC/GR.VI/NS-V/CAC/JNCH**

(Arising out of SCN No. 368/2025-26/ADC/Gr.VI/NS-V/CAC/JNCH dated 02.07.2025)

**Noticee: M/s Pratik Enterprises (IEC- IAJPK2642R)**

**मूलआदेश**

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र कास्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

**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 with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal: Uran, Dist.: Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

**Brief Facts of Case**

Whereas, **M/s Pratik Enterprises (IEC- IAJPK2642R)** and **M/s Baqi Impex (IEC- 0309033080)** was issued adjudication order, (as detailed in Table 1 and Table 2) for re-export of the goods imported vide Bill of Entry **3492669/ 26.11.2022** and **7524144/ 16.02.2022** respectively, the syndicate members made a copy of a checklist of a fake Shipping Bill to remove



the goods from the customs bonded warehouse in the guise of re-export, whereas actually goods were not re-exported, rather the same were diverted to the local market. The syndicate members illegally removed the said goods on the fake checklist of the shipping bill without payment of the duty, redemption fine and penalty, imposed on the goods confiscated vide OIO no. 196/2023-24/ADC/NS-V/Gr.VI/CAC/JNCH dated 12.05.2023 for M/s Pratik Enterprises (IEC- IAJPK2642R) and OIO no. 705/2022-23/JC/NS-V/Gr.VI/CAC/JNCH dated 19.10.2022 for M/s Baqi Impex (IEC- 0309033080).

The details of the confiscated goods, which were illegally removed from the Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse and diverted to the local market. The relevant details are as below:-

**Table 1: Details of the adjudicated goods (M/s Pratik Enterprises (IEC- IAJPK2642R))**

Importer Name	M/s Pratik Enterprises (IEC- IAJPK2642R)
Bill of Entry No./date	3492669/ 26.11.2022
Name of Warehouse	Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162)
Goods description	Toy Dancing Cactus, Toy Monkey, Toy Card Early Education De Vice, Toy Lady Bug Transparent Gear, Toy 8.5” LCD Writing Tablet, Toy Rubber Cavity Circular, Toy Watch Car, Toy Watch Dinasour and Toy Watch Tank.
Adjudication order for re-export	Yes
Adjudication / O-I-O Number and Date	196/2023-24/ADC/NS-V/Gr.VI/CAC/JNCH dated 12.05.2023
Adjudicating Authority	Additional Commissioner of Customs, Group-6, NS-V, JNCH
Fake Checklist of the Shipping Bill No./date	9462724/ 13.05.2023

**Table 2: Details of the adjudicated goods M/s Baqi Impex (IEC- 0309033080)**

Importer Name	M/s Baqi Impex (IEC- 0309033080)
Bill of Entry No./date	7524144/ 16.02.2022
Name of Warehouse	Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162)
Goods description	Par Light, Fish Light, Night Lamp and Laser Light
Adjudication order for re-export	Yes
Adjudication / O-I-O Number and Date	705/2022-23/JC/NS-V/Gr.VI/CAC/JNCH dated 19.10.2022
Adjudicating Authority	Joint Commissioner of Customs, Group-6, NS-V, JNCH
Fake Checklist of the Shipping Bill No./date	8195876/ 17.03.2023



The goods were confiscated and allowed for re-export/ destruction by the Adjudicating Authority. However, most of the said warehoused goods were clandestinely removed by the syndicate members. During the investigation, it emerged that the syndicate planned and executed the conspiracy of illegal removal of goods pertaining to M/s Pratik Enterprises (IEC- IAJPK2642R) and M/s Baqi Impex (IEC- 0309033080) covered under Bill of Entry No.- 3492669/ 26.11.2022 and 7524144/ 16.02.2022 respectively without payment of duty, redemption fine and penalty. Hence, the goods of having value as explained below which were illegally removed from warehouse by the syndicate members, the applicable differential duty of Rs. 14,13,950/- as explained in table below, is to be demanded under Section 28(4) of the Customs Act, 1962 from the IEC holders of M/s Pratik Enterprises (IEC- IAJPK2642R) and M/s Baqi Impex (IEC- 0309033080). Further, they are also liable for penalty under Section 114 A of the Customs Act, 1962.

**Table 3: Details of the adjudicated goods under investigation related of M/s Pratik Enterprises (IEC- IAJPK2642R) and M/s Baqi Impex (IEC- 0309033080)**

Sr. No.	Importer's Name	Fake Shipping Bill No.	BE No	Re-determined Assessable Value of the goods as per adjudication order (In Rs.)	Re-determined Differential Duty as per adjudication order (In Rs.)
1	M/s Pratik Enterprises	9462724/ 13.05.2023	3492669 dated 26.11.2022	15,17,760	13,04,059
2	M/s Baqi Impex	8195876/ 17.03.2023	7524144/ 16.02.2022	9,20,025	1,09,891
			Total	24,37,785	14,13,950

## **2. PERTINENT PROVISIONS OF LAW APPLICABLE TO THE PRESENT MATTER:**

**2.1 Section 7 & 11 of the Foreign Trade (Development and Regulation) Act, 1992 reads as follows:-**

**7. Importer-exporter Code Number** - No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorized by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.

**11. Contraventions of provisions of this Act, Rules, Orders, and export and import policy** (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the export and import policy for the time being in force.

Rule 12 and 14 of FOREIGN TRADE (REGULATION) RULES, 1993 reads as follows;

**12. Declaration as to Importer-exporter Code Number** - On the importation into or exportation out of any Customs port of any goods the importer or exporter shall in the Bill of Entry or Shipping Bill or, as the case may be, in any other documents prescribed by rules made under the Act or the Customs Act, 1962 (52 of 1962), state the Importer-exporter Code Number allotted, to him by the competent authority.

**14. Prohibition regarding making, signing of any declaration, statement or documents.-**

(1) No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a licence or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

(2) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

## **2.2 The Customs Act, 1962**



- i. **Section 2(3A) —beneficial owner** means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;]
- ii. **Section 2(26)** "Importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.
- iii. **Section 2(39)** 'smuggling', in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;
- iv. **Section 11A** of the Customs Act, 1962 Definitions. - In this Chapter, unless the context otherwise requires- "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;
- v. **Section 12.** Dutiable goods.—(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the 1 [Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India. 2 [(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.]

