

	<p align="center">आयुक्त, सीमाशुल्क (निवारक) का कार्यालय OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE), MUMBAI दूसरी मंजिल, नवीन सीमा शुल्क भवन, बेलाई इस्टेट, मुंबई-400 001 2ND FLOOR, NEW CUSTOMS HOUSE, BALLARD ESTATE, MUMBAI-400001 Email: commrprev-cusmum@nic.in</p>	
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DIN: 20250779OC0000182980

मूल-आदेश संख्या/Order-in-Original No. :	PCCP/ADJ/AH/04/2025-26
आदेश की तारीख / Date of Order :	17.07.2025
जारी करने की तारीख / Date of issue :	17.07.2025
आदेश फा. सं. / Order File No.	S/10-160/2023-24/CC/NS-V/CAC/JNCH
द्वारा जारी / PASSED BY :	डॉ. अतुल हांडा / Dr. Atul Handa आयुक्त, सीमाशुल्क (निवारक) / Commissioner of Customs (Preventive), मुंबई / Mumbai.

मूल आदेश / Order-in-Original

- यह प्रति जिस व्यक्ति को जारी किया गया है उसके उपयोग के लिए निः शुल्क दिया जाता है।
This copy is granted free of charge for use of the person to whom it is issued.
- इस आदेश के खिलाफ अपील क्षेत्रीय पीठ, सीमाशुल्क, उत्पाद शुल्क और सेवाकर अपीलीय न्यायाधिकरण, चौथा एवं पांचवा तल, जय सेंटर, 34, पी.डी.मेलो रोड, पूनास्ट्रीट, मस्जिद बंदर (पूर्व), मुंबई -400009 को प्रस्तुत की जा सकती है।
An appeal against this order lies with the Regional Bench, Customs, Excise, and Service Tax Appellate Tribunal, 4th and 5th Floor, Jai Centre, 34, P.D. Mello Road, Poona Street, Masjid Bunder (East), Mumbai – 400 009.
- अपील सीमा शुल्क (अपील) नियमावली, 1982 के नियम 6 के अनुसार उन नियमों के साथ संलग्न फॉर्म सी.ए. 3 में तीन माह के भीतर की जानी चाहिए। अपील चार प्रतियों में तथा निम्नांकित के साथ संलग्न होनी चाहिए:
The appeal is required to be filed within three months 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 shall be accompanied by:
 - उस आदेश की चार प्रतियां जिसके विरुद्ध अपील हो (जिनमें से कम से कम एक प्रमाणित प्रति होना चाहिए);
4 copies of the order appealed against (at least one of which should be a certified copy).
 - किसी भी राष्ट्रीय कृत बैंक की शाखा पर, जहां उचित न्यायालय (बेंच) स्थित है, उपयुक्त शुल्क का (नीचे दिया गया है) क्रास किया हुआ बैंकड्रॉफ्ट अधिकरण की पीठ के सहायक रजिस्ट्रार के पक्ष में जारी किया होना चाहिए।

A crossed Bank Draft drawn in favour of the Assistant Registrar of the Tribunal on a branch of any Nationalized Bank located at a place where the Bench is situated, for appropriate fee (as given below).

क. जहां अपील से संबंधित मामले में किसी सीमा शुल्क अधिकारी द्वारा मांगे गए शुल्क एवं व्याज और लगाए गए अर्थदंड की राशि पांचलाख या उससे कम हो, तो एक हजार रुपए का;

a. Where the amount of duty and interest demanded and penalty levied by any officer of the Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees.

ख. जहां अपील से संबंधित मामले में किसी सीमा शुल्क अधिकारी द्वारा मांगे गए शुल्क एवं व्याज और लगाए गए अर्थदंड की राशि पांचलाख रुपए से अधिक हो पर पचास लाख रुपए से अधिक नहीं हो, तो पांच हजार रुपए का;

b. Where the amount of duty and interest demanded and penalty levied by any officer of the Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees.

ग. जहां अपील से संबंधित मामले में किसी सीमा शुल्क अधिकारी द्वारा मांगे गए शुल्क एवं व्याज और लगाए गए अर्थदंड की राशि पचास लाख रुपए से अधिक हो, तो दस हजार रुपए का ।

c. Where the amount of duty and interest demanded and penalty levied by any officer of the Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees.

4. अपील अधिकरण पीठ के रजिस्ट्रार अथवा इस संबंध में उनके द्वारा अधिकृत किसी भी अधिकारी के कार्यालय में प्रस्तुत की जानी चाहिए अथवा रजिस्ट्रार या ऐसे अधिकारी के नाम पंजीकृत डाक द्वारा भेजी जानी चाहिए।

The appeal shall be presented in person to the Registrar of the Bench or an officer authorized in this behalf by him or sent by Registered Post addressed to the Registrar or such officer.

5. इस निर्णय या आदेश के विरुद्ध अपील करने के इच्छुक व्यक्ति को, इस अपील के लंबित रहने तक, मांग किए गए शुल्क या लगाए गए अर्थदंड का दस प्रतिशत धनराशि जमा करना होगा और ऐसे भुगतान का साक्ष्य प्रस्तुत करना होगा । ऐसा न करने पर अपील सीमा शुल्क अधिनियम, 1962 की धारा 129E के प्रावधानों का अनुपालन न करने के आधार पर निरस्त मानी जाएगी।

Any person desirous of appealing against this decision or order shall, pending the appeal, shall deposit ten 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 129 of the Customs Act, 1962.

विषय / Subject :	Adjudication of Show Cause Notice No. 1260/2023-24/(NS-V)/GR-V/JNCH dated 11.09.2023 issued by the Commissioner of Customs, NS-V, JNCH, Nhava Sheva to M/s. Dhanvarsha Impex and others– Regarding.
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BRIEF FACTS OF THE CASE

M/s. Dhanvarsha Impex (IEC-ACVPS5663C) having registered office at 2/84/B, Faram Mohollow, Near Ravan Tad Temple, Rustampura, Surat (hereinafter also referred to as 'M/s. Dhanvarsha') were engaged in imports of Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates, falling under Chapter Heading 84425090 of Customs Tariff Act, 1985, from Sri Lanka.

2. Intelligence gathered by the officers of Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter also referred to as DRI) indicated that M/s. Dhanvarsha was importing CTCP Digital Printing Double Layer Plates manufactured in China, which attracted Anti-Dumping Duty (ADD) as per Notifications No. 02/2020-Customs (ADD) dated 30.01.2020 and 21/2020-Customs (ADD) dated 29.07.2020. The intelligence indicated that M/s. Dhanvarsha was routing these goods through M/s.Cento Graph, a supplier based in Sri Lanka to evade the Anti-Dumping Duty imposed on goods manufactured in China.

3. As per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 read with Rules 13 and 20 of the Customs Tariff Rules, the Anti-dumping duty applicable on Digital Offset Printing Plates originating in or exported from the People's Republic of China and imported into India and Digital Offset Printing Plates manufactured in China and imported into India from other countries is as under:-

(i) As per Notification No. 02/2020-Customs (ADD) dated 30.01.2020

S.No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Lucky Huaguang Graphics Co.Ltd.	0.52
2	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Kodak China Graphics Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Shanghai Strong State Printing Equipment Ltd.	0.57
4	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Any other product except S. No. 1 to 4	0.57

6	84425090	Digital Offset Printing Plates	People's Republic of China	Any country other than People's Republic of China	Any	0.57
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(ii) As per Notification No. 21/2020-Customs (ADD) dated 29.07.2020

S.No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Lucky Huaguang Graphics Co.Ltd.	0.55
2	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Kodak China Graphics Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Shanghai Strong State Printing Equipment Ltd.	0.60
4	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Any other product except S.No. 1 to 4	0.77
6	84425090	Digital Offset Printing Plates	People's Republic of China	Any country other than People's Republic of China	Any	0.77

3.1 From the above, it emerged that Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates falling under CTH 84425090 of Chinese origin, when exported from People's Republic of China or any country other than People's Republic of China and imported into India, which is produced by any producer, the Anti-dumping duty (ADD) was leviable @0.57 USD per SQM from 30.01.2020 under Notification No. 02/2020-Customs (ADD) dated 30.01.2020. Further, the said Anti-dumping duty rate was enhanced from 0.57 USD per SQM to 0.77 USD per SQM on the said goods w.e.f. 29.07.2020 by Notification No. 21/2020-Customs (ADD) dated 29.07.2020.

4.1 Based on the above intelligence, search was carried out at the office premises of M/s. Dhanvarsha Impex, located at 2/84/B, Faram Mohollow, Near Ravan Tad Temple, Rustampura, Surat on 13.06.2022 in presence of independent Panchas and Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha and documents pertaining to import of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates along with a mobile phone used

by Shri Jayeshkumar P Soni were seized under panchnama dated 13.06.2022 for further investigation. During the course of search, Shri Jayeshkumar P Soni informed that they had imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates from M/s Cento Graph, Sri Lanka.

4.2 During the course of investigation, intelligence developed indicated that a consignment of CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha from M/s. Cento Graph, Sri Lanka had arrived at Nhava Sheva port, and M/s. Dhanvarsha had filed a Bill of Entry No. 2334490 dated 07.09.2022 before Customs, Nhava Sheva, seeking clearance of the said consignment. Therefore, a letter F.No. DRI/AZU/CI/INT-10/2022 dated 14.09.2022 was issued by the DRI, Ahmedabad to the Joint Commissioner of Customs (Imports), Nhava Sheva-VI, JNCH to keep the container on hold and not to allow clearance of the said consignment.

4.3 The container No. CAXU6163565 covered under Bill of entry No. 2334490 dated 07.09.2022 filed by M/s Dhanvarsha, kept on hold at Nhava Sheva port, was examined vide Panchnama dated 16.09.2022. On examination of the goods, some alphanumerical words/digits were found written in Chinese language on the packing boxes of goods with black colour marker. When the said text written in Chinese language was translated with the help of Google App, it showed result as 'Piece'. Thus, it appeared that the said goods imported by M/s Dhanvarsha were of Chinese origin. However, during filling of Bill of Entry by M/s. Dhanvarsha, the country of origin of goods was mentioned as Spain. Thus, it appeared that the country of origin of goods which was claimed to be of Spain/Sri Lanka origin by M/s. Dhanvarsha was actually of Chinese origin. Therefore, the said goods of Qty. 29906.12 SQM, having declared assessable value of Rs. 87,09,528/-, as per Bill of Entry No. 2334490 dated 07.09.2022 was detained under Detention Memo dated 16.09.2022 for further enquiry and handed over to Shri Waseem Kamekar, Senior Executive of M/s.Oceangate Container Terminals Pvt. Ltd.-CFS, Palaspe, Panvel, Raigarh for safe custody under Supratnama dated 16.09.2022.

ENQUIRY CONDUCTED WITH OTHER IMPORTERS OF DIGITAL OFFSET PRINTING PLATES FROM M/s. CENTO GRAPH, SRI LANKA

5. During the course of investigation, it was observed that some other importers had also imported similar goods namely, Digital Offset Printing Plates, etc. from the same overseas

supplier viz., M/s. Cento Graph, Sri Lanka. Therefore, enquiries were conducted against M/s. Mahalaxmi Textiles and M/s.PSRA Graphics India Pvt. Ltd. who had imported Digital Offset Printing Plates from M/s. Cento Graph, Sri Lanka.

ENQUIRY CONDUCTED AGAINST M/s. MAHALAXMI TEXTILES

5.1 During the course of enquiry against M/s. Mahalaxmi Textiles, search was conducted at their premises located at 2/4522, Shivdas Zaveri Street, Sagrampura, Surat, Gujarat-395002 and incriminating documents were resumed under Panchnama dated 13.06.2022. During search conducted at M/s. Mahalaxmi Textiles, back-to-back Proforma Invoices and Commercial Invoices issued by Chinese firm namely, M/s. Lucky Huaguang Graphics Co.Ltd. to M/s. Cento Graph, Sri Lanka and corresponding Proforma Invoices and Commercial Invoices issued by M/s. Cento Graph, Sri Lanka to the Indian entity were found. On comparison of the said Proforma Invoices and Commercial Invoices, it was found that quantity/measurement mentioned in the said Proforma Invoices and Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to M/s. Cento Graph, Sri Lanka, and Proforma Invoices and Commercial Invoices issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles were exactly matching and in the same order. The said goods were imported by M/s. Mahalaxmi Textiles vide Bill of Entry No.7704761 dated 02.03.2022.

5.2 From the said Proforma Invoices/Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co. Ltd., China to M/s. Cento Graph, Sri Lanka, it appeared that the goods i.e., Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates exported by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles, Surat were purchased by M/s. Cento Graph, Sri Lanka from M/s. Lucky Huaguang Graphics Co.Ltd., China. Thus, it appeared that the goods exported by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles, Surat were actually of Chinese origin and originally supplied by M/s. Lucky Huaguang Graphics Co.Ltd., China.

5.3 During the course of investigation, statements dated 13.06.2022, 23.08.2022 and 28.04.2023 of Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles were recorded under Section 108 of the Customs Act, 1962. During recording of statement on 13.06.2022, Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles produced/ submitted his mobile phone, Samsung Galaxy M21, Model No. SM-M215F/DS, Serial No. RZ8NA1H86YN, IMEI: 355000117071408, 355026117071403, for examination to the officer and the officer

took printout of few pages from his mobile phone. Further, the data contained in the said mobile phone were retrieved at Cyber Forensic Laboratory, DRI, Mumbai; and relevant data were scrutinized and printouts were taken. Shri Rakesh Ajmeri was confronted during the statement with the said printouts. In his statements recorded under Section 108 ibid he inter alia deposed as under:

- (i) They had imported CTCP Digital Double Layer Plates from M/s.Cento Graph, Sri Lanka.
- (ii) He acknowledged that the quantity and measurement mentioned in both the Proforma Invoices and Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to M/s. Cento Graph, Sri Lanka, and Proforma Invoices and Commercial Invoices issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles were correctly matched and in the same order.
- (iii) He stated that at one instance, he found some discrepancy in the packing list and invoice of the goods imported by M/s. Mahalaxmi Textiles from M/s. Cento Graph, Sri Lanka; therefore, he directly contacted Mr.Llyod Harridge (owner of M/s. Cento Graph, Sri Lanka) for the clarification of the same, for which, Mr.Llyod Harridge sent the said Performa Invoice dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to him for tallying the same.
- (iv) He further stated that Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co.Ltd., China were forwarded by Mr.Llyod Harridge (owner of M/s. Cento Graph, Sri Lanka) along with the Commercial Invoices of M/s. Cento Graph to him.
- (v) He agreed that as per the Proforma Invoices/Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to M/s. Cento Graph, Sri Lanka, the goods exported by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles were of China origin and originally supplied by M/s. Lucky Huaguang Graphics Co.Ltd., China. He accepted that from the documents, it was evident that the goods supplied by M/s. Cento Graph, Sri Lanka were of Chinese origin.
- (vi) On being shown the WhatsApp chat dated 29.06.2019 (at 04:03 PM) between him and Mr.Llyod Harridge wherein Mr.Llyod Harridge had sent him the message that *“if I do not change DO you might get custom duty and pay high cost if DO is China”*, he stated that Mr.Llyod Harridge had informed that the goods were of

China origin and if he had to save the customs duty, the goods have to be shown as of Sri Lanka origin.

- (vii) On being shown the print out of the document/photo (which was a packing list of goods issued by M/s. Lucky Huaguang Graphics Co.Ltd., China) sent during WhatsApp chat at 02.:56 PM on 11.11.2021 by Mr.Llyod Harridge, he stated that at one instance he found some discrepancy in the packing list of goods imported from M/s.Cento Graph, Sri Lanka so he contacted Mr.Llyod Harridge for clarification of the same. In turn, Mr.Llyod Harridge sent him the packing list to tally the size and total quantity; and that the said packing list was sent to M/s.Cento Graph, Sri Lanka by a Chinese firm.
- (viii) Similarly, on being shown the print out of the Commercial Invoice (issued by M/s. Lucky Huaguang Graphics Co.Ltd., China) sent on WhataApp on 25.10.2021 (at 05:07 PM) by Mr.Llyod Harridge, he stated that at one instance, he found some discrepancy in the packing list and invoice of the goods imported from M/s.Cento Graph, Sri Lanka, so he contacted Mr.Llyod Harridge for clarification of the same, for which Mr.Llyod Harridge sent him the said invoice of Chinese firm to tally the same. He agreed that the goods exported by Mr.Llyod Harridge to his firm were of Chinese origin.
- (ix) On being shown the printout of the screenshot of the WhatsApp chat at 3:24PM between him and Mr. Llyod Harridge, wherein Mr. Llyod Harridge had sent him the message that *“A very good evening jayesh this is your new ctcp Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka this is the same we did with Nn graphics please confirm your order for me to book shipping with agent”*, he stated that vide above message Mr. Llyod Harridge informed that he has to change containers in Sri Lanka to get DO from Sri Lanka.
- (x) Similarly, on being shown the printout of the screenshot of the WhatsApp chat at 7:04 PM between him and Mr.Llyod Harridge, wherein Mr.Llyod Harridge had sent him the message that *“.....we must change all container in Sri Lanka to new container as I was doing before. or we Cento Graph can also be put under pressure by Indian Customs. So from this day they will change container documents DO all in Sri Lanka and ship as new shipment please advise this to Jayesh also. Thanks Llyod”*, he stated that vide the said message Mr. Llyod Harridge informed him that

he has to change containers and all documents at Sri Lanka for goods imported from China by him and to further export to India.

- (xi) He accepted that it was quite clear that the goods imported by M/s. Mahalaxmi Textiles from M/s. Cento Graph, Sri Lanka were of Chinese origin.

ENQUIRY CONDUCTED AGAINST M/s. PSRA GRAPHICS INDIA PVT. LTD

6. Search was also conducted at the premises of M/s. PSRA Graphics India Pvt. Ltd., G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007, who had also imported similar goods from M/s. Cento Graph, Sri Lanka. During the search proceedings, incriminating documents along with printout of mail correspondences were resumed under Panchnama dated 13.06.2022. On scrutiny of the said documents/printouts of email correspondences held with Shri Rakesh Kumar Chauhan (Director of M/s.PSRA Graphics India Pvt. Ltd.), Mr. Jack of China and Mr. Llyod Harridge, it appeared that the goods supplied by M/s. Cento Graph, Sri Lanka to Indian importers were actually of Chinese origin, manufactured in China and exported to India routing through M/s. Cento Graph, Sri Lanka.

6.1 E-mail correspondences (Exhibit-12 & 13 of the impugned SCN) held between Shri Rakesh Kumar Chauhan, Mr. Jack of China and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka from 04.10.2021 to 09.12.2021 regarding complaint raised by a buyer namely, M/s. ACM Chemicals, New Delhi revealed that the goods were manufactured in China and same were arranged by Mr. Jack and exported to India through Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka.

6.2 Vide E-mail dated 09.12.2021 sent by Shri Rakesh Kumar Chauhan to Mr. Jack and M/s. ACM Chemicals with CC to M/s. Cento Graph, Shri Rakesh Kumar Chauhan informed Mr. Jack of China that the complaint of the customer regarding quality of the plates was genuine.

6.3 During the course of investigation, statements dated 24.08.2022 of Shri Rakesh Kumar Chauhan, Director of M/s. PSRA Graphics India Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962. During recording of his statement, he opened his mail Id rakesh_chauhan74@yahoo.co.in on the computer and printouts of some mails along with its

attachments (Exhibit-14 & 15 of the impugned SCN) were taken. He was confronted during the statement with the documents resumed during the search dated 13.06.2022 and printouts of emails taken from his said mail Id. In his statements recorded under Section 108 ibid he inter alia deposedas under:

- (i) The name of Mr. Jack and his mail ID was referred by Mr. Llyod Harridge as the responsible person for the complaint raised by M/s. ACM Chemicals because Mr. Jack of China was the producer of the goods.
- (ii) On being shown the printout of email dated 09.12.2021 sent by him to Mr. Jack with CC to M/s. Cento Graph, he stated that the said mail was sent by him in context of a complaint of printing plates by one of their customers i.e., M/s. ACM Chemicals.
- (iii) On being shown the printout of email dated 01.06.2017 and its attachment (copy of Proforma Invoice dated 01.06.2017) sent by M/s. NN Graphics to him and M/s.Cento Graph wherein it was stated that '*in PI, M/s. Cento Graph had mentioned country of origin China which was not acceptable as it would attract antidumping duty*', and asked to explain the origin of goods supplied by M/s. Cento Graph, he stated that on the basis of the said mails it appears that the origin of goods was China.

ENQUIRY CONDUCTED WITH SHIPPING LINES/SHIPPING LINE AGENTS

7. The investigation was extended to the Shipping Lines/ Shipping Line Agents who transported the goods from Colombo to Indian Ports. The documents submitted at load port in Sri Lanka were called for from M/s. Efficient Marine Services LLP, Mumbai, who vide their email dated 19.08.2022 submitted the documents viz., Bill of landing issued by shipping lines, M/s. Ceyserv Line; HBL issued by forwarder, M/s. Eagle Global Express (Pvt.) Ltd.; Marine Cargo Specific Voyage Policy and other documents submitted to Customs, Sri Lanka for change of containers at Colombo, which were received from Shanghai along with Sri Lanka Port Authority documents, etc. related to export of goods by M/s. Cento Graph.

7.1 On analysis of the said documents submitted by M/s. Efficient Marine Services LLP, Mumbai, it was observed that an application dated 13.10.2021 (Exhibit-18 of the impugned SCN) was given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s. Eagle Global Express (Pvt.) Ltd. for rework of container (No.SEGU1585959) for Shipping Liner change. Vide the said application, it was informed to the Customs Sri Lanka that the

shipment originated from Shanghai, China was destined to Nhava Sheva, India, however, as there was no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment would be reworked in Colombo and stuffed into container service that offers an immediate service to Nhava Sheva, India. Therefore, they requested to grant permission to re-work the above said transshipment container. Further, another application dated 13.10.2021 (Exhibit-19 of the impugned SCN) was given to the Director General of Customs, Sri Lanka Customs, Colombo for bringing empty container no.CAXU6270882 for transshipment rework operation and de-stuffing of container no.SEGU1585959 and stuffing of container no.CAXU6270882.

7.2 From the said documents, it appeared that CTP Digital Offset Plates loaded in container no.SEGU1585959 from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no.CAXU6270882 for export in India from Colombo.

7.3 Thus, it appeared that initially goods were loaded in container from Shanghai, China were unloaded at Colombo from the said container and thereafter the same goods were stuffed in other container and exported to India from Colombo. Therefore, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka to Indian importers were manufactured in China and imported from China by M/s. Cento Graph, Sri Lanka and further exported to India.

ENQUIRY CONDUCTED WITH FREIGHT FORWARDERS

8. The investigation was extended to the Freight Forwarder, who had arranged the logistics and provided HBL/MBL for goods imported from M/s. Cento Graph, Sri Lanka. The forwarders namely, M/s. Nekoda Global Logistics India Pvt. Ltd., Chennai and M/s. Worldgate Express Lines International Pvt. Ltd., Navi Mumbai submitted the copies of HBLs/MBLs issued by Shipping companies. Further, statements of the responsible persons of the said Freight Forwarders were recorded under Section 108 of the Customs Act, 1962.

8.1 In his statement dated 16.03.2023 recorded under Section 108 *ibid*, Shri Joseph G, Director of M/s. Nekoda Global Logistics India Pvt. Ltd., Chennai *inter alia* stated as under:-

- (i) M/s. Nekoda Global Logistics India Pvt. Ltd. was doing business of Freight forwarding since 2016;

- (ii) Being director of the company, he supervised all work related to import, export, finance and Admin., etc.
- (iii) In case of imports, their overseas agents contacted them when the shipments were in process at the load port and gave draft HBL/MBL to them. Their overseas agent provides options to the supplier with regard to selection of shipping line along with rates and delivery time, and thereafter, the supplier chose the shipping line. They themselves and their overseas agent facilitate each other with regard to consignment. Once the shipment is handed over to the shipping line at the load port, they share the copy of HBL to the destination shipping line to manifest on the actual consignee. At the same time, they contact the importer or its CHA and inform them about the tentative date of arrival of consignment. After this process, once the shipment arrived at the destination, they issue invoice for the endorsement charges to the importer, and as soon as they get their endorsement charges, they endorse the HBL/MBL and share it with the importer. Thereafter, the shipping line issues a Delivery Order for the release of the containers to the importers.
- (iv) M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka was their overseas agent in Sri Lanka. All the correspondences with the overseas forwarding agent and the consignee in India were done through their mail ID. The house bill of lading (HBL) in case of imports was finalized at the load port by the overseas agent in consultation with the supplier and they had no role in drafting of Bill of lading for imports in India.
- (v) After perusing the documents submitted by M/s. Efficient Marine Services LLP vide their email dated 19.08.2022, he inter alia stated that CTP Digital Offset Plates were initially loaded in container no. SEGU1585959 at Shanghai, China and unloaded at Colombo from the said container and stuffed in container no. CAXU6270882 for export to India. He agreed that the said goods were loaded from Shanghai, China and arrived at Nhava Sheva via Colombo, and were cleared by M/s. Universal Marketing, Mumbai.
- (vi) He agreed that the application made before the Sri Lankan Customs to change the container on pretext of reworking was submitted by their overseas counterpart M/s. Eagle Global Express (Pvt.) Ltd. He further agreed that the original goods had been transported from China to Sri Lanka.

8.2 In his statement dated 10.03.2023 & 23.05.2023 recorded under Section 108 *ibid*, Shri Santosh Chavan, Branch Manager of M/s. Worldgate Express Lines International Pvt. Ltd. *inter alia* stated as under:-

- (i) M/s. Worldgate Express Lines International Pvt. Ltd. was doing business of Freight forwarding and transportation of containers for Import and Export in India since 2002.
- (ii) Being Branch Manager of the company, he supervised all work related to finances, import, Admin and export related work of the Mumbai branch.
- (iii) In case of CIF terms shipment, business is generated from origin offices or overseas agent plays all role and they have no role to play. They were at the receiving side and they came to know about the shipment only when the documents were received from overseas counterparts. In these cases, they were restricted to handling agent to issue NOC to importers after which they get Delivery Order from the shipping lines.
- (iv) After import of goods in India their customers (importers) provide them original copy of HBL issued by the overseas forwarding agent and after verification they raise an invoice for handling charges to the customers and after receiving the same they issue a NOC to the shipping line for the release of the containers to the importers. On the basis of NOC issued by them, the shipping line issues a Delivery Order for the release of the containers to the importers.
- (v) All the correspondences with the overseas forwarding agent and the consignee in India were done through their mail ID santosh.mum@worldgate.in. The HBL in case of imports was finalized at load port by the overseas agent in consultation with the supplier and they had no role in drafting of BL for imports in India.
- (vi) After perusing the BL/HBL no.LKCMB/WGT/04190 dated 25.02.2021 issued by their overseas company, he stated that the said BL was issued for the shipment of M/s. Cento Graph, Sri Lanka to M/s. PSRA Graphics India Pvt. Ltd., wherein the country of origin was mentioned as Sri Lanka and the place of receipt and port of loading was mentioned as Jabel Ali port (UAE) and thereafter the goods had been transported from Jabel Ali to India.
- (vii) He further stated that they had requested their overseas branch for the submission of documents regarding the shipping instructions received from the shipper. Their overseas branch had sent clarification vide letter dated 17.03.2023.

- (viii) On being asked to explain point no.02 of the said explanation letter dated 17.03.2023 issued by their overseas branch, Colombo, he stated that as per the letter, it appeared that country of origin mentioned as Sri Lanka was a mistake as it was captured by systems default settings while generating bill of lading.
- (ix) On being asked to submit the details of switch bill of lading, he stated that it was informed by their overseas branch that they would submit the details as soon as possible but later on it was stated that they had not handled the first leg of the operations and the details of the first leg operation was not provided to them by the supplier.
- (x) After perusing the letter/documents received from Sri Lanka Customs, he stated that he found that Sri Lanka Customs had initiated investigation against M/s. Cento Graph, Sri Lanka and observed that the exporter M/s. Cento Graph were importing containers from China and reworked the said containers in Colombo to ship the same to India. After perusing the documents forwarded by the Sri Lanka Customs viz., Proforma invoice, Country of Origin Certificate, Inward and Outward Bills of lading, copies of applications made by M/s. Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for permission to carry out transshipment operation, he stated that the applications had been made by their overseas counterpart to grant permission to destuff the goods i.e., CTC Digital Double Layer printing plates from a container meant for transshipment to India and load the same in a different container under customs supervision and citing that there was no direct service from loading port to Nhava Sheva port.
- (xi) On being asked regarding the original loading port for the said goods/ containers he inter alia stated that the loading port for the containers was Chinese ports as it was clearly mentioned in the letter that the goods were imported by M/s. Cento Graph from China and then exported to India. Thus, the said goods imported by Indian importers from M/s. Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka.
- (xii) After perusing the applications made by M/s. Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for permission to carry out transshipment operation, he stated that containers had been changed on the basis of applications made by their overseas branch.

ENQUIRY CONDUCTED WITH CUSTOMS BROKERS

9. The investigation was extended to the Customs brokers, who had arranged the clearance of import consignments of M/s. Dhanvarsha. In this regards, statements of the responsible persons of the CHA/Customs brokers namely, M/s. Amogh Forwarders Pvt. Ltd. and M/s. NHD Forwarders Pvt. Ltd. were recorded under Section 108 of the Customs Act, 1962. The gists of their statements are given below.

9.1 In his statement dated 07.02.2023 recorded under Section 108 *ibid*, Shri Pramod Kisan Auti, Marketing Executive of M/s. Amogh Forwarders Pvt. Ltd. *inter alia* stated as under:-

- (i) M/s. Amogh Forwarders Pvt. Ltd. was engaged in clearance of import cargo and he looked after the work related to marketing and sales.
- (ii) They got the import work of M/s. Dhanvarsha Impex through his friend;
- (iii) Shri Jayesh Soni used to contact him for import clearance work of M/s. Dhanvarsha Impex;
- (iv) They filed the Bill of Entry on receipt of the details of the cargo from the importers on email and the duty payments were done by the importers directly;
- (v) They had arranged the transportation of the goods to the destination as provided by the importer;
- (vi) All the goods imported by M/s. Dhanvarsha Impex were transported to Surat.

9.2 In his statement dated 23.03.2023 recorded under Section 108 *ibid*, Shri Nimish Desai, Director of M/s. NHD Forwarders Pvt. Ltd. *inter alia* stated as under:-

- (i) He was F-card holder & director of M/s. NHD Forwarders Pvt. Ltd. Their company was engaged in clearance of import and export of goods;
- (ii) He looked after all the work related to clearance of import and export of goods including work related to accounts and documentation etc.;
- (iii) They received documents related to clearance of imported goods through mail;
- (iv) They had cleared CTCP Digital Printing Plates imported by M/s. Dhanvarsha Impex;
- (v) Shri Jayesh Soni of M/s. Dhanvarsha Impex used to contact them in connection with their import clearance;
- (vi) KYC documents were provided by Shri Jayesh Soni through mail on 15.02.2021 and thereafter, they started the import clearance work for M/s. Dhanvarsha Impex.

- (vii) He did not have knowledge or information whether goods imported by M/s.Dhanvarsha Impex were of Chinese origin.
- (viii) In case of imports, they used to prepare check list on receipt of the details of the cargo from the importers by email before filing the Bill of Entry and onn the approval of Check list by the importer, they filed the Bill of Entry on behalf of the importer and the duty payments were done by the importer directly;
- (ix) They had arranged the transportation of the goods to Surat as per direction of importer
- (x) Sri Jayesh Soni used to follow up with them for status of clearance.

STATEMENT OF SHRI JAYESHKUMAR P. SONI, PROPRIETOR OF M/s.DHANVARSHA IMPEX

10. On scrutiny of the documents viz. Performa Invoice/Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co. Ltd., China to M/s. Cento Graph, Sri Lanka and further Performa Invoice/Commercial Invoice were issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles, Surat having exact quantity of goods and in the same order, which were resumed under Panchnama dated 13.06.2022 from the office premises of M/s. Mahalaxmi Textiles, Surat, it appeared that the goods i.e., Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates exported by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles, Surat were purchased by M/s. Cento Graph, Sri Lanka from M/s. Lucky Huaguang Graphics Co. Ltd., China and same were exported to M/s. Mahalaxmi Textiles, Surat. Further, as per documents received from Shipping Lines in case of other importing firms of similar goods, it appears that CTCP Digital Double Layer Printing Plates supplied by M/s. Cento Graph, Sri Lanka to Indian importers were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty. In order to confront him with evidences, summons was issued and statement of Shri Jayeshkumar P. Soni, Proprietor of M/s. Dhanvarsha Impex was recorded under Section 108 of the Customs Act, 1962 on 14.09.2022 wherein he *inter alia* stated as under:-

- (i) M/s. Dhanvarsha was a proprietorship firm engaged in trading of Digital Printing Double Layer Plates for which they importa CTCP Digital Double Layer from M/s Cento Graph, Sri Lanka and sold the same directly to various buyers,
- (ii) He was the proprietor of the firm and looked after all the activities of the firm.
- (iii) He perused the Panchnama dated 13.06.2022 drawn at the premises of his firm, M/s. Dhanvarsha Impex and agreed with the contents of the said panchnama dated 13.06.2022.