**vi. Section 28(4):-**

Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—

- (a) collusion; or
- (b) any wilful mis-statement; or
- (c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 4 [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

1[28AA. Interest on delayed payment of duty—(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance

with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-

- (a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and
- (b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]

**<sup>1</sup> [Section 28AA. Interest on delayed payment of duty. -**

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought



to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]

**vii. Section 46** Entry of goods on importation—

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the Customs automated system] to the proper officer a Bill of Entry for home consumption or warehousing [in such form and manner as may be prescribed:

(2) Save as otherwise permitted by the proper officer, a Bill of Entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(4) The importer while presenting a Bill of Entry shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed].

(4A) The importer who presents a Bill of Entry shall ensure the following, namely:—

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

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

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

**viii. Section 47** Clearance of goods for home consumption. —

(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption :

Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.

(2) The importer shall pay the import duty -

(a) on the date of presentation of the Bill of Entry in the case of self-assessment; or

(b) within one day (excluding holidays) from the date on which the Bill of Entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or

(c) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf,

and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.

**ix. Section 50-** Entry of goods for exportation.— (1) The exporter of any goods shall make entry thereof by presenting 1[electronically] 2[on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export 3[in such form and manner as may be prescribed].

[Provided that the 4[Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically 2[on the customs automated system] , allow an entry to be presented in any other manner.]

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall 5\*\*\* make and subscribe to a declaration as to the truth of its contents. 2[(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:—

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

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

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



x. **Section 51.** Clearance of goods for exportation.—6[(1)] Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation: 7 [ 8[Provided that such order may also be made electronically through the customs automated system system on the basis of risk evaluation through appropriate selection criteria: Provided further that] the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules.] 7[(2) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent and not exceeding thirty-six per cent per annum, as may be fixed by the Central Government, by notification in the Official Gazette.]

x. **Section 111.** Confiscation of improperly imported goods, etc. -

The following goods brought from a place outside India shall be liable to confiscation:

(a) any goods imported .....

(d) 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;

(e) .....

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;

(g) .....

(j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54];

xi. **Section 112.** Penalty for improper importation of goods, etc.—Any person,—(a) Who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111(j) and 111(m), or abets the doing or omission of such an act, or

(b) Who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111(j) and 111(m), shall be liable,—

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5[not exceeding the value of the goods or five thousand rupees], whichever is the greater;

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

*Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;].*.....

xii. **Section 114AA** - Penalty for use of false and incorrect material. —If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.



**xiii. Section 114A.** Penalty for short-levy or non-levy of duty in certain cases.—Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 9 [sub-section (8) of section 28] shall, also be liable to pay a penalty equal to the duty or interest so determined:]

**x. Section 124.** Issue of show cause notice before confiscation of goods, etc.

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

- a. is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;
- b. is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and
- c. is given a reasonable opportunity of being heard in the matter:

PROVIDED that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

PROVIDED FURTHER that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

### **2.3 Public Warehouse Licensing Regulations, 2016:-**

Public Warehouse Licensing Regulations, 2016 Notification No. 70/2016- Customs (N.T.) dated 14th May, 2016 G.S.R (E).-

4. Conditions to be fulfilled by applicant. - Where, after inspection of the premises, evaluation of compliance to the conditions under regulation 3 and conducting such enquiries as may be necessary, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that licence may be granted, he shall require the applicant to,- (a) provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime, in favour of the President of India, for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the public warehouse at any point of time; (b) provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under sub-section (3) of section 73A or under the Warehouse (Custody and Handling of Goods) Regulations, 2016; (c) provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, dispatch or handling; and (d) appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper.

### **2.4 Warehouse (Custody and Handling of Goods) Regulations, 2016 Notification No. 68 /2016- Customs (N.T.) Dated 14th May, 2016**

i. **8. Removal of warehoused goods for home consumption. -**

(1) A licensee shall not allow goods to be removed from the warehouse for home consumption unless the bond officer permits the removal of the goods.  
(2) Upon the owner of the goods producing an order made by the proper officer under section 68, the bond officer shall permit removal of the goods and the licensee shall, - (a) deliver the quantity of goods as mentioned in the bill of entry for home consumption to the owner of the goods and retain a copy of the bill of entry; and (b) take into record the goods removed.

ii. **9. Removal of warehoused goods for export. -**

(1) A licensee shall not remove or cause to be removed any warehoused goods for export except by an order made by the proper officer under section 69.  
(2) Upon the bond officer permitting the removal of the goods from the warehouse, the licensee shall, in the presence of the bond officer, cause the goods to be loaded onto the means of transport and affix a one-time-lock to the means of transport.

### **2.5 Warehoused Goods (Removal) Regulations, 2016. Notification No. 67/2016- Customs (N.T.) dated 14th May, 2016**

4. Conditions for transport of goods. -Where the goods are removed from the customs station of import to a warehouse or from one warehouse to another warehouse or from the warehouse to a customs station for export, the transport of the goods shall be under



one-time lock, affixed by the proper officer or the licensee or the bond officer, as the case may be: Provided that the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may have regard to the nature of goods or manner of transport, permit transport of the goods without affixing the one-time lock.

5. Conditions for due arrival of goods. - The owner of the goods shall produce to the bond officer or proper officer under sub-section (1) of section 60, as the case may be, within one month or within such extended period as such officer may allow, an acknowledgement issued by the licensee or the bond officer of the warehouse to which the goods have been removed or the proper officer at the customs station of export, as the case may be, stating that the goods have arrived at that place, failing which the owner of such goods shall pay the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable under subsection (1) of section 72.

#### **2.6 Regulation 4 of the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulations, 2019:-**

"The shipping bill shall be deemed to have been filed and self-assessment completed when, after entry of the electronic integrated declaration on the ICEGATE or by way of data entry through the service centre, a shipping bill number is generated by the Indian Customs Electronic Data Interchange System for the said declaration."

### **3 WRITTEN SUBMISSION OF THE NOTICEE**

In response to the Show Cause Notice no. 368/2025-26/ADC/Gr.VI/NS-V/CAC/JNCH dated 02.07.2025, no reply from any of the noticees was received in the stipulated time period, except from Shri Arvind Mangilal Gehlot, Managing Director of Mamashri Cargo and Logistics Pvt. is received. In his written reply dated 01.08.2025, he had stated that,

- a) they are in receipt of the above-mentioned Show Cause Notice and respectfully submit explanation in the matter. They fully acknowledge the responsibilities placed upon them under the Customs Act and remain committed to complying with all procedural requirements as prescribed by the department.
- b) **Goods were released based on available documentation-** At the time of removal, they received a checklist bearing forwarding by a Bond Superintendent, along with a signature and official stamp, which appeared to be in proper format and carried the usual forwarding markings. These documents were shared with us as part of the standard operational flow, and based on their presentation and markings, they appeared genuine and complete from our side. They released the cargo from the warehouse accordingly following the routine practice.
- c) They sincerely stated that there was no intention whatsoever to violate any customs regulation. The action was taken only after receiving what they believed to be valid documentation and after exercising reasonable diligence from their end.
- d) They requested for kind understanding of the situation and assured of full cooperation in the matter and all future compliance efforts.