- (iv) He stated that in the year 2018, Shri Rakesh Kumar Chauhan of M/s. PSRA Graphics India Pvt. Ltd., New Delhi had introduced him with Shri Llyod Harridge, owner of M/s Cento Graph, Sri Lanka in an exhibition held at New Delhi. During their meeting, Shri Llyod Harridge informed him that his firm was engaged in export of CTCP Digital Double Layer Plate to India and they were planning to establish a project based on Spanish technology for the manufacturing of Digital printing plates. Shri Llyod Harridge gave him option to invest in the project, if he was interested to do the said business. Thereafter he received performa invoice for the project and based on that he made advance payment for the establishing of project in Gujarat. He stated that first they wanted to check the quality of Digital printing plates that would be manufactured in Gujarat, therefore, to check and verify the quality they had started the import of CTCP Digital Plates from M/s. Cento Graph, Sri Lanka.
- (v) They had imported CTCP Digital Double Layer Plate from M/s Cento Graph, Sri Lanka, and for the business activities, they used to contact Shri Llyod Harridge, owner of M/s Cento Graph, Sri Lanka. He used to place order to Shri Llyod Harridge, and Shri Llyod Harridge used to forward the Performa invoice for the supply of CTCP Digital Double Layer plates to him. After receipt of Performa invoice, he used to send 20% advance to M/s. Cento Ggraph, Sri Lanka and as soon as the shipment was ready, the remaining 80% payment was paid to M/s. Cento Graph.
- (vi) They had appointed M/s. NHD Forwarders Pvt. Ltd., as the Custom broker for clearance of goods, who used to manage transportation, warehousing and clearance of the goods as per his direction. After clearance of the goods, the Custom Broker forwarded all the documents viz. Bill of Entry, invoice, transport documents, bill of lading etc. to them and arranged the transportation to deliver the goods at the their premises at Surat.
- (vii) He perused the documents received from forwarder/Shipping line, M/s Efficient Marine Services LLP by mail on 19.08.2022 and was confronted with said documents, which he explained as under:
- Documents available at Page no. 28 was the BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for transportation of container no. CAXU6270882 loaded with 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. from Colombo and supplied by

overseas supplier, M/s. Cento Graph, Sri Lanka to deliver M/s. Universal Marketing, Mumbai at Nhava Sheva port.

- Documents available at Page no. 18 was the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. for rework of container no. SEGU1585959 loaded with 21 pallets having 22492 Kgs of weight, for Shipping Liner Change. In the said application, M/s Eagle Global Express (Pvt.) Ltd. had informed to the Customs Sri Lanka that the shipment was originated from Shanghai, China and destined to Nhava Sheva, India, however, as there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the said shipment would be reworked in Colombo and stuffed into container service that would offer an immediate service to Nhava Sheva, India. They also mentioned their plan to ship that container on Vessel: Ever Unity, Voy No. W179, ETA CMB: 15.10.2021 & Export container no. CAXU6270882 and requested to grant permission to re-work the above said transshipment container at SLPA BQ Warehouse under customs supervision. Further, they also submitted that re-work empty container no. CAXU6270882 would be brought from the outside of the port premises into the BQ Warehouse by their transporter.
- Further, the documents available at page no. 15 to 17 was the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. CAXU6270882 for transshipment rework operation and de-stuffing of container no. SEGU1585959 and stuffing of container no. CAXU6270882.
- On being asked to explain, he stated that as per all the above documents, it appeared that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs loaded in container no. SEGU1585959 were loaded from Shanghai, China and were unloaded at Colombo from the said container and stuffed in container no. CAXU6270882 and were again exported to India from Colombo. The said goods i.e. 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs were loaded from Shanghai, China and arrived at Nhava Sheva via container no. CAXU627088. He also perused the

documents resumed under Panchnama dated 14.06.2022 from the office premises of M/s. Universal Marketing, Mumbai and agreed that goods stuffed in container no. CAXU6270882 were cleared by M/s. Universal Marketing vide BoE No. 5964187 dated 23.10.2021.

- Documents available at page no. 01 to 14 were the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. IALU2273475 for transshipment rework operation and de-stuffing of container no. TCKU1252224 and stuffing of container no. IALU2273475. On being asked to explain, he stated that as per all the above documents, it appeared that 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs initially loaded in container no. TCKU1252224 were loaded from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no. IALU2273475 were again exported to India from Colombo. The said 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs were loaded from Shanghai, China and arrived at Nhava Sheva via container no. IALU2273475 and on perusal of the documents resumed under Panchnama dated 14.06.2022 from the office premises of M/s. Universal Marketing, Mumbai, the same were cleared by M/s. Universal Marketing vide BoE No. 5965146 dated 23.10.2021.

(viii) Further, he perused the panchnama dated 13.06.2022 drawn at the office premises of M/s. Mahalaxmi Textiles, Surat and was confronted with some documents. resumed under Panchnama dated 13.06.2022 from the office premises of M/s. Mahalaxmi Textiles, Surat, which he explained as under:

- Document available at page no. 402 in box file no. 1 was the Performa Invoice No. CG1021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka for supply of 64500 Pc/sheets having 29131.72 Sq Mt of Digital Offset UV CTCP Plates. Further, document available at page no 403 in box file no. 1 was the Performa Invoice no CG01021-22ctcp10 dated 30.01.2022 issued by M/s. Cento graph, Sri Lanka in the name of M/s. Mahalaxmi Textiles, Surat for supply of 64500 Pcs/sheets having 29131.72 Sq Mt of Digital Offset UV

CTCP Plates. On being asked to explain the similarity of both the documents i.e. Performa Invoice No. CG01021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China and Performa Invoice no CG01021-22ctp10 dated 30.01.2022 issued by M/s. Cento Graph, Sri Lanka with same invoice number, quantity and measurement, he stated that on comparison of both the above Performa invoices, it appeared that quantity/measurement mentioned in both the Performa invoices was correctly matched and in same order and at first instance it appeared that goods were of Chinese origin, which were imported by M/s Mahalaxmi Textiles, Surat vide Bill of Entry no. 7704761 dated 02.03.2022.

- Document available at page no. 105 in box file no. 1 was the Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka for the supply of 73,500 Pcs/sheets having 28574.79 Sq Mt Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates. Further, document available at page no. 136 in box file no. 1 was the Commercial Invoice no. CG00321ctp-violet03 dated 15.11.2021 issued by M/s. Cento Graph, Sri Lanka in the name of M/s. Mahalaxmi Textiles, Surat for the supply of 73,500 Pcs/sheets having 28574.79 Sq Mt Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates. On being asked to explain the similarity of both the above Commercial Invoices, he stated that it appeared that quantity/measurement mentioned in both the Commercial Invoices was correctly matched and in same order and at first instance it appeared that goods were of Chinese origin, which were imported by M/s. Mahalaxmi Textiles, Surat vide Bill of Entry no. 6347489 dated 21.11.2021.
- (ix) He further stated that as per the documents submitted by M/s. Efficient Marine Services LLP and Performa invoices issued by Chinese based firm found in the premises of M/s. Mahalaxmi Textiles, the goods i.e. Digital Plates supplied by Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China and further exported to India.
- (x) He perused the Notification No. 2/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued by the CBEC, New Delhi vide which anti-dumping duty was levied on the import of Digital

Offset Printing Plates imported from China, Vietnam, Korea, Japan and Taiwan and stated that as per the Notification No. 21/2020-Customs (ADD) dated 29.07.2020 serial number 06 Anti-dumping duty of @ 0.77 USD per square metre was applicable in their case as the country of origin was China and Country of Export was Sri Lanka.

- (xi) He stated that they have also imported similar goods i.e. Digital Plates from M/s. Cento Graph, Sri Lanka during the period from May 2020 to September, 2022, which were cleared vide various Bills of Entry and as per practice of Mr. Llyod Harridge, the goods supplied to them were also Chinese origin manufactured in China. He stated that he would discuss the matter with Mr. Llyod Harridge and pay the Anti-dumping duty within short period in token of their cooperation in the ongoing inquiry.

SEIZURE OF GOODS IMPORTED BY M/s. DHANVARSHA IMPEX

11. On examination of the goods i.e., CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha from M/s. Cento Graph, Sri Lanka vide Bill of Entry No. 2334490 dated 07.09.2022, it appeared that there were some Chinese language alphanumerical words/digits written on the packing boxes of the goods with black colour marker. When the said text written in Chinese like language was translated with the help of Google App, it showed the result as "Piece". Thus, on the basis of words/digits found in Chinese language on the packing boxes, the goods imported vide Bill of Entry No 2334490 dated 07.09.2022, stuffed in container no. CAXU6163565 having assessable value of Rs. 87,09,528/- were detained vide detention memo dated 16.09.2022 for further investigation.

11.1 As per the documents submitted by Forwarder/shipping Line, M/s. Efficient Marine Services LLP, Mumbai, related to the past import of CTCP Digital Printing Double Layer Plate by another importer from the same supplier in Sri Lanka which included an application given to the Director General of Customs, Sri Lanka Customs by M/s. Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri Lankan warehouse, it appeared that initially goods were loaded in container from Shanghai, China and were unloaded at Colombo. Thereafter, the same goods were then stuffed into other container and exported to India from Colombo. Thus, as per the documents submitted by M/s. Efficient Marine Services LLP, it appeared

that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka were manufactured in China and imported from China by M/s. Cento Graph, Sri Lanka and further exported to India.

11.2 Further, as per the documents viz. Performa Invoice/Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co. Ltd., China to M/s. Cento Graph, Sri Lanka and further, Performa Invoice/Commercial Invoice were issued by M/s Cento Graph, Sri Lanka to M/s Mahalaxmi Textiles, Surat having exact quantity of goods and in the same order, which were resumed under Panchnama dated 13.06.2022 from the office premises of M/s Mahalaxmi Textiles, Surat, it appeared that the goods i.e. Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates exported by M/s. Cento Graph, Sri Lanka were purchased by M/s. Cento Graph, Sri Lanka from M/s. Lucky Huaguang Graphics Co. Ltd., China and same were exported to M/s. Mahalaxmi Textiles, Surat.

11.3 Further, the Sri Lanka Customs vide letter reference CIU/DRI/DRI/20/2022 dated 25.11.2022 of the Director General of Customs, Central Intelligence Directorate, Colombo had forwarded a report wherein it was clearly mentioned that the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs had caused investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka was importing containers from China and reworked the containers in Colombo to ship the same to India. Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha has also admitted during his statement recorded on 14.09.2022 under Section 108 of the Customs Act, 1962 that he was also importing the similar material i.e. CTCP Digital Printing Double Layer Plates from M/s. Cento Graph, Sri Lanka and not paying Anti Dumping duty. He admitted that and as per practice of Mr. Llyod Harridge, the goods supplied to them were also Chinese origin manufactured in China.

11.4 Since the goods i.e. CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha Impex from M/s Cento Graph, Sri Lanka vide Bill of Entry No. 2334490 dated 07.09.2022 having assessable value of Rs. 87,09,528/- having weight as 23920 kgs (29906.12 SQM) detained under Detention Memo dated 16.09.2022 were of Chinese Origin, the same were seized vide Seizure Memo F.No. DRI/AZU/CI/ENQ-40(INT-10/2022)/2022 dated 13.01.2023 under the reasonable belief that the said goods were liable for confiscation under the provisions of Customs Act, 1962 inasmuch as the imported goods appeared to be of

Chinese Origin and the Anti-dumping duty @ 0.77USD per SQM was applicable, which resulted in the evasion of anti-dumping duty amounting to Rs. 21,86,044/-.

EXTENSION OF TIME PERIOD FOR ISSUANCE OF SHOW-CAUSE-NOTICE IN CASE OF SEIZURE OF GOODS UNDER SECTION 110(2) OF THE CUSTOMS ACT, 1962

12. During the investigation, it was found that the investigation could not be completed in stipulated time due to the reasons beyond the control of investigating officers, the extension of time for issue of Show Cause Notice in respect of seized goods for a further period of 6 months was sought from the respective adjudicating authority i.e. the Commissioner of Customs (NS-V), JNCH, Nhava Sheva, and the same was approved by the competent authority for a further period of 06 months from 13.03.2023 and intimated by the Deputy Commissioner of Customs, Gr.V, JNCH, Nhava Sheva vide letter F.No. S/26-Misc-2522/2022-23/Gr-V/JNCH dtd 10.03.2023. The said extension of time period by the competent authority for issuance of Show-Cause-Notice, in terms of the first proviso to Section 110(2) of the Customs Act, 1962, was informed to M/s.Dhanvarsha Impex, Surat vide DRI letter F.No. DRI/AZU/CI/ENQ-40(INT-10/2022)/2022 dated 11.03.2023.

ENQUIRY CONDUCTED WITH OVERSEAS COUNTRY:

13. During the course of investigation, reference was made to Sri Lanka Customs through DRI, Chennai to provide the Export Declarations, Invoices, Packing List, Bill of lading, etc. available with the Sri Lankan Customs, to know the original manufacture of goods, to verify the authenticity of Country of Origin Certificates along with the details of original containers and Transshipment thereof. It was also requested to verify whether M/s. Cento Graph is an OEM manufacturer in Sri Lanka or otherwise. In response, the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs vide his letter reference CIU/DRI/DRI/20/2022 dated 25.11.2022 reported that they had initiated investigation against the company, M/s Cento Graph, Sri Lanka and during the course of investigation, it was observed that the exporter, M/s. Cento Graph, Sri Lanka was importing containers from China and reworked the containers in Colombo to ship the same to India.

13.1 The Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs vide his letter reference CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 further informed that they had initiated investigation against the company, M/s. Cento Graph, Sri Lanka and found that the exporter, M/s. Cento Graph, Sri Lanka was importing containers

from China and reworked the containers in Colombo to ship the same to India. Further, Sri Lanka Customs has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by respective forwarders viz. M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers.

13.2 On analysis of the said documents forwarded by the Sri Lanka Customs vide their letter dated 30.12.2022, it was observed that one of the said documents was an application given by the forwarder, M/s. Eagle Global Express (Pvt) Ltd. to the Sri Lanka Customs for rework of containers. On going through the said application (Exhibit-21 of the impugned SCN), it was observed that, vide the said application, M/s. Eagle Global Express (Pvt) Ltd. informed to the Customs Sri Lanka that the shipment was originated from Shanghai, China and destined to Nhava Sheva, India, however, as there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the said shipment would be reworked in Colombo and stuffed into container service that would offer an immediate service to Nhava Sheva, India. They also mentioned their plan to ship that container on Vessel: Blastic South, Voy No.2202W, ETA CMB:07.04.2022 & Container No. USAU8880230 and requested to grant permission to re-work the above said transshipment container at CFS4 Warehouse under customs supervision. Further, they also submitted that re-work empty container no. USAU8880230 would be brought from the outside of the port premises into the CFS4 Warehouse by their transporter.

From the said application, it also appeared that 24 pallets of CTP Digital Offset Plates having gross weight 23017 kgs initially loaded in container no.BEAU2994651 from Shanghai, China were unloaded at Colombo and stuffed in container no. USAU8880230 and then further exported to India from Colombo. On further scrutiny of documents, it appeared that the said 24 pallets of CTP Digital Offset Plates having gross weight 23017 kgs loaded in container no. USAU8880230 were cleared by M/s. Dhanvarsha Impex vide BoE No.8232115 dated 11.04.2022.

13.3 Similarly, from the documents forwarded by the Sri Lanka Customs vide their letter dated 30.12.2022, it was also observed that the forwarder, M/s. Worldgate Express Lines Lanka Pvt.Ltd. had also made application (Exhibit-22 of the impugned SCN) to the Sri Lanka Customs, whereby they had requested Customs Sri Lanka to grant permission to de-stuff full

transshipment container No.SEGU1731396 and to give approval to bring empty container No.FSCU7857669 inside BQ Warehouse for transshipment loading under customs supervision.

On going through the said application, it appeared that goods loaded in container No. SEGU1731396 were de-stuffed at Colombo and loaded in another container no. FSCU7857669 for further export of India from Colombo. Further, on scrutiny of documents, it appeared that CTCP Digital Double Layer supplied by M/s. Cento Graph, Sri Lanka loaded in container No. FSCU7857669 were cleared by M/s. Dhanvarsha Impex.

13.4 Thus, on scrutiny of the documents/reports received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka, which included applications given to the Director General of Customs, Sri Lanka Customs, Colombo by the freight forwarder, M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Ltd. along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri Lankan Warehouse, it appeared that initially the goods were loaded in containers from Shanghai, China and were unloaded at Colombo. Thereafter, the same goods were then stuffed in other containers and exported to India from Colombo. Therefore, from the documents/reports received from Sri Lanka Customs, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka were manufactured in China and imported from China by M/s. Cento Graph, Sri Lanka and further exported to India. Thus, the goods i.e. CTCP Digital Double Layer imported by M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty.

STATUS OF SEIZED GOODS

14. The Deputy Commissioner of Customs, Gr.V, JNCH, Nhava Sheva vide letter F.No. S/26-Misc-2522/2022-23/Gr-V/JNCH dated 05.06.2023 informed that M/s Dhanvarsha had approached for release of the seized goods on payment of Anti Dumping duty under protest and requested to inform whether goods may be released on payment of Anti Dumping duty or otherwise. Accordingly, it was informed vide DRI Ahmedabad's letter F.No. DRI/AZU/CI/ENQ-40(INT-10/2022)/2022 dated 13.06.2023 that DRI Ahmedabad had no objection if the seized goods are provisionally released after safeguarding revenue and on

furnishing of bank guarantee and bond in terms of Board's Circular No. 35/2017-Cus dated 16.08.2017.

14.1 Thereafter, the Additional Commissioner of Customs, Gr.V, NS-V, JNCH, Nhava Sheva passed order F. No. S/26-Misc-2522/2022-23 Gr-V/JNCH dated 12.07.2023 for provisional release of seized goods on fulfillment of following conditions:

- (i) PD Bond for declared value of Rs. 87,09,528/- should be executed with an undertaking that importer shall pay the duty, fine and/or penalty as may be adjudicated by the Adjudicating authority.
- (ii) Bank Guarantee of Rs. 1,40,00,000/- should be executed with clause binding the issue bank to keep it renewed and valid till final adjudication of the case.
- (i) Self assessed duties to be discharged before release of goods. If importer pays the Anti Dumping duty before the provisional release of the goods, then that amount will be deducted from the Bank Guarantee amount.

14.2 However, M/s. Dhanvarsha did not furnish the Bond for full value of Rs.87,09,528/- and Bank Guarantee of Rs. 1,40,00,000/- as per order issued by the Additional Commissioner of Customs, Gr.V, NS-V, JNCH, Nhava Sheva for provisional release of seized goods.

STATEMENTS AND INQUIRY CONDUCTED AGAINST IMPORTER WITH REFERENCE TO DOCUMENTS/EVIDENCES COLLECTED/RECEIVED FROM OVERSEAS:

15. From scrutiny the documents as well as email correspondences recovered from the premises of other importers of similar goods from the same overseas supplier, WhatsApp chat of concern/responsible persons of other importing firms, documents received from Shipping Lines and documents received from Sri Lanka Customs, it appeared that the goods i.e., CTCP Digital Double Layer imported by M/s. Dhanvarsha Impex from M/s. Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty. Further, it appeared that Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha was the main person, who dealt with work related to import/purchase of goods from overseas. He was in constant touch with the overseas supplier of goods and had full knowledge about the actual manufacturer of the imported goods. In order to confront him with evidences/report received from overseas supplier country i.e. Sri Lanka, summons were issued and statements of Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha Impex

were recorded under Section 108 of Customs Act, 1962 on 10.02.2023 & 30.06.2023, wherein he *inter alia* stated that:

- (i) He perused his earlier statement dated 14.09.2022 and agreed with the content of the same. He also re-confirmed that they had imported CTCP Digital Double Layer from M/s Cento Graph, Sri Lanka.
- (ii) He perused the Panchnama dated 16.09.2022 drawn at the premises of M/s Oceangate Container Terminals Pvt. Ltd.-CFS, Palaspe, Panvel, Raigarh and agreed that there were some marks and numbers written in Chinese language on the boxes of the goods stuffed in the container No. CAXU6163565, which were imported by M/s Dhanvarsha Impex and filed BoI No. 2334490 dated 07.09.2022. He stated that they had purchased the said goods from M/s. Cento Graph, Sri Lanka, which might be of Chinese origin, brought by M/s Cento Graph from China.
- (iii) He perused the statement dated 13.06.2022 of Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles along with printout of pages running from page 01 to 06 taken from the mobile phone Shri Rakesh Ajmeri and produced by Shri Rakesh Ajmeri under his statement dated 13.06.2022, which are as under:
 - Page no.1 (RUD-14 of the impugned SCN) is the printout of the screenshot of WhatsApp chat dated 29.06.2019 between Shri Rakesh Ajmeri and Mr. Llyod Harridge, wherein Mr. Llyod Harridge sent a message to Shri Rakesh Ajmeri that "*if i do not change DO you might get custom duty and pay high cost if DO is China*". That means Mr. Llyod Harridge informed that the goods were of China origin and if they had to save the customs duty, the goods had to be shown as of Sri Lanka origin.
 - Page no. 2,3 & 4 (RUD-15 of the impugned SCN) are the printout of the photos sent on WhatsApp chat on 11.11.2021 by Mr. Llyod Harridge to Shri Rakesh Ajmeri, which is the photo of packing list of goods "Digital Offset UV-CTCP Plates". Shri Rakesh Ajmeri stated in his statement that at one instance he found some discrepancy in the packing list of the goods imported from M/s Cento Graph, Sri Lanka, so he contacted Mr. Llyod Harridge for the clarification of the same, in turn Mr. Llyod Harridge sent him these packing list to tally the size and total quantity. Thus it appeared that the packing list sent to Shri Rakesh Ajmeri by Mr. Llyod Harridge was the packing list issued by Chinese firm to M/s Cento Graph, Sri Lanka.

- Page no. 5 and 6 (RUD-16 of the impugned SCN) are printout of the photo sent on WhatsApp on 25.10.2021 by Mr. Llyod Harridge to Shri Rakesh Ajmeri which is the photo of Commercial Invoice raised by M/s. Lucky Huaguang Graphics Co. Ltd, China to M/s Cento Graph, Sri Lanka for the product "Digital Printing PPVG Violet Plates and Digital Offset UV-CTCP Plates". Shri Rakesh Ajmeri stated in his statement that at one instance, Shri Rakesh Ajmeri found some discrepancy in the packing list and invoice of the goods imported from M/s Cento Graph, Sri Lanka, so he contacted Mr. Llyod Harridge for the clarification of the same, for which Mr. Llyod Harridge sent him the said invoice of Chinese firm to tally the same.

On being asked, he stated that as per the message sent by Mr. Llyod Harridge to Shri Rakesh Ajmeri, it seems that the goods exported by Mr. Llyod Harridge to M/s Mahalaxmi Textiles were of China origin.

- (iv) He perused the Panchnama dated 23.09.2022 drawn at Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai Zonal Unit, for recordings of the procedure carried out for retrieval of data contained in the phone Samsung Galaxy M21, Model No. SM-M215F/DS, Serial No. RZ8NA1H86YN, IMEI: 355000117071408, 355026117071403, which was produced by Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles under his statement recorded on 13.06.2022 under Section 108 of Customs Act, 1962 and put his dated signature on the last page of the Panchnama in token of having perused.
- (v) He perused the statement dated 28.04.2023 of Shri Rakesh Ajmeri, Proprietor of M/s. Mahalaxmi Textiles as well as the data/documents (page no. 1 to 06) retrieved at Cyber Forensic Laboratory, DRI, Mumbai under Panchnama dated 23.09.2022. On perusal of the documents, he found that:
 - The document available at the page no. 02 (RUD-18A of the impugned SCN) of the pages attached to statement dated 28.04.2023 of Shri Rakesh Ajmeri was the printout of the screenshot of the WhatsApp chat between Shri Rakesh Ajmeri and Mr. Llyod Harridge, wherein Mr. Llyod Harridge sent the message to Shri Rakesh Ajmeri that "*A very good evening jayesh this is your new ctcp Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka this is the same we did with Nn graphics please confirm your order for me to book shipping with agent*". On being asked, he stated

that as per the chat, Mr. Llyod Harridge informed to Shri Rakesh Ajmeri that he had to change containers in Sri Lanka to get DO from Sri Lanka.

- The document available at the page no. 03 (RUD-18B of the impugnedSCN) of the pages attached to statement dated 28.04.2023 of Shri Rakesh Ajmeri was the printout of the screenshot of the WhatsApp chat on 01.07.2019 between Shri Rakesh Ajmeri and Mr. Llyod Harridge wherein Mr. Llyod Harridge sent a message to Shri Rakesh Ajmeri that "*we must change all container in Sri Lanka to new container as I was doing before or we Cento Graph can also be put under pressure by Indian Customs. So from this day they will change container documents DO all in Sri Lanka and ship as new shipmentplease advise this to Jayesh also. Thanks Llyod*". On being asked, he stated that as per the chat, Mr. Llyod Harridge informed Shri Rakesh Ajmeri that he has to Change containers and all documents at Sri Lanka for goods imported from China by him and to further export to India.

On being asked, he stated that in view of the above evidences shown to him, it was quite clear that goods exported by M/s Cento Graph, Sri Lanka were of Chinese origin.

- (vi) He perused the Panchnama dated 13.06.2022 drawn at the office premises of M/s PSRA Graphics India Pvt. Ltd, Ghaziabad, Uttar Pradesh alongwith the documents available at page no. 05 to 09 (RUD-20 of the impugned SCN) of Made up File No.4 which was resumed from the premises of M/s PSRA Graphics India Private Limited under the said panchnama dated 13.06.2022. After perusing the said pages, he found that same were the printout of email correspondences held between Shri Rakesh Kumar Chauhan, Mr. Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph and one of the buyer of Digital Plates, M/s ACM Chemicals, New Delhi from 04.10.2021 to 09.12.2021 regarding complaint raised by buyer, M/s. ACM Chemicals, and from the same, it clearly appeared that goods were manufactured in China and same were arranged by Mr. Jack and exported to India through Mr. Lloyd Harridge of M/s. Cento Graph, Sri Lanka.
- (vii) He also perused the document available at page no. 10 (RUD-21 of the impugned SCN) of Made up File No.4 which was resumed from the premises of M/s PSRA Graphics India Private Limited under panchnama dated 13.06.2022. On being perusal of the said page, he found that same was the printout of email sent by Shri

Rakesh Kumar Chauhan on 09.12.2021 at 11:49 hrs to Mr Jack at 877120433@QQ.com and buyer, M/s ACM Chemicals at acmchemicalsnaraina@gmail.com with CC to M/s. Cento Graph. In the said mail Shri Rakesh Kumar Chauhan informed, Mr. Jack of China that the complaint of the customer regarding quality of the plates is genuine

- (viii) He perused the statement dated 24.08.2022 of Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Pvt. Ltd. and found that during recording of statement of Shri Rakesh Kumar Chauhan on 24.08.2022, Shri Rakesh Kumar Chauhan had opened his mail id rakesh_chauhan74@yahoo.co.in on the computer installed in the office premises of DRI and took printout of some mail along with its attachments numbered from page no. 1 to 12 and produced it with dated signature. Shri Rakesh Kumar Chauhan was confronted during the statement with the printout taken from his mail, wherein Shri Rakesh Kumar Chauhan stated that document available at page number 05 (RUD-23 of the impugned SCN) was the printout of mail, which was sent by one buyer, M/s. N N Graphics at centograph@yahoo.com on 01.06.2017 at 9:42 AM stating that *in PI M/s. Cento Graph had mentioned country of origin China which was not acceptable as it would attract antidumping duty.* He also perused the copy of P.I. No: NN Oraphics201705/002 dated 01.06.2017 available at page number 09 (RUD-24 of the impugned SCN) of said attachments, wherein the country of origin was mentioned as China for the goods supplied as Plates to M/s. NN Graphics. On being asked, he stated that on the basis of mails sent by M/s. Cento Graph, it appeared that the goods supplied by M/s. Cento Graph were Chinese origin.
- (ix) He perused both the letters F.No. DRI/CZU/VII/26/180/2022 dated 16.12.2022 and F.No. DRI/CZU/VIII/26/180/2022 dated 28.02.2023 received from the Assistant Director, Directorate of Revenue Intelligence. Chennai, wherein letter reference CIU/DRI/DII/20/2022 dated 25.11.2023 (RUD-38 of the impugned SCN) and CIU/DRI/DRI/20(21/2022 dated 30.12.2022 (RUD-40 of the impugned SCN) of the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka was forwarded, and stated that on being perusal of the letter received from Sri Lanka Customs, he found that Director General of Customs, Central intelligence Directorate, Sri Lanka Customs has mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and

observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and reworking the containers in Colombo to ship the same to India. Further, Sri Lanka Customs has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s. Eagle Global Express (Pvt.) Ltd. and M/s. Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers. He perused all the documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading as well as copies of the applications made by M/s. Eagle Global Express (Pvt.) Ltd. and M/s. Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers. He stated that CTCP Digital Double Layer imported from M/s Cento Graph, Sri Lanka were initially imported by M/s. Cento Graph from China and then exported to India. He agreed that goods i.e. CTCP Digital Double Layer imported by M/s Dhanvarsha Impex from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty.

- (x) He perused the page no. 225 of the documents forwarded by the Director General of Customs, Central Intelligence Directorate, Sri Lanka Custom vide letter reference CIU/DRI/DRI/20(2)/2022 dated 30.12.2022, which is the copy of applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs to grant permission to carry out transshipment operation inside BQ Warehouse under customs supervision i.e. permission to dyestuff of container no. SEGU1731396 and load the same into container no. FSCU7857669. In the said application, M/s Worldgate Express Lines Lanka Pvt. Ltd informed to the Customs Sri Lanka that there was no direct service from loading port to Nhava Sheva, therefore carrier unable to accept empty container at Nhava Sheva Port. On being asked, he stated that goods loaded in container No. SEGU1731396 were de stuffed at Colombo and again loaded in container No. FSCU7857669. He stated that goods i.e. CTCP Digital Double Layer supplied by M/s Cento Graph, Sri Lanka loaded in container No. PSCU7857669 were cleared by M/s Dhanvarsha Impex vide Bill of Entry no. 3737762 dated 28.04.2011. He perused all the applications made by M/s WorldgateExpress Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers and agreed that all the containers were changed at Colomba and thereafter supplied by M/s Cento Graph, Sri Lanka to India.

- (xi) He stated that they had also imported similar goods i.e., Digital Plates from M/s. Cento Graph, Sri Lanka and as per practice of Mr. Lyod Harridge, the goods supplied to them were also Chinese origin manufactured in China. He stated that since the goods i.e., CTCP Digital Double Layer imported by M/s Dhanvarsha Impex were Chinese origin, the Anti-dumping duty @ 0.77 USD per square metre as per Notification No. 21/2000-Customs (ADD) dated 29.07.2020 issued by the CBEC, New Dell was leviable on the same but they had not paid the applicable Anti-dumping duty on the import of CTCP Digital Double Layer.

MODUS OPERANDI ADOPTED FOR EVASION OF ANTI-DUMPING DUTY

16. In view of the evidence and facts discussed in the foregoing paras, it appeared that M/s Dhanvarsha had imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates falling under CTH 94425090 of Chinese origin by routing through Sri Lanka based company, M/s Cento Graph to evade Anti Dumping duty leviable on import of Digital Offset Printing Plates produced by China based manufacturer as per Notification No. 02/2000-Customs (ADD) dated 30.01.2000 and Notification. No. 21/2020-Customs (ADD) dated 29.07.2020. The goods namely, Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha were produced by China based manufacturer which attracted Anti-dumping duty @ 0.57 USD per SQM with effective from 30.01.2000 as per Notification No. 02/2000-Customs (ADD) dated 30.01.2000. Further, the said Anti-dumping duty was enhanced from @ 0.57 USD per SQAM to 0.77 USD per SQM on the said goods i.e., Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese Origin produced by any producer, exported from any other countries other than Peoples Republic of China and imported into India by Notification No. 21/2020-Customs (ADD) dated 29.07.2000 effective from 20.07.2020 for a period of five years. However, the importer was claiming that the goods were of Spanish Origin, imported from M/s Cento Graph, Sri Lanka which did not attract Anti-dumping duty.

16.1 As per the order placed by M/s Dhanvarsha, M/s. Cento Graph, Sri Lanka purchased the goods from China based manufacturer, loaded it in containers from Shanghai, China and brought to Colombo, Sri Lanka. After the goods reached at Colombo, they were unloaded at Colombo from the said containers. Thereafter, the same goods were then stuffed in another container and exported to India from Colombo. M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Lad, both forwarders at Sri Lanka would give

application to the Director General of Customs, Sri Lanka Customs, Colombo for reworking of containers for Shipping Liner change. In the said application, M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Ltd., both forwarders based in Sri Lanka would inform to the Customs Sri Lanka that the shipments were originated from Shanghai, China and were destined to India, however, as there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment would be reworked in Colombo and stuffed into container service that offers an immediate service to India. They also mentioned their plan to ship that container on Vessel for Export and requested to grant permission to re-work the above said transshipment container at warehouse under customs supervision. Further, they also submitted that, for re-work, empty container would be brought from the outside of the port premises into the warehouse by their transporter.

16.2 In the manner discussed herein above, the goods i.e., Digital Plates supplied by M/s. Cento Graph. Sri Lanka were manufactured in China and imported from China by M/s. Cento Graph, Sri Lanka and further exported to India. Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha in connivance with Mr. Llyod Harridge of overseas suppliers, M/s Cento Graph, Sri Lanka had evaded the Anti-dumping duty due to the Government Exchequer by way of importing Digital Offset Printing Plates/CTCP Digital Double Layer plates of Chinese Origin by routing through Sri Lanka.

DISCUSSION OF THE EVIDENCES:

17. Anti-dumping duty was imposed on Digital Offset Printing Plates, originating in, or exported from, People's Republic of China, Japan, Korea RP, Taiwan and Vietnam vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020. From the facts narrated in the foregoing paras and the material evidence as gathered during the course of investigations, it transpired that M/s Dhanvarsha had imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates from the manufacturers based in China, which is evident from the following evidences on record: -

17.1 During examination of the goods kept on hold, which were stuffed in container no. CAXU6163565 and imported by M/s Dhanvarsha vide Bill of Entry No. 2334490 dated 07.09.2022, under Panchnama dated 16.09.2022, it was found that some alphanumerical

words/digits in Chinese language (RUD-04 & /EXHIBIT-01 & 02 of the SCN) were written on the packing boxes of goods. During verification of goods, no markings/labeling on the goods was present which would show that the goods were of Spain/Sri Lanka origin, as claimed by M/s Dhanvarsha during filling of the Bill of Entry. Thus, it appeared that the country of origin of the goods, which was claimed to be of Spain/Sri Lanka origin by M/s Dhanvarsha, were actually of Chinese origin.

17.2 The Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka vide their letter reference No. CIU/DRI/DRI/20/2022 dated 25.11.2022 have reported that they had initiated investigation against M/s. Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka was importing containers from China and reworked the said containers in Colombo to ship the same to India.

17.3 The Sri Lanka Customs vide their letter reference No. CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Eagle Global Express (Pvt.) Ltd. and M/s.Worldgate Express Lines Lanka Pvt. Ltd., forwarders based in Sri Lanka to the Sri Lanka Customs for rework of containers. In one of the said applications dated 04.04.2022 (Exhibit-21 of the impugned SCN), M/s Eagle Global Express (Pvt.) Ltd. informed to the Customs Sri Lanka that shipment had originated from Shanghai, China and was destined to Nahva Sheva, India, however,as there were no immediate connecting vessel services available from Colombo to India on current Shipping line, this shipment would be reworked in Colombo and stuffed into container service that offers an immediate service to Nahva Sheva, India. They also mentioned their plan to ship that container on Vessel: Blastic South, Voy No. 2202W, ETA CMB: 07.04.2022 & Container no. USAU8880230 and requested to grant permission to re-work the above said transshipment container at CFS 4 Warehouse under customs supervision. Further, they also submitted that for the re-work empty container no. USAU8880230 would be brought from the outside of the port premises into the CFS 4 Warehouse by their transporter. From the said application, it is apparent that 24 pallets of CTP Digital Offset Plates having gross weight 23017 Kgs were initially loaded in container no. BEAU2994651 from Shanghai, China, however, the same were unloaded at Colombo and stuffed in container no. USAU8880230, and were further exported to India from Colombo. On scrutiny of documents, it was observed that 24 pallets of CTP Digital Offset Plates having gross weight

23017 Kgs loaded in container no. USAU8880230 were cleared by M/s Dhanvarsha Impex vide BoI No. 8232115 dated 11.04.2022. Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha has also admitted during his statements recorded under Section 108 of the Customs Act, 1962 that they had imported the said material i.e. CTCP Digital Printing Double Layer Plate loaded in container no. USAU8880230 from M/s Cento Graph, Sri Lanka and not paid Anti Dumping duty.

17.4 Further, from the applications made by the another forwarder, M/s Worldgate Express Lines Lanka Pvt. Ltd. (sample as shown in EXHIBIT-22 of the impugned SCN) received from Sri Lanka Customs vide their letter dated 30.12.2022, it appeared that M/s.Worldgate Express Lines Lanka Pvt. Ltd. had requested Customs Sri Lanka to grant permission to de-stuff full transshipment container No. SEGU1731396 and to give approval to bring empty container No. FSCU7857669 inside BQ Warehouse for transshipment loading under customs supervision. As per the said application, it is apparent that goods loaded in container No. SEGU1731396 were de-stuffed at Colombo and loaded in container No. FSCU7857669, and were further exported to India from Colombo. On scrutiny of documents, it was observed that CTCP Digital Double Layer supplied by M/s Cento Graph, Sri Lanka loaded in container No. FSCU7857669 were cleared by M/s Dhanvarsha Impex. Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha has also admitted during his statement recorded under Section 108 of the Customs Act, 1962 that they had imported the same material i.e. CTCP Digital Printing Double Layer Plate loaded in container no. FSCU7857669 from M/s Cento Graph, Sri Lanka and not paid Anti Dumping duty.

17.5 As per the documents/reports received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka, which includes copies of applications given to the Director General of Customs, Sri Lanka Customs, Colombo by the freight forwarders namely, M/s Eagle Global Express (Pvt.) Ltd. and M/s Worldgate Express Lines Lanka Pvt. Ltd. along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri Lankan Warehouse, it appeared that initially the goods were loaded in container from Shanghai, China, however, the same were unloaded at Colombo. Thereafter, the same goods were stuffed in other container and exported to India from Colombo. As per the documents/reports received from Sri Lanka Customs, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri

Lanka were manufactured in China and imported from china by M/s Cento Graph, Sri Lanka and further exported to India. Thus, the goods i.e., CTCP Digital Double Layer imported by M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty. Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha has also admitted during his statement recorded under Section 108 of the Customs Act, 1962 that they had imported the said material i.e., CTCP Digital Printing Double Layer Plates, which were initially loaded from Shanghai, China, unloaded and de stuffed in another containers at Colombo, from M/s Cento Graph, Sri Lanka and not paid Anti Dumping duty.

CORROBORATING EVIDENCES ALSO FOUND DURING SEARCH IN THE OFFICE PREMISES OF M/s. MAHALAXMI TEXTILES AS WELL AS IN THE MOBILE PHONE OF SHRI RAKESH AJMERI, PROPRIETOR OF M/s. MAHALAXMI TEXTILES, DOCUMENTS /PRINTOUT OF EMAIL FOUND DURING SEARCH IN THE OFFICE PREMISES OF M/s. PSRA GRAPHICS INDIA PVT. LTD., PRINT OUT OF MAIL TAKEN FROM MAIL ID OF SHRI RAKESH KUMAR CHAUHAN, DIRECTOR OF M/s. PSRA GRAPHICS INDIA PVT. LTD. DURING HIS STATEMENT DATED 24.08.2022 AND DOCUMENTS RECEIVED FROM SHIPPING LINES IN CASE OF M/S UNIVERSAL MARKETING, THE OTHER IMPORTERS OF SIMILAR GOODS FROM SAME OVERSEAS SUPPLIER:

17.6 From the Performa Invoice No. CG1021-22 dated 06.12.2021 (EXHIBIT-3 of the impugned SCN) issued by M/s. Lucky Huaguang Graphics Co. Ltd. to M/s. Cento Graph, Sri Lanka and Performa Invoice no. CG01021-22ctcp10 dated 30.01.2022 (EXHIBIT-4 of the impugned SCN) issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles found during search in the premises of M/s Mahalaxmi Textiles, it appeared that quantity /measurement i.e. 64500 Pc/ sheets having 29131.72 Sq Mt of Digital Offset UV CTCP Plates mentioned in both the Performa invoices are correctly matched and in same order. Thus, it appeared that goods supplied by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles vide Performa Invoice no. CG01021-22ctcp10 dated 30.01.2022 were initially purchased by M/s. Cento Graph, Sri Lanka from M/s Lucky Huaguang Graphics Co. Ltd, China vide Performa Invoice No. CG1021-22 dated 06.12.2021 and same were exported to M/s. Mahalaxmi Textiles, Surat. Thus, it appeared that goods exported by M/s. Cento Graph, Sri Lanka to Indian importers were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China.

17.7 From the Commercial Invoice. No CG00321-22 dated 04.08.2021 (EXHIBIT-5 of the impugned SCN) issued by M/s. Lucky Huaguang Graphics Co. Ltd to M/s. Cento Graph, Sri Lanka and Commercial Invoice no. CG00321ctcp-violet03 dated 15.11.2021 (EXHIBIT-6 of the impugned SCN) issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles found during search in the premises of M/s Mahalaxmi Textiles, it appeared that

quantity/measurement i.e. 73,500 Pcs/ sheets having 28574.79 Sq Mt of Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates mentioned in both the said Commercial Invoices are correctly matched and in same order. Thus, it appeared that goods supplied by M/s. Cento Graph, Sri Lanka to M/s Mahalaxmi Textiles vide Commercial Invoice no. CG00321ctcp-violet03 dated 15.11.2021 were initially purchased by M/s. Cento Graph, Sri Lanka from M/s. Lucky Huaguang Graphics Co. Ltd. China vide Commercial Invoice No. CG00321-22 dated 04.08.2021 and same were exported to M/s. Mahalaxmi Textiles, Surat. Thus, it appeared that goods exported by M/s. Cento Graph, Sri Lanka to Indian importers were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China.

17.8 The screenshot of the WhatsApp chat held at 04:03 PM dated 29.06.2019 (EXHIBIT-7 of the impugned SCN) between Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka, clearly showed that Mr. Llyod Harridge sent a message to Shri Rakesh Ajmeri that "*if i do not change DO you might get custom duty and pay high cost if DO is China*" that means Mr. Llyod Harridge informed to Shri Rakesh Ajmeri that the goods were of China origin and if he had to save the customs duty, the goods had to be shown as of Sri Lanka origin.

17.9 As per the photos of the packing list of goods sent by Mr. Llyod Harridge to Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles during WhatsApp chat on 11.11.2021 (EXHIBIT-8 of the impugned SCN), it appeared that Packing list was issued by Chinese Firm for goods "Digital Offset UV-CTCP Plates". Shri Rakesh Ajmeri in his statement also admitted that at one instance he found some discrepancy in the packing list of the goods imported from M/s Cento Graph, Sri Lanka so he contacted Mr. Llyod Harridge for the clarification of the same, in turn Mr. Llyod Harridge sent him the packing list to tally the size and total quantity. He stated that the packing list sent by Mr. Llyod Harridge was the packing list which was sent to M/s Cento Graph, Sri Lanka by a Chinese firm.

17.10 The photos of the Commercial Invoice raised by M/s. Lucky Huaguang Graphics Co. Ltd, China to M/s Cento Graph, Sri Lanka for the product "Digital Printing PPVG Violet Plates and Digital Offset UV-CTCP Plates" were sent by Mr. Llyod Harridge to Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles on WhatsApp on 05:07 PM dated 25.10.2021 (EXHIBIT-9 of the impugned SCN). On perusal of the said photo, it appeared that

Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China to M/s. Cento Graph, Sri Lanka was for the product "Digital Printing PPVG Violet Plates and Digital Offset UV-CTCP Plates". Shri Rakesh Ajmeri in his statement also admitted that at one instance he found some discrepancy in the packing list and invoice of the goods imported from M/s Cento Graph, Sri Lanka so he contacted Mr. Llyod Harridge for the clarification of the same, for which Mr. Llyod Harridge sent him the said invoice of Chinese firm to tally the same. He agreed that the goods exported by Mr. Llyod Harridge to his firm were of China Origin.

17.11 The WhatsApp chat held at 3.24PM between Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka (EXHIBIT-10 of the impugned SCN) was recovered from the mobile phone of Shri Rakesh Ajmeri at Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai Zonal Unit, Mumbai, which was submitted by Shri Rakesh Ajmeri under statement dated 13.06.2022. On perusal of the said chat, it appeared that Mr. Llyod Harridge had sent a message to Shri Rakesh Ajmeri that *"A very good evening jayesh this is your new ctcp Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka this is the same we did with Nngraphios please confirm your order for me to book shipping with agent"*. Thus, it appeared that Mr. Llyod Harridge used to change containers in Sri Lanka to get DO from Sri Lanka to evade Anti Dumping duty.

17.12 The WhatsApp chat held on 01.07.2019 at 7:04 AM between Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka (EXHIBIT-11 of the impugned SCN) was recovered from the mobile phone of Shri Rakesh Ajmeri at Cyber Forensic Laboratory, Directorate of Revenue Intelligence. Mumbai Zonal Unit, Mumbai, which was submitted by Shri Rakesh Ajmeri under statement dated 13.06.2022. On perusal of the said chat, it appeared that Mr. Llyod Harridge had sent a message to Shri Rakesh Ajmeri that *"we must change all container in Sri Lanka to new container as I was doing before or we Cento Graph can also be put under pressure by Indian Customs. So from this day we will change container documents DO all in Sri Lanka and ship as new shipment please advise this to Jayesh also. Thanks Llyod."* Thus, it appeared that Mr. Llyod Harridge used to change containers in Sri Lanka to get DO from Sri Lanka to evade Anti Dumping duty.

17.13 The printout of the email correspondences held between Shri Rakesh Kumar Chauhan, Mr. Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph and one of the buyer, M/s. ACM Chemicals from 04.10.2021 to 09.12.2021 available at page no. 05 to 09 (EXHIBIT-12 of the impugned SCN) of Made up File No.4 resumed during search in the premises of M/s PSRA Graphics India Pvt. Ltd. under Panchnama dated 13.06.2022. The said mail correspondences were regarding complaint raised by a buyer, M/s. ACM Chemicals. In the said emails, Mr. Jack of China informed Mr. Lloyd Harridge of M/s. Cento Graph that after proof and report sending, factory would organize a meeting to discuss and then decide how to make solution to solve problem. Accordingly, Mr. Lloyd Harridge of M/s. Cento Graph also informed the buyer to send the stock of plates with photo (picture) of plates having problem. They would send to Mr. Jack and get the factory to look into the matter and make report on the issue. Thus, it clearly appeared that goods exported to India by Mr. Lloyd Harridge of M/s. Cento Graph, Sri Lanka were manufactured in China and same were arranged by Mr. Jack.

17.14 The printout of the email sent by Shri Rakesh Kumar Chauhan on 09.12.2021 at 11:49 hrs to Mr Jack at 877120433@QQ.com with CC to M/s. Cento Graph available at page no. 10 (EXHIBIT-13 of the impugned SCN) of Made up File No.4 resumed during search in the premises of M/s PSRA Graphics India Pvt. Ltd. In the said mail Shri Rakesh Kumar Chauhan informed Mr Jack of China that the complaint of the customer regarding quality of the plates was genuine. Therefore, it appeared that goods were supplied by Mr. Jack of China and same were manufacture in China.

17.15 The printout of the email sent by one buyer, M/s. N N Graphics at centograph@yahoo.com on 01.06.2017 at 9:42 AM available at page number 05 (EXHIBIT-14 of the impugned SCN) of documents, which were taken by Shri Rakesh Kumar Chauhan from his mail id rakesh_chauhan74@yahoo.co.in and submitted during his statement dated 24.08.2022, wherein M/s. N. N. Graphics stated *that in PI M/s. Cento Graph had mentioned country of origin China which was not acceptable as it would attract antidumping duty*. Thus, it appeared that goods supplied by M/s. Cento Graph were Chinese origin.

17.16 P.I. No. NN Graphics201705/002 dated 01.06.2017 available at page number 09 (EXHIBIT-15 of the impugned SCN) of documents, which were taken by Shri Rakesh Kumar Chauhan from his mail id rakesh_chauhan74@yahoo.co.in and submitted during his

statement dated 24.08.2022. In the said P.I., the country of origin was mentioned as China for the goods supplied as Plates to M/s. N N Graphics. Shri Rakesh Kumar Chauhan also admitted that goods supplied by M/s. Cento Graph were of Chinese origin.

17.17 Application given by M/s Eagle Global Express (Pvt.) Ltd. to the Director General of Customs, Sri Lanka for rework of container for Shipping Liner Change (EXHIBIT-18 of the impugned SCN) along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri Lankan Warehouse (EXHIBIT-19 of the impugned SCN) which was received from the shipping line, M/s Efficient Marine Services LLP related to the past import of CTCP Digital Printing Double Layer Plate by another importer, M/s Universal Marketing from the same supplier in Sri Lanka i.e. M/s Cento Graph, Sri Lanka. As per the above documents, it appeared that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs loaded in container no. SEGU1585959 were loaded from Shanghai, China and were unloaded at Colombo from the said container and stuffed in container no. CAXU6270882 and exported to India from Colombo. The said goods i.e., 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs were loaded from Shanghai, China and arrived at Nhava Sheva via container no. CAXU627088 and same were cleared by M/s. Universal Marketing vide BoE No. 5964187 dated 23.10.2021.

17.18 On scrutiny of the documents submitted by Shipping Line, M/s. Efficient Marine Services LLP, Mumbai (RUD-25 of the impugned SCN), it appeared that initially goods were loaded in containers from Shanghai, China, however, the same were unloaded at Colombo from the said containers. Thereafter, the same goods were then stuffed in other containers and exported to India from Colombo. M/s Eagle Global Express (Pvt.) Ltd. a forwarder at Sri Lanka gave an application to the Director General of Customs, Sri Lanka Customs, Colombo for rework of container for Shipping Liner Change (TRANSHIPMENT TWO WAY SPECIAL OPERATION). In the said application, M/s Eagle Global Express (Pvt.) Ltd. informed to the Customs Sri Lanka that shipment originated from Shanghai, China and was destined to Nhava Sheva, India. As there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment would be reworked in Colombo and stuffed into container service that offers an immediate service to Nhava Sheva, India. They also mentioned their plan to ship that container on Vessel: Ever Unity,

Voy No. W179, ETA CMB: 15.10.2021 & Export container and requested to grant permission to re-work the above said transshipment container at SLPA BQ Warehouse under customs supervision. Further, they also submitted that for re-work, empty container would be brought from outside of the port premises into the BQ Warehouse by their transporter. Thus, as per the documents submitted by M/s Efficient Marine Services LLP, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka to Indian importers were manufactured in China and imported from china by M/s. Cento Graph, Sri Lanka and further exported to India.

17.19 Shri Santosh Chavan, Branch Manager of M/s. Worldgate Express Lines International Pvt. Ltd. (Forwarder) has admitted in his statement dated 13.03.2023 & 23.05.2023 recorded under Section 108 of Customs Act, 1962 that per the documents received from Sri Lanka Customs, it appeared that initially goods were loaded from Shanghai and transported from China to Sri Lanka. However, the said goods were unloaded at Colombo and again stuffed in another empty container and exported to India from Colombo. He agreed that their overseas counterpart, M/s Worldgate Express Lines Lanka Pvt. Ltd. had made application before the Sri Lankan Customs to change the container on the pretext of reworking and on the basis of said applications, the containers had been changed. Thus, it appeared that CTCP Digital Printing Double Layer Plate supplied by M/s Cento Graph, Sri Lanka were of Chinese origin.

17.20 Shri Joseph G, Director of M/s. Nekoda Global Logistics India Pvt. Ltd. (Forwarder) has admitted in his statement dated 16.03.2023 recorded under Section 108 of Customs Act, 1962 that as per the documents submitted by M/s Efficient Marine Services LLP, Mumbai, it appeared that initially goods were loaded from Shanghai and transported from China to Sri Lanka. However, the said goods were unloaded at Colombo and again stuffed in another empty container and exported to India from Colombo. He agreed that their overseas counterpart, M/s. Eagle Global Express (Pvt.) Ltd. had made application before the Sri Lankan Customs to change the container on pretext of reworking. Thus, it appeared that CTCP Digital Printing Double Layer Plate supplied by M/s Cento Graph, Sri Lanka were of Chinese origin.

17.21 Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha has admitted in his statements dated 14.09.2022 & 30.06.2023 recorded under Section 108 of Customs Act, 1962 that as per the documents submitted by M/s. Efficient Marine Services LLP, Mumbai and

documents/reports received from Sri Lanka Customs, it appeared that initially goods were loaded from Shanghai and were transported from China to Sri Lanka. The said goods were unloaded at Colombo and again stuffed in another container and exported to India from Colombo. He agreed that goods i.e. CTCP Digital Double Layer imported by M/s. Dhanvarsha from M/s. Cento Graph, Sri Lanka were of Chinese origin, which were initially imported by M/s Cento Graph from China and then exported to India.

18. In view of the above, it is clearly evident that Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha were actually manufactured in China and routed through Sri Lanka to evade Anti Dumping duty. As per the words/digits written in Chinese language on the packing boxes of goods imported by M/s Dhanvarsha vide Bill of entry No. 2334490 dated 07.09.2022, found during examination, it appeared that the country of origin of goods was China. Further, as per Performa Invoice/Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co. Ltd., China to M/s. Cento Graph, Sri Lanka found during search in the premises of M/s Mahalaxmi Textiles, WhatsApp chats found in the mobile of Sh. Rakesh Ajmeri, wherein Packing list & Commercial Invoices issued by Chinese based manufacturer were send by Mr. Llyod Harridge and discuss about change of container & DO. It was also evident from Email correspondences held between Shri Rakesh Kumar Chauhan, Mr. Llyod Harridge and Mr. Jack of China regarding complaint of plates by one of the buyer, which were recovered from the office premises of M/s PSRA Graphics India Pvt. Ltd. and submitted by Rakesh Kumar Chauhan in his statement, Documents submitted by Shipping Line, M/s. Efficient Marine Services LLP, Mumbai, related to the past import by another importer of CTCP Digital Printing Double Layer Plate from the same supplier in Sri Lanka which includes an application given to the Director General of Customs, Sri Lanka Customs, Colombo by forwarder, M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri Lankan Warehouse. It is also evident from the report along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Ltd to the Sri Lanka Customs for rework of containers received from the overseas countryvide letter reference no. CIU/DRI/DRI/20/2022 dated 25.11.2022 and CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 of the Director General of Customs, Central

Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka wherein it is clearly mentioned that the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs had initiated investigation against M/s Cento Graph, Sri Lanka and observed that M/s Cento Graph, Sri Lanka were importing containers from China and reworked the containers in Colombo to ship the same to India.

18.1 In view of the aforesaid position, the Anti-dumping duty @ 0.77 USD per SQM as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 appeared to be leviable on goods imported by M/s Dhanvarsha. However, importer had wrongly claimed that the imported goods were manufactured by M/s Cento Graph, Sri Lanka and did not pay applicable Anti-dumping duty with a mala-fide intention. The importer with the intent to evade payment of Custom Duty (Anti-dumping duty) had consciously and intentionally not declared the actual producer/manufacturer of goods in the import documents. The above willful suppression and willful mis-statement was done by the importer with the intention to evade payment of Anti-dumping Duty leviable and payable on the import of goods as specified in the Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975. Therefore, it appeared that the importer had knowingly involved themselves in the suppression & mis-statement of the material facts.

ARREST OF SHRI JAYESHKUMAR P. SONI, PROPRIETOR OF M/s DHANVARSHA IMPEX

19. In view of the evidence and facts discussed in the foregoing paras, it appeared that Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha Impex had knowingly concerned himself with goods which were liable to confiscation under Section 111(o) of the Customs Act, 1962. He had intentionally defrauded the Government Exchequer thereby knowingly causing harm to the economy of the nation by evading of huge Customs Duty i.e., Anti-dumping duty to the tune of approx. Rs. 3.50 Crores by deliberately suppressing the actual Country of Origin of CTCP Digital Double Layer Plates i.e. China with a view to avoid Anti-Dumping duty (ADD). He knowingly imported the CTCP Digital Double Layer Plates manufactured in China by routing it through Sri Lanka for evasion of Anti-Dumping duty imposed on CTCP Digital Double Layer Plates of Chinese Origin by Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Therefore, Shri Jayeshkumar P Soni, Proprietor of M/s.Dhanvarsha Impex

was arrested on 10.02.2023 under Section 104 of the Customs Act, 1962 read with Section 135 of the Act ibid and he was sent to judicial custody by the Hon'ble ACMM Court, Ahmedabad. Thereafter, Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha Impex was released on default bail on 15.04.2023.

PAYMENT OF CUSTOMS/ANTI-DUMPING DUTY:

20. During the course of investigation, M/s Dhanvarsha Impex, Surat voluntarily made payment of Anti-dumping duty amounting to Rs. 1,00,00,000/- vide TR-6 Challan no. HC-3 dated 01.06.2023 and HC-93 dated 07.08.2023 (Rs.50,00,000/- each), leviable on goods i.e. CTCP Digital Double Layer of Chinese origin imported by M/s Dhanvarsha Impex routing through Sri Lanka.

VIOLATION OF LEGAL PROVISIONS OF CUSTOMS ACT, 1962

21. Vide Finance Act, 2011, w.e.f. 08.04.2011, Self Assessment has been introduced under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a bill of entry or shipping bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment, it is the importer or exporter who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit or exemption notification claimed, if any, in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill. In the present case, it is evident that the actual facts were only known to the importer about the product and aforesaid fact came to light only subsequent to the in-depth investigation. Therefore, it appeared that M/s Dhanvarsha had deliberately contravened the above said provisions with an intention to evade payment of Anti-dumping duty leviable and payable on the import of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates as specified in the first schedule under Section 2 of Customs Tariff Act, 1975 and Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975. It further appeared that M/s.Dhanvarsha had contravened the provisions of Section 46(4A) of the Customs Act, 1962 in as much as M/s.Dhanvarsha Impex while filing Bills of Entry had to ensure the accuracy and completeness of the information given therein for assessment of Customs duty, whereas in the instant case, M/s Dhanvarsha had failed to fulfill this legal obligation in respect of imports of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates for its correct and accurate information.

CULPABILITY AND LIABILITY OF NOTICEES

22. From the aforesaid, it appeared that the importer had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented/mis-stated the material facts regarding the producer/manufacturer of goods imported by them, in the declarations made in the import documents including Check lists presented for filing of Bills of Entry presented before the Customs at the time of import for assessment and clearance, with an intent to evade payment of applicable Customs Duty. Therefore, it appeared that the Anti-dumping duty not paid was liable to be recovered from M/s Dhanvarsha by invoking the extended period of five years as per Section 28 (4) of the Customs Act, 1962, in as much as the Anti-dumping duty was not/short paid on account of wilful mis-statement as narrated above. Accordingly, the Anti-dumping duty including IGST amounting to Rs. 21,86,044/- in respect of the goods imported vide Bill of entry No. 2334490 dated 07.09.2022 through Nhava Sheva Port (INNSAI), subsequently seized under Seizure Memo F.No. DRI/AZU/CI/ENQ-40(INT-10/2022)/2022 dated 13.01.2023, as indicated in Annexure-A-1 to the Show Cause Notice and the Anti-dumping duty including IGST amounting to Rs. 3,31,71,247/- in respect of the goods imported through Nhava Sheva Port (INNSAI) during the period from 04.06.2020 to 08.08.2022, as indicated in Annexure-A-2 to the Show Cause Notice, appeared to be liable to be recovered from M/s Dhanvarsha, under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA *ibid*.

23. M/s. Dhanvarsha have imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates valued at Rs. 87,09,528/-, as detailed in Annexure-A-1, and Rs.11,38,25,499/-, as detailed in Annexure-A-2 to the Show Cause Notice, by deliberately resorting to mis-statement & suppression of the material fact regarding the origin of goods in contravention of the provisions of Section 46 (4) of the Customs Act, 1962. In terms of Section 46(4) of Customs Act, 1962, the importer was required to make a declaration as to truth of the contents of the Bills of Entry submitted for assessment of Customs duty, which in the instant case, M/s Dhanvarsha had failed to fulfill in respect of the imports of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates through Nhava Sheva Port (INNSAI). For these contraventions and violations, the goods appear to fall under the ambit of 'smuggled goods' within the meaning of Section 2(39) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962. Further since the goods have been imported in violation to the conditions of Notification No.

21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 the goods appear liable to confiscation under Section 111(o) of the Customs Act, 1962.

24. M/s. Dhanvarsha had led to evasion of Customs duty (Anti-dumping duty including IGST) of Rs. 21,86,044/- as detailed in Annexure-A-1, and Rs.3,31,71,247/- as detailed in Annexure-A-2, thereby rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as the said Customs duty amounting to Rs. 21,86,044/- and Rs. 3,31,71,247/- was evaded by reason of wilful misstatement and suppression of facts with a malafide intention. All the aforesaid acts of omission and commission on the part of M/s Dhanvarsha appeared to have rendered the subject imported goods valued at Rs. 87,09,528/-, as detailed in Annexure-A-1, and Rs. 11,38,25,499/-, as detailed in Annexure-A-2 to the Show Cause Notice, liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962. M/s Dhanvarsha are therefore liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962. In the present case, it is also evident that the actual facts were known to the importer about the product and its actual producer. However, it appeared that M/s Dhanvarsha had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual producer/manufacturer/country of origin of the imported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962 also. Since, M/s Dhanvarsha have violated the provisions of Section 17 and 46 of the Customs Act, 1962 which was their duty to comply, but for which no express penalty is elsewhere provided for such contravention or failure, they appeared to be also liable to penalty under Section 117 of Customs Act, 1962. However, since M/s Dhanvarsha is a proprietorship firm, penalties as discussed foregoing is proposed to be imposed on Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha Impex and no separate penalties are proposed on the firm.

25. In view of the facts discussed in the foregoing paras and evidences available on record, it appeared that Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha had knowingly and willfully suppressed the actual manufacturer/producer of goods in the documents submitted before Customs with an intent to evade payment of applicable Anti-dumping duty. Shri Jayeshkumar P Soni had full knowledge about the actual producer/manufacturer/country of origin of the said imported goods in as much as Shri Jayeshkumar P Soni, was overall responsible for all imports of goods. He was in constant touch with the

overseas supplier of goods, Mr. Llyod Harridge, who routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka. It was evident from Proforma Invoices/Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka, which were recovered during search in the premises of M/s Mahalaxmi Textiles (the other importer) which were forwarded by Mr. Llyod Harridge of M/s Cento Graph, Sri Lanka to Shri Rakesh Ajmeri via WhatsApp Chat. The photos of packing list and commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China were forwarded by Mr. Llyod Harridge to Shri Rakesh Ajmeri on his WhatsApp for comparing the goods and Mr. Llyod Harridge also sent message to Shri Rakesh Ajmeri regarding change of containers in Sri Lanka to get DO from Sri Lanka. It is evident from the alphanumerical words/digits written in Chinese language on the packing boxes of goods, found during examination which were imported by M/s Dhanvarsha vide Bill of entry No. 2334490 dated 07.09.2022. It is also evident from the documents submitted by Shipping Line, M/s Efficient Marine Services LLP, Mumbai, related to the past import by another importer of CTCP Digital Printing Double Layer Plate from the same supplier in Sri Lanka which includes an application given to the Director General of Customs, Sri Lanka Customs, Colombo by the forwarder along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing the goods of container received from China and stuffing the same in empty container at Sri Lankan Warehouse. It was also evident from the report along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Eagle Global Express (Pvt.) Ltd., overseas counterpart of M/s Nekoda Global Logistics India Pvt. Ltd and M/s Worldgate Express Lines Lanka Pvt. Ltd. overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd to the Sri Lanka Customs for rework of containers received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka wherein it is clearly mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka was importing containers from China and reworked the containers in Colombo to ship the same to India. Further, Shri Jayeshkumar P Soni also suppressed the facts regarding liability of Anti-dumping duty imposed vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates produced/manufactured by

Chinese based company. All the aforesaid acts of omissions and commissions on the part of Shri Jayeshkumar P Soni have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962, and consequently rendered him liable for penalty under Section 112(a) and (b) of the Customs Act, 1962. Further, it also appeared that Shri Jayeshkumar P Soni had knowingly and intentionally prepared/got prepared, signed/got signed and used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual producer/manufacturer of the imported goods, and has therefore rendered himself liable for penalty under section 114AA of the Customs Act, 1962. Since, Shri Jayeshkumar P Soni, Proprietor of M/s Dhanvarsha Impex has also violated the provisions of Section 17 and 46 of the Customs Act, 1962 which was his duty to comply, but for which no express penalty is elsewhere provided for such contravention or failure, he appeared to be also liable to penalty under Section 117 of Customs Act, 1962.

26. From the facts as narrated above, it appeared that M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph in connivance with importers by adopting a modus as described in preceding paras, were involved in the conspiracy of mis-declaring the actual name of producer/ manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha. Mr. Llyod Harridge, imported the goods from China and exported the same to M/s Dhanvarsha. They consciously routed the Chinese goods through firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka. Mr. Llyod Harridge sent Performa Invoices/ Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka to Shri Rakesh Ajmeri, proprietor of M/s Mahalaxmi Textiles (the other importer) for verifying and comparing the goods received by him. Mr. Llyod Harridge also made mail correspondences with Mr. Jack of China, who arranged the goods from Chinese manufacture regarding complain of plates by one of the buyer in India. Mr. Llyod Harridge also informed Shri Rakesh Ajmeri proprietor of M/s Mahalaxmi Textiles (the other importer) through WhatsApp message regarding change of containers in Sri Lanka to get DO from Sri Lanka. This fact is also evident from the documents submitted by Shipping Line, M/s Efficient Marine Services LLP, Mumbai, related to the past import by another importer of CTCP Digital Printing Double Layer Plate from the same supplier in Sri Lanka which includes an application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with

another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container received from China and stuffing of goods in empty container at Sri Lanka Warehouse. It was also evident from there port along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka wherein it is clearly mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka was importing containers from China and reworked the containers in Colombo to ship the same to India. Mr. Llyod Harridge aided and abetted M/s Dhanvarsha to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, they had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. In terms of Section 1(2) of the Customs Act, 1962, the act *ibid* would apply to any offence or contravention there under committed outside India by any person. Hence M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph by their acts, appeared to have rendered themselves liable to penalty under provisions of Section 112 (a) of the Customs Act, 1962. They prepared/got prepared, signed/got signed documents which they had reasons to believe were false and thereby rendered themselves liable for penalty under Section 114AA of Customs Act, 1962.

27. From the facts as narrated above, it appeared that M/s Worldgate Express Lines Lanka Pvt. Ltd. in connivance with Mr. Llyod Harridge of M/s Cento Graph by adopting a modus as described in preceding paras, have involved themselves in the conspiracy of mis-declaring the actual name of producer/manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha. M/s Worldgate Express Lines Lanka Pvt. Ltd. the overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd made applications to the Sri Lanka Customs for permission to carryout transshipment

operation inside warehouse and to grant permission to de-stuff the goods i.e. CTCP Digital Double Layer printing plates from a container meant for transshipment to India and to load the same in a different container in warehouse under customs supervision citing that there was no direct service from loading port to Chennai. It was evident from there port along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka wherein it is clearly mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India. The containers have been changed on the basis of applications made by M/s. Worldgate Express Lines Lanka Pvt. Ltd. However, M/s. Worldgate Express Lines International Pvt. Ltd did not disclose these facts and did not produce documents during the investigation. Thus, the overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd aided and abetted Mr. Llyod Harridge to change the container at Colombo and helped in re-routing the Chinese goods through Sri Lanka to India to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of M/s Worldgate Express Lines Lanka Pvt. Ltd. and M/s Worldgate Express Lines International Pvt. Ltd have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, they had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. In terms of Section 1(2) of the Customs Act, 1962 the act *ibid* would apply to any offence or contravention there under committed outside India by any person. Hence, M/s Worldgate Express Lines Lanka Pvt. Ltd. and M/s Worldgate Express Lines International Pvt. Ltd. by their acts, appeared to have rendered themselves liable to penalty under provisions of Section 112 (a) of the Customs Act, 1962. They prepared/got prepared, signed/got signed documents which they had reasons to believe were false and thereby rendered themselves liable for penalty under Section 114AA of Customs Act, 1962.