### **4 RECORDS OF THE PERSONAL HEARINGS**

In order to comply to the Principles of Natural Justice, personal hearing letters were issued to the Noticees with a request to appear before the Adjudicating Authority for personal hearing on 22.08.2025. In response, any of the noticees neither appeared on date nor submitted any reply.

Again, personal hearing letter was issued and the same was scheduled on 17.10.2025. In response to the same, the authorized representative of Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162), Shri Arvind Mangilal Gehlot, Managing Director of Mamashri Cargo and Logistics Pvt. Ltd., attended the hearings virtually and stated that they have submitted the written reply to the notice and the same reply may be considered for processing the notice in their case. Also he stated that he has nothing



to add more in the case. Other Noticees neither appeared on date nor submitted any reply.

Third personal hearing was scheduled on 17.11.2025 during which Other Noticees neither appeared on date nor submitted any reply.

Since sufficient opportunity has been given to all noticees and therefore now this case is being decided on the basis of investigation carried out by DRI, available records, documents, and written submission received from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162), through their authorized representative at the time of personal hearing.

### **DISCUSSION AND FINDINGS**

5. I have gone through the facts of the case, material on case records, including the import documents and the submissions made by the authorized representative Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) during personal hearing. From the records and submission, I find the following allegations has been made in the instant case:

The goods were confiscated and allowed for re-export/ destruction by the Adjudicating Authority. However, the said warehoused goods were clandestinely removed by the syndicate members. During the investigation, it emerged that the syndicate planned and executed the conspiracy of illegal removal of goods pertaining to M/s Pratik Enterprises (IEC- IAJPK2642R) and M/s Baqi Impex (IEC- 0309033080) covered under Bill of Entry No.- 3492669/ 26.11.2022 and 7524144/ 16.02.2022 respectively without payment of duty, redemption fine and penalty. Hence, the goods of value as explained below which were illegally removed from warehouse by the syndicate members, the applicable differential duty of Rs. 14,13,950/- as explained in Table 3 Para no. 1, is to be demanded under Section 28(4) of the Customs Act, 1962 from the IEC holders of M/s Pratik Enterprises (IEC- IAJPK2642R) and M/s Baqi Impex (IEC- 0309033080). Further, they are also liable for penalty under Section 114 A of the Customs Act, 1962.

I find that, the investigation carried out by DRI clearly states that,

- a) a few persons formed a syndicate and those syndicate members adopted a novel modus operandi to remove the adjudicated goods from the Customs Bonded warehouse and illegally diverted the said goods to the local market by syndicate, to evade the payment of Customs Duty and to circumvent the restrictions imposed under the Customs Act, 1962.
- b) goods in relation to the above two importers were adjudicated by the adjudicating authority (as detailed in Table 1 and Table 2) and the re-export of the goods which are under investigation, was allowed on the payment of a redemption fine. The redemption option was given to the importers for redeeming the said goods only for the purpose of re-export, however, the goods imported in their name were clandestinely removed from the said warehouse by using a fake checklist of the shipping bills.
- c) On the instructions of Shri Nilesh Singh, Shri Alim Shafik Shaikh, prepared fake Shipping bill bearing no. 9462724/ 13.05.2023 and 8195876/ 17.03.2023 in the name of M/s Pratik Enterprises and M/s Baqi Impex respectively and handed over the same to Shri Deepak Kumar Singh and Shri Nilesh Singh.
- d) Shri Nilesh Singh sent Shri Siddhesh Mhatre to take the delivery of the goods pertaining to M/s Pratik Enterprises for re-export vide Shipping Bill No. 9462724/ 13.05.2023 from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse. For the said delivery, Shri Alim Shafik Shaikh gave him the documents along with the copy of the fake checklist of the shipping bill in the month of May 2023. After that, he went to take the delivery of the goods from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162). To take the goods out of the customs bonded warehouse, Shri Nilesh Singh contacted Shri Abhimanyu Nimbalkar to arrange truck for the movement of goods from Mamashri Cargo and Logistics Pvt. Ltd. warehouse. After loading the goods, Siddhesh took the delivery of the goods and after coming out from warehouse,



the delivery was taken by Shri Deepak Singh and Shri Alim Shafik Shaikh. Shri Deepak Singh gave Shri Siddhesh Mhatre Rs. 3000 for the said work.

- e) In case of M/s Baqi Impex, Shri Nilesh Singh arranged the truck through Shri Abhimanyu Nimbalkar for the movement of goods from Mamashri Cargo and Logistics Pvt. Ltd. warehouse. Afterwards, the delivery of goods from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) was taken by Shri Omkar Santosh Panchal alias Kunal Patil by using the fake shipping bill no. 8195876/ 17.03.2023 and he took the delivery of goods in a truck bearing number- MH04LE8942 and MH04EF6493. The goods were thereafter diverted into the local market by Shri Nilesh Singh.
- f) Also it is clearly established by the DRI through its investigation that the syndicate led by Shri Nilesh Singh, Shri Deepak Kumar Singh, Shri Alim Shafik Shaikh, and other syndicate members hatched the plan of illegal removal of goods from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162). Initially, they imported the goods in the name of M/s Pratik Enterprises (IEC- IAJPK2642R) and M/s Baqi Impex (IEC- 0309033080) and later moved the same into Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse under Section 49 of the Customs Act, 1962. Afterwards, the said goods were adjudicated by the competent authority and ordered for re-export of the consignments under investigation. The syndicate members forged the copies of the checklist of fake shipping bills and presented the same before the bond officer to allow of re-export of the goods. The bond officers were deceived by the said fake shipping bill and allowed the re-export of the goods on the said fake shipping bill. In the present cases, the shipping numbers were not generated after the entry of the electronic integrated declaration on the ICEGATE or by way of data entry through the service centre as per Regulation 4 of the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulations, 2019. During the investigation, it was revealed that the said shipping bills bearing no. 9462724/ 13.05.2023 and 8195876/ 17.03.2023 do not pertain to Nhava Sheva Port (INNSA1) and are non-existent in the ICES System. The bond officers were deceived by the said fake shipping bill and allowed the re-export of the goods on the said fake checklist of the shipping bill. Later, the said goods were taken out from the warehouse without payment of duty, redemption fine, penalty and moved to a warehouse in Bhiwandi. By doing this removal of the goods, the syndicate members had illegally diverted the goods to the local market and evaded the payment of Customs duty. Later, the said goods of both the importers were taken out from the warehouse without payment of the redemption fine. Therefore, the syndicate members had illegally diverted the goods to the local market to evade the payment of Customs duty and to circumvent the restrictions imposed under the Customs Act, 1962.