28. From the facts as narrated above, it appeared that M/s. Eagle Global Express (Pvt.) Ltd in connivance with Mr. Llyod Harridge of M/s Cento Graph by adopting a modus as described in preceding paras, had involved themselves in the conspiracy of mis-declaring the actual name of producer/manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha. M/s Eagle Global Express (Pvt.) Ltd., the overseas counterpart of M/s Nekoda Global Logistics India Pvt. Ltd, made applications to the Sri Lanka Customs for permission to carryout transshipment operation inside warehouse and to grant permission to destuff the goods i.e. CTCP Digital Double Layer printing plates from a container meant for transshipment to India and load the same in a different container in warehouse under customs supervision citing that there was no direct service from loading port to India. It was evident from there port along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Eagle Global Express (Pvt.) Ltd to the Sri Lanka Customs for rework of containers received from the Director General of Customs. Central Intelligence Directorate, Sri Lanka Customs, Colombo, Sri Lanka wherein it is clearly mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India. The containers have been changed on the basis of applications made by M/s Eagle Global Express (Pvt.) Ltd. However, M/s Nekoda Global Logistics India Pvt. Ltd. did not disclose these facts and did not produce documents during the investigation. Thus, the overseas counterpart of M/s. Nekoda Global Logistics India Pvt. Ltd. aided and abetted Mr. Llyod Harridge to change the container at Colombo and helped in re-routing the Chinese goods through Sri Lanka to India to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of M/s Worldgate Express Lines Lanka Pvt. Ltd. and of M/s Nekoda Global Logistics India Pvt. Ltd appeared to have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, they had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. In terms of Section 1(2) of the Customs Act, 1962, the act ibid would apply to any offence or contravention there under committed outside India by any person. Hence, M/s Nekoda Global Logistics India Pvt. Ltd by their acts,

appeared to have rendered themselves liable to penalty under provisions of Section 112 (a) of the Customs Act, 1962. They prepared/got prepared, signed/got signed documents which they had reasons to believe were false and thereby rendered themselves liable for penalty under Section 114AA of Customs Act, 1962.

29.1 The details of seized goods i.e. Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha Impex, (IEC-ACVPS5663C) through Nhava Sheva (INNSAI), along with Quantity, Assessable value and Differential Duty (Anti-dumping Duty & IGST) demanded/ to be recovered is an below:

Sr.No.	Bills of Entry No. & Date	Quantity of goods Imported (SQM)	Assessable Value of goods imported (Rs.)	Duty (Anti-dumping Duty & IGST) not paid/to be recovered (Rs.)
1	2	3	4	5
1	Shown in Annexure-A-1 to the notice	29906.12	87,09,528	21,86,044
Total		29906.12	87,09,528	21,86,044

29.2 The details of goods i.e. Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s. Dhanvarsha Impex (IEC-ACVP35663C) through Nhava Sheva (INNSAI) during the period from 04.06.2020 to 08.08.2022 along with Quantity, Assessable value and Differential Duty (Anti-dumping Duty & IGST) demanded/to be recovered is as below:

Sr.No.	Bills of Entry No. & Date	Quantity of goods Imported (SQM)	Assessable Value of goods imported (Rs.)	Duty (Anti-dumping Duty & IGST) not paid/to be recovered (Rs.)
1	2	3	4	5
1	Shown in Annexure-A-2to the notice	490638.98	11,38,25,499	3,31,71,247
Total		490638.98	11,38,25,499	3,31,71,247

30. In view of the above,

30.1 M/s.Dhanvarsha Impex (IEC-ACVPS5663C) were issued to the impugned Show Cause Notice dated 11.09.2023 requiring them to show cause as to why:-

- (i) The 29906.12 SQM of goods valued at Rs. 87,09,528/- (Rupees Eighty Seven Lacs Nine Thousand Five Hundred Twenty Eight only), as detailed in Annexure A-1 of

the Show Cause Notice, which were seized on 13.01.2023, should not be confiscated under Section 111 (m) & (o) of the Customs Act, 1962;

- (ii) The differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.21,86,044/- (Rupees Twenty One Lacs Eighty Six Thousand Forty Four only), as detailed in Annexure A-1 of the Show Cause Notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 read with Notification No. 21/2020-Customs (ADD) dated 29.07.2020 along with applicable interest under Section 28AA *ibid*;
- (iii) The 490638.98 SQM of goods valued at Rs.11,38,25,499/- (Rupees Eleven Crore Thirty Eight Lacs Twenty Five Thousand Four Hundred Ninety Nine only), as detailed in Annexure A-2 of the Show Cause Notice, which have been cleared and are not physically available for confiscation, should not be held liable to confiscation under Section 111 (m) of the Customs Act, 1962;
- (iv) The differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.3,31,71,247/- (Rupees Three Crore Thirty One Lacs Seventy One Thousand Two Hundred Forty Seven only), as detailed in Annexure A-2 of the Show Cause Notice should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 read with Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 along with applicable interest under Section 28AA *ibid*;
- (v) The Customs Duty (Anti-dumping duty & IGST) amounting of Rs.1,00,00,000/- (Rupees One Crore only) already paid by them during investigations vide Challan No. HC-3 dated 01.06.2023 and HC-93 dated 07.08.2023 should not be appropriated towards their duty liabilities at stated in (iv) above.
- (vi) Penalty should not be imposed upon Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha Impex, under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

30.2 M/s. Cento Graph, having registered office at No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka, were required to show cause as to why penalty should not be imposed upon them under Section 112(a) and 114AA of the Customs Act, 1962.

30.3 Mr. Llyod Harridge, owner of M/s Cento Graph and having registered office at No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka, were required to show cause as to why penalty should not be imposed upon him under Section 112(a) and 114AA of the Customs Act, 1962.

30.4 M/s. Worldgate Express Lines International Pvt. Ltd., situated at 7th floor, Sharda Terrace (Warden House), Sector 11, Plot No. 65, CBD Belapur (West), Navi Mumbai, Maharashtra- 400 614, were required to show cause as to why penalty should not be imposed upon them under Section 112(a) and 114AA of the Customs Act, 1962.

30.5 M/s. Worldgate Express Lines Lanka Pvt. Ltd., situated at No. 23, 1 Floor, Palm Grove, Colombo-03, Sri Lanka were required to show cause as to why penalty should not be imposed upon them under Section 112(a) and 114AA of the Customs Act, 1962.

30.5 M/s. Nekoda Global Logistics India Pvt. Ltd., situated at Venkatswamy Street, Chetpet, Chennai-600031 were required to show cause as to why penalty should not be imposed upon them under Section 112(a) and 114AA of the Customs Act, 1962.

30.6 M/s. Eagle Global Express (Pvt.) Ltd., situated at 281, R A De Mel Mawatha, Colombo 03, Sri Lanka were required to show cause as to why penalty should not be imposed upon them under Section 112(a) and 114AA of the Customs Act, 1962.

WRITTEN SUBMISSIONS

31. The Noticees were required to furnish their written reply within 30 days of receipt of the impugned SCN dated 11.09.2023. However, it is observed that, till date, only four Noticees viz., (i) M/s. Dhanvarsha Impex, (ii) Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha Impex, (iii) M/s. Nekoda Global Logistics India Pvt. Ltd., and (iv) M/s Worldgate Express Lines International Pvt. Ltd. have furnished their written reply(ies). The other four Noticees viz., M/s. Cento Graph, Sri Lanka, (ii) Mr. Llyod Harridge, owner of M/s Cento Graph, (iii) M/s Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka, and (iv) M/s Eagle Global Express (Pvt.) Ltd., Sri Lanka have neither filed any written reply nor sought any time extension. In fact, no any response is received from the said four Noticees who have not filed their written reply. The written reply(ies) filed by (i) M/s. Dhanvarsha Impex, (ii)

Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha Impex, (iii) M/s. Nekoda Global Logistics India Pvt. Ltd., and (iv) M/s Worldgate Express Lines International Pvt. Ltd. are discussed as under:-

31.1 M/s. Dhanvarsha Impex submitted their written reply vide email dated 20.05.2025/04.06.2025 wherein at the beginning the brief facts of the case has been reproduced, hence not repeated here for the sake of brevity. In their defence submissions, they have inter alia contended that at the outset they deny the allegations as set out in the SCN as incorrect and unsustainable on the basis of the following submissions which are independent and without prejudice to each other.

[A] The SCN is issued based on assumptions and presumptions. The entire case is primarily based on statements recorded under pressure and documents recovered during the course of investigation in the case of M/s. Mahalaxmi Textiles and print out of the data received from WhatsApp chat. No specific primary evidence/corroborative evidence has been produced by department to establish the goods are imported from China and not from Sri Lanka.

A.1 It is well settled legal position that the department has to establish a case by bringing on record positive and concrete evidence and the charge cannot be based on suspicion, assumptions and presumptions.

A.2 The only basis of the present SCN is from Whats App chat and the seized mobile phone taken under the Panchnama dated 13.06.2022 and Statements recorded by the Officer under pressure.

A.3 The only basis of the present SCN is following inadmissible evidences: -

1. Shri Jayeshkumar P Soni
2. Shri Rakesh Kumar Chauhan
3. Shri Joseph G, Director
4. M/s Worldgate Express Lines
5. M/s Eagle Global Express (Pvt.) Ltd.
6. M/s Efficient Marine Services LLP

A.3.1 The impugned SCN is based on inadmissible evidence, assumptions and presumptions and is not, therefore, sustainable. Reliance in this regard is placed on the judgments in Oudh Sugar Mills Ltd. - 1978 (2) E.L.T. J172 (S.C.) and Universal Polyethylene Inds. - 2001 (130) E.L.T. 228 (Tri.).

- A.4 In the case of Pukhraj v D.R.Kohali, the Supreme Court observed that “When we are dealing with a question as to whether the belief in the mind of the officer who effected the seizure was reasonable or not, we are not sitting in appeal over the decision of the said officer. All that we can consider is whether there is ground which prima facie justifies the said reasonable belief.”
- A.5 Import documents related to other importers i.e. M/s universal Marketing and M/s Mahalaxmi Textiles cannot be relied upon to demand ADD from the noticee. Thus demand based on said documents is not sustainable.
- A.6 Vide SCN, department has relied upon email dated 29.06.2019 of M/s Mahalaxmi Textiles to allege that noticee was intending to evade antidumping imposed vide notification No.21/2020 dated 29.07.2020. It is submitted that when notification itself was not in existence of date of email, there is no question of evading anti-dumping duty.
- A.7 It is submitted that department has not proved the origin of goods by proving any cogent evidence. The only basis of whole case is two email chats, couple of emails and couple of proforma invoices of Chinese supplier.
- A.8 It is submitted that all Chinese originated goods are not subject to antidumping duty. Notification No. 21/2020 dated 29.07.2020 provide of various rates of antidumping duty such as 0.55 USD/SQM, 0.60 USD/SQM, 0.77 USD/ SQM and Nil for certain Chinese manufacturers.
- A.9 Department has not provided evidence to apply for 0.77 USD/SQM being highest rate of anti-dumping duty.
- A.10 The department has relied upon invoices issued by Lucky Huaguang Graphics Co Ltd to allege evasion of anti-dumping duty. It is submitted that in terms of Sr. No. 1 of notification 21/2020 (anti-dumping notification) the applicable rate of anti-dumping duty for goods produced by Lucky Huaguang Graphics Co Ltd is 0.55 USD/SQM. Thus, demand is not sustainable. On this ground alone, the impugned SCN is liable to be dropped.

[B] It is submitted that SCN has made allegations against the noticee based on statement of various persons. It is submitted that statements were recorded under force and coercion. Thus, confessional statements cannot be relied upon in the present case. In this regards reliance is placed on the following decisions:

- (i) *Manidipa Debroy Chowdhury v. Commissioner- 2020 (374) E.L.T. 133 (Tri. – Kolkata)*
- (ii) *CC Lucknow Vs Shakil Ahmad Khan-2019 (366) E.L.T. 634 (All.)*
- (iii) *K. Babu Rao and Others v. Collector of Customs, 1986 (26) E.L.T. 766*
- (iv) *Asst CC, Bombay Vs HasanaliRumi - 2020 (372) E.L.T. 527 (Bom.)*

[C] No reliance could be placed on the statement of a co-accused.

- C.1 The complete proceedings in the show cause notice is based on statements of co-noticees.
- C.2 The department has heavily placed reliance on the statements of the co-noticees of the case. Investigation has not been carried out in totality to prove import of goods from China and not Sri Lanka.
- C.3 In the show cause notice reliance is placed on statements of the following co-accused/person which have been recorded in a hostile environment: -
 - 1. Shri Jayeshkumar P Soni
 - 2. Shri Rakesh Kumar Chauhan
 - 3. Shri Joseph G, Director
 - 4. M/s Worldgate Express Lines
 - 5. M/s Eagle Global Express (Pvt.) Ltd.
 - 6. M/s Efficient Marine Services LLP
- C.4 It is submitted that the officers did not take extra efforts to actually prove alleged import of goods from China during the disputed period. Show cause notice and investigation is silent on many prime issues which needs legal attention to impose any duty or penalty upon notice or co-noticee.
- C.5 It is submitted that no reliance could be placed on the statements given by a co-accused without further corroborative evidence. In this regards Supreme Court decision in Superintendent of Customs v. BhanabhaiKhalpabhai Patel [1995 (75) E.L.T. 508 (S.C.)] wherein it was held that statement of co-accused cannot be taken without corroborative piece of evidence and any charge based only on such statement cannot be the basis for imposing

penalty. Reliance is also placed on the following case law in support of the said contention.

- *Haroom Haji v. State of Maharashtra* AIR 1968 SC 832
- *Haricharan Kurmi v. State of Bihar* AIR 1964 SC 1184
- *Shrishail Nageshiv. State of Maharashtra* AIR 1985 SC 866
- *Commissioner of Customs (Prev.), W. Bengal, Calcutta v. Shri Ranjit Ghosh Alias Rana Ghosh* reported in 1998 (104) E.L.T. 349 (T) = 1998 (24) RLT 156
- *Ravi Garg v. C.C., New Delhi* [1996 (86) E.L.T. 357 (T)].
- *Jaswinder Singh v. C.C., New Delhi* [1996 (83) E.L.T. 175 (T)]
- *Jai Narain Verma v. C.C., Delhi* [1995 (76) E.L.T. 421 (T)]
- *Jagmohan Singh Sawhney v. C.C., Delhi* [1995 (75) E.L.T. 350 (T)]
- *Jiban Kundu v. C.C. (Prev.), Calcutta* [1994 (69) E.L.T. 137(T)]
- *Akbar Badruddin Jiwani v. C.C.* [1990 (47) E.L.T. 161 (S.C.)]
- *K. Moiddeenv. C.C.* [2000(117)E.L.T.56(Tribunal) = 1999 (32) RLT 428 (Tri)]
- *C.C. v. United Informatics* [1999 (35) RLT 500].

[D] Reliance placed by the SCN on the statements recorded during the course of investigation is in violation of Section 138B of the customs Act. Opportunity of cross examination may be granted to noticee.

- D.1 The Noticee submits that the allegations made by the Ld. Commissioner in the impugned SCN by relying upon the statements discussed *supra* are not tenable unless supported by evidence other than the statement itself and unless the same are cross-examined in terms of section 138B of the customs Act.
- D.2 From Section 138B of the Customs Act, it is submitted that that two steps are required to be followed by the authority:
- (i) the person who made the statement has to first be examined as a witness in the case before the adjudicating authority, and
 - (ii) the adjudicating authority has, thereafter, to form the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.
- D.3 It is submitted that that clauses (a) and (b) of the said Section 138B set out the circumstances in which a statement, made and signed by a person before the Officer of a gazetted rank, during the course of inquiry or proceeding

under the Act, shall be relevant, for the purpose of proving the truth of the facts contained therein.

- D.4 It is submitted that provisions of Section 9D of Central Excise Act, 1944 stipulating cross-examination and examination-in-chief of the witnesses are *pair material* to the provisions of Section 138B of Customs Act, 1962.
- D.5 The Noticee submit that in the present case the exemption from following procedure would not be invocable since the same only applies where the person who made the statement is dead or cannot be found or is incapable of giving evidence or is kept out of the way by an adverse party or whose presence cannot be obtained without an amount of delay or expense which the court considers unreasonable.
- D.6 The Noticee submit that all the persons whose statements have been relied upon in the present case are available. Therefore, in the absence of examination of such witnesses whose statements are relied upon in the show cause, the said statements cannot be relied upon as evidence to confirm any demand against the Noticee. Reliance is also placed upon the judgment of the Hon'ble Tribunal in the case of Thar Dry Port v. Commissioner of Customs, Jodhpur – 2017 (358) ELT 1214 (Tri. Del.).
- D.7 They have also placed reliance upon following case laws:-
- Basudev Garg v. Commissioner — 2013 (294) E.L.T. 353 (Del.)
 - CCE, Delhi-1 v. Kuber Tobacco India Limited – 2016 (338) ELT 0113 (Tri. Del.)
 - Jindal Drugs Pvt. Ltd. v. Union of India – 2016 (340) ELT 67 (P&H)
 - J & K Cigarettes Ltd. v. Collector of Central Excise – 2009 (242) ELT 189 (Del.)
 - M/s Dhakad Metal Corporation v. CCE & ST, Daman – 2015 (330) ELT 561 (Tri. Ahd.)
 - Krishna Brothers v. Commissioner of Customs) [2017 (356) E.L.T. 222 (Ker.)]
 - Andaman Timber Industries v. Commissioner of Central Excise, Kolkata, (2016) 15 SCC 785 = 2015 (324) E.L.T. 641 (S.C.) = 2017 (50) S.T.R. 93 (S.C.)
 - M/s. Kanungo and Co. v. Collector of Customs, Calcutta, 1973 KHC 589 : (1973) 2 SCC 438 = 1983 (13) E.L.T. 1486 (S.C.)

D.8 In view of the above submissions and judgments, the Noticee submit that where the demand in show cause notice is based on the statements of individuals, the same cannot be relied upon without corroborative evidence supporting the same and without at least examining such witnesses.

D.9 Thus noticee request for cross examination of following persons:

1. Shri Jayeshkumar P Soni
2. Shri Rakesh Kumar Chauhan
3. Shri Joseph G, Director
4. M/s Worldgate Express Lines
5. M/s Eagle Global Express (Pvt.) Ltd.
6. M/s Efficient Marine Services LLP

[E] Country of Origin (COO) being China and not Sri Lanka in the present case has not been established by the Department in the present case.

E.1 In the present case, department has alleged that the Noticee have imported goods from China via Sri Lanka, to escape payment of ADD in terms of notification No. 21/2020-Customs.

E.2 The Department has alleged that the goods imported by the Noticee are of China Origin and no means have proved that the goods are of Chinese Origin and that the same is manufactured in China.

E.3 On the other hand, the import made by the Noticee is covered by invoice of M/s. Cento Graph, Sri Lanka.

E.4 Merely on the basis of Sample invoices recovered at the premises of Noticee and Statements observed under pressure, it is concluded by the department that goods imported are of Chinese Origin.

E.5 In the case of Dr Soneta & Sons, Vishal K Agarwal, Ved Dutt Prem Prakash Ahuja Versus Commissioner Of Customs (General & CFS Mulund), 2023 (4) TMI 783 - CESTAT Mumbai on similar matrix of case has observed that-

“In the context of the notification resorted to in the adjudication order, it has to be clearly established that the impugned goods were produced in China.....”

- E.6 Moreover, the Department has not extended its research to the alleged Chinese supplier so as to confirm the allegation levelled against the Noticee, that the goods are of Chinese Origin and manufactured in China.
- E.7 Also, no one has given a statement that Noticee was involved in manipulation of Country of Origin as the case is made out against the Noticee.
- E.8 In the case of Agarwal Industrial Corporation Ltd. vs. Comr. of Cus. Mangalore reported in 2020 (373) ELT 280 (Tri-Bang) has decided a similar case in favor of the party.
- E.9 On this ground alone, impugned SCN is liable to be dropped.

[F] Print outs obtained from WhatsApp and mobile seized cannot be relied upon to demand duty or to impose penalty in absence of other corroborative evidence.

- F.1 The noticee submits that the aforementioned statements relied upon in the impugned SCN are obtained by the department after showing to the individuals from WhatsApp chat.
- F.2 The noticee submit that the impugned SCN has erred in relying upon data printed from such WhatsApp chat as the same cannot be considered as reliable or cogent evidence.
- F.3 The noticee submits that in the following cases, the Hon'ble courts have held that data retrieved from pen drives cannot be relied upon as the same is not reliable:
- (i) *Belgium Glass & Ceramics Pvt. Ltd. v. CCE, Vadodara – I CESTAT Final Order No. A/10543-10545/2015 dated 12.05.2015*
 - (ii) *Century Metal Recycling Pvt. Ltd. v. CCE, Delhi-IV2016 (333) ELT 483 (Tri. - Del.)*
 - (iii) *Sakeen Alloys Pvt. Ltd. v. CCE, Ahmedabad2013 (296) ELT 392 (Tri. Ahd.)*
 - (iv) *Commissioner v. Belgium Glass & Ceramics Pvt. Ltd. – 2016 (337) ELT A204 (SC)*
- F.4 The Noticee submit that in view of the above decisions, the demand in the present case based merely on statements and print out of WhatsApp chat is not sustainable in absence of any material or cogent evidence to support the same and the impugned SCN is liable to be set aside.

F.5 It is submitted that According to para 1(a) of Notification No. 11-Cus., dated 31-1-1970 of the Customs, a gazetted officer of the Central government was authorised under Section 105 of the Act to search the premises under the specified condition. It is submitted that in the present case panchanama were not drawn by gazetted officer. Thus same cannot be relied upon.

[G] It is submitted that noticee seek cross examination of various panchas who were present during course of search and panchanamas.

[H] WhatsApp chat is not reliable evidence under section 65B of evidence Act is not satisfied in the present case.

H.1 It is submitted that noticee submit that WhatsApp chat does not pertain to noticee.

H.2 It is submitted requirement of section 65B of the Evidence Act is not satisfied in the present case. Thus, printout of WhatsApp chat cannot be relied upon as evidence in the present case.

H.3 It is submitted that Section 65A of the Evidence Act which states that “the contents of electronic records may be proved in accordance with the provisions of Section 65B”

H.4 From reading of the above provisions it is evident that Section 65B(1) opens with a non-obstante clause, and makes it clear that any information that is contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be a document, and shall be admissible in any proceedings without further proof of production of the original, as evidence of the contents of the original or of any facts stated therein of which direct evidence would be admissible.

H.5 Section 65B(2) refers to the conditions that must be satisfied in respect of a computer output, and states that the test for being included in conditions 65B(2(a)) to 65B(2(d)) is that the computer be regularly used to store or process information for purposes of activities regularly carried on in the period in question. The conditions mentioned in sub-sections 2(a) to 2(d) must be satisfied cumulatively.

- H.6 It is subtitled that it is of importance that it shall be sufficient for such matter to be stated to the “best of the knowledge and belief of the person stating.
- H.7 It is submitted that no such conditions are satisfied in the present case. Thus we chats and emails are not reliance evidence in the present case. In this regards reliance is placed on the decision in case of Arjun PanditraoKhotkarvs Kailash KushanraoGorantyal on 14 July, 2020 in CIVIL APPEAL NOS. 20825-20826 OF 2017.

[I] Emails communications cannot be relied upon against the noticees.

- I.1 It is submitted that in view of above submissions, emails cannot be relied in the present case as conditions of Section 65 of Evidence Act is not satisfied in the present case.
- I.2 Thus, email communication cannot be relied upon in the present case. In this regards reliance is placed upon decision in case of Modern Laboratories v. Commissioner — 2017 (358) E.L.T. 1179 (Tribunal).

[J] Print outs obtained from Mobile cannot be relied upon to demand duty or to impose penalty in absence of other corroborative evidence

- J.1 The noticee submit that the impugned SCN has erred in relying upon data printed from WhatsApp chat as the same cannot be considered as reliable or cogent evidence.
- J.2 The noticee submits that in the following cases, the Hon’ble courts have held that data retrieved from pen drives cannot be relied upon as the same is not reliable:
- (i) *Belgium Glass & Ceramics Pvt. Ltd. v. CCE, Vadodara – I CESTAT Final Order No. A/10543-10545/2015 dated 12.05.2015*
 - (ii) *Century Metal Recycling Pvt. Ltd. v. CCE, Delhi-IV 2016 (333) ELT 483 (Tri. - Del.)*
 - (iii) *Sakeen Alloys Pvt. Ltd. v. CCE, Ahmedabad 2013 (296) ELT 392 (Tri. Ahd.)*
- J.3 The Noticee further rely upon the decision of the Hon’ble Supreme Court in the case of Commissioner v. Belgium Glass & Ceramics Pvt. Ltd. – 2016 (337) ELT A204 (SC).

J.4 In this regards reliance is placed upon decision in case of Principal Commissioner of CGST & Central Excise Vs Shah Foils - 2020 (372) E.L.T. 632 (Guj.).

J.5 The Noticee submit that in view of the above decisions, the demand in the present case based merely on statements and print out of ledger accounts is not sustainable in absence of any material or cogent evidence to support the same and the impugned SCN is liable to be set aside.

[K] Cross examination of panchas are required to be allowed

K.1 It is submitted that noticee seek cross examination of various panchas who were present during course of search and panchanamas. As only basis of departmental case is pendrive found in the residential premises of the noticee and statement of various co-noticees.

Arya AbhushanBhandar v. Union of India — 2002 (143) E.L.T. 25 (S.C.)

Without prejudice to above submissions, demand of duty is barred by limitation as extended period of limitation under section 28(4) is not applicable in the present case.

K.2 It is submitted that department has not provided any evidence to support case of mis-declaration or suppression in the present case.

K.3 Appellants were of the bonafide belief that imported goods are of srilankan origin. they were not aware about the fact that imported goods are of Chinese origin.

K.4 There is no evidence to effect that appellants were aware about Chinese origin of goods. Thus in view of above, demand is barred by limitation to the extent of past imports which are beyond two years from date of SCN.

[L] Goods are not liable for confiscation

L.1 The SCN propose that goods are liable for confiscation under section 111(m) Section 111(o) of the Customs Act.

L.2 It is submitted that whole case of department is based on assumptions and presumptions thus goods are not liable for confiscation in the present case. There is no mis-declaration of goods and also there is no end use condition which is violated in the present case.

L.3 It is submitted that goods are not liable for confiscation in the present case for the reasons mentioned in the above paras of reply to SCN.

- L.4 Without prejudice to the above, it is respectfully submitted that Section 111 of the Customs Act, 1962 provides for liability for confiscation of the improperly imported goods. It is therefore, respectfully submitted that only imported goods can be confiscated under Section 111 of the Customs Act, 1962. Section 2(25) of the Customs Act, 1962, defines the imported goods as under:

"imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption"

- L.5 In the case of *Bussa Overseas & Properties Vs. C.L. Mahar, ACC-2004 (163) ELT 304 (Bom.)*, the Hon'ble Bombay High Court held that once the goods are cleared for home consumption, they cease to be imported goods as defined in Section 2(25) of the Customs Act, 1962 and consequently are not liable to confiscation under Section 111 of the Customs Act, 1962.
- L.6 It is therefore, respectfully submitted that the goods in question, which have already been cleared, are not liable to confiscation under the provisions of Section 111 of the Customs Act, 1962.

Section 111(o) of Customs Act is not applicable in the present case

- L.7 It is submitted that section 111(o) provides that any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;
- L.8 It is submitted that with regards to import of goods, noticee has rightly imported goods from Sri Lanka and not China. Thus goods are not liable for confiscation.

Section 111(m) of Customs Act is not applicable in the present case

- L.9 It is submitted that Section 111(m) of Customs Act provide that 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 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 would be liable for confiscation.

L.10 It is submitted that with regards goods imported by the noticee is in terms of Notification 21/2020 dated 29.07.2020. Whole case of department is based on assumptions and presumptions as per above paras to reply. Thus, goods are not liable for confiscation.

[M] Penalty is not imposable in the present case

M.1 The SCN has proposed penalty on the Noticee under section 112 (a) and Section 112(b), Section 114A and Section 114AA of the customs Act read with section 123 of the Customs Act.

M.2 It is submitted that penalty under section 112(a) and 112(b) is not imposable on the noticee. For ease of reference section 112(a) and section 112(b) are extracted and re produced as under:

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, 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,

M.3 It is submitted that the demand of duty is not sustainable in law as Noticee was unaware of the whole transaction as pointed out by the department. Further noticee has not done or omitted to do ay act which has rendered any goods liable for confiscation. Thus, the question of levy of Penalty does not arise as per the settled law.

M.4 It is submitted that the conduct of the noticee were totally bonafide. The Noticee neither had any intention to evade payment of duty, nor had any knowledge of the liability of the goods to confiscation. In the absence of any malafide on the part of the Noticee, no penalty is imposable.

M.6 As already submitted, the conduct of the Noticee was bonafide. Therefore, it cannot be said that the Noticee in any manner, abetted the doing or omission of an act, which act or omission rendered the goods liable to confiscation. In the case of Trade Wings Ltd Vs Commissioner of Customs, Mumbai reported in 2009 (243) ELT 439(Tri.-Mumbai), Hon'ble Tribunal

held that, mere lack of care and diligence by the Noticee is not sufficient to pin them with the charge of abetment. Similarly, in the case of Commissioner of Customs (EP) Vs P.D. Manjrekar reported in 2009 (244) ELT 51 (Bom.), the Hon'ble Bombay High Court held that, in case of abetment, Revenue has to prove knowledge on the part of the Assessee. No such proof has been furnished by the Department in the present case. Therefore, the imposition of Penalty on the Noticee is not sustainable in law.

M.7 It is submitted that noticee has been implicated in the case without pinpointing their individual role in the deal, if any, which is not sufficient for inviting penal provisions since no incriminating evidence was found during the investigation. Following judgments in support of his submissions.

- (i) *Jai Narain Verma v. Collector - 1994 (72) E.L.T. 567 (Tribunal)*
- (ii) *Jitendra Pawar v. Commissioner - 2003 (156) E.L.T. 622 (Tribunal)*
- (iii) *Nunna Satyanarayana v. Commissioner - 2001 (133) E.L.T. 679 (Tribunal).*
- (iv) *Pradip Kr. v. Commissioner — 2000 (117) E.L.T. 383 (Tribunal)*

M.8 Reliance can also be made on the decision in case in Superintendent of Customs v. BhanabhaiKhalpabhai Patel [1995 (75) E.L.T. 508 (S.C.)] wherein it was held that statement of co-accused cannot be taken without corroborative piece of evidence and any charge based only on such statement cannot be the basis for imposing penalty.

M.9 Reliance is placed upon decision in case of Commissioner of Customs (Prev.), W. Bengal, Calcutta v. Shri Ranjit Ghosh Alias Rana Ghosh reported in 1998 (104) E.L.T. 349 (T) = 1998 (24) RLT 156 in which it was held that penalty under Section 112 of the Customs Act, 1962 is not imposable on the basis of hearsay evidence contained in the uncorroborated statement of a co-accused. Reliance was also placed on the following case law in support of the said contention.

- (a) *Ravi Garg v. C.C., New Delhi* [1996 (86) E.L.T. 357 (T)].
- (b) *Jaswinder Singh v. C.C., New Delhi* [1996 (83) E.L.T. 175 (T)]
- (c) *Jai Narain Verma v. C.C., Delhi* [1995 (76) E.L.T. 421 (T)]
- (d) *Jagmohan Singh Sawhney v. C.C., Delhi* [1995 (75) E.L.T. 350 (T)]
- (e) *Jiban Kundu v. C.C. (Prev.), Calcutta* [1994 (69) E.L.T. 137(T)]

- (f) *Akbar Badruddin Jiwani v. C.C.* [1990 (47) E.L.T. 161 (S.C.)]
- (g) *K. Moiddeenv. C.C.* [2000 (117) E.L.T. 56 (Tribunal) = 1999 (32) RLT 428 (Tribunal)] and
- (h) *C.C. v. United Informatics* [1999 (35) RLT 500].

[N] No penalty is imposable under Section 114A on the noticees

- N.1 The noticees submit that the impugned Notice proposes to impose penalty under Section 114A of the Customs Act.
- N.2 The noticees submit that as stated in the earlier grounds of this reply, the demand of duty is not sustainable. It is therefore submitted that since the demand of duty itself is not sustainable, the demand of interest penalty is also not sustainable.
- N.3 The noticees submit that the conditions for imposing penalty under Section 114A are the same as that for suppression of facts with intent to evade payment of duty. The Noticees submit that for the reasons stated in the earlier ground, penalty under Section 114A of the Customs Act is not imposable.

[O] Penalty under section 114AA is not imposable

- O.1 It is submitted and clarified in the foregoing paras that the Noticee have not made any incorrect statements or signed or submitted any fraudulent documents in the entire matter. In fact there is no such allegation in the SCN.
- O.2 Moreover, penalty under Section 114AA of the Act can be imposed only when the duty has not been paid by the due to use of false and incorrect statement. It has been narrated in the foregoing paras that no incorrect documents or statement has been made by the Noticee in the matter in order to evade payment of duty. The duty has been already paid along with the interest. There is no denial of the same in the SCN. No penalty, therefore, can be imposed on the Noticee under Section 114AA of the Act.

In view of above, penalty is not imposable on the noticee.

- [P] Prayer:- In view of the above, the Noticee has requested that the proceedings initiated under the instant SCN should be dropped and the said SCN may be discharged forthwith with consequential relief to the Noticee.

31.2 Further, M/s. Dhanvarsha Impex submitted their additional written reply dated 10.06.2025, received in this office on dated 16.06.2025, wherein they have *inter alia* contended as under:-

- (i) Detailed reply to the SCN was physically filed on 19.12.2024. In continuation to the reply dated 19.12.2024, the Noticee further place reliance on the following submissions.
- (ii) M/s. Dhanvarsha Impex was a proprietoship firm engaged in trading of Digital Printing Double Layer plates falling under chapter Heading 84425090 of Customs Torff Act, 1985 for which they imported CRCP Digital Double Layer from M/s. Cento Grpah, Sri Lanka and sold the same directly to various buyers. The notice has been issued with import Export Code No ACVPS5663C, as importer/exporter.
- (iii) A consignment of CTCP Digital Printing Double Layer plates was imported by Noticee from M/s Cento Graph, Sri Lanka which had arrived at Nhava Sheva port. Noticee filed a Bill of Entry No. 2334490 dated 07.09.2022 before the Customs, Nhava Sheva, seeking clearance of the said consignment.
- (iv) The details of the Bills of Entry pertaining to the present dispute, i.e. from May 2020 to March 2022 as mentioned in Annexure-A to the SCN. Copy of the proforma Invoice along with bills of entry in question are enclosed as "Annexure-1". Copy of import invoices along with copy of Bill of Lading is enclosed as "Annexure-2". Copy of the Packaging list is enclosed as "Annexure-3".
- (v) Based on Proforma invoice, the goods were exported to the Noticee by the exporter. Copy of Country-of-Origin Certificate is enclosed as "Annexure-4".
- (vi) Ssubsequently, the Assistant Director by an order dated 13/01/2023 seized the goods worth Rs. 87,09,528/-. A copy of the seizure memo dated 13/01/2023 is annexed as "Annexure-5".
- (vii) The Noticee submits that it is the case of Department in the Show cause notice that the Noticee is knowingly involved in the evasion of Custom Duty i.e. Anti-dumping Duty by resorting to deliberate mis-declaration of Country of Origin of CTCP Digital Double Layer Plates in the import documents produced before the Indian Customs Authority, It is further

alleged that M/s Dhanvarsha Impex, Surat has mis-declared the Country of Origin of CTCP Digital Double Layer Plates as Sri Lanka before the Customs Authority which resulted in loss of custom duty of approximately Rs. 2.57 Crores.

- (viii) The Noticee submits that Cento Graph are OEM supplier of with WEGE Technology Trading D. Gockel of Germany. Cento Graph has also represented that they are also OEM of IPAGSA Technologies S.L.U. of Spain. The Noticee submits that the Noticee ordered to supply CTCP Digital Double Layer Plates.
- (ix) The Noticee submits that the Noticee has paid the price as per the Spanish manufacture and not the price prevailing for the goods manufactured in China. The Noticee submits that there is substantial price difference of the goods manufactured in China and goods manufactured in Spain.
- (x) The Noticee submits that the Cento Graph had supplied the goods of origin of Spain since 2018 and therefore, there was no reason for the Noticee to doubt the origin of country of the goods purchased. The Noticee submits that there was no Anti-Dumping Duty on import of CTCP Digital Double Layer Plates from China, Anti-Dumping Duty has been imposed by Notification No. 21/2020-Customs (ADD) dated 29/07/2020. Notification dated 29/07/20202 is annexed "Annexure-6".
- (xi) it is pertinent to note that four containers of 2021 were cleared after Inspection by the Custom authorities after satisfaction about the declaration and statements made in import documents. Copies of the examination report of the four containers of 2021 are annexed as "Annexure-7" collectively.
- (xii) The Noticee submits that on 13/06/2022, the Officer had caused search of the Noticee's office and had drawn Panchnama as also seized Mobile Phones. The Noticee submits that the Noticee was present throughout the search and had concocted with the investigation. The. Noticee submits that the Officers had also seized Noticee's mobile phone. Copy of the Panchnama drawn on 13/06/2022 is annexed as "Annexure-8"
- (xiii) It is submitted that no such document has been received by the Officers which emphasize that there was any communication of Noticee with Sri Lanka Company or China Company. The Mobile phone seized also did not show any adverse document against the Noticee. Also, a very crucial point

herein is that of Shri Jayeshkumar Soni, Proprietor of Noticee Company was not well versed in English/Legal language to understand the query posed by the Officer.

- (xiv) Import documents related to other importers i.e. M/s Mahalaxmi Textiles, M/s universal Marketing cannot be relied upon to demand ADD from the noticee. The SCN has been issued in a perfunctory manner. There is no basis for demanding the duty from the noticee. Therefore, entire proceedings stand to be vitiated on this ground alone.
- (xv) The Noticee submits that the Officers then by an order dated 16/09/2022 detained the container having bill of entry dated 07/09/2022. The Noticee submits that the Joint Director by an order dated 06/10/2022 had issued no objection for de-stuffing of the detained goods, release of the container and warehousing the goods to avoid further demurrage and detention charges. A copy of the no objection dated 06/10/2022 is annexed as "Annexure-9".
- (xvi) The Noticee submits that from the documents produced hereinabove, it is crystal clear that the Noticee are crystal clear that the goods purchased by the Noticee are origin of Spain. The Noticee submits that the Noticee had no contact or any correspondence with any of the Chinese supplier. Even during the search of the Noticee's office and mobile, nothing has been recovered to show that the Noticee was knowing that the goods are origin of China and not of Spain.
- (xvii) In view of the above submissions, the Noticee has requested to set aside the proceedings initiated under the impugned SCN. They have also requested that a personal hearing might be granted to the Noticee before passing any order in this case.

Written submissions of Shri Jayeshkumar P Soni, proprietor of M/s. Dhanvarsha Impex

32. Shri Jayeshkumar P Soni, proprietor of M/s. Dhanvarsha Impex submitted their written reply vide emails dated 20.05.2025/ 04.06.2025 wherein they have *inter alia* contended that at the outset they deny the allegations as set out in the SCN as incorrect and unsustainable based on the following submissions which are independent and without prejudice to each other.

- (i) Main noticee have already filed detailed reply to the SCN. Present noticee adopt all the submissions made in said reply. Thus, since customs duty demand itself is not sustainable penalty on the present noticee is also not sustainable in the present case.

Once penalty is imposed on firm, separate penalty on proprietor of the firm:

- (ii) It is submitted that once proprietary unit has also been penalized and imposition of separate penalty on proprietor would amount to double penalization. Accordingly, penalty on present noticee is not imposable. Issue is covered by decision in case of Patel Products v. CCE, Lucknow - 2003 (151) E.L.T. 650 (Tri.-Del.]. Above decision was followed in case of Santosh kumarkishanlal Jain Vs CCE Raipur - 2017 (348) E.L.T. 351 (Tri. - Del.).

Penalty is not imposable in the present case

- (iii) It is submitted that penalty under section 112(a) and 112(b) is not imposable on the noticee. For ease of reference section 112(a) and section 112(b) are extracted and re produced as under:

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, 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,

- (iv) It is submitted that the demand of duty is not sustainable in law as Noticee was unaware of the whole transaction as pointed out by the department. Further noticee has not done or omitted to do any act which has rendered any goods liable for confiscation. Thus, the question of levy of Penalty does not arise as per the settled law.
- (v) It is submitted that the conduct of the noticee were totally bonafide. The Noticee neither had any intention to evade payment of duty, nor had any knowledge of the liability of the goods to confiscation. In the absence of any malafide on the part of the Noticee, no penalty is imposable.

- (vi) As already submitted, the conduct of the Noticee was bonafide. Therefore, it cannot be said that the Noticee in any manner, abetted the doing or omission of an act, which act or omission rendered the goods liable to confiscation. In the case of *Trade Wings Ltd Vis Commissioner of Customs, Mumbai reported in 2009 (243) ELT 439 (Tri.-Mumbai)*, Hon'ble Tribunal held that, mere lack of care and diligence by the Noticee is not sufficient to pin them with the charge of abetment. Similarly, in the case of *Commissioner of Customs (EP) Vis P.D. Manjrekar reported in 2009 (244) ELT 51 (Bom.)*, the Hon'ble Bombay High Court held that, in case of abetment, Revenue has to prove knowledge on the part of the Assessee. No such proof has been furnished by the Department in the present case. Therefore, the imposition of Penalty on the Noticee is not sustainable in law.
- (vii) It is submitted that noticee has been implicated in the case without pinpointing their individual role in the deal, if any, which is not sufficient for inviting penal provisions since no incriminating evidence was found during the investigation. Following judgments have been cited in support of his submissions.
- (i) *Jai Narain Verma v. Collector* - 1994 (72) E.L.T. 567 (Tribunal)
 - (ii) *Jitendra Pawar v. Commissioner* - 2003 (156) E.L.T. 622 (Tribunal)
 - (iii) *Nunna Satyanarayana v. Commissioner* - 2001 (133) E.L.T. 679 (Tribunal).
 - (iv) *Pradip Kr. v. Commissioner* — 2000 (117) E.L.T. 383 (Tribunal)
- (viii) Reliance can also be made on the decision in case in *Superintendent of Customs v. BhanabhaiKhalpabhai Patel* [1995 (75) E.L.T. 508 (S.C.)] wherein it was held that statement of co-accused cannot be taken without corroborative piece of evidence and any charge based only on such statement cannot be the basis for imposing penalty.
- (ix) Reliance is placed upon decision in case of *Commissioner of Customs (Prev.), W. Bengal, Calcutta v. Shri Ranjit Ghosh Alias Rana Ghosh* reported in 1998 (104) E.L.T. 349 (T) = 1998 (24) RLT 156 in which it was held that penalty under Section 112 of the Customs Act, 1962 is not imposable on the basis of hearsay evidence contained in the uncorroborated statement of a co-accused. Reliance was also placed on the following case law in support of the said contention.

- (a) *Ravi Garg v. C.C., New Delhi* [1996 (86) E.L.T. 357 (T)].
- (b) *Jaswinder Singh v. C.C., New Delhi* [1996 (83) E.L.T. 175 (T)]
- (c) *Jai Narain Verma v. C.C., Delhi* [1995 (76) E.L.T. 421 (T)]
- (d) *Jagmohan Singh Sawhney v. C.C., Delhi* [1995 (75) E.L.T. 350 (T)]
- (e) *Jiban Kundu v. C.C. (Prev.), Calcutta* [1994 (69) E.L.T. 137(T)]
- (f) *Akbar Badruddin Jiwani v. C.C.* [1990 (47) E.L.T. 161 (S.C.)]
- (g) *K. Moiddeenv. C.C.* [2000 (117) E.L.T. 56 (Tribunal) = 1999 (32) RLT 428 (Tribunal)] and
- (h) *C.C. v. United Informatics* [1999 (35) RLT 500].

Penalty under section 114AA is not imposable

- (x) It is submitted and clarified in the foregoing paras that the Noticee have not made any incorrect statements or signed or submitted any fraudulent documents in the entire matter. In fact there is no such allegation in the SCN.
- (xi) Moreover, penalty under Section 114AA of the Act can be imposed only when the duty has not been paid by the due to use of false and incorrect statement. It has been narrated in the foregoing paras that no incorrect documents or statement has been made by the Noticee in the matter in order to evade payment of duty. The duty has been already paid along with the interest. There is no denial of the same in the SCN. No penalty, therefore, can be imposed on the Noticee under Section 114AA of the Act.

In view of above, penalty is not imposable on the noticee.

Penalty under Section 117 is not sustainable.

- (xii) It is submitted that Section 117 of the Customs Act, 1962 is a residuary provision which provides for penalty where a person contravenes provision of Customs Act, 1962 or abets any such contravention or fails to comply with any provision of the Customs Acts, 1962. However, such penalty under Section 117 is attracted when no express penalty is elsewhere provided for such contraventions or failures. In other words, penalty under Section 117 cannot be imposed for a contravention/failure, where for such contraventions/failures a specific penalty is also provided for.
- (xiii) In above circumstances, the Appellants submit that as per Section 117, the Appellant rely on *Central Warehousing Corporation vs. Commissioner of Customs (Export) Nhava Sheva* reported at 2015-TIOL-329-CESTAT-MUM, wherein the adjudicating authority had imposed a penalty of Rs. 1.5

lakhs under Regulation 12(8) of the Handling of Cargo in Customs Area Regulation, 2009 and a further penalty of Rs. 1 lakh under Section 117 of the Customs Act for contravention of Regulations 6(2), 6(1)(k) and 6(1)(q) of the said Regulations read with Section 141 (2) of the Customs Act, 1962. The Hon'ble Tribunal while setting aside the penalty under Section 117 Customs Act, 1962, observed as follows:

“5.1 As regards the penalty imposed under Section 117, the said provision would apply only if there is no other penalty provide for violations of the provisions of the Handling of Cargo in Customs Area Regulations. Penalty is specified under Regulation 12(8). That being the position, the question of imposition of penalty under Section 117 would not arise at all. Therefore, the penalty imposed under Section 117 is clearly unsustainable in law.”

Thus, in view of the above, the imposition of penalty under section 117 is illegal and the impugned order is required to be set aside.

- (xiv) In view of the above submissions, the Noticee has requested that the proceedings initiated under the impugned SCN should be dropped. They have also requested that a personal hearing might be granted to the Noticee before passing any order in this case.

33. Written submissions of M/s. Nekoda Global Logistics Pvt. Ltd.

33.1 M/s. Nekoda Global Logistics Pvt. Ltd. have furnished their written reply dated 25.03.2024 in the matter wherein they have *inter alia* contended as under:-

- (i) As admitted at page 18 of the show cause notice, that their overseas counterpart M/s.Eagle Global Express (Pvt) Ltd., through their letter address to the Director General of Customs, Sri Lanka, Colombo specifically mentioned that the goods have originated from Shanghai, China and destined to Chennai, India. Therefore, their counterpart has made true declaration to the Customs officers at the port of loading:
- (ii) As explained by them, in their statement that in case of any CIF terms shipment, business is generated from origin offices or overseas agent plays all role and they have no role to play; that they were at the receiving side and they came to know about the shipment only when the documents were received from overseas

counterpart; that in these cases they were restricted to handling agent to issue NOC to importers after which they get Delivery Order from the shipping lines;

- (iii) They were not aware about the reworking at Colombo port as the same was not required to be intimated by our overseas counterpart as per the practice in the shipping industry. The details such as port of loading and port of delivery are correctly declared as Colombo and Chennai. It is to be appreciated that there is no column in the Bill of Lading, prescribed and followed throughout the world, for mentioning the Country of Origin of the goods shipped/carried by the liners; and
- (iv) Further, as they did not have the copies of the documents connected with the reworking of the container at Colombo port, they could not provide the same to the investigating officers. Otherwise, there was no international non-cooperation from our side. In fact, they had requested their counterpart to provide the same and in the meantime, the Department had collected from the Sri Lankan Customs and as explained supra, there was nothing mis-declared in the application before the Sri Lankan Customs;
- (v) As per the provisions of 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,.. are liable for confiscation".
- (vi) The Bill of Entry was presented by the importer directly or through their Customs Broker under Section 46 of the Customs Act, 1962 and made declaration to the effect as to the truth of the content of such Bill of Entry and in support of such declaration produce to the proper officer the invoice, if any related to the imported goods. Further, as per Section 46 (4A) of the Customs Act, 1962, the importer /Customs Broker is required to confirm the corrections of the details furnished in the Bill of Entry.
- (vii) Section 2(16) of the Customs Act, 1962 is reproduced below:-

"entry" in relation to goods means an entry made in a Bill of Entry, Shipping Bill or Bill of Export and includes the entry made under the regulation made under Section 84".
- (viii) Therefore, the entry referred to under Sub Section 111(m) of the Customs Act, 1962 is nothing, but the entry made in the Bill of Entry filed by the importer /Customs Broker. Therefore, as a Freight Forwarder, they had nothing to do with the entries made in the Bill of Entry, to attract the provisions of Sub Section

111(m) of the Customs Act, 1962. In fact, as stated supra, there is no provision in the Bill of Lading for entering the Country of Origin of the goods. In the Bill of Entry, there is specific column for entering the Country of Origin of the goods which is the responsibility of the person filing the Bill of Entry. Therefore, they had not committed any offence to invoke the provisions of Section 111(m) of the Customs Act, 1962. As well as, the provisions are not relevant to the Freight Forwarders.

- (ix) The provisions of Section 111(o) of the Customs Act, 1962 is applicable, to the conditional duty exemption and failure on the part of the person availing the said exemption, to fulfill the attached conditions. As they had not availed any concession and they were not the importer, the invocation of the provisions of Section 111(o) of the Customs Act, 1962 is erroneous. In fact, the provisions of Sub-Section 111(o) are invoked against the importers to fail to comply with the conditions attached to availment of the benefit of conditional exemption Customs Notification. Whereas, in the instant case, the charges against the importer is with respect to non payment of Anti-dumping Duty and not related to non-compliance with the conditions of any exemption notification. Therefore, on any count, the provision of Section 111(o) cannot be invoked in the present proceedings.
- (x) In as much as, the charges against them for invoking the provisions of Section 111(m) and 111(o) of the Customs Act, 1962 are not justifiable, penalty under Section 112(a) of the Customs Act, 1962 cannot be imposed on us.
- (xi) They had not made or signed or used or caused to be made or signed or used any declaration, statement or documents which is false or incorrect in any material particulars in the transactions of any business for the purpose of Customs Act, 1962". They had not filed any document or statement in any transaction of any business for the purpose of Customs Act, 1962. It is the importer/Customs Broker who had only filed the Bill of Entry as required under Section 46 of the Customs Act, 1962 for clearance of the imported goods. If, they have not made the true declaration as to the correctness of the Country of Origin and avoided Antidumping Duty, only they are liable to penal action in terms of Section 114AA of the Customs Act, 1962.
- (xii) From the statement of the importer, it may be seen that there is no averment that as Freight Forwarders they were aware of the modus operandi adopted by the

Colombo supplier and Indian importer to avoid Anti-dumping Duty. Therefore, the averment against them in the show cause notice was only based on assumptions and presumptions. As stated in the show cause notice, the Colombo Customs had initiated action only against M/s.Cento Graph, Sri Lanka, who were the exporter from Sri Lanka and not against our counterpart M/s.Eagle Global Express (Pvt.) Ltd., because the reworking of containers is not against any legal provisions/international code of conduct, followed by the shipping industries. This is the responsibility of the exporter and importer to declare the details of Country of Origin etc., to the Customs or other Government authorities correctly and they are only responsible for any mis-declaration or non-declaration. Therefore, they are not liable to penal action either under Section 112(a) and 114A of the Customs Act, 1962, as held in the case of Commissioner of Customs (Port), Kolkata Vs. M/s Natwar Parikh Industries [2010 (251) ELT 466 (Tri. - Kolkata)].

33.2 M/s. Nekoda Global Logistics Pvt. Ltd. have filed additional written submission through their authorized representative, Shri S.Saankaravadivelu (Advocate), vide email dated 20.05.2025 in the matter wherein they have *inter alia* contended as under:-

- (i) As per the show cause notice, their counterpart in their application to the Sri Lankan Customs indicated that the goods were of Chinese Origin;
- (ii) Their role is restricted to issue delivery order;
- (iii) They were not aware of the reworking at Colombo port;
- (iv) They have provided all the documents available with us;
- (v) The "mis-declaration mentioned under Section 111(m) of the Customs Act, 1962 is with reference to "entry" defined under Section 2(16) of the Customs Act, 1962 read with "Bill of Entry" filed under Section 46 of the Customs Act, 1962, by the importer / Customs Broker only the Bill of Entry has a column to mention Country of Origin. Hence, They cannot be fastened with the charge of mis-declaration;
- (vi) Section 111(o) is relevant for conditional exemption, whereas, the present case against the importer is non-payment of Antidumping Duty (ADD);

- (vii) Therefore, penalty under Section 112(a) of the Customs Act, 1962 cannot be imposed on them;
- (viii) They have neither furnished any false document or declaration to Customs and hence, penalty under Section 114AA of the Customs Act, 1962, cannot be imposed on us;
- (ix) None of the persons has made averment that they were aware of the modus operandi adopted by the supplier and known to the importer;
- (x) They relied on the case law of Commissioner of Customs (Port), Kolkata Vs. M/s. Natwar Parikh Industries [2010 (251) ELT 466 (Tri-Kolkata)];
- (xi) Bill of Lading is only a document of transport as held in the case of M/s. Goodluck Industries Vs. Commissioner of Customs, Calcutta [1999 (108) ELT 818 (Tri.)] and there is no place to mention Country of Origin, unlike in the Bill of Entry;
- (xii) Bill of Lading is not defined in the Customs Act, 1962, Bill of Lading Act, 1856 and the Bill of Lading Bill 2024; and
- (xiii) Anti-dumping Duty (ADD) is imposed not only based on Country of Origin, but also based on the suppliers etc. This has been recognized by Government;
- (xiv) Ministry's view on non-levy of Antidumping Duty (ADD): "The issue on non-levy/evasion of ADD was the subject matter of the Forty Eighth Report of the Public Accounts Committee (2021-2022) (copy enclosed). The Ministry has informed that the levy of ADD is based on multidimensional criteria, such as Country of Origin, descriptive names, specifications of grade, density, dimensions etc. The above parameters lead to complex and intricate matrix of factors relevant to the imposition of ADD which vary from case to case. This implies that each case of levy of ADD is unique and requires a separate logic to be incorporated in the ICES directory. For the reason, it is not feasible to fully automate ADD for fool proof compliance at the stage of filling of Bill of Entry (through appropriate validations) or at the initial stage of assessment;

In line with the legal provision for self-assessment, the system is a mechanism for the importer to correctly declare the goods, and claim classification, notification, rate of duty etc., as applicable. When the importer or Customs Broker suppresses or makes an incorrect/inaccurate declaration the system cannot enforce an ADD

notification automatically. On the basis of the declaration under Section 46 of the Customs Act, 1962 and self-assessment as per Section 17 of the Customs Act, 1962, a Bill of Entry is marked for self-assessment or out of charge. The assessing officer and the out of charge officer has control to recheck the assessment. An importer invites imposition of penalty in case of mis-declaration or suppression of facts".

From the foregoing, it is obvious that the person who makes declaration under Section 46 of the Customs Act, 1962 in the Bill of Entry viz., importer/Customs Broker is only responsible for incorrect declaration of Country of Origin. Nowhere, it is mentioned that the Freight Forwarders is responsible for such declarations. Reasonably because they have no role to play in the declaration in the Bill of Entry submitted for clearance of the goods. Sensibly, the Sri Lankan Customs also taken action only on the foreign suppliers and not on the Freight Forwarders, as reflected in the show cause notice. Hence, charge in the show cause notice may be dropped.

- (xv) In case the main noticee has filed an application before the Settlement Commission, we may be discharged from the charges.
- (xvi) In view of the above, the noticee has prayed that the charges leveled against them may be dropped.

Written submissions of M/s. Worldgate Express Lines International Pvt. Ltd.

34. M/s. Worldgate Express Lines International Pvt. Ltd. filed their written reply dated 16.06.2025 (received in this office by email dated 19.06.2025) to the impugned SCN through their authorized representative, Ms. S. Priya, Advocate. In the said written reply dated 16.06.2025 filed by Ms. S.Priya, Advocate on behalf of M/s. Worldgate Express Lines International Pvt. Ltd., they have contended as under:-

- (1) A copy of the Vakalatnama duly executed by the clients, Worldgate Express Lines International Pvt. Ltd. is enclosed;
- (2) At the outset, they state that they have not traversed / dealt with each and every allegation in the Show Cause Notice under reply and instead have dealt with only those allegations made against and/or concerning them, as these are entirely severable from other allegations, with which my clients are not concerned at all.

- (3) they deny all allegations made against them in the above-mentioned Show Cause Notice and have set out herein below, the true & correct facts, as they occurred, in this matter, which would demonstrate that there is no act and/or omission on their part that would render the goods liable for confiscation and/or render them liable to any penalty u/s 112(A) and /or 114AA of the Customs Act, 1962, as proposed or at all.
- (4) They state that they operate as freight forwarder / container agents in India and had no dealings and/or correspondence with the Shipper/its agent for carriage of the cargo from Colombo to Nhava Sheva. They have not issued the Bill of Lading and / or made any declarations to the Custom Authorities in respect of the goods nor they have filed any Import General Manifest / Bill of Entry to clear the goods in India. They state that their role was limited to ensure that all handling charges are paid by the Importer prior to taking delivery of the goods and issuing delivery order to the Importer for taking delivery of the goods. They, as discharge port agents, are not concerned with the goods, the nature of the goods, the country of origin and do not make any declarations in respect of the goods to the Custom Department. As discharge port agents, they are not required to keep track of the of the movement of the cargo and/or containers transshipped under any Bill of Lading, and cannot be held responsible for not verifying the movement of the containers, as alleged or at all. There is no evidence whatsoever to show that they had any knowledge of the country of origin of the cargo and/or that same had been mis-declared with such knowledge, and/or to even show that they were involved in any act of commission and/or omission to abet the Importer in importing the cargo into India and/or to contravene any of the Sections of the Custom Act, 1962, to justify imposition of any penalty on my client u/s 112(a) and/or 114AA of the said Act, as proposed or at all.
- (5) In the present transaction, the Freight Forwarder - Efficient Marine Services LLP, had received instructions from the Shipper/his agent to arrange transportation of cargo of 'CTCP Digital Double Layer Plates' from Colombo, Sri Lanka to Nhava Sheva, India. The Freight Forwarder instructed one Worldgate Express Lines Lanka Pvt. Ltd., a separate and distinct legal entity from my clients, to apply for transshipment permission at the Port of Colombo for direct transportation to India. On these instructions, it appears that the Freight Forwarder, Worldgate Express

Lines Lanka Pvt. Ltd. appears to have made an application with the Colombo Customs for transshipment of cargo from Sri Lanka to India.

- (6) On the instructions of the Shipper, the Freight Forwarder arranged for shipment by sea of cargo of Cento Graph from Sri Lanka to Nhava Sheva, India and have issued the Bill of Lading for the same. Under the said Bill of Lading, Cento Graph and Dhanvarsha Impex were the named Shipper and Consignee, respectively. The port of loading and port of discharge was mentioned as Colombo, Sri Lanka and Nhava Sheva, respectively.
- (7) The cargo arrived at Port Nhava Sheva and was cleared by the Custom Authorities for delivery by the Consignee, Dhanvarsha Impex. Dhanvarsha Impex had filed a Bill of Entry which appears to have been assessed and approved by the Custom Authorities. It is pertinent to note that they were not the clearing house agent for the Consignee and had not made any declarations to the Custom Authorities in respect of the country of origin of the cargo. Hence, there is no act and / or omission on their part to aid and/or abet the Importer in evading anti-dumping duty, as alleged or at all. Thereafter, after a period of more than 2 years, they received a Summons on 10.03.2023 and 23.05.2023 requesting for documents pertaining to the carriage of cargo under the present transaction. Due to efflux of time, they were not in possession of all the relevant documents pertaining to the transaction, nor are they required in law to retain the documents for the same.
- (8) During the investigation, the Department found that the cargo of CTCP Digital Double Layer Plates originated from China and was originally shipped from China to Colombo. They had not issued the Bill of Lading and / or filed the Bill of Entry and/or made any declaration to the Custom Authorities in Colombo and/or Nhava Sheva in respect of the country of origin of the cargo, as they are not concerned with the same nor are they required in law to make any declarations of the same. Hence, the allegations as contained in the SCN as against them in respect of aiding and / or abetting the Importer to evade import duty are bereft of any particulars nor supported by any evidence and are denied, as alleged or at all.
- (9) The present inquiry against them do not fall within the scope of the provisions of Section 112(a) of the Customs Act, nor under Section nor under 114AA of the Customs Act, 1962, as there is no evidence whatsoever to substantiate that they had reasons to believe that the goods were liable for confiscation and / or that the same

were improperly imported into India, including for the reason that they were merely discharge port agent; and they having nothing whatsoever to do with the importer and/or the import transaction, and/or having anything to gain from the same. Consequently, the question of any penalty on them does not arise, as proposed or at all; and the Show Cause Notice be discharged as against them. In any case, this is not a case of improper import even, as alleged or at all.

- (10) Binding precedents relating to penalties imposed under Sections 112 and 114 of the Customs Act, 1962, requires that prior knowledge and / or conscious knowledge of an act and / or omission to violate the law is an essential factor to sustain a penalty under the aforementioned sections. When there is no evidence and/or active role of a party to commit a crime, penalty under the Customs Act, 1962 ought to be dropped. In this case, there is nothing on record to show that they had done any positive act or omission that make the goods liable for confiscation. There is nothing on record to demonstrate that they had any prior knowledge of any violation of any provisions of the Customs Act, 1962, by the Importer, and/or have any reason to believe that the goods would be liable for confiscation. Therefore, question of any alleged abetment itself does not arise. Consequently, they are not liable to be visited with any penalty, as proposed or at all.
- (11) In the matter of G. Narayan & Co. versus Commissioner of Customs, Mangalore reported in 2021 SCC OnLine CESTAT 118, the Tribunal set aside the penalty imposed on the Appellant u/s 112 of the Customs Act 1962 on the ground that the Revenue had not been able to bring any evidence on record which shows that the appellant had prior knowledge regarding the violation of the provisions of the Customs Act.
- (12) In the matter of Commissioner of Customs Import versus Trinetra Impex Pvt. Ltd. reported in (2020) 372 ELT 332, while dealing with penalties under Section 112(a) and 114AA, the Tribunal held that, "The case of the appellant could never fall within the scope of the provisions of Section 112(a) of the Customs Act, nor under the Section 112(b) as there is no evidence whatsoever to substantiate that the appellant had reasons to believe that the goods were liable for confiscation. No case or cause exist to visit the appellant with penalty."
- (13) In the matter of P. N. Shipping Agency versus CC, Nhava Sheva-I, JNCH reported in 2019 SCC Online CESTAT 3292, while dealing with imposition of penalty on

the Appellant under Section 112 of the Customs Act, the Tribunal held that, "No evidence has been brought out about the prior knowledge of the appellant regarding violation of the provisions of Customs Act. As per evidence brought on record, it is not a case that the appellant had wrong intent. It is also not a case that the appellant worked as an accomplice. It is settled principle that lack of due diligence and failure to take more precautions cannot, by itself bring in penal consequences under Section 112(a). For imposition of penalty under Section 112(a), a positive act or omission is to be established."

- (14) In the case of *Elektronik Lab versus Commissioner of Customs (P)*, Mumbai reported in (2005) 187 ELT 362, the Tribunal set aside the penalty imposed on the Appellant u/s 112(a) and 112(b) on the ground that, "The facts of the case clearly establish that the Appellant was in no way concerned in any manner with the import of the goods by SRP nor they had any knowledge or reasons to believe that the goods were liable to confiscation under Section 111 as there is not even an allegation in the Show Cause Notice against the Appellant of having any prior knowledge. Under the circumstances, the Learned Commissioner has erred in imposing penalty on the Appellant on alleged violation of the provisions of section 112(a) & (b) of the Act without an iota of evidence."
- (15) It may be noted and appreciated that the above case laws and the principles of law enunciated thereby, clearly apply to the facts of their case, and supports the only conclusion that can be arrived at in the facts and circumstances of the case and their role in the entire transaction, that they have not breached and/or violated any provisions of the Customs Act, 1962, and are not liable to be visited with any penalty, as proposed or at all.
- (16) In the circumstances mentioned above, the subject Show Cause Notice is barred by the law of limitation and in any event, they have not committed any act and/or omission making them liable to any penalty under section 112(a) and/or 114AA, or as proposed or at all. All allegations, statements, averments in the Show Cause Notice contrary to what is contained herein, are hereby denied as being bereft of any truth and/or any substance. Hence, the Show Cause Notice may be kindly discharged.
- (17) They request a Personal Hearing in the matter.

PERSONAL HEARING

35. Personal hearing in the matter was fixed on 14.08.2024 and intimated to the Noticees vide office letter dated 07.08.2024 sent through registered Speed Post as well as by emails. However, none of the Noticees appeared for the said personal hearing. Thereafter, personal hearings in the matter were again fixed on 22.05.2025 and 18.06.2025, and communicated to the Noticees vide this office letters dated 07.05.2025 and 12.06.2025 through Speed Post sent to their registered address as well as by emails sent at their/their authorized representatives' E-mail IDs, and the same were delivered to them.

36. On the hearing held on 18.06.2025 via virtual mode, Ms. Madhu Jain, Advocate appeared on behalf of M/s. Dhanvarsha Impex and Shri Jayeshkumar P Soni; Shri S.Saankaravadivelu, Advocate appeared on behalf of M/s. Nekoda Global Logistics Pvt. Ltd., and Ms. Priyanka Patel, Advocate appeared on behalf of M/s. Worldgate Express Lines International Pvt. Ltd.

36.1 Ms. Madhu Jain, Advocate appeared for the PH held on 18.06.2025 (via virtual mode) on behalf of M/s. Dhanvarsha Impex and Shri Jayeshkumar P Soni (Prop. of M/s. Dhanvarsha Impex). She reiterated the submissions made in their written replies to the impugned SCN.

36.2 Shri S.Saankaravadivelu, Advocate appeared for the PH held on 18.06.2025 (via virtual mode) on behalf of M/s. Nekoda Global Logistics Pvt. Ltd. He reiterated the submissions made in their written replies to the impugned SCN.

36.3 Ms. Priyanka Patel, Advocate appeared for the PH held on 18.06.2025 (via virtual mode) on behalf of M/s. Worldgate Express Lines International Pvt. Ltd., wherein she inter alia stated as under:-

- M/s.Worldgate Express Lines International Pvt. Ltd. had no role in drafting the Bill of Loading for imports in India;
- it was their overseas counterpart i.e., M/s. Worldgate Express Lines Lanka Pvt. Ltd. who had made applications to the Sri Lanka Customs for permission to carry out transshipment rework operations and destuffing of goods in containers imported from China and stuffing of the same goods in other containers at Colombo, Sri Lanka for further export to India.

- She further stated that the transshipment rework operations of destuffing the goods loaded in containers from China and loading the same goods in other containers was carried out by M/s. Worldgate Express Lines Lanka Pvt. Ltd.

36.4 None of the other Noticees namely, M/s. Cento Graph, Sri Lanka; Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka; M/s Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka; and M/s Eagle Global Express (Pvt.) Ltd., Sri Lanka appeared for the personal hearings on any of the dates fixed for the same. In the instant case, opportunities of Personal Hearing were granted to the said Noticees on 14.08.2024, 22.05.2025 and 18.06.2025; however, they have neither responded to any of the communication sent for personal hearing nor did they attend the personal hearings. They have also not filed their written reply to the impugned SCN nor sought any adjournment in the matter. Thus it is clear that enough opportunities have been granted to the said Noticees to defend their case, following the principles of natural justice. I am therefore taking up the matter for adjudication proceedings *ex-parte* with respect of the said Noticees namely, M/s. Cento Graph, Sri Lanka; Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka; M/s Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka; and M/s Eagle Global Express (Pvt.) Ltd., Sri Lanka, based on documents on record.