## **6. LIABILITY FOR CONFISCATION**

### **6.1 Goods related to M/s Pratik Enterprises :-**

- i. As per Order-in-Original no. 196/2023-24/ADC/NS-V/Gr.VI/CAC/JNCH dated 12.05.2023 issued by Additional Commissioner of Customs, Group-6, NS-V, JNCH, the goods which are Toy Dancing Cactus, Toy Monkey, Toy Card Early Education De Vice, Toy Lady Bug Transparent Gear, Toy 8.5" LCD Writing Tablet, Toy Rubber Cavity Circular, Toy Watch Car, Toy Watch Dinosaurs and Toy Watch Tank were found to be imported in violation of BIS regulations and the same were confiscated under Section 111(d), Section 111(f), Section 111(i) and Section 111(l) of the Customs Act, 1962.
- ii. As revealed during investigation carried out by DRI, the goods viz. Toys, as elaborated above, were imported into India through JNCH, Nhava Sheva. The said goods were warehoused at Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse after obtaining permission for Section 49. As mentioned above, the above goods were held liable for confiscation and were to be re-exported out of India. However, the said warehoused goods were clandestinely removed by the syndicate members and illegally diverted to the local market by the syndicate to evade the payment of duty, redemption fine, penalty and to circumvent the restrictions imposed under the Customs Act, 1962. As per **Section 111(j)** of the Customs Act, 1962, the goods are liable for confiscation if dutiable or prohibited goods are removed or attempted to be removed from a Customs area or a warehouse without the permission of the proper officer or contrary to the



terms of such permission. I find that in the instant case, the provisions of Section 111(j) is applicable since the dutiable/restricted goods were removed contrary to the terms of the permission of the proper officer and the adjudication order, in violation of the rules and regulations under the Customs Act, 1962, Public Warehouse Licensing Regulations, 2016 and Warehouse (Custody and Handling of Goods) Regulations, 2016 Notification No. 68 /2016- Customs (N.T.) Dated 14th May, 2016.

## **6.2 Goods related to M/s Baqi Impex :-**

i. As per Order-in-Original no. 705/2022-23/JC/NS-V/Gr. VI/CAC/JNCH dated 19.10.2022 issued by Joint Commissioner of Customs, Group-6, NS-V, JNCH, the goods the goods which are Par Light, Fish Light, Night Lamp and Laser Light were found to be imported in violation of BIS regulations, and the same were confiscated under Section 111(d) and Section 111(m) of the Customs Act, 1962.

ii. As revealed during investigations and as decided in above Paras, in the instant case, the goods viz. Par Light, Fish Light, Night Lamp and Laser Light, as elaborated above, were imported into India through JNCH, Nhava Sheva. The said goods were warehoused at Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse after obtaining permission for Section 49. As mentioned above, the above goods were held liable for confiscation and were to be re-exported out of India. However, the said warehoused goods were clandestinely removed by the syndicate members and illegally diverted to the local market by the syndicate to evade the payment of duty, redemption fine, penalty, and to circumvent the restrictions imposed under the Customs Act, 1962. As **per Section 111(j) of the Customs Act, 1962**, the goods are liable for confiscation if dutiable or prohibited goods are removed or attempted to be removed from a Customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission. I therefore find that, in the instant case, the provisions of Section 111(j) is applicable since the dutiable/restricted goods were removed contrary to the terms of the permission of the proper officer and the adjudication order, in violation of the rules and regulations under the Customs Act, 1962, Public Warehouse Licensing Regulations, 2016 and Warehouse (Custody and Handling of Goods) Regulations, 2016 Notification No. 68 /2016- Customs (N.T.) Dated 14th May, 2016.

iii. However, it is noted that the subject goods have already been cleared and are not physically available for seizure. On the issue whether redemption fine can still be imposed in such circumstances, I rely upon the ratio of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Ltd. [2018 (9) G.S.T.L. 142 (Mad.)], wherein it was held as under:

"The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields... The availability of the goods is not necessary for imposing the redemption fine. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act... Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."

The above legal view was subsequently followed by the Hon'ble Gujarat High Court in M/s Synergy Fertilchem Pvt. Ltd. [2020 (33) G.S.T.L. 513 (Guj.)], reaffirming that redemption fine may be imposed even where the goods are no longer physically available, provided that confiscation is otherwise authorized under the Act. These decisions remain unchallenged and are therefore good law.

I further note that the judgment of the Hon'ble Madras High Court in Visteon Automotive Systems India Ltd. (supra) relied upon the earlier decision of the Hon'ble Bombay High Court in Finesse



Creations Inc. [2009 (248) E.L.T. 122 (Bom.)], affirmed by the Hon'ble Supreme Court [2010 (255) E.L.T. A120 (S.C.)], which held that the power to impose redemption fine flows from the authority to confiscate under Section 111 and does not depend on physical custody of the goods.

In view of the above judicial pronouncements, I hold that though the goods illegally cleared by M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar and M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi from the warehouse are not available for confiscation, the act of misdeclaration has rendered them liable for confiscation under Section 111(j). Therefore, a redemption fine is imposable under Section 125 of the Customs Act, 1962.

iv) I also find that since the subject goods were illegally removed without payment of duty, redemption, fine and penalty by means of collusion, wilful mis-statement and suppression of facts.