DISCUSSION AND FINDINGS

37. I have carefully gone through the entire case records including the impugned SCN and its relied upon documents, written and oral submissions made by M/s. Dhanvarsha Impex, Shri Jayeshkumar P Soni, M/s. Nekoda Global Logistics Pvt. Ltd. and M/s. Worldgate Express Lines International Pvt. Ltd., etc., as well as Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 read with Rules 13 and 20 of the Customs Tariff Rules, 1995, by the Government of India.

37.1 I find that the impugned SCN has been issued by the Commissioner of Customs (NS-V), JNCH, Nhava Sheva, Raigad, Maharashtra after a detailed and thorough investigation carried out by the DRI, Zonal Unit Ahmedabad. The impugned SCN was made answerable to the Commissioner of Customs (NS-V), JNCH, Nhava Sheva, Raigad, Maharashtra. The CBIC vide Notification No. 29/2025-Customs (NT) dated 24.04.2025 has appointed the

Commissioner of Customs-VI (Preventive), Mumbai Customs Zone-III as the proper officer for the purpose of adjudication of the impugned SCN dated 11.09.2023. Accordingly, the instant case has been transferred to the undersigned by the Commissioner of Customs (NS-V), JNCH, Nhava Sheva vide his office letter dated 01.05.2025.

38. I find that in the impugned SCN it is inter alia, alleged that M/s. Dhanvarsha Impex (IEC-ACVPS5663C) had imported Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates falling under Chapter Heading 84425090 of Customs Tariff Act, 1985, which were manufactured in China but routed through M/s. Cento Graph, Sri Lanka and had cleared the said goods without payment of Anti-dumping duty as specified under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 by declaring the country of origin as Sri Lanka/Spain. It is also alleged that the other co-noticees had colluded with M/s. Dhanvarsha Impex and aided and abetted them in importing the said Chinese origin goods without payment of Anti-dumping duty as specified under the above mentioned Notifications.

38.1 In view of the above, I find that the main issues to be decided in the instant case are:-

- (i) Whether the 29906.12 SQM of goods valued at Rs. 87,09,528/- (Rupees Eighty-seven Lakhs Nine Thousand Five Hundred Twenty-eight only), as detailed in Annexure A-1 of the impugned SCN, which were seized on 13.01.2023 are liable to be confiscated under Section 111 (m) & (o) of the Customs Act, 1962;
- (ii) Whether the differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.21,86,044/- (Rupees Twenty-one Lakhs Eighty-six Thousand Forty-four only), as detailed in Annexure A-1 of the impugned SCN (live consignment) is liable to be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 read with Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA ibid;
- (iii) Whether the 490638.98 SQM of goods valued at Rs.11,38,25,499/- (Rupees Eleven Crore Thirty-eight Lakhs Twenty-five Thousand Four Hundred Ninety-nine only), as detailed in Annexure A-2 of the impugned SCN, which have been cleared and are not physically available for confiscation, are liable for confiscation under Section 111 (m) of the Customs Act, 1962;

- (iv) Whether the differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.3,31,71,247/- (Rupees Three Crore Thirty-one Lakhs Seventy-one Thousand Two Hundred Forty-seven only), as detailed in Annexure A-2 of the impugned SCN (past consignments) is liable to be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 read with Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA *ibid*;
- (v) Whether the Customs Duty (Anti-dumping duty & IGST) amounting of Rs.1,00,00,000/- (Rupees One Crore only) already paid by them during investigations vide Challan No. HC-3 dated 01.06.2023 and HC-93 dated 07.08.2023 is liable to be appropriated towards their duty liabilities at stated in (iv) above;
- (vi) Whether penalty is liable to be imposed upon Shri Jayeshkumar P Soni, Proprietor of M/s. Dhanvarsha Impex, under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962;
- (vii) Whether penalty is liable to be imposed upon M/s. Cento Graph, having registered office at No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka, under Section 112(a) and 114AA of the Customs Act, 1962;
- (viii) Whether penalty is liable to be imposed upon Mr. Llyod Harridge, owner of M/s Cento Graph and having registered office at No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka, under Section 112(a) and 114AA of the Customs Act, 1962;
- (ix) Whether penalty is liable to be imposed upon M/s Worldgate Express Lines International Pvt. Ltd., situated at 7th floor, Sharda Terrace (Warden House), Sector 11, Plot No. 65, CBD Belapur (West), Navi Mumbai, Maharashtra-400614, under Section 112(a) and 114AA of the Customs Act, 1962;
- (x) Whether penalty is liable to be imposed upon M/s Worldgate Express Lines Lanka Pvt. Ltd., situated at No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka under Section 112(a) and 114AA of the Customs Act, 1962;

- (xi) Whether penalty is liable to be imposed upon M/s. Nekoda Global Logistics India Pvt. Ltd., situated at Venkatswamy Street, Chetpet, Chennai-600031, under Section 112(a) and 114AA of the Customs Act, 1962; and
- (xii) Whether penalty is liable to be imposed upon M/s Eagle Global Express (Pvt.) Ltd., situated at 281, R A De Mel Mawatha, Colombo 03, Sri Lanka, under Section 112(a) and 114AA of the Customs Act, 1962.

39. After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually in the light of facts and circumstances of the case, provisions of the Customs Act, 1962, contentions made in the defence submissions by the noticees and evidences available on record. I find that the primary issue to be decided in the case is as to whether the goods viz. Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates imported by M/s. Dhanvarsha Impex were of Chinese origin and whether the importer, M/s. Dhanvarsha Impex is liable to pay the differential Customs duty (Anti-dumping duty & IGST) on the said goods imported by them alleged to be of Chinese origin.

39.1 I find that as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 read with Rules 13 and 20 of the Customs Tariff Rules, the Anti-dumping duty applicable on Digital Offset Printing Plates originating in or exported from the People's Republic of China and imported into India and Digital Offset Printing Plates manufactured in China and imported into India from other countries is as under:-

- (i) As per Notification No. 02/2020-Customs (ADD) dated 30.01.2020

S.No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Lucky Huaguang Graphics Co.Ltd.	0.52
2	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Kodak China Graphics Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People's Republic	People's Republic	Shanghai Strong State Printing	0.57

			of China	of China	Equipment Ltd.	
4	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Any other product except S. No. 1 to 4	0.57
6	84425090	Digital Offset Printing Plates	People's Republic of China	Any country other than People's Republic of China	Any	0.57

(ii) As per Notification No. 21/2020-Customs (ADD) dated 29.07.2020

S.No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Lucky Huaguang Graphics Co.Ltd.	0.55
2	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Kodak China Graphics Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Shanghai Strong State Printing Equipment Ltd.	0.60
4	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Any other product except S. No. 1 to 4	0.77
6	84425090	Digital Offset Printing Plates	People's Republic of China	Any country other than People's Republic of China	Any	0.77

39.2 From the above Notifications, it is apparent that Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates falling under CTH 84425090 of Chinese origin, when



exported from People's Republic of China or any country other than People's Republic of China and imported into India, which is produced by any producer, the Anti-dumping duty (ADD) was leviable @0.57 USD per SQM from 30.01.2020 under Notification No. 02/2020-Customs (ADD) dated 30.01.2020. Further, the said Anti-dumping duty rate was enhanced from 0.57 USD per SQM to 0.77 USD per SQM on the said goods w.e.f. 29.07.2020 by Notification No. 21/2020-Customs (ADD) dated 29.07.2020.

40. From the impugned SCN, it is seen that on the basis of intelligence, the DRI, Zonal Unit, Ahmedabad had caused investigation against some importers including M/s.Dhanvarsha Impex, who had imported Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates (CTH-84425090) manufactured in China, but routed through M/s. Cento Graph, a Sri Lankan entity, to evade the Anti-dumping duty (ADD) imposed on goods of Chinese origin/manufactured in China as specified in above said Notifications No. 02/2020-Customs (ADD) dated 30.01.2020 and No. 21/2020-Customs (ADD) dated 29.07.2020. During the course of investigation search were conducted on the premises of the said importers and some incriminating documents, electronic gadgets, etc. were seized under panchnama from their premises. During the course of investigation, statements of proprietor/director/responsible person of the said importer entities were also recorded under Section 108 of Customs Act, 1962.

41. It is also seen from the impugned SCN that as the said importers had imported Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates (CTH-84425090) through M/s. Cento Graph, Sri Lanka and cleared the goods without payment of Anti-dumping duty (ADD) by declaring that the goods were manufactured in Sri Lanka/ the Country of Origin was Sri Lanka/Spain, therefore, a reference was made to Sri Lanka Customs through DRI, Chennai requesting to verify whether M/s. Cento Graph is an OEM manufacturer in Sri Lanka or otherwise, and to provide the other relevant documents viz., Export Declarations, Invoices, Packing List, Bill of lading, etc available with the Sri Lankan Customs, to know the original manufacture of goods, details of original containers and transshipment thereof, etc.

41.1 I find that in response to the said reference, the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs vide his letter reference No. CIU/DRI/DRI/20/2022 dated 25.11.2022 inter alia reported that they had caused investigation against the company, M/s Cento Graph, Sri Lanka and in their investigation, it was observed

that the exporter, M/s. Cento Graph, Sri Lanka were importing containers from China and reworked the said containers in Colombo to ship the same to India. The relevant portion of the said reference letter no. CIU/DRI/DRI/20/2022 dated 25.11.2022 received from Sri Lanka Customs is reproduced hereunder:

 SRI LANKA CUSTOMS Customs House, No.40, Main Street, Colombo 11, SRI LANKA		
To: Mr. Vikram Chand Meka, Additional Director, Directorate of Revenue Intelligence, T. Nagar, Chennai- 600 017, India.		From: Mr. A.R. Senadeera, Director of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka.
FAX: 0091-44-2815-1740		FAX: 0094-11-2472423
DATE: 25 th November 2022		CALL: 0094-11-2221430
PAGES: 01		E-MAIL: ciu@customs.gov.lk
YOUR REF: DRI/CZU/VIII/26/180/2022		OUR REF: CIU/DRI/DRI/20/2022
SUBJECT: Re: Indo-Sri Lankan Customs - Request for details/ documents in respect of export consignments of Sri Lankan exporter M/s. Cento Graph to certain Indian importers - Reg.		

Greetings from Sri Lanka Customs!

Dear Sir,

The Central Intelligence Directorate of Sri Lanka Customs avails this opportunity to compliment Indian Customs for extending an excellent co-operation in matters of Customs mutual assistance and invited kind attention to your letter Ref No. DRI/CZU/VIII/26/180/2022 dated 27th October 2022 on the above subject.


02. At the moment Sri Lanka Customs has initiated the investigation against the company **M/s. Cento Graph**. During the course of the investigation it is observed that the exporter **M/s. Cento Graph** in Sri Lanka, importing containers from China and rework the containers in Colombo to ship the same to India.


03. Sri Lanka Customs will forward you the full report and the documents you requested at the earliest possible completion of our investigation.

Sri Lanka Customs once again compliments the Directorate of Revenue Intelligence, India, and extends assurance of its highest consideration.

Thank you.

Yours sincerely,






A.R. Senadeera
 Director of Customs
 Central Intelligence Directorate
 For Director General of Customs


A.R. Senadeera
 Director of Customs
 Sri Lanka Customs
 Colombo 11.

Seen
D.V.
11/11/23
Seen and Read
10/11/23
Seen and Read
09/01/23
Seen
12/04/23
Seen
11/04/23
Seen
25.04.23
Seen
10/12/23

41.2 Further, it is also seen that the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs vide his letter reference no. CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 further reiterated and informed that they had initiated investigation against the company, M/s Cento Graph, Sri Lanka and found that the exporter, M/s. Cento Graph, Sri Lanka was importing containers from China and reworked the containers in Colombo to ship the same to India. Further, Sri Lanka Customs have also forwarded some documents relevant to the investigation carried out by DRI viz., Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by respective

forwarders viz. M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers, etc. The said reference letter no. CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 received from Sri Lanka Customs is reproduced hereunder:

 SRI LANKA CUSTOMS Customs House, No.40, Main Street, Colombo 11, SRI LANKA Telephone: 0094-11-2221430, Fax: 0094-11-2472423			
Our Reference: CIU/DRI/DRI/20(2)/2022 Your Reference: DRI/CZU/VIII/26/180/2022		Date: 30 th December 2022	
To : Mr. Vikram Chand Meka, Additional Director, Directorate of Revenue Intelligence, T.Nagar, Chennai - 600 017, India.			
Greetings from Sri Lanka Customs!			
Dear Sir,			
Subject: Indo-Sri Lankan Customs – Investigative Assistance			
The Central Intelligence Directorate of Sri Lanka Customs avails this opportunity to compliment Indian Customs for excellent cooperation in Customs mutual assistance and invited kind attention to your letter Ref No. DRI/CZU/VIII/26/180/2022 dated 27 th October 2022 on the above subject. We write, further to our letter dated 25 th November 2022, concerning the Investigative Assistance requested by DRI.			
2. Sri Lanka Customs has initiated an investigation against the company M/s. Cento Graph . During the course of the investigation, it is observed that the exporter M/s. Cento Graph in Sri Lanka, importing containers from China and reworking the containers in Colombo to ship the same to India.			
3. In response to your request, the following certified true copy documents are forwarded by Sri Lanka Customs for a successful investigation carried out by DRI.			
i) Performa Invoices ii) Country of Origin Certificates iii) Inward and Outward Bills of Lading			
<div style="display: flex; justify-content: space-between;"> <div> <i>Seen Jm 25.01.23</i> </div> <div> <i>seen 27.01/23</i> </div> <div> <i>seen (P.L.A.) 27/01/23</i> </div> <div> <i>Seen & Read Hassan 10.1.23</i> </div> <div> <i>Seen & Read 27.01.23 Jm 27/01/23</i> </div> </div>			
iv) Copies of the applications made by M/s Eagle Global Express (Pvt) Ltd. to the Sri Lanka Customs for rework of containers			
4. Sri Lanka Customs will forward you a full report and rest of the documents you requested at the earliest possible completion of our investigation.			
Sri Lanka Customs once again compliments the Directorate of Revenue Intelligence, India, and extends assurance of its highest consideration.			
Thank you.			
Yours sincerely,			
 A R Senadeera Director of Customs Central Intelligence Directorate For the Director General of Customs		 A.R. Senadeera Director of Customs Sri Lanka Customs Colombo 11.	
<i>Seen & Read Jm 13/04/23</i>		<i>Seen & Read Hassan 10.1.23 (mainly to read)</i> <i>Seen Jm 11/04/23</i>	

41.3 On going though the above mentioned letters/reports dated 25.11.2022 and 30.12.2022 received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, it is quite apparent that the goods viz., Digital Offset Printing Plates/

CTCP Digital Printing Double Layer Plates (CTH-84425090) exported/supplied by M/s. Cento Graph, Sri Lanka to the Indian entities were actually of Chinese origin and manufactured in China; and after receiving the said goods containers exported from China at Colombo, M/s. Cento Graph, Sri Lanka had reworked the containers i.e., goods were de-stuffed from the containers shipped/originated from China and stuffed into other containers in Colombo for further shipment to Nhava Sheva, India. After arrival in at Nhava Sheva, India, the said shipments were cleared by the Indian importers including M/s. Dhanvarsha Impex.

41.4 Further, on going through the documents provided by the Sri Lanka Customs vide their letter dated 30.12.2022, it is seen that M/s. Cento Graph, Sri Lanka had purchased the said goods viz., Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates (CTH-84425090) from various Chinese manufacturers/entities namely, M/s. Zhejiang Senhai New Material Co. Ltd., Zhejiang, China; M/s. Henan Baotu Printing Materials Co. Ltd., Henan, China; M/s. Lucky Huaguang Graphics Co. Ltd., Henan, China; M/s. Shanghai Quan Hong Printing Equipment Co. Ltd., Shanghai, China; M/s. Zhongyin Printing Equipment Co. Ltd., Hebei, China, etc. And after arrival of the shipment at Colombo port, M/s. Cento Graph, Sri Lanka, through their freight forwarders namely, M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka and M/s. Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka had filed applications to the Sri Lanka Customs informing that the shipments were originated from China and destined to Nhava Sheva, India, however, as there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the said shipment would be reworked in Colombo and stuffed into container service that would offer an immediate service to Nhava Sheva, India. After carrying out the transshipment operation of changing containers, the same goods stuffed in other containers were exported to India.

41.5 Therefore, from the documents/reports received from Sri Lanka Customs, I find that the goods viz., Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates supplied by M/s. Cento Graph, Sri Lanka to M/s. Dhanvarsha Impex and other Indian importers were manufactured in China and imported from China by M/s. Cento Graph, Sri Lanka and further exported to India. Thus, I find that the said goods viz., Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates imported by M/s. Dhanvarsha Impex from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka.

42. From the documents provided by the Sri Lanka Customs vide their letter dated 30.12.2022, I find that an application dated 04.04.2022 was given by M/s. Cento Graph's forwarder, M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka to the Sri Lanka Customs for carrying out transshipment operation of shipment originated from Shanghai, China and destined to Nhava Sheva, India. The said application dated 04.04.2022 filed by M/s. Eagle Global Express (Pvt.) Ltd. is reproduced hereunder: -

04th April 2022

The Director General of Customs,
Sri Lanka Customs,
Colombo 01

Dear Sir,

Re: REWORK of Container 01X20' for Shipping Liner Change
(TRANSHIPMENT TWO WAY SPECIAL OPERATION)
ETA: 28/03/2022 VESSEL : MARINA VOYAGER VOYAGE 3004W

BL NO	PLTS	KGS	CONTAINER NO
DXK2203105	24	23,017.000	BEAU2994651

This has reference to the above described shipment which originated from Shanghai, China and is destined to NAHAVA SHEVA, INDIA

As since there are no immediate connecting vessel services available from Colombo to INDIA on current shipping line, this shipment will be reworked in Colombo and stuffed into a container service that offers an immediate service to NHAVA SHEVA - INDIA as follows.

We are now planning to ship this container on the below mentioned vessel.

Vessel: : BALTIC SOUTH
Voy : 2202 W
ETA CMB : 07/04/2022
CONTAINER NO: USAU8880230

Kindly grant your permission to re-work the above said transshipment container at CFS 4 Warehouse, under custom supervision

Kindly note that for the re-work empty container (USAU8880230 - 20') will be brought from the outside of the port premises in to the CFS 4 Warehouse by our transporter.

We have appointed E.R. CUSTOMS CLEARING to carry out the above operation on behalf of us

Furthermore, we hereby guarantee to pay all charges involved in this regard.

Thanking you
Yours faithfully,

CC OIC / Transshipment Warehouse - Sri Lanka Customs
Chief Logistics Manager - SLPA
Chief Superintendent - BO Warehouse, SLPA
Chief Security Manager - SLPA

EAGLE GLOBAL EXPRESS (PVT) LIMITED

Corporate Office | 281, R A De Mel Mawatha, Colombo 03 | Sri Lanka | 094 115 317387
Airport Office | 1261, Colombo Road, Liyanagemulla, Seeduwa | Sri Lanka | 094 115 238946
Biyagama Office | No. 582/A, Waligama, Mahwana | Sri Lanka | 094 115 237594
Moratuwa Office | No. 283, Galle Road, Idarna, Moratuwa | Sri Lanka | 094 115 299162
Homagama Office | 114/1/1B, High Level Road, Homagama | Sri Lanka | 094 115 921235

TRUE COPY

04/04/2022
DC/DDC/SC
Central Intelligence - Sri Lanka Customs

42.1 From the above application, I observe that, vide the said application, M/s. Eagle Global Express (Pvt) Ltd., Colombo, Sri Lanka informed to the Customs Sri Lanka that the shipment was originated from Shanghai, China and destined to Nhava Sheva, India, however, as there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the said shipment would be reworked in Colombo and stuffed into container service that would offer an immediate service to Nhava Sheva, India. They also mentioned their plan to ship that container on Vessel: Blastic South, Voy No.2202W, ETA

CMB:07.04.2022 & Container No.USAU8880230 and requested to grant permission to re-work the above said transshipment container at CFS4 Warehouse under customs supervision. Further, they also submitted that for re-work, empty container no. USAU8880230 would be brought from the outside of the port premises into the CFS4 Warehouse by their transporter.

42.2 From the above, I also find that 24 pallets of CTP Digital Offset Plates having gross weight 23017 kgs initially loaded in container no.BEAU2994651 from Shanghai, China were unloaded at Colombo and stuffed in container no. USAU8880230 and then further exported to India from Colombo. I further find that the said 24 pallets of CTP Digital Offset Plates having gross weight 23017 kgs loaded in container no. USAU8880230 were cleared by M/s. Dhanvarsha Impex vide Bill of Entry No.8232115 dated 11.04.2022. The relevant portion of the said BoE No.8232115 is reproduced hereunder for ready reference:

Indian Customs EDI System - Imports V1.5 JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707 BILL OF ENTRY FOR HOME CONSUMPTION											
[Custom Stn: INNSA1]_____CHA : AAECN0718RCH001 [M/S NHD FORWARDERS PVT. LTD.]											
BE No/Dt./cc/Typ:8232115/11/04/2022/N/H											
Importer Details :ACVPS5663C PAN : ACVPS5663CFT001 AD Code : 0280512											
DHANVARSHA IMPEX											
Inv No & Dt. : DIMLP220222CTP06 11/04/2022 CENTO GRAPH											
Item Details											
sln	RITC	Description	CTH	C.Notn	C.NSNO	RSP	Cus	Dty	Rt	Load	PROV
Qty	Unit	Unit Price	CTH	E.Notn	E.NSNO	Exc	Dty	Rt		BCD amt(Rs.)	
Unit		Ass Val	CETH							CVD amt(Rs.)	
8		84425090	CTCP DIGITAL DOUBLE LAYER			PLATES 510X720X0.30 (PA					
			RTS OF OFFSET PRINTING MC-1500 SHEETS								
402.04		4.589543	84425090				7.50	%		10628.20	
			Cus AIDC		011/2021	17		0.00	%	0.00	
			KGS					0.00	%	0.00	
			Educational Cess on CVDs					0.00	%	0.00	
			Sec & Higher Edu. Cess on CVD					0.00	%	0.00	
			Customs Educational Cess					0.00	%	0.00	
			Customs Sec & Higher Edu. Cess					0.00	%	0.00	
			Social Welfare Surcharge:				10.00	%		1062.80	
			IGST		001/2017	111334		18.00	%	27612.20	
			GST Cess		001/2017	56		0.00	%	0.00	
			Rs.	7661683.92		Page Total				Rs.	1600604.10
			Rs.	7661683.92		BE Gross Total				Rs.	1600604.10
			BCD	Rs.	50262.40	NCD Duty				Rs.	0.00
			ANTID	Rs.	0.00	SAFEGUARD Duty				Rs.	0.00
			CVD	Rs.	0.00	Sch 2 Spl Excise Duty				Rs.	0.00
			CESS	Rs.	0.00	GSIA				Rs.	0.00
			TTA	Rs.	0.00						
			Edu. Cess CVD	Rs.	0.00	Customs Edu. Cess				Rs.	0.00
			Health CVD	Rs.	0.00	Addl Duty - (Imports)				Rs.	0.00
			SHE. Cess CVD	Rs.	0.00	SH Cust Edu. Cess				Rs.	0.00
			Duty Payable:							Rs.	1600604
			Rs.	Sixteen Lakh Six Hundred and Four only							
Container Details											
1 2308619 F USAU8880230											
GSTIN Details											
Document No	Typ	State Cd/Name	IGST Ass.val	IGST Amt	GST Cess Amt						
24ACVPS5663C1Z7	G	24 GUJARAT	8293773	1492879	0						

42.3 Therefore, from the above, it is quite clear that the goods viz., 24 pallets of CTP Digital Offset Plates imported by M/s. Dhanvarsha from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka.

43. Similarly, from the documents provided by the Sri Lanka Customs vide their letter dated 30.12.2022, I find that the forwarder, M/s. Worldgate Express Lines Lanka Pvt. Ltd. had also made application dated 06.05.2022 to the Sri Lanka Customs for carrying out transshipment operation, whereby they have requested Customs Sri Lanka to grant permission to de-stuff full container No.SEGU1731396 and to give approval to bring empty container No.FSCU7857669 inside BQ Warehouse for transshipment loading under customs supervision. It is seen that the goods loaded in container No. SEGU1731396 were de-stuffed at Colombo and loaded in another container no. FSCU7857669 for further export of India from Colombo. The said application dated 06.05.2022 filed by M/s.Worldgate Express Lines Lanka Pvt. Ltd. is reproduced hereafter:-

WORLDGATE EXPRESS LINES LANKA PVT LTD
 06 MAY 2022
 No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka.
 Tel : (94) 11 575 9001 Fax : (94) 11 237 5060
 E-mail : wgate.cmb@worldgate.lk Web : www.worldgate.lk

The Director General of Customs
 Sri Lanka Customs
 Colombo 01

CC : The Manager - Operations
 Sri Lanka Ports Authority
 Colombo 01

Dear Sir/Madam,

Re : Permission carry out transshipment operation inside BQ warehouse
 Transshipment Destination - NHAVASHEVA
 Vessel Details : MIRADOR EXPRESS V.W140 OF 12/05/2022
 Container No : FSCU7857669/20 AGENT: HLL/IAS

Please grant permission to destuff below mentioned full transshipment container & load same into above mentioned container as full transshipment in BQ warehouse under Customs supervision.

IMPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

FELIXSTOWE BRIDGE V.2203W OF 08/05/2022 (SEGU1731396/20)		NO OBJECTION	
CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight
SEGU1731396/20	DHANVARSHA IMPEX	12.90CBM	13590.50KGS
SEGU1731396/20	UNIVERSAL MARKETING	9.20CBM	9707.50KGS

EXPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

MV MIRADOR EXPRESS V.W140 OF 12/05/2022 (FSCU7857669/20)		NO OBJECTION	
CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight
FSCU7857669/20	DHANVARSHA IMPEX	12.90CBM	13590.50KGS
FSCU7857669/20	UNIVERSAL MARKETING	9.20CBM	9707.50KGS

We seek this approval since there's no direct service from loading port to NHAVA SHEVA, therefore carrier unable to accept empty container at nhava sheva port.

In this regard we highly appreciate if you could permit/authorize us by giving the approval to bring empty container FSCU7857669/20 BQ warehouse for transshipment loading purpose.

Please debit all relevant charges to our SLPA account number 2018.

Your kind assistance in this regard is most appreciated.

Yours faithfully,
 Executive Operation

TRUE COPY
 09/05/2022
 DC/DDC/SC
 Central Intelligence - Sri Lanka Customs

H.D.G. SUMATHIPALA
 Superintendent of Customs
 Sri Lanka Customs

Scanned with CamScanner

43.1 From the above application, I observe that, vide the said application, the freight forwarder, M/s.Worldgate Express Lines Lanka Pvt. Ltd. had sought permission to carry out transshipment operation to destuff full transshipment container No.SEGU1731396 on vessel-FELIXSTOWE BRIDGE V.2203W, on the pretext that there was no direct service from loading port to Nhava Sheva. They had also sought approval to bring empty container No.FSCU7857669 inside BQ Warehouse for transshipment loading purpose.

43.2 From the above, I find that the goods loaded in container No. SEGU1731396 were de-stuffed at Colombo and loaded in another container no. FSCU7857669 for further export of India from Colombo. It is also observed that the goods stuffed in the said containers belonged to M/s. Dhanvarsha Impex [14 PLTS STC, gross weight 13590.50 kgs and Volume 12.90 CBM] and M/s. Universal Marketing [10 PLTS STC, gross weight 9707.50 kgs and Volume 9.20 CBM]. I further find that the said 14 pallets of goods having gross weight 13590.50 kgs and Volume 12.90 CBM were cleared by M/s. Dhanvarsha Impex by filing Bill of Entry on arrival of the said container at Nhava Sheva.

44. I also find that the forwarder, M/s. Worldgate Express Lines Lanka Pvt. Ltd. had made similar applications to the Sri Lanka Customs for carrying out transshipment operation and rework of the containers originated from China. It is seen that vide another application dated 06.05.2022, they have requested Customs Sri Lanka to grant permission to de-stuff full container No.SKLU1318338 and to give approval to bring empty container No.FSCU7493715 inside BQ Warehouse for transshipment loading. It is seen that the goods loaded in container No. SKLU1318338 were de-stuffed at Colombo and loaded in another container no. FSCU7493715 for further export of India from Colombo. The said application dated 06.05.2022 filed by M/s.Worldgate Express Lines Lanka Pvt. Ltd. is reproduced hereafter:-

(224)

WORLDGATE EXPRESS LINES LANKA PVT LTD
 No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka.
 Tel : (94) 11 575 9001 Fax : (94) 11 237 5060
 E-mail : wgate.cmb@worldgate.lk Web : www.worldgate.lk

06 MAY 2022

The Director General of Customs
 Sri Lanka Customs
 Colombo 01

CC : The Manager - Operations
 Sri Lanka Ports Authority
 Colombo 01

Dear Sir/Madam,

Re : Permission carry out transshipment operation inside BQ warehouse
 Transshipment Destination - NHAVASHEVA
 Vessel Details: MIRADOR EXPRESS V.W140 OF 12/05/2022
 Container No : FSCU7493715/20- AGENT: HLL/IAS

Please grant permission to destuff below mentioned full transshipment container & load same into above mentioned container as full transshipment in BQ warehouse under Customs supervision.

IMPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight	No of pkgs
SKLU1318338/20	DHANVARSHA IMPEX	12.90CBM	13581.00KGS	14 PLTS STC
SKLU1318338/20	UNIVERSAL MARKETING	9.20CBM	9701.00KGS	10 PLTS STC

NO OBJECTS

EXPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight	No of pkgs
FSCU7493715/20	DHANVARSHA IMPEX	12.90CBM	13581.00KGS	14 PLTS STC
FSCU7493715/20	UNIVERSAL MARKETING	9.20CBM	9701.00KGS	10 PLTS STC

We seek this approval since there's no direct service from loading port to NHAVA SHEVA, therefore carrier unable to accept empty container at Nhava sheva port.

In this regard we highly appreciate if you could permit/authorize us by giving the approval to bring empty container FSCU7493715/20 BQ warehouse for transshipment loading purpose.

Please debit all relevant charges to our SLPA account number 2018.

Your cooperation in this regard is most appreciated.

Yours faithfully,
 P. A. D. G. SUMATHIPALA
 Superintendent of Customs
 Sri Lanka Customs

TRUE COPY

44.1 From the above, I find that the goods loaded in container No. SKLU1318338 were de-stuffed at Colombo and loaded in another container no. FSCU7493715 for further export of India from Colombo. It is also observed that the goods stuffed in the said containers belonged to M/s. Dhanvarsha Impex [14 PLTS STC, gross weight 13581.00 kgs and Volume 12.90 CBM] and M/s. Universal Marketing [10 PLTS STC, gross weight 9701.00 kgs and Volume 9.20 CBM]. I further find that the said 14 pallets of goods having gross weight 13581.00 kgs and Volume 12.90 CBM were cleared by M/s. Dhanvarsha Impex by filing bill of entry on arrival of the said container at Nhava Sheva.

44.2 Similarly, from the documents provided by the Sri Lanka Customs, I find that the said forwarder, M/s. Worldgate Express Lines Lanka Pvt. Ltd. had made many applications to the Sri Lanka Customs for carrying out transshipment operations. Among those applications, two applications are dated 31.01.2022 and other two applications are dated 22.02.2022 pertaining to M/s. Dhanvarsha Impex. Therefore, the same are reproduced hereunder for ready reference.

Applications dated 31.01.2022

WORLDGATE EXPRESS LINES LANKA PVT LTD
No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka
Tel: (04) 11 575 5001 Fax: (04) 11 237 5000
E-mail: wgate.cmb@worldgate.lk Web: www.worldgate.lk

The Director General of Customs
Sri Lanka Customs
Colombo 01

CC: The Manager - Operations
Sri Lanka Ports Authority
Colombo 01

31 JAN 2022

Dear Sir/Madam,

Re: Permission carry out transshipment operation inside BQ warehouse
Transshipment Destination - NHAVA SHEVA, INDIA
Vessel Details: MV.MARINA VOYAGER V.003W OF 03/02/2022
Container No: BMOU2782575/20 - AGENT: WHL/HAL

Please grant permission to destuff below mentioned full transshipment container & load same into above mentioned container as full transshipment in BQ warehouse under Customs supervision.

IMPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight	No of pkgs
CBHU5682688/20	UNIVERSAL MARKETING	09.58CBM	9593.00KGS	10PLTS STC
CHIU5682688/20	DHANVARSHA IMPEX	13.42CBM	13430.00KGS	14 PLTS STC

EXPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight	No of pkgs
BMOU2782575//20	UNIVERSAL MARKETING	09.58CBM	9593.00KGS	10PLTS STC
BMOU2782575//20	DHANVARSHA IMPEX	13.42CBM	13430.00KGS	14 PLTS STC

We seek this approval since there's no direct service from loading port to NHAVA SHEVA, therefore carrier unable to accept empty container at Nhava Sheva port.

In this regard we highly appreciate if you could permit/authorize us by giving the approval to bring empty container BMOU2782575/20 BQ warehouse for transshipment loading purpose.

Please debit all relevant charges to our SLPA account number 2018.

Your kind assistance in this regard is most appreciated.

Yours faithfully,
RAHMAN Executive Operation

Stamp: 28 NOV 2022, Central Intelligence Division

Stamp: TRUE COPY, OIC TRANSSHIPMENT

Stamp: 01/01/2023

➤ Transshipment Operation:-The goods loaded in container No. CBHU5682688 were de-stuffed at Colombo and loaded in another container No. BMOU2782575 for further export of India from Colombo.

WORLDGATE EXPRESS LINES LANKA PVT LTD
No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka
Tel: (04) 11 575 5001 Fax: (04) 11 237 5000
E-mail: wgate.cmb@worldgate.lk Web: www.worldgate.lk

The Director General of Customs
Sri Lanka Customs
Colombo 01

CC: The Manager - Operations
Sri Lanka Ports Authority
Colombo 01

31 JAN 2022

Dear Sir/Madam,

Re: Permission carry out transshipment operation inside BQ warehouse
Transshipment Destination - NHAVA SHEVA, INDIA
Vessel Details: MV.MARINA VOYAGER V.003W OF 03/02/2022
Container No: TEMU5980048/20 - AGENT: WHL/HAL

Please grant permission to destuff below mentioned full transshipment container & load same into above mentioned container as full transshipment in BQ warehouse under Customs supervision.

IMPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight	No of pkgs
BSIU3034676/20	UNIVERSAL MARKETING	09.00CBM	8950.00KGS	10PLTS STC
BSIU3034676/20	DHANVARSHA IMPEX	14.50CBM	14320.00KGS	16 PLTS STC

EXPORT T/S CARGO & VESSEL DETAILS ARE GIVEN BELOW:

CNTR NO:	CONSIGNEE	Volume (M3)	Gross Weight	No of pkgs
TEMU5980048/20	UNIVERSAL MARKETING	09.00CBM	8950.00KGS	10PLTS STC
TEMU5980048/20	DHANVARSHA IMPEX	14.50CBM	14320.00KGS	16 PLTS STC

We seek this approval since there's no direct service from loading port to NHAVA SHEVA, therefore carrier unable to accept empty container at Nhava Sheva port.

In this regard we highly appreciate if you could permit/authorize us by giving the approval to bring empty container TEMU5980048/20 BQ warehouse for transshipment loading purpose.

Please debit all relevant charges to our SLPA account number 2018.

Your kind assistance in this regard is most appreciated.

Yours faithfully,
RAHMAN Executive Operation

Stamp: 28 NOV 2022, Central Intelligence Division

Stamp: TRUE COPY, OIC TRANSSHIPMENT

Stamp: 01/01/2023

➤ Transshipment Operation:-The goods loaded in container No. BSIU3034676 were de-stuffed at Colombo and loaded in another container No. TEMU5980048 for further export of India from Colombo.

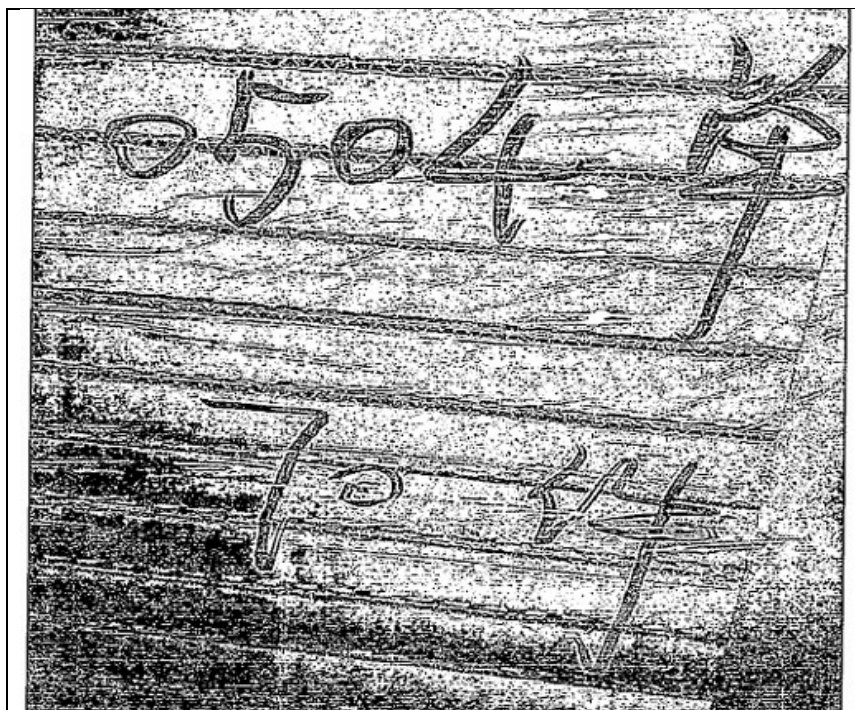
45. Thus, from the documents/reports received from Sri Lanka Customs, it is abundantly clear that M/s. Cento Graph, Sri Lanka had purchased the goods viz., Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates from various Chinese manufacturers/entities and after reworking of containers at Colombo, they shipped the said goods to M/s. Dhanvarsha Impex. In this context, it would also be pertinent to discuss, on sample basis, Bills of Lading issued by the Chinese entities to M/s. Cento Graph and the corresponding Bills of Lading issued by M/s. Cento Graph to M/s. Dhanvarsha Impex. The same are reproduced hereunder:-

Bill of Lading No. DXX2204140 issued for shipment of goods from China to M/s. Cento Graph, Sri Lanka					Corresponding B/L No. EGE22080001-01 issued for shipment of goods from Sri Lanka to Nhava Sheva (M/s. Dhanvarsha Impex)				
<p>SHENAN BAOTU PRINTING MATERIALS CO., LTD. XAGUANG VILLAGE, DONGCUN TOWN, CHANGGE CITY, HENAN PROVINCE, CHINA TEL: +86-0374-6685578 FAX: +86-0374-6685567 EMAIL: 877120433@QQ.COM</p>					<p>NINGBO DASHING INTERNATIONAL LOGISTICS CO., LTD.</p>				
<p>CONSIGNEE: CENTO GRAPH ADD: NO. 05 JOHN KEELS HOUSING SCHEME, POTHURAHARA ROAD, MALABE, SRI LANKA.</p>					<p>SHIPPER: Dhanvarsha Impex ADD: NO. 5, JOHN KEELS HOUSING SCHEME, POTHURAHARA ROAD, MALABE, SRI LANKA, MOBILE: +94-774533541</p>				
<p>RECEIVED by the Carrier the Goods as specified below in apparent good order and condition unless otherwise stated, to be transported to such place as agreed, authorized or permitted herein and subject to all the terms and conditions appearing on the front and reverse of this Bill of Lading to which the Merchant agrees by accepting this Bill of Lading, any local privileges and customs notwithstanding.</p>					<p>RECEIVED by the Carrier the Goods as specified below in apparent good order and condition unless otherwise stated, to be transported to such place as agreed, authorized or permitted herein and subject to all the terms and conditions appearing on the front and reverse of this Bill of Lading to which the Merchant agrees by accepting this Bill of Lading, any local privileges and customs notwithstanding.</p>				
<p>THE PARTICULARS GIVEN BELOW AS STATED BY THE SHIPPER AND THE WEIGHT, MEASURE, QUANTITY, CONDITIONS, CONTENTS AND VALUE OF THE GOODS ARE UNKOWN TO THE CARRIER.</p>					<p>THE PARTICULARS GIVEN BELOW AS STATED BY THE SHIPPER AND THE WEIGHT, MEASURE, QUANTITY, CONDITIONS, CONTENTS AND VALUE OF THE GOODS ARE UNKOWN TO THE CARRIER.</p>				
<p>IN WITNESS WHEREOF (S) ORIGINAL BILL OF LADING HAS BEEN SIGNED IF NOT OTHERWISE STATED BELOW, THE SAME BEING ACCOMPANIED BY THE STAMP, IF ANY, TO BE VOID, IF REQUIRED BY THE CARRIER AND (1) ORIGINAL BILL OF LADING MUST BE REMITTED DAILY ENDORSED IN EXCHANGE FOR THE GOODS OR CARRIER ORDER.</p>					<p>IN WITNESS WHEREOF (S) ORIGINAL BILL OF LADING HAS BEEN SIGNED IF NOT OTHERWISE STATED BELOW, THE SAME BEING ACCOMPANIED BY THE STAMP, IF ANY, TO BE VOID, IF REQUIRED BY THE CARRIER AND (1) ORIGINAL BILL OF LADING MUST BE REMITTED DAILY ENDORSED IN EXCHANGE FOR THE GOODS OR CARRIER ORDER.</p>				
ISSUED BY: YONANDASHTHAI		PLACE OF RECEIPT: VOI NO. 7, 226125		DATE OF ISSUANCE: 03/08/2022		DATE OF RECEIPT: 03/08/2022		DATE OF ISSUANCE: 03/08/2022	
PORT OF ORIGIN: QINGDAO, CHINA		PORT OF DESTINATION: COLOMBO		PLACE OF DELIVERY: COLOMBO		PORT OF ORIGIN: NHAVA SHEVA, INDIA		PORT OF DESTINATION: NHAVA SHEVA, INDIA	
MARKS & NUMBERS: 20 PALLETS		DESCRIPTION OF GOODS: PRINTING PLATE (CTCP PLATE)		GROSS WEIGHT: 23011 KGS		MEASUREMENT: 24.07 CBM		MARKS & NUMBERS: 20 PALLETS	
CONTAINER NO. & SEAL NO.: RRU1634560 7345142 47		20 PALLETS		23011 KGS		24.07 CBM		CONTAINER NO. & SEAL NO.: RRU1634560 7345142 47	
FREIGHT & CHARGES: FREIGHT COLLECT CY-CY		SHIPPER'S LOAD, COUNT & SEAL		ORIGINAL		ON BOARD		FREIGHT & CHARGES: FREIGHT COLLECT CY-CY	
<p>FOR CARRIER'S USE ONLY: CENTO GRAPH EXPRESS PVT LTD NO. 281-1/1, R.A. DE MEL MARATHA, COLOMBO 03, SRI LANKA MOBILE: 0703338628/0714 557 732</p>					<p>FOR CARRIER'S USE ONLY: Dhanvarsha Impex NO. 5, JOHN KEELS HOUSING SCHEME, POTHURAHARA ROAD, MALABE, SRI LANKA MOBILE: 774533541</p>				

From the above, I find that the Bill of Lading No. DXX2204140 had been issued by M/s. Ningbo Dashing International Logistics Co. Ltd., Ningbo (China), a forwarder, for shipment of goods viz., 20 Pallats of Printing Plate (CTCP Plate) having Gross Weight 23011 kgs and Measurement 24.07 CBM, from China to Sri Lanka. It is also observed that vide the said B/L, M/s. Henan Baotu Printing Materials Co. Ltd., Henan Province, China has exported the said goods to M/s. Cento Graph, Sri Lanka. Further, it is also observed that the same goods viz.,

20 Pallats of Printing Plate (CTCP Plate) having Gross Weight 23011 kgs and Measurement 24.07 CBM have been shipped from Sri Lanka to India vide Bill of Lading No. EGE22080001-01 issued by M/s.Eagle Global Express Pvt. Ltd. for shipment of goods exported by M/s.Cento Graph to M/s. Dhanvarsha Impex. **From the same, it is conclusively proved that the goods supplied by M/s.Cento Graph to M/s. Dhanvarsha Impex were of Chinese origin.**

46. Further, I find that during the course of investigation caused by the DRI, a consignment of goods viz., CTCP Digital Printing Double Layer Plates which were stuffed in container no. CAXU6163565 and imported by M/s Dhanvarsha vide Bill of Entry No. 2334490 dated 07.09.2022 were kept on hold, and during examination of the said consignment/goods, under Panchnama dated 16.09.2022, some alphanumerical words/digits in Chinese language were found written on the packing boxes of the said goods. The same is reproduced hereunder:-



46.1 I also observe that when the above text written in Chinese language was translated with the help of Google App by the DRI, it showed the result as “Piece”. Further, I also find that during verification of the said goods, markings/labeling on the goods did not suggest anything to indicate that the goods are of Spain/Sri Lankan origin, as claimed by M/s. Dhanvarsha Impex.

46.2 In view of the above, I find that the country of origin of the goods imported by M/s. Dhanvarsha, which was claimed to be of Spain/Sri Lanka origin by them, were actually of Chinese origin.

47. Further, it is seen that DRI had also caused investigation against some other importers namely, M/s. Mahalaxmi Textiles, M/s. PSRA Graphics India Pvt. Ltd., etc., who had also imported similar goods viz., Digital Offset Printing Plates, etc. from the same overseas supplier viz., M/s. Cento Graph, Sri Lanka. During search proceedings conducted at M/s. Mahalaxmi Textiles on 13.06.2022, back-to-back Proforma Invoices and Commercial Invoices issued by Chinese firm namely, M/s. Lucky Huaguang Graphics Co.Ltd. to M/s. Cento Graph, Sri Lanka and corresponding Proforma Invoices and Commercial Invoices issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles were found. Copies of the same are reproduced hereunder:-

47.1 Copies of Proforma Invoices

Proforma Invoice issued by M/s. Lucky Huaguang Graphics Co.Ltd.(China) to M/s.Cento Graph (Sri Lanka)	Corresponding Proforma Invoice issued by M/s. Cento Graph (Sri Lanka) to M/s.Mahalaxmi Textiles																																																																																																																																																																																											
<p>LUCKY HUAGUANG GRAPHICS CO., LTD</p> <p>718 South Station Road Nanyang Henan China Fax 86 377 63138450 Tel 86 377 63863074</p> <p>PROFORMA INVOICE</p> <p>TO: CENTOGRAPH NO. 5 JOHN KEELS HOUSING SCHEME, POTHUWARAWA MALABE, SRI LANKA</p> <p>INVOICE NO.: CG01021-22 DATE: DEC.06 2021 DISCHARGE PORT: COLOMBO PORT, SRI LANKA PRICE TERM: FOB SHANGHAI PORT, CHINA PAYMENT TERM: OA 90 DAYS AFTER BL SHIPPING DATE</p> <table border="1"> <thead> <tr> <th>Item</th> <th>Description of Goods</th> <th>Quantity</th> <th>PRICE</th> <th>Value</th> </tr> <tr> <th></th> <th>Digital Offset UV-CTCP Plates</th> <th>PCS</th> <th>SQM</th> <th>USD/SQM</th> </tr> </thead> <tbody> <tr><td>1</td><td>650 x 530 x 0.28</td><td>10000</td><td>3445.00</td><td>3.07</td></tr> <tr><td>2</td><td>650 x 550 x 0.28</td><td>4000</td><td>1430.00</td><td>3.07</td></tr> <tr><td>3</td><td>700 x 550 x 0.28</td><td>8000</td><td>3080.00</td><td>3.07</td></tr> <tr><td>4</td><td>670 x 550 x 0.28</td><td>6000</td><td>2251.20</td><td>3.07</td></tr> <tr><td>5</td><td>684 x 576 x 0.28</td><td>4000</td><td>1575.94</td><td>3.07</td></tr> <tr><td>6</td><td>700 x 576 x 0.28</td><td>4000</td><td>1612.80</td><td>3.07</td></tr> <tr><td>7</td><td>720 x 584 x 0.28</td><td>4000</td><td>1681.92</td><td>3.07</td></tr> <tr><td>8</td><td>840 x 584 x 0.28</td><td>2000</td><td>981.12</td><td>3.07</td></tr> <tr><td>9</td><td>889 x 576 x 0.28</td><td>1000</td><td>512.06</td><td>3.07</td></tr> <tr><td>10</td><td>730 x 600 x 0.28</td><td>1000</td><td>438.00</td><td>3.07</td></tr> <tr><td>11</td><td>745 x 605 x 0.28</td><td>5000</td><td>2253.63</td><td>3.07</td></tr> <tr><td>12</td><td>830 x 645 x 0.28</td><td>10000</td><td>5353.50</td><td>3.07</td></tr> <tr><td>13</td><td>1030 x 770 x 0.28</td><td>500</td><td>396.55</td><td>3.07</td></tr> <tr><td>14</td><td>1030 x 800 x 0.28</td><td>5000</td><td>4120.00</td><td>3.07</td></tr> <tr> <td colspan="2">TOTAL FOB VALUE</td> <td>64500</td> <td>29131.72</td> <td>89434.37</td> </tr> </tbody> </table> <p>BENEFICIARY'S BANK: BANK OF CHINA, NANYANG BRANCH ADD: 135 QIYI ROAD, NANYANG CITY, HENAN, CHINA SWIFT NO.: BKCHCN3339 BENEFICIARY: LUCKY HUAGUANG GRAPHICS CO., LTD ADD: 718 SOUTH STATION ROAD, NANYANG, HENAN, CHINA ACCOUNT NO.: 28599288663</p>	Item	Description of Goods	Quantity	PRICE	Value		Digital Offset UV-CTCP Plates	PCS	SQM	USD/SQM	1	650 x 530 x 0.28	10000	3445.00	3.07	2	650 x 550 x 0.28	4000	1430.00	3.07	3	700 x 550 x 0.28	8000	3080.00	3.07	4	670 x 550 x 0.28	6000	2251.20	3.07	5	684 x 576 x 0.28	4000	1575.94	3.07	6	700 x 576 x 0.28	4000	1612.80	3.07	7	720 x 584 x 0.28	4000	1681.92	3.07	8	840 x 584 x 0.28	2000	981.12	3.07	9	889 x 576 x 0.28	1000	512.06	3.07	10	730 x 600 x 0.28	1000	438.00	3.07	11	745 x 605 x 0.28	5000	2253.63	3.07	12	830 x 645 x 0.28	10000	5353.50	3.07	13	1030 x 770 x 0.28	500	396.55	3.07	14	1030 x 800 x 0.28	5000	4120.00	3.07	TOTAL FOB VALUE		64500	29131.72	89434.37	<p>Cent Graph</p> <p>No.05, John Keels Housing Scheme, Pothuwarawa Road, Malabe. Tel: +94 772418415, Mobile: +94 774533541, WhatsApp: Email: info@centograph.com www.centograph.com</p> <p>PERFORMA INVOICE</p> <p>Att: Mr. Rakesh. M/s. Mahalaxmi Textiles. 2/4522, Shivas Zaveri Street, Sagarapura, Surat, Gujarat-395002. India. GST NO: 24AA7PA1051C1ZD, PAN: NO-AATPA1051C, IEC CODE: AATPA1051C. Tel: +919374526633. Email: rkajmeri@yahoo.com.</p> <p>DATE: 30/01/2022 PI NO: C001021-22exp10 H.S.CODE: 84425090 Country of Origin: Sri Lanka/Spain, EU.</p> <table border="1"> <thead> <tr> <th>Item</th> <th>DESCRIPTION OF GOODS</th> <th>QUANTITY (SHEETS)</th> <th>SQMT</th> <th>PRICE USD/ M2</th> <th>TOTAL AMOUNT USD \$</th> </tr> </thead> <tbody> <tr><td>1</td><td>CTCP Digital Double Layer plate</td><td>650 x 530 x 0.28</td><td>10,000</td><td>3445.00</td><td>3.46</td></tr> <tr><td>2</td><td>CTCP Digital Double Layer plate</td><td>650 x 550 x 0.28</td><td>4,000</td><td>1430.00</td><td>3.46</td></tr> <tr><td>3</td><td>CTCP Digital Double Layer plate</td><td>670 x 550 x 0.28</td><td>6,000</td><td>2251.20</td><td>3.46</td></tr> <tr><td>4</td><td>CTCP Digital Double Layer plate</td><td>684 x 576 x 0.28</td><td>4,000</td><td>1575.94</td><td>3.46</td></tr> <tr><td>5</td><td>CTCP Digital Double Layer plate</td><td>700 x 550 x 0.28</td><td>8,000</td><td>3080.00</td><td>3.46</td></tr> <tr><td>6</td><td>CTCP Digital Double Layer plate</td><td>700 x 576 x 0.28</td><td>4,000</td><td>1612.80</td><td>3.46</td></tr> <tr><td>7</td><td>CTCP Digital Double Layer plate</td><td>720 x 584 x 0.28</td><td>4,000</td><td>1681.92</td><td>3.46</td></tr> <tr><td>8</td><td>CTCP Digital Double Layer plate</td><td>730 x 600 x 0.28</td><td>1,000</td><td>438.00</td><td>3.46</td></tr> <tr><td>9</td><td>CTCP Digital Double Layer plate</td><td>745 x 605 x 0.28</td><td>5,000</td><td>2253.63</td><td>3.46</td></tr> <tr><td>10</td><td>CTCP Digital Double Layer plate</td><td>830 x 645 x 0.28</td><td>10,000</td><td>5353.50</td><td>3.46</td></tr> <tr><td>11</td><td>CTCP Digital Double Layer plate</td><td>840 x 584 x 0.28</td><td>2,000</td><td>981.12</td><td>3.46</td></tr> <tr><td>12</td><td>CTCP Digital Double Layer plate</td><td>889 x 576 x 0.28</td><td>1,000</td><td>512.06</td><td>3.46</td></tr> <tr><td>13</td><td>CTCP Digital Double Layer plate</td><td>1030 x 770 x 0.28</td><td>500</td><td>396.55</td><td>3.46</td></tr> <tr><td>14</td><td>CTCP Digital Double Layer plate</td><td>1030 x 800 x 0.28</td><td>5,000</td><td>4120.00</td><td>3.46</td></tr> <tr> <td colspan="4">Total Quantity Value and Sqmt</td> <td>64,500</td> <td>29131.72</td> </tr> <tr> <td colspan="4">Total CIF INDIA USD \$ 100,795.73</td> <td></td> <td></td> </tr> </tbody> </table> <p>USD \$ Dollars: One Hundred Thousand and Seven Hundred and Ninety Five cts Seventy Three only. BENEFICIARY: CENTOGRAPH-ACCOUNT IN/RC A/C NO: 086402170020172. BANK: PEOPLES BANK, COLOMBO, SRI LANKA BRANCH: THIMIRIGASTAYA-086 SWIFT CODE: PSBKSLX; BANK CHARGES: 50% BY SELLER 50% BY BUYER. CORRESPONDING BANK: STANDARD CHARTERED BANK MUMBAI SWIFT CODE: SCRIINBB DESTINATION: INDIA. SHIPPING: 10 to 20 DAYS AFTER ADVANCE PAYMENT. TERMS OF PAYMENTS: USD \$ 9,361.36/- BALANCE AFTER 60 DAYS. INSURANCE: EFFECTED BY SELLER TO BUYERS DOOR STEP FOR FULL INVOICE VALUE ONLY.</p> <p>USD - 9361/36</p> <p>BE No. 772418415</p> <p>No. 05, John Keels Housing Scheme, Pothuwarawa Road, Malabe, Sri Lanka. Tel: +94 772418415, Mobile: +94 774533541, WhatsApp: Email: info@centograph.com www.centograph.com</p>	Item	DESCRIPTION OF GOODS	QUANTITY (SHEETS)	SQMT	PRICE USD/ M2	TOTAL AMOUNT USD \$	1	CTCP Digital Double Layer plate	650 x 530 x 0.28	10,000	3445.00	3.46	2	CTCP Digital Double Layer plate	650 x 550 x 0.28	4,000	1430.00	3.46	3	CTCP Digital Double Layer plate	670 x 550 x 0.28	6,000	2251.20	3.46	4	CTCP Digital Double Layer plate	684 x 576 x 0.28	4,000	1575.94	3.46	5	CTCP Digital Double Layer plate	700 x 550 x 0.28	8,000	3080.00	3.46	6	CTCP Digital Double Layer plate	700 x 576 x 0.28	4,000	1612.80	3.46	7	CTCP Digital Double Layer plate	720 x 584 x 0.28	4,000	1681.92	3.46	8	CTCP Digital Double Layer plate	730 x 600 x 0.28	1,000	438.00	3.46	9	CTCP Digital Double Layer plate	745 x 605 x 0.28	5,000	2253.63	3.46	10	CTCP Digital Double Layer plate	830 x 645 x 0.28	10,000	5353.50	3.46	11	CTCP Digital Double Layer plate	840 x 584 x 0.28	2,000	981.12	3.46	12	CTCP Digital Double Layer plate	889 x 576 x 0.28	1,000	512.06	3.46	13	CTCP Digital Double Layer plate	1030 x 770 x 0.28	500	396.55	3.46	14	CTCP Digital Double Layer plate	1030 x 800 x 0.28	5,000	4120.00	3.46	Total Quantity Value and Sqmt				64,500	29131.72	Total CIF INDIA USD \$ 100,795.73					
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47.1.1 On comparison of the above Proforma Invoices, it is seen that quantity/measurement mentioned in the said Proforma Invoice issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to M/s. Cento Graph, Sri Lanka, and Proforma Invoice issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles are exactly matching and in the same order.

47.2 Copies of Commercial Invoices

Commercial Invoice issued by M/s Lucky Huaguang Graphics Co.Ltd.(China) to M/s.Cento Graph (Sri Lanka)

Corresponding Commercial Invoice issued by M/s.Cento Graph (Sri Lanka) to M/s.Mahalaxmi Textiles

LUCKY HUAGUANG GRAPHICS CO., LTD
718 South Station Road
Nanyang Henan China
Fax 86 377 63138450
Tel 86 377 63863074

COMMERCIAL INVOICE

TO: CENTOGRAPH
NO. 5 JOHN KEELLS HOUSING SCHEME,
POTHUWARAWA MALABE, SRI LANKA

INVOICE NO.: CG00321-22
DATE: AUG.04 2021
DISCHARGE PORT: COLOMBO PORT, SRI LANKA
PRICE TERM: FOB SHANGHAI PORT, CHINA
PAYMENT TERM: OA 90 DAYS AFTER BL SHIPPING DATE

Item	Description of Goods	Quantity	PRICE	Value
	DIGITAL PRINTING PPVG VIOLET PLATES	PCS	SQM	USD/SQM
1	684 x 576 x 0.28	16000	6303.74	3.40
2	686 x 551.5 x 0.28	48000	18159.79	3.40
3	700 x 576 x 0.28	2000	806.40	3.40
	Digital Offset UV-CTCP Plates	PCS	SQM	USD/SQM
1	684 x 576 x 0.28	1500	590.98	3.05
2	700 x 590 x 0.28	2500	962.50	3.05
3	700 x 590 x 0.28	1000	413.00	3.05
4	830 x 645 x 0.28	2500	1338.38	3.05
	TOTAL FOB VALUE	73500	28574.79	95997.58

BENEFICIARY'S BANK:
BANK OF CHINA, NANYANG BRANCH
ADD: 129 QIYI ROAD, NANYANG CITY, HENAN, CHINA
SWIFT NO.: BKCHCN33
BENEFICIARY:
LUCKY HUAGUANG GRAPHICS CO., LTD
ADD: 718 SOUTH STATION ROAD, NANYANG, HENAN, CHINA
ACCOUNT NO.: 255902555623

AND ALSO SENT OUT
Seen
25/04/23
23/04/23
23/04/23

Cent Graph
No.05, John Keells Housing Scheme, Pothuwarawa Road, Malabe, Sri Lanka.
Tel: +94-721418415, Mobile: +94-774533541, whatsapp: Email: info@centograph.com
www.centograph.com

COMMERCIAL INVOICE

Att: Mr. Rakesh.
M/s. Mahalaxmi Textiles.
2/4522, Shivas Zaveri Street,
Sagrapura, Surat,
Gujarat-395002,
India.
GST NO: 24AATPA1051C1ZD, PAN NO: AATPA1051C, IEC CODE: AATPA1051C.
Tel: +919374526633.
Email: rkajmeri@yahoo.com.

DATE: 15/11/2021
PI NO: CG00321ctcp-violet03
H.S CODE: 84425090
Country of Origin: Sri Lanka/Spain, EU.
Invoice No: MLCG151121ctcp/violet03

PAGE ONE

Item	DESCRIPTION OF GOODS	QUANTITY (SHEETS)	SQMT	PRICE USD/ M2	TOTAL AMOUNT USD \$
1	CTP Digital Violet plate	684 x 576 x 0.30	16,000	6303.74	3.81
2	CTP Digital Violet plate	686 x 552 x 0.30	48,000	18159.79	3.81
3	CTP Digital Violet plate	700 x 576 x 0.30	2,000	806.40	3.81
4	CTCP Digital plate	684 x 576 x 0.30	1,500	590.98	3.46
5	CTCP Digital plate	700 x 590 x 0.30	2,500	962.50	3.46
6	CTCP Digital plate	700 x 590 x 0.30	1,000	413.00	3.46
7	CTCP Digital plate	830 x 645 x 0.30	2,500	1338.38	3.46
	Total quantity Value and sqmt		73,500	28574.79	107,713.23

Total CIF INDIA USD \$ 107,713.24
Dollars USD \$ One Hundred and Seven Thousand Seven Hundred and Thirteen cts Twenty Three only.

Seen
25/04/23
Seen
11/11/21
Seen
25/11/21

REGISTERED
THE NATIONAL CHAMBER OF COMMERCE OF SRI LANKA
11 NOV 2021 2503

10715166 - 74.15 7,94,566/19
4599752 - 75.60 72,000/19
28574.79
23/04/23

47.2.1 On comparison of the above Commercial Invoices, it is seen that quantity/measurement mentioned in the Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to M/s. Cento Graph, Sri Lanka, and Commercial Invoice issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles are exactly matching and in the same order.

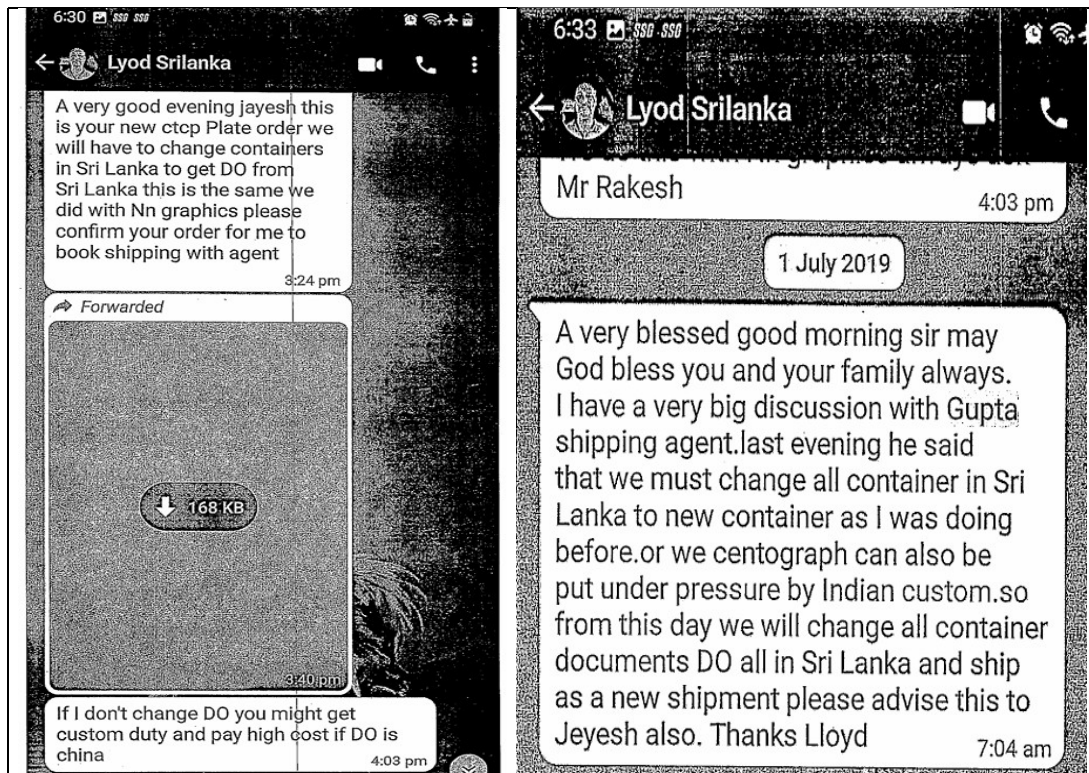
47.3 Therefore, from the above mentioned Proforma Invoice/Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to M/s. Cento Graph, Sri Lanka, it is clear that M/s. Cento Graph, Sri Lanka used to purchase Digital Offset Printing Plates/CTCP Plates from M/s. Lucky Huaguang Graphics Co.Ltd., China (i.e. of Chinese origin) and re-route them to India.

47.4 In this regard, I also find that Shri Rakesh Ajmeri, Proprietor of M/s. Mahalaxmi Textiles also has accepted that the goods supplied by M/s. Cento Graph, Sri Lanka were of Chinese origin. In his statements recorded under Section 108 of the Customs Act, 1962, he has *inter alia* deposed as under:-

- that, the quantity and measurement mentioned in both the Proforma Invoices and Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to M/s. Cento Graph, Sri Lanka, and Proforma Invoices and Commercial Invoices issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles were correctly matched and in the same order;
- that, at one instance, he found some discrepancy in the packing list and invoice of the goods imported by M/s. Mahalaxmi Textiles from M/s. Cento Graph, Sri Lanka; therefore, he directly contacted Mr. Llyod Harridge (owner of M/s. Cento Graph, Sri Lanka) for the clarification of the same, for which, Mr.Llyod Harridge sent the said Performa Invoice dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co.Ltd., China to him for tallying the same;
- that, Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co.Ltd., China were forwarded by Mr. Llyod Harridge (owner of M/s. Cento Graph, Sri Lanka) along with the Commercial Invoices of M/s. Cento Graph to him;
- that, at one instance he found some discrepancy in the packing list of goods imported from M/s.Cento Graph, Sri Lanka so he contacted Mr.Llyod Harridge for clarification of the same. In turn, Mr.Llyod Harridge sent him the packing list to tally the size and total quantity; and that the said packing list (Exhibit-8/RUD-15 of SCN) was sent to M/s.Cento Graph, Sri Lanka by a Chinese firm;
- that, he agrees that the goods exported by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles were of China origin and originally supplied by M/s. Lucky

Huaguang Graphics Co.Ltd., China. He accepted that from the documents, it was evident that the goods supplied by M/s. Cento Graph were of Chinese origin.