6.3 I also find that the following issues involved in,

a) **M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar** are to be decided:

- (i) Whether Goods i.e. Toy Dancing Cactus, Toy Monkey, Toy Card Early Education De Vice, Toy Lady Bug Transparent Gear, Toy 8.5" LCD Writing Tablet, Toy Rubber Cavity Circular, Toy Watch Car, Toy Watch Dinosaurs and Toy Watch Tank having redetermined assessable value of Rs. 15,17,760/- (Rupees fifteen lakhs seventeen thousand seven hundred sixty only) which were already confiscated under Section 111(d), Section 111(f), Section 111(i) and Section 111(l) of the Customs Act, 1962 should be held liable for confiscation under Section 111(j) of the Customs Act, 1962.
- (ii) Whether differential duty amounting to Rs. 13,04,059/- (Rupees thirteen lakhs four thousand fifty-nine only) (as mentioned in the Adjudication order) should not be demanded as per the provisions of Section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- (iii) Whether penalty under Sections 114 A of the Customs Act, 1962 should be imposed.
- (iv) Whether penalty under Section 112 (a) of the Customs Act, 1962 should be imposed.

b) **M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi**

- i) Whether Goods i.e. Par Light, Fish Light, Night Lamp and Laser Light having redetermined assessable value of Rs. 9,20,025/- (Rupees nine lakhs twenty thousand twenty-five only) which were already confiscated under Section 111(d) and Section 111(m) of the Customs Act, 1962 should not be held liable for confiscation under Section 111(j) of the Customs Act, 1962.
- ii) Whether differential duty amounting to Rs. 1,09,891/- (Rupees one lakhs nine thousand eight hundred ninety-one only) (as mentioned in the Adjudication order) should not be demanded as per the provisions of Section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- iii) Whether penalty under Sections 114 A of the Customs Act, 1962 should be imposed.
- iv) Whether penalty under Section 112 (a) of the Customs Act, 1962 should be imposed.

c) Whether penalty under section 114AA of the Customs Act, 1962 be imposed on **Shri Nilesh Singh, Shri Deepak Kumar Singh, Shri Alim Shafik Shaikh and Shri Omkar Santosh Panchal alias Kunal Patil**



- d) Whether penalty under Section 112(a) of the Customs Act, 1962 be imposed on **Shri Nilesh Singh, Shri Deepak Kumar Singh, Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) through its managing director, Shri Arvind Mangilal Gehlot and Shri Omkar Santosh Panchal alias Kunal Patil.**
- e) Whether penalty under section 112(b) of the Customs Act, 1962 be imposed on **Shri Nilesh Singh, Shri Deepak Kumar Singh, Shri Alim Shafik Shaikh, Shri Siddhesh Tulsiram Mhatre and Shri Omkar Santosh Panchal alias Kunal Patil**

7.1 I find that the investigation of DRI has categorically established that syndicate members illegally removed the confiscated goods without payment of duty, redemption fine and, penalty. Hence, the goods as detailed in Table no. 3 in Para No. 1 were illegally removed from the warehouse by the syndicate members and the applicable differential duty as explained in Table No. 3 in Para No. 1 above is to be demanded under Section 28(4) of the Customs Act, 1962, from M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar and M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi, for their act of collusion, wilful mis-statement and suppression of facts. Further, the firm is also liable for a penalty under Section 114 A of the Customs Act, 1962, as the duty has been evaded by means of collusion, wilful mis-statement and suppression of facts.

#### **I. Liability for Confiscation under Section 111(j)**

- a. As discussed in Paras 6.1 and 6.1, goods related to M/s Pratik Enterprises and M/s Baqi Impex were clandestinely removed by the syndicate members and illegally diverted to the local market by the syndicate to evade the payment of duty, redemption fine, penalty and to circumvent the restrictions imposed under the Customs Act, 1962.
- b. In the instant case, the provisions of Section 111(j) appear to be applicable since the dutiable/restricted goods were removed contrary to the terms of the permission of the proper officer and the adjudication order, in violation of the rules and regulations under the Customs Act, 1962, Public Warehouse Licensing Regulations, 2016 and Warehouse (Custody and Handling of Goods) Regulations, 2016 Notification No. 68 /2016- Customs (N.T.) Dated 14th May, 2016.

**II. Differential duty (as mentioned in the Adjudication orders for re-export, Table 1 and Table 2 ) totally amounting to Rs. 14,13,950/- (Rupees Fourteen Lakhs Thirteen Thousands nine hundred and fifty only), as illustrated in Table No. 3 in Para No. 1.**

**II(a)** I find that the importer, in the instant case was liable to pay re-determined differential duty as per the adjudication orders 196/2023-24/ADC/NS-V/Gr.VI/CAC/JNCH dated 12.05.2023 for M/s Pratik Enterprises (IEC- IAJPK2642R) and 705/2022-23/JC/NS-V/Gr.VI/CAC/JNCH dated 19.10.2022 for M/s Baqi Impex (IEC- 0309033080) . However, I find that the importer removed the confiscated goods without paying any duty, fine and penalty and wilfully did not fulfil the liability as per adjudication order mentioned above. Accordingly, the demand of Rs. **13,04,059/-** (Thirteen lakhs four thousands and fifty nine only) from M/s Pratik Enterprises and Rs. 1,09,891/- (One lakh nine thousands eight hundred and ninety one) from M/s Baqi Impex is confirmed under Section 28(4).

**(b)** I have already held in the preceding paragraphs that the differential duty amounting to Rs. **13,04,059/-** (Thirteen lakhs four thousands and fifty nine only) from



M/s Pratik Enterprises and **Rs. 1,09,891/-** (One lakh nine thousands eight hundred and ninety one) from M/s Baqi Impex under Section 28(4) of the Customs Act, 1962 is recoverable from them. Accordingly, in terms of Section 28AA, interest on the aforesaid amount of differential duty is also recoverable from both of the importers, calculated from the date of short-payment till the date of actual payment.

**III. Penalty under Sections 114 A of the Customs Act, 1962 on M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar and M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi**

Section 114A provides for non-levy of duty or short levy of duty due to certain reasons. In the present case, I find that the DRI investigation has categorically established that importers **M/s Pratik Enterprises and M/s Baqi Impex** secured illegal delivery of goods from warehouse without payment of duty, fine and penalty. This constitutes use of false statements, declarations within the meaning of Section 114A. Accordingly, penalty under Section 114A is justified.

**IV. Penalty under Sections 112(a) of the Customs Act, 1962 on M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar and M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi**

- a) I find that the goods which were allowed to be re-exported in both the cases of M/s Pratik Enterprises and M/s Baqi Impex were removed from the warehouse by using a fake shipping bill. These were the same IEC which was used to bring restricted goods. The adjudication in this regard was done, and the goods were held liable for confiscation and they were allowed for re-export on the payment of fine and penalty. The proprietors of both the firms, namely M/s Pratik Enterprises and M/s Baqi Impex, did not join the investigation despite being summoned. This shows that they are a part of the conspiracy by which the goods have been illegally removed from the said warehouse. Due to this act, prohibited goods were imported and subsequently were illegally removed from the warehouse. Hence, for this acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 15,17,760/- from the Customs Area on the basis of fake checklist of a shipping bill, that rendered such goods liable for confiscation under Section 111 (j) of the Customs Act, 1962, **M/s Pratik Enterprises**, through its proprietor Shri Shrikant Dada Kumbhar appears, liable to penalty under Section 112 (a) of the Customs Act, 1962, with attendant penalty under Section 114A of the Customs Act, 1962 for the illegal removal of the confiscated goods having a value of Rs. 15,17,760. Further, **M/s Baqi Impex** for their acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 9,20,025/- from the Customs Area on the basis of fake checklist of a shipping bill, that rendered such goods liable for confiscation under Section 111 (j) of the Customs Act, 1962, is also liable to penalty under Section 112 (a) of the Customs Act, 1962
- b) I find that since penalty under section 114A is imposable on M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar and M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi , no penalty is imposable under section 112(a) of the Customs Act, 1962 as per provisions of Section 114A of the Customs Act 1962.



**V. Penalty under section 114AA of the Customs Act, 1962 on **Shri Nilesh Singh, Shri Deepak Kumar Singh, Shri Alim Shafik Shaikh and Shri Omkar Santosh Panchal alias Kunal Patil.****

- a. Section 114AA of the Customs Act, 1962 provides that "if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, such person shall be liable to a penalty not exceeding five times the value of the goods."
- b. Using a fake checklist of a shipping bill to secure illegal delivery of goods from warehouse without payment of duty, fine and penalty. This constitutes use of false statements, declarations within the meaning of Section 114AA. Accordingly, I find that, penalty under Section 114AA is also justified.
- c. In view of the above, I find that the investigation of DRI has categorically established that,
  - i) **Shri Nilesh Singh** along with other syndicate members, created a fake checklist of shipping bill to take out goods from the warehouse illegally and divert them to the local market. The checklist of the fake shipping bill was made with a clear objective of removing the goods from the warehouse and diverting them to the local market. The investigation reveals that he knowingly and intentionally created and used the checklist of the fake shipping bill with a clear intention to divert the goods. Hence, in addition, Shri Nilesh Singh is liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally, along with his co-conspirators, illegally removed the confiscated goods from the Customs Area.
  - ii) **Shri Deepak Kumar Singh** aided in creating a fake checklist of shipping bill to take out goods from the warehouse illegally and divert them to the local market. The checklist of the fake shipping bill was made with a clear objective of removing the goods from the warehouse and diverting them to the local market. The investigation reveals that he knowingly and intentionally created and used the checklist of the fake shipping bill with a clear intention to divert the goods. Hence, in addition, **Shri Deepak Kumar Singh** is liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally, along with his co-conspirators, illegally removed the confiscated goods from the Customs Area.
  - iii) **Shri Alim Shafik Shaikh** created a fake checklist of shipping bill to take out goods from the warehouse illegally and divert them to the local market. The checklist of the fake shipping bill was made with a clear objective of removing the goods from the warehouse and diverting them to the local market. The investigation reveals that he knowingly and intentionally created and used the checklist of the fake shipping bill with a clear intention to divert the goods. Hence, in addition, **Shri Alim Shafik Shaikh** is liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally, along with his co-conspirators, illegally removed the confiscated goods from the Customs Area.
  - iv) **Shri Omkar Santosh Panchal alias Kunal Patil** used the fake checklist of shipping bill to take out goods from the warehouse illegally and divert them to the local market and he did not turn up for the investigation, which shows that he knew that the said checklist of the shipping bill no. 8195876/ 17.03.2023 was fake. The checklist of the fake shipping bill was made with a clear objective of removing the goods from the warehouse and diverting them to the local market. The investigation reveals that he knowingly and intentionally used the checklist of the fake shipping bill with a clear intention to divert the goods. Hence, in addition, Omkar Santosh Panchal is liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally, along with his co-conspirators, illegally removed the confiscated goods from the Customs Area.

**VI. Penalty under Section 112(a) of the Customs Act, 1962 on **Shri Nilesh Singh, Shri Deepak Kumar Singh, Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) through its managing director, Shri Arvind Mangilal Gehlot and Shri Omkar Santosh Panchal alias Kunal Patil****