47.5 Further, I also find that WhatsApp chat held between Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka were recovered from the mobile phone of Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles. The screenshot of the said WhatsApp chats are reproduced below:-



47.5.1 From the above, it is seen that the following WhatsApp messages were sent by Mr. Llyod Harridge (owner of M/s. Cento Graph, Sri Lanka):-

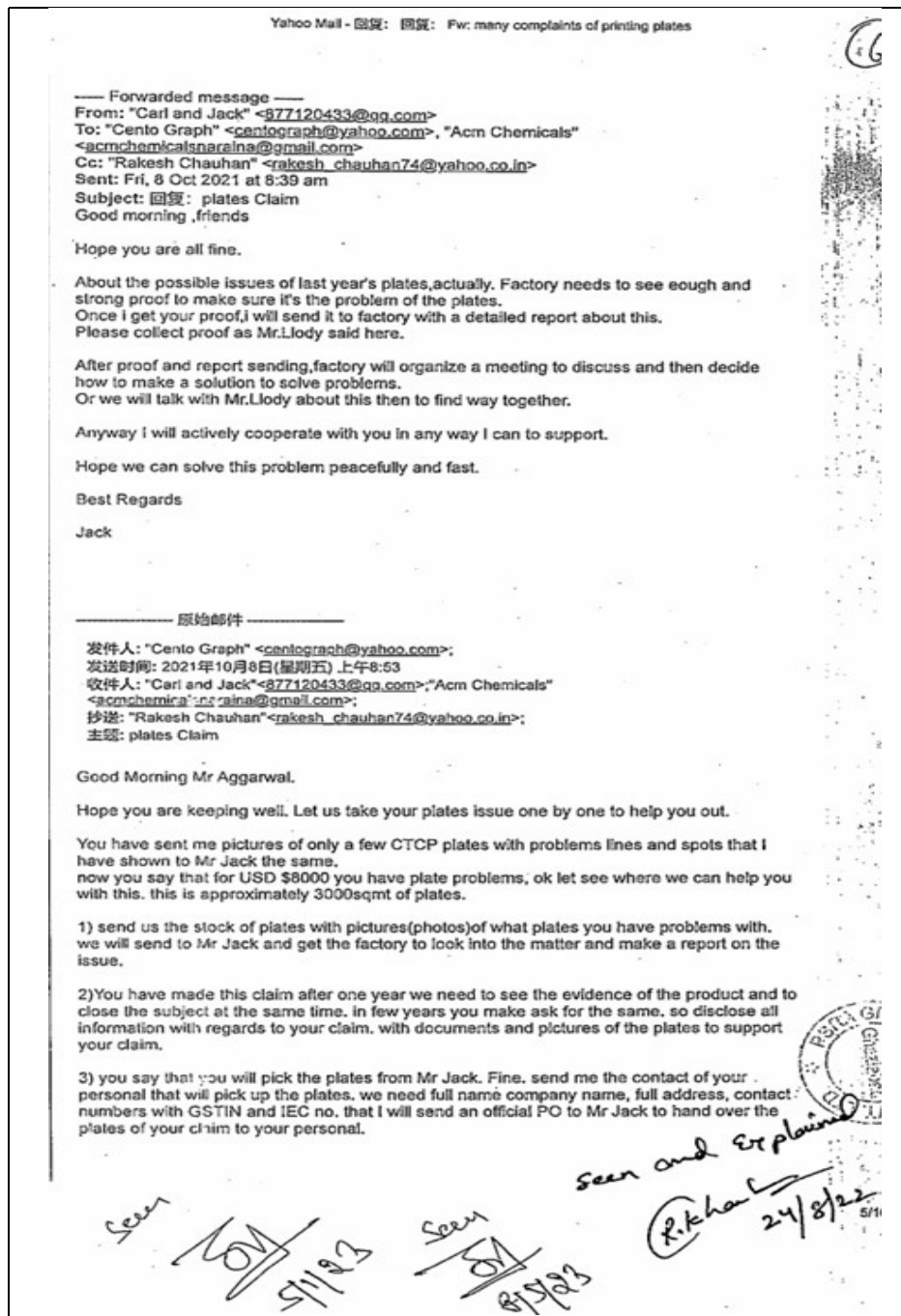
- (i) *"If I do not change DO you might get custom duty and pay high cost if DO is China"*
- (ii) *"A very good evening jayesh this is your new ctpc Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka this is the same we did with Nn graphics please confirm your order for me to book shipping with agent"*.
- (iii) *"A very blessed good morning sir may God bless you and your family always. I have a very big discussion with Gupta shipping agent. Last evening he said that we must change all container in Sri Lanka to new container as I was doing before or we Cento Graph can also be put*

under pressure by Indian Customs. So from this day we will change container documents DO all in Sri Lanka and ship as new shipment please advise this to Jayesh also. Thanks Llyod."

47.5.2 Thus, from the above, it is abundantly clear that the goods supplied by Mr. Llyod Harridge (M/s. Cento Graph, Sri Lanka) were of China origin; however, he used to change containers in Sri Lanka to get DO from Sri Lanka and also showed goods to be of Sri Lanka origin to save customs duty/evade Anti-Dumping duty. Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles has also accepted that the above said conversation on WhatsApp were made between him and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka, and accepted that the goods imported by M/s. Mahalaxmi Textiles from M/s. Cento Graph, Sri Lanka were of Chinese origin.

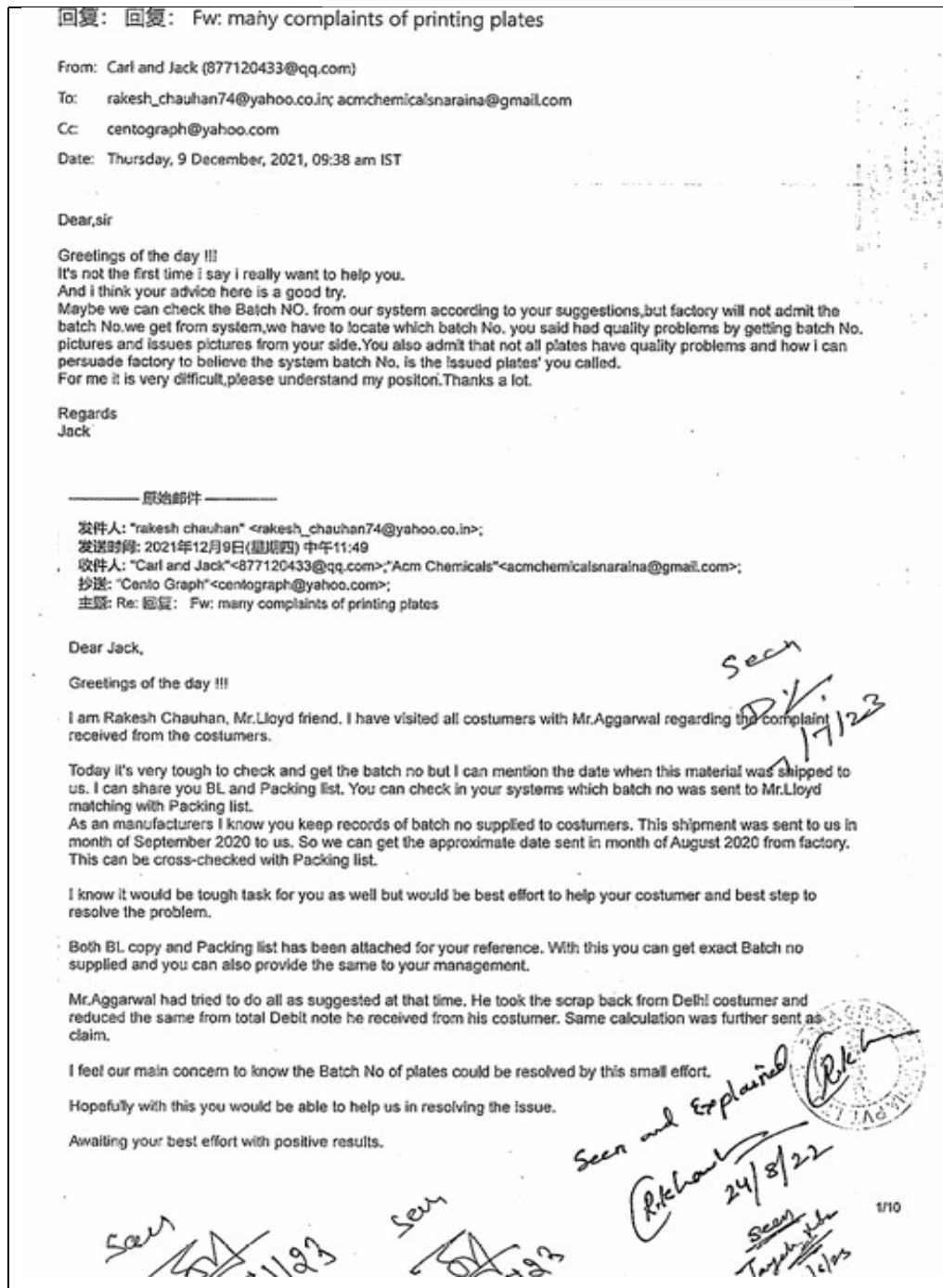
47.5.3 From the above messages, it is also quite clear that Shri Jayeshkumar P.Soni (Proprietor of M/s. Dhanvarsha Impex) was very much aware about the modus operandi of M/s. Cento Graph (Sri Lanka) of sourcing the goods (CTCP Plates) from China and changing the containers at Sri Lanka before exporting the same to India as a new shipment. As such, I find that Shri Jayeshkumar P. Soni, Proprietor of M/s. Dhanvarsha Impex was very much aware that the goods imported by him from M/s. Cento Graph, Sri Lanka were actually of Chinese origin.

48. Further, I also find that incriminating documents and printout of email correspondences were resumed by the DRI during the search conducted at the premises of M/s.PSRA Graphics India Pvt. Ltd. on 13.06.2022. On going through the said email correspondences held between Shri Rakesh Kumar Chauhan (Director of M/s.PSRA Graphics India Pvt. Ltd.), Mr. Jack of China, and Mr. Llyod Harridge of M/s. Cento Graph and buyers namely, M/s. ACM Chemicals and M/s.NN Graphics, I find it overtly evident that the goods supplied by M/s. Cento Graph, Sri Lanka to Indian importers were actually of Chinese origin, manufactured in China and exported to India routing through M/s. Cento Graph, Sri Lanka. The print-out of some relevant pages of the said emails are reproduced below:

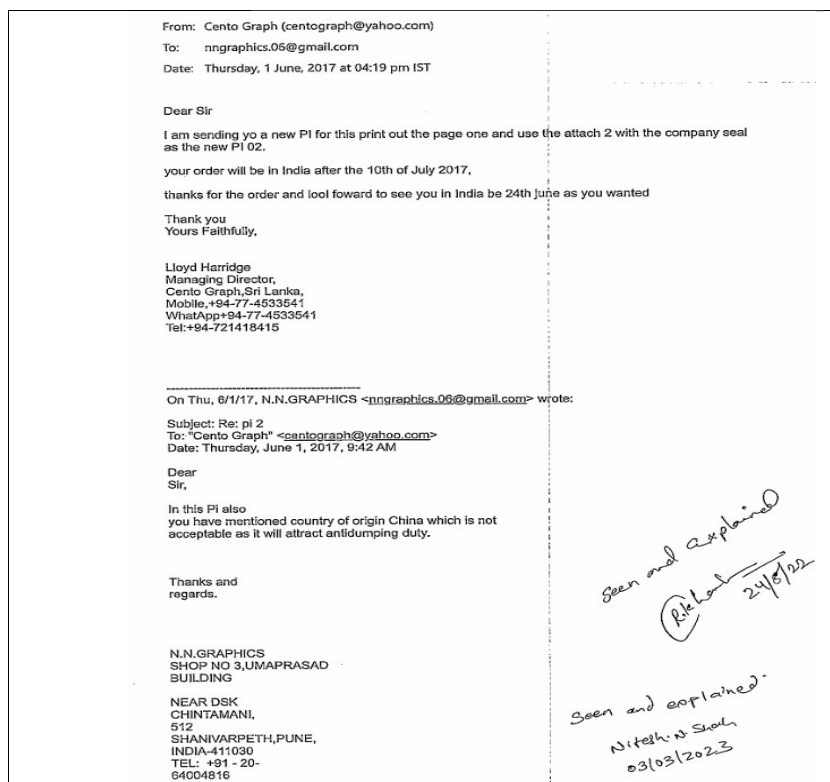
(i) Emails dated 08.10.2021 between the above parties

- From these emails, it is seen that a mail was sent by M/s. Cento Graph to M/s.ACM Chemicals and the Chinese supplier, Mr.Jack with CC to Rakesh Chauhan regarding complaints of printing plates raised by M/s.ACM Chemicals. In reponse, Mr.Jack has replied to all stating inter alia that “*Factory needs to see enough and strong proof to make sure it's the problem of the plate*”

(ii) E-mails dated 09.12.2021 sent by Rakesh Chauhan to Mr.Jack and buyer M/s.ACM Chemicals with CC to M/s. Cento Graph



- From the above mails, it is seen that Shri Rakesh Chauhan had sent the mail to Mr. Jack with CC to M/s. Cento Graph wherein he has stated that he was Mr.Lloyd's friend and has inter alia, informed to Mr. Jack that the complaint of the customers regarding quality of the plates were genuine. In response, Mr. Jack of China has sent reply mail dated 09.12.2021 to Shri Rakesh Chauhan with CC to M/s. Cento Graph.

(iii) **E-mail dated 01.06.2017 sent by M/s.NN Graphics to M/s.Cento Graph**

➤ The copy of PI (Proforma Invoice) dated 01.07.2017 is reproduced below:-

Cent Graph

/22, Anura Mawatha, Anderson Road, Kalubowila, Sri Lanka., Tel: +94-721418415, Mobile: +94 774533541 What: Email: centograph@yahoo.com.

Proforma Invoice
(ORIGINAL)

P.I. NO: NN.Graphics201705/002
Date 01st June 2017
H.S.Code: 3701302400/370130221
H.S.Code: 3707901000.
Country of Origin: China

Client: Nitish Shah
3, Umamprasad Building,
Niwari Peth, Pune - 411030
- 64004816,

Commodity and Specifications and Packing	Quantity	Unit Price	Total Am
Plates JINI			
140x485x.20mm	1000 Plates	USD2.55/SQMT	USD 420.495
100x520x.20mm	1000 Plates	USD2.55/SQMT	USD 530.40
115x520x.20mm	2500 Plates	USD2.55/SQMT	USD1375.721
115x560x.20mm	1000 Plates	USD2.55/SQMT	USD592.62
110x645x.30mm	500 Plates	USD2.55/SQMT	USD419.411
110x720x.30mm	500 Plates	USD2.55/SQMT	USD468.18
130x650x.30mm	500 Plates	USD2.55/SQMT	USD439.237
150x650x.30mm	1000 Plates	USD2.55/SQMT	USD911.625
150x770x.30mm	500 Plates	USD2.55/SQMT	USD490.875
160x670x.30mm	3500 Plates	USD2.55/SQMT	USD3348.66
160x730x.30mm	1500 Plates	USD2.55/SQMT	USD1675.35
165x760x.30mm	1500 Plates	USD2.55/SQMT	USD1758.73
160x890x.30mm	500 Plates	USD2.55/SQMT	USD692.197
165x724x.30mm	250 Plates	USD2.55/SQMT	USD283.853
165x830x.30mm	250 Plates	USD2.55/SQMT	USD341.285
175x915x.30mm	150 Plates	USD2.55/SQMT	USD250.241
170x927x.30mm	100 Plates	USD2.55/SQMT	USD182.016
170x970x.30mm	100 Plates	USD2.55/SQMT	USD190.459
170x1030x.30mm	120 Plates	USD2.55/SQMT	USD242.688
180x1030.30mm	120 Plates	USD2.55/SQMT	USD252.144

continued on page two

Seen
Rikhat
24/6/22

Seen and explained
Nitish Shah
03/03/2023

Cent Graph
No. 33/22, Anura Mawatha, Anderson Road, Kalubowila, Sri Lanka., Tel: +94-721418415, Mobile: +94 774533541 What: Email: centograph@yahoo.com.

➤ From the above, it is observed that vide their email dated 01.06.2017, M/s. NN Graphics informed to M/s. Cento Graph that 'in PI, M/s. Cento Graph had

mentioned country of origin China which was not acceptable as it would attract antidumping duty'. It is also observed that in the attached Proforma Invoice the country of origin is evidently mentioned as China.

48.1 Further, I also find that Shri Rakesh Kumar Chauhan, Director of M/s.PSRA Graphics India Pvt. Ltd. in his statement recorded under Section 108 of the Customs Act, 1962 deposed that the name of Mr. Jack and his email ID was referred by Mr. Llyod Harridge of M/s. Cento Graph as the responsible person because Mr. Jack of China was the producer of the goods. He also accepted that the goods supplied by M/s.Cento Graph were of Chinese origin.

48.2 From the above email correspondences exchanged between Shri Rakesh Kumar Chauhan (Director of M/s. PSRA Graphics India Pvt. Ltd.), Mr. Jack of China, Mr. Llyod Harridge of M/s. Cento Graph, M/s. ACM Chemicals and M/s. NN Graphics, it is undoubtedly and absolutely clear that the goods supplied by M/s. Cento Graph to the Indian importers were of Chinese origin, manufactured in China. I, therefore, conclusively find that the goods supplied by M/s. Cento Graph, Sri Lanka to the Indian importers were of Chinese origin, manufactured in China.

49. It is also seen that the DRI investigation was extended to the shipping lines/shipping line agents who transported the goods from Colombo to Indian ports. During investigation, M/s. Efficient Marine Services LLP, Mumbai furnished copies of some documents which were filed at load port in Sri Lanka. The said documents included copies of BL, HBL, and other documents submitted to Sri Lanka Customs for change of containers at Colombo, which were received from China, along with Sri Lanka Port authority documents related to goods exported by M/s. Cento Graph to Indian importer.

49.1 On going through the said documents, I find that the goods supplied by M/s. Cento Graph, Sri Lanka to the Indian entity were purchased by M/s. Cento Graph from Chinese entities, and when the goods shipped from China reached Colombo port, they reworked the containers at Colombo port through their forwarders, and then they shipped the same goods, as new shipment, from Colombo to India. After arrival of the said goods at Nhava Sheva, the Indian importers had cleared the goods by filing Bills of Entry showing/declaring the goods to be of Sri Lanka origin. For illustrative purpose, an application given by forwarder M/s.Eagle Global Express (Pvt.) Ltd., Sri Lanka to the Sri Lanka Customs for rework of

50. It is also seen that the DRI investigation was extended to Freight Forwarders viz., M/s. Nekoda Global Logistics India Pvt. Ltd., Chennai and M/s. Worldgate Express Lines International Pvt. Ltd., who had arranged the logistics and provided HBL/MHL for goods imported by the Indian importers from M/s. Cento Graph, Sri Lanka, and statements of the responsible persons of the said Forwarders were recorded under Section 108 of the Customs Act, 1962.

50.1 In his statement dated 16.03.2023 recorded under Section 108 *ibid*, Shri Joseph G, Director of M/s. Nekoda Global Logistics India Pvt. Ltd., Chennai *inter alia*, stated that M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka was their overseas agent in Sri Lanka, and that all the correspondences with the overseas forwarding agent and the consignee in India were done through their mail ID josephg@nekoda.in. He agreed that the applications for rework of containers at Colombo port were given to Sri Lanka Customs by their overseas counterpart i.e, M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka. He also agreed that the goods supplied by M/s. Cento Graph were actually originated from China.

50.2 Similarly, in his statement dated 10.03.2023 & 23.05.2023 recorded under Section 108 *ibid*, Shri Santosh Chavan, Branch Manager of M/s. Worldgate Express Lines International Pvt. Ltd. *inter alia* stated that all the correspondences with the overseas forwarding agent i.e., M/s. Worldgate Express Lines Lanka Pvt. Ltd. and the consignee in India were done through their mail ID santosh.mum@worldgate.in. He agreed that applications had been made by their overseas counterpart to Sri Lanka Customs to carry out transshipment operation of containers citing that there was no direct service from loading port (China) to Nhava Sheva port. He also agreed that the goods imported by Indian importers from M/s. Cento Graph were actually of Chinese origin and same were routed through Sri Lanka.

51. I find that Shri Jayeshkumar P. Soni, Proprietor of M/s. Dhanvarsha Impex in his voluntary statements recorded under Section 108 of the Customs Act, 1962 admitted that the goods viz. CTCP Digital Double Layer imported by M/s Dhanvarsha Impex from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty. I also find that during the course of investigation, M/s Dhanvarsha Impex has made payment of Anti-dumping duty amounting to Rs. 1,00,00,000/-, vide TR-6 Challan no. HC-3 dated 01.06.2023 and HC-93 dated 07.08.2023 (Rs.50,00,000/-

each), leviable on goods i.e. CTCP Digital Double Layer of Chinese origin imported by M/s Dhanvarsha Impex routing through Sri Lanka.

51.1 I find that in his voluntary statements dated 14.09.2022, 10.02.2023 & 30.06.2023 recorded under Section 108 ibid, Shri Jayeshkumar P. Soni, Proprietor of M/s. Dhanvarsha Impex has inter alia also deposed as under:-

- (i) M/s. Dhanvarsha was a proprietorship firm engaged in trading of Digital Printing Double Layer Plates for which they imported CTCP Digital Double Layer from M/s Cento Graph, Sri Lanka;
- (ii) He agreed with the contents of the panchnama dated 13.06.2022;
- (iii) Shri Rakesh Kumar Chauhan of M/s. PSRA Graphics India Pvt. Ltd., New Delhi had introduced him with Shri Llyod Harridge, owner of M/s Cento Graph, Sri Lanka.;
- (iv) He used to place order to Shri Llyod Harridge, and Shri Llyod Harridge used to forward the Performa invoice for the supply of CTCP Digital Double Layer plates to him;
- (v) After perusing the documents furnished by M/s Efficient Marine Services LLP, he agreed that the goods supplied by M/s. Cento Graph, Sri Lanka to the Indian importers were originated from Shanghai (China) and were reworked in Colombo before being further exported to India.
- (vi) He agreed that he had also imported Digital Plates from M/s. Cento Graph, Sri Lanka during the period from May 2020 to September, 2022, and as per practice of Mr. Llyod Harridge, the goods supplied to them were also Chinese origin manufactured in China. He stated that he would discuss the matter with Mr. Llyod Harridge and pay the Anti-dumping duty within short period in token of their cooperation in the ongoing inquiry.
- (vii) After perusing the Panchnama dated 16.09.2022 drawn at the premises of M/s Oceangate Container Terminals Pvt. Ltd.-CFS, Palaspe, Panvel, he agreed that there were some marks and numbers written in Chinese language on the boxes of the goods stuffed in the container No. CAXU6163565, which were imported by M/s Dhanvarsha Impex. He accepted that the said goods were purchased from M/s. Cento Graph, Sri Lanka, which might be of Chinese origin, brought by M/s Cento Graph from China.

(viii) He went through the voluntary statements of Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles recorded under Section 108 ibid and the following WhatsApp messaged sent by Mr. Llyod Harridge-

- *"If i do not change DO you might get custom duty and pay high cost if DO is China"*
- *"A very good evening jayesh this is your new ctcp Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka this is the same we did with Nngraphios please confirm your order for me to book shipping with agent"*.
- *"A very good evening jayesh this is your new ctcp Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka this is the same we did with Nngraphios please confirm your order for me to book shipping with agent"*.
- *"A very blessed good morning sir may God bless you and your family always. I have a very big discussion with Gupta shipping agent. Last evening he said that we must change all container in Sri Lanka to new container as I was doing before or we Cento Graph can also be put under pressure by Indian Customs. So from this day we will change container documents DO all in Sri Lanka and ship as new shipment please advise this to Jayesh also. Thanks Llyod."*

After going through the same, he stated that in view of the above evidences shown to him, it was quite clear that goods exported by M/s Cento Graph, Sri Lanka were of Chinese origin.

- (ix) After going through the email correspondences held between Shri Rakesh Kumar Chauhan, Mr. Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph, M/s ACM Chemicals and M/s. NN Graphics, he stated that on the basis of the said mails, it is apparent that the goods supplied by M/s. Cento Graph were Chinese origin.
- (x) After going through the documents forwarded by Sri Lanka Customs, he stated that CTCP Digital Double Layer imported from M/s Cento Graph, Sri Lanka were initially imported by M/s Cento Graph from China and then exported to India. He agreed that goods i.e. CTCP Digital Double Layer imported by M/s Dhanvarsha Impex from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty.
- (xi) He agreed that since the goods i.e., CTCP Digital Double Layer imported by M/s Dhanvarsha Impex were Chinese origin, the Anti-dumping duty @ 0.77 USD per square metre as per Notification No. 21/2000-Customs (ADD) dated 29.07.2020

issued by the CBIC, New Dell was leviable on the same but they had not paid the applicable Anti-dumping duty on the import of CTCP Digital Double Layer.

52. Therefore, from the foregoing discussions, it is apparent that the goods viz., Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates falling under CTH 94425090, imported by M/s. Dhanvarsha Impex from M/s. Cento Graph, Sri Lanka were of Chinese origin, manufactured in China, and were routed through Sri Lanka to evade Anti-dumping duty. From the above, I also find that the instant case is based on solid, cogent and direct documentary evidence against M/s. Dhanvarsha Impex and others; and it is proven beyond doubt that the goods imported by M/s. Dhanvarsha Impex were of Chinese origin, manufactured in China.

53. I observe that, in their defence written reply, M/s.Dhanvarsha Impex and its proprietor Shri Jayeshkumar P. Soni have inter alia contended that the impugned SCN is issued based on assumptions and presumptions and that the entire case is primarily based on statements recorded under pressure and documents, WhatsApp chat recovered during the course of investigation in the case of M/s. Mahalaxmi Textiles and no specific primary evidence/corroborative evidence has been produced by department to establish the goods are imported from China and not from Sri Lanka.

53.1 However, from the discussions made supra, it is quite evident that the impugned SCN is issued based on solid, cogent, tangible and direct documentary evidence against M/s.Dhanvarsha Impex and others. It is also conclusively proved that the goods imported by M/s.Dhanvarsha Impex from M/s. Cento Graph, Sri Lanka were of Chinese origin, manufactured in China, and were re-routed through Sri Lanka to evade Anti-dumping duty.

53.1.1 I also observe that M/s.Dhanvarsha Impex has relied upon case laws viz., Oudh Sugar Mills Ltd. - 1978 (2) E.L.T. J172 (S.C.) and Universal Polyethylene Inds. - 2001 (130) E.L.T. 228 (Tri.). On going through the said case laws, it is seen that the same are pertaining to Central Excise issue of clandestine production/ removal, wherein it is inter alia held that the charges would not be sustainable unless there is tangible evidence. Thus, I find that the said case laws are different and not related to the instant case. Further, I also find that the instant case is based on sufficient, cogent and tangible documentary evidence, therefore, the said case laws are not applicable in the instant case.

53.2 I also find from the record that the statements recorded under Section 108 of the Customs Act, 1962 were voluntary and none of the persons whose statement(s) were recorded has raised any objection to the content of their statement(s) or/and complained that their statements were recorded under pressure. It is also worth mention here that all the said statements are based on corroborative documentary evidence retrieved/ procured during the course of investigation and some of them are also mentioned, on sample basis, in the paras supra, for illustrative purpose. I also find that it is a settled law that, the statement recorded under Section 108 of the Customs Act is a material piece of evidence and can be used as substantive evidence. The statements recorded under Section 108 of the Customs Act in this case are consistent, the witnesses are supporting each other regarding the origin of goods and such statements are further corroborated by the documentary evidences. There is a catena of judgments wherein it has been held that such statements recorded under Section 108 of the Customs Act, 1962 hold significant evidentiary value and are admissible.

53.2.1 Further, I observed that M/s Dhanvarsha Impex has inter alia relied upon the following case laws wherein it is inter alia held that in the absence of other supporting evidence, the confessional statement and statements of co-accused cannot be made the sole basis for deciding against the assessee; and that, such a confession cannot be made the foundation of a conviction and can only be used in support of other evidence. They have relied upon the following case laws;

- (i) *Manidipa Debroy Chowdhury v. Commissioner- 2020 (374) E.L.T.133(Tri. Kol)*
- (ii) *CC Lucknow Vs Shakil Ahmad Khan-2019 (366) E.L.T. 634 (All.)*
- (iii) *K. Babu Rao and Others v. Collector of Customs, 1986 (26) E.L.T. 766*
- (iv) *Asst CC, Bombay Vs Hasanali Rumi - 2020 (372) E.L.T. 527 (Bom.)*
- (v) *Superintendent of Customs v. Bhanabhai K. Patel [1995(75)E.L.T. 508 (S.C.)*
- (vi) *Haroom Haji v. State of Maharashtra [AIR 1968 SC 832]*
- (vii) *Ravi Garg v. C.C., New Delhi [1996 (86) E.L.T. 357 (T)]*
- (viii) *Jaswinder Singh v. C.C., New Delhi [1996 (83) E.L.T. 175 (T)]*
- (ix) *Jai Narain Verma v. C.C., Delhi [1995 (76) E.L.T. 421 (T)]*

On going through the above case laws, it is seen that in the said cases, the cases were solely based on statements recorded under the Act. However, as discussed above, the instant case is primarily based on cogent and tangible documentary evidences. Further, in the instance case, all the statements recorded under Section 108 of the Customs Act are corroborated by cogent and tangible documentary evidence. Therefore, I find that the case laws relied upon by M/s. Dhanvarsha Impex are not applicable in the instant case.

53.3 Further, it is seen that M/s. Dhanvarsha Impex has contended that printouts obtained from WhatsApp and mobile cannot be relied upon to demand duty or to impose penalty in absence of other corroborative evidence. They have also contended that emails cannot be relied in the present case as conditions of Section 65 of Evidence Act is not satisfied. They have cited the following case laws in support of their claim.

- (i) *Belgium Glass & Ceramics Pvt. Ltd. v. CCE, Vadodara – I* [CESTAT Final Order No. A/10543-10545/2015 dated 12.05.2015]
- (ii) *Century Metal Recycling Pvt. Ltd. v. CCE, Delhi-IV* [2016 (333) ELT 483 (Tri. - Del.)]
- (iii) *Sakeen Alloys Pvt. Ltd. v. CCE, Ahmedabad* [2013 (296) ELT 392 (Tri. Ahd)]
- (iv) *Commissioner v. Belgium Glass & Ceramics Pvt. Ltd.* 2016(337)ELT A204 (SC)
- (v) *Modern Laboratories v. Commissioner* — 2017 (358) E.L.T. 1179 (Tribunal)

53.3.1 In this regard, I observe that, in the instant case, the WhatsApp messages, emails, etc. were retrieved from the mobile phone by the Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai Zonal Unit, Mumbai and the same were done under the Panchnama dated 23.09.2022 for recordings of the procedure carried out for retrieval of data contained in the phone. It may be noted that the Cyber Forensic Laboratory of DRI is a premium government forensic laboratory which has been established in partnership with National Cyber Forensic Laboratory (NCFL—a setup of the Union Home Ministry). Further, I also observe that the content of the said WhatsApp messages, emails, etc. substantiated by cogent documentary evidence, and the content of the said WhatsApp messages, emails, etc. has also been acknowledged/ admitted by the concerned persons in their voluntary statement recorded under Section 108 of the Customs Act, 1962. Therefore, I find that the said WhatsApp messages, emails, etc. retrieved from the mobile phones are admissible under Section 65B of the Evidence Act. Further, since in the instant case, the content of WhatsApp messages, emails, etc. are corroborated by cogent documentary evidence and were retrieved by Cyber Forensic Laboratory, therefore, I find that the case laws cited by M/s. Dehanvarsha Impex are differentiable and hence not applicable in the instant case.

53.4 I also observe that in their defence reply, M/s. Dhanvarsha Impex has contended that all Chinese originated goods are not subject to anti-dumping duty. Notification No. 21/2020 dated 29.07.2020 provides for various rates of antidumping duty such as 0.55 USD/SQM, 0.60 USD/SQM, 0.77 USD/ SQM and Nil for certain Chinese manufacturers. Department has

not provided evidence to apply for 0.77 USD/SQM being highest rate of anti-dumping duty. The department has relied upon invoices issued by Lucky Huaguang Graphics Co Ltd to allege evasion of anti-dumping duty. It is submitted that in terms of Sr. No. 1 of Notification No.21/2020, the applicable rate of anti-dumping duty for goods produced by Lucky Huaguang Graphics Co Ltd is 0.55 USD/SQM. Thus, demand is not sustainable, and on this ground alone, the impugned SCN is liable to be dropped.

53.4.1 In this regard, I find that the above contention of M/s.Dhanvarsha Impex is devoid of merit. As per Notification No. 02/2020-Customs (ADD) dated 30.01.2020, the rate of Anti-dumping duty (ADD) for Digital Offset Printing Plates produced by M/s.Lucky Huaguang Graphics Co. Ltd. is 0.55 USD/SQM, if the same is exported from China, however, if the said Chinese good are exported from any other country (other than China), the rate of ADD is 0.57 USD/SQM irrespective of who produced the said goods. Further, I find that the said ADD rate was enhanced from 0.57 USD per SQM to 0.77 USD per SQM on the said goods w.e.f. 29.07.2020 by Notification No. 21/2020-Customs (ADD) dated 29.07.2020. It is undisputed fact that, in the instant case, the Chinese origin goods (CTH 84425090) had been exported by M/s.Cento Graph, Sri Lanka. It is also observed that, vide the impugned SCN, the ADD has been demanded @0.57 USD per SQM for the goods imported prior to 29.07.2020, and the ADD has been demanded @0.77 USD per SQM for the goods imported w.e.f. 29.07.2020. As such, I find that the demand made vide the impugned SCN is proper.

53.5 In view of the above, I find that the contentions of M/s.Dhanvarsha Impex and its proprietor Shri Jayeshkumar P. Soni are factually incorrect and devoid of merit, and therefore, are liable to be discarded.

54. I find that the Noticee has sought cross-examination of the persons whose statements were recorded under Section 108 of the Customs Act, 1962 as well as the panchas who were present during course of search and panchanamas stating that only basis of department case is pendrive found in the residential premises of the noticee and statement of various co-noticees. They have placed reliance upon following case laws:-

- Basudev Garg v. Commissioner — 2013 (294) E.L.T. 353 (Del.)
- CCE, Delhi-1 v. Kuber Tobacco India Ltd. – 2016 (338) ELT 0113 (Tri. Del.)
- Jindal Drugs Pvt. Ltd. v. Union of India – 2016 (340) ELT 67 (P&H)
- J & K Cigarettes Ltd. v. Collector of Central Excise–2009(242)ELT 189 (Del.)

- M/s Dhakad Metal Corporation v. CCE & ST, Daman – 