- a) Section 112(a) penalises any person for improper importation of goods, etc for an act of omission committed would render such goods liable to confiscation. In view of the above, I find that the investigation of DRI has categorically established that,
- a) Shri Nilesh Singh had prepared the plan of illegal removal of goods pertaining to M/s Pratik Enterprises (IEC- IAJPK2642R) and M/s Baqi Impex (IEC- 0309033080) covered under Bill of Entry No.- 3492669/ 26.11.2022 and 7524144/ 16.02.2022 respectively, were warehoused under Section 49 at Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse. The said goods were allowed for re-export/home consumption vide different adjudication orders passed by the adjudicating authority. For the said illegal removal of the goods, Shri Nilesh Singh instructed Shri Alim Shafik Shaikh, to prepare fake checklists of the Shipping bills bearing no. 9462724/ 13.05.2023 and 8195876/ 17.03.2023 in the name of M/s Pratik Enterprises and M/s Baqi Impex, respectively. To take the goods out of the customs bonded warehouse, Shri Nilesh Singh contacted Shri Abhimanyu Nimbalkar to arrange truck for the movement of goods from Mamashri Cargo and Logistics Pvt. Ltd. warehouse. Then Shri Nilesh Singh sent Shri Siddhesh Mhatre to take the delivery of the goods pertaining to M/s Pratik Enterprises for re-export vide Shipping Bill No. 9462724/ 13.05.2023 from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse, and the goods were illegally removed from the said customs bonded warehouse. In case of M/s Baqi Impex, Shri Nilesh Singh arranged the trucks by contacting Shri Abhimanyu Nimbalkar for the movement of goods from Mamashri Cargo and Logistics Pvt. Ltd. warehouse. The goods were removed from the said customs bonded warehouse, and the goods were finally diverted to the local market by Shri Nilesh Singh. for his acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex, Shri Nilesh Singh is liable to penalty under Section 112 (a) of the Customs Act, 1962.
  - b) **Shri Deepak Kumar Singh** was a key member of the whole syndicate in relation to the illegal removal of adjudicated goods from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse based on fake checklists of the shipping bill. Then he, along with Nilesh Singh instructed Shri Alim Shafik Shaikh, to prepare fake checklists of the Shipping bill bearing no. 9462724/ 13.05.2023 and 8195876/ 17.03.2023 in the name of M/s Pratik Enterprises and M/s Baqi Impex respectively. Based on these fake shipping bills, the goods were illegally removed Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) warehouse. He along with Shri Alim Shafiq Shaikh, took the delivery of the goods related to M/s Pratik Enterprises from Shri Siddhesh Tulsiram Mhatre after the illegal removal of the goods from the warehouse, and he paid Rs. 3000 to Siddhesh Mhatre for removing the goods from the customs bonded warehouse. Hence, for his acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 15,17,760/- in the case of M/s Pratik Enterprises and Rs. 9,20,025/- in the case of M/s Baqi Impex, Shri Deepak Kumar Singh is liable to penalty under Section 112 (a) of the Customs Act, 1962.
  - c) In case of M/s Baqi Impex (IEC- 0309033080), the delivery of goods from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) was taken **by Shri Omkar Santosh Panchal alias Kunal Patil** by using the fake checklist of the shipping bill no. 8195876/ 17.03.2023, and he took delivery of the goods. He did not turn up for the investigation despite being summoned. Hence, for his acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 9,20,025/- in the case of M/s Baqi Impex from the Customs Area on the basis of fake checklist of a shipping bill, that rendered such goods liable for confiscation under Section 111 (j) of the Customs Act, 1962, Shri Omkar Santosh Panchal is liable to penalty under Section 112 (a) of the Customs Act, 1962.
  - d) The customs bonded warehouse, **Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162)** through its managing director, **Shri Arvind Mangilal Gehlot**, allowed illegal removal of goods from warehouse based on fake checklist of shipping bill and they failed to take due diligence in complying with the extant provisions. They neither submitted documents confirming exports to the Bond Section, JNCH, nor intimated that they have not received the Let Export Order (LEO) copy regarding the subject consignment. They allowed removal of goods without complying with the requirements of Public Warehouse Licensing Regulations, 2016 and Warehouse (Custody and Handling of Goods) Regulations, 2016, and Warehoused Goods (Removal) Regulations, 2016 in the subject matter making the goods liable for confiscation under Section



111(j) of the Customs Act, 1962 therefore, they rendered themselves liable for a penalty under Section 112(a) of the Customs Act, 1962.

**VII. Penalty under section 112(b) of the Customs Act, 1962 on Shri Nilesh Singh, Shri Deepak Kumar Singh, Shri Alim Shafik Shaikh, Shri Siddhesh Tulsiram Mhatre and Shri Omkar Santosh Panchal alias Kunal Patil**

Section 112(b) prescribes any person who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111(j) and 111(m).

I find that the investigation of DRI has categorically established that,

- a) **Shri Nilesh Singh** played an active role in the illegal removal of goods, depositing the said goods at the warehouse at Bhiwandi, and later the goods were diverted in the local market. From his acts, it appears that he was also involved in the illegal removal of the goods from the customs bonded warehouse and dealt with the goods in terms of keeping, removing, and transferring the same from the warehouse. Hence, Shri Nilesh Singh is liable to penalty under Section 112 (b) of the Customs Act, 1962.
- b) **Shri Deepak Kumar Singh** played an active role in the illegal removal of goods by taking delivery of the illegally removed goods. From his acts, it appears that he was also involved in the illegal removal of the goods from the customs bonded warehouse and dealt with the goods in terms of keeping, removing, transferring of the same from the warehouse. Hence, Shri Nilesh Singh is liable to penalty under Section 112 (b) of the Customs Act, 1962.
- c) **Shri Alim Shafik Shaikh** gave the documents, including the fake checklist of the Shipping bill related to M/s Pratik Enterprises, to Shri Siddhesh Tulsiram Mhatre who took delivery from the customs bonded warehouse based on those documents. Further, after the illegal removal of the goods from the customs bonded warehouse, he, along with Shri Deepak Kumar Singh, took the delivery of goods pertaining to M/s Pratik Enterprises. Hence, for his acts in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex, Shri Alim Shafik Shaikh is liable to penalty under Section 112 (b) of the Customs Act, 1962.
- d) **Shri Siddhesh Tulsiram Mhatre** went to take the delivery of the goods from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162). He took the delivery of the goods and after coming out of the warehouse, the delivery was taken by Shri Deepak Singh and Shri Alim Shafik Shaikh. Hence, for his acts in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises, Shri Siddhesh Tulsiram Mhatre is liable to penalty under Section 112 (b) of the Customs Act, 1962.
- e) In case of **M/s Baqi Impex (IEC- 0309033080)**, the delivery of goods from Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) was taken by **Shri Omkar Santosh Panchal alias Kunal Patil** by using the fake checklist of the shipping bill no. 8195876/17.03.2023, and he took delivery of the goods. Shri Omkar Santosh Panchal alias Kunal Patil, for his acts of omission and commission in the illegal removal of the confiscated goods having a value of Rs. 9,20,025/- in the case of M/s Baqi Impex from the Customs Area, is liable to penalty under Section 112 (b) of the Customs Act, 1962.

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

**ORDER**

**I. I confirm the differential duty demanded and order to recover,**

- a) **The differential duty amounting to Rs. 13,04,059/- (Rupees thirteen lakhs four thousand fifty-nine only) (as mentioned in the Adjudication order in case of M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar) as per the provisions of Section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.**
- b) **The differential duty amounting to Rs. 1,09,891/- (Rupees one lakhs nine thousand eight hundred ninety-one only) (as mentioned in the Adjudication order**



in case of M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi) as per the provisions of Section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

**II. I impose penalty,**

- a) equal to the differential duty i.e, Rs. 13,04,059/- (Rupees thirteen lakhs four thousand fifty-nine only) ) (as mentioned in the Adjudication order in case of M/s Pratik Enterprises (IEC- IAJPK2642R) through its proprietor Shri Shrikant Dada Kumbhar) and interest under Section 114A of the Customs Act, 1962.
- b) equal to the differential duty i.e, Rs. 1,09,891/- (Rupees one lakhs nine thousand eight hundred ninety-one only) (as mentioned in the Adjudication order in case of M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi) through its proprietor Shri Shrikant Dada Kumbhar) and interest under Section 114A of the Customs Act, 1962.

**III. I order to**

- a) confiscate the goods i.e. Toy Dancing Cactus, Toy Monkey, Toy Card Early Education De Vice, Toy Lady Bug Transparent Gear, Toy 8.5" LCD Writing Tablet, Toy Rubber Cavity Circular, Toy Watch Car, Toy Watch Dinosaurs and Toy Watch Tank having redetermined assessable value of Rs. 15,17,760/- (Rupees fifteen lakhs seventeen thousand seven hundred sixty only) (as mentioned in the Adjudication order in case of M/s Pratik Enterprises (IEC- IAJPK2642R) under Section 111(j) of the Customs Act, 1962. However, the goods are not physically available for confiscation. I impose a redemption fine of Rs. 1,50,000/- (One Lakh and fifty thousands only) under Section 125 of Customs Act, 1962.
- b) confiscate the goods i.e. Par Light, Fish Light, Night Lamp and Laser Light having redetermined assessable value of Rs. 9,20,025/- (Rupees nine lakhs twenty thousand twenty-five only) (as mentioned in the Adjudication order in case of M/s Baqi Impex (IEC- 0309033080) through its proprietor Shri Mohammad Anis Marwadi) under Section 111(j) of the Customs Act, 1962. However, the goods are not physically available for confiscation. I impose a redemption fine of Rs. 90,000/- (Ninety thousands only) under Section 125 of Customs Act, 1962.

**IV I impose,**

- a) a penalty of Rs.24,37,785/- (Twenty four lakhs thirty seven thousands and seven hundred eighty five only) on Shri Nilesh Singh under Section 114 AA of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.
- b) a penalty of Rs. 2,43,778/- (Two lakhs forty three thousands seven hundred and seventy eight only) on Shri Nilesh Singh under Section 112(a) of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.

**V I impose,**

- a) a penalty of Rs.24,37,785/- (Twenty four lakhs thirty seven thousands and seven hundred eighty five only) on Shri Deepak Kumar Singh under Section 114 AA of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.



- b) a penalty of Rs. 2,43,778/- (Two lakhs forty three thousands seven hundred and seventy eight only) on Shri Deepak Kumar Singh under Section 112(a) of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.

VI I impose,

- a) a penalty of Rs.24,37,785/-(Twenty four lakhs thirty seven thousands and seven hundred eighty five only) on Shri Omkar Santosh Panchal alias Kunal Patil under Section 114 AA of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.
- b) a penalty of Rs. 2,43,778/- (Two lakhs forty three thousands seven hundred and seventy eight only) on Shri Omkar Santosh Panchal alias Kunal Patil under Section 112(a) of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.

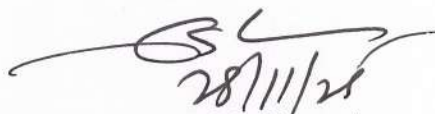
VII I impose,

- a) a penalty of Rs.24,37,785/-(Twenty four lakhs thirty seven thousands and seven hundred eighty five only) on Shri Alim Shafik Shaikh under Section 114 AA of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.
- b) a penalty of Rs. 1,30,000/-(One lakh thirty thousands only) on Shri Alim Shafik Shaikh under Section 112(b) of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.

VIII I impose a penalty of Rs. 1,30,000/-(One lakh thirty thousands only) on Shri Siddhesh Tulsiram Mhatre under section 112(b) of the Customs Act, 1962 for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises.

IX I impose a penalty of Rs. 2,43,778/- (Two lakhs forty three thousands seven hundred and seventy eight only) on Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162) through its managing director, Shri Arvind Mangilal Gehlot under section 112(a) of the Customs Act, for his role in the illegal removal of the confiscated goods having a value of Rs. 15,17,760 in the case of M/s Pratik Enterprises and Rs. 9,20,025 in the case of M/s Baqi Impex.

10. This order is issued without prejudice to any other action that may be taken against the said company or persons or any other companies or persons concerned with the said goods, under the Customs Act, 1962, and /or any other law for the time being in force in the republic of India.



(डॉ. सतीश कुमार / Dr. Satish Kumar)

अतिरिक्त आयुक्त, सीमा शुल्क / Additional Commissioner of Customs  
ग्रुप-VB, एनएस-V, जेएनसीएच / Gr.VB, NS-V, JNCH

To,

1. **Shri Shrikant Dada Kumbhar**  
proprietor of M/s Pratik Enterprises  
G. No. 04, Centre Point,  
Pen-Raigad Chinpada, Raigad,  
Maharashtra- 402107.

2. **Shri Mohammad Anis Marwadi**  
proprietor of M/s. Baqi Impex  
Flat No. -18, 3<sup>rd</sup> Floor, S.V. Road,  
Jogeshwari (West), Mumbai-400102.



**3. Shri Nilesh Singh,**

A-1201, Parkwoods, Ghodbunder Road,  
Kasarvadavali, Thane West,  
Maharashtra-400615.  
Mob. No.- 9022292225

**4. Shri Deepak Kumar Singh**

A-1201, Parkwoods, Ghodbunder Road,  
Kasarvadavali, Thane West,  
Maharashtra-400615.  
Mob No. - 7897771111

**5. Shri Omkar Santosh Panchal**

B/5, Sainath Nagaerka Society,  
Kopri, Thane East-400603.

**6. Shri Alim Shafik Shaikh**

1303, Labheshwar Aura,  
Plot No. 89, Sector-9,  
Ulwe, Navi Mumbai-410206.  
Mob No.- 8796929100.

**7. Shri Siddhesh Tulsiram Mhatre**

Village- Govathane, Post- Aware,  
Taluka- Uran, Dist.- Raigad,  
Maharashtra-400702.  
Mb. No.- 9820308767.

**8. Shri Arvind Mangilal Gehlot, Managing Director**

M/s. Mamashri Cargo and Logistics Pvt. Ltd. (NSA1U162)  
A-203, Unique Corner Building No. 2,  
Chylina Road, Near Suyog Nagar, Vasai West,  
Umele, Palghar, Maharashtra -401202.  
Mob. No.- 9960905000

Copy to:

1. The DC, Review Cell-Import, JNCH.
2. The DC, CRRC, JNCH.
3. The DC, Gr.-5B, JNCH.
4. The DC, EDI for uploading on website
5. CHS-Section, JNCH- for Notice Board.
6. CAC Office Copy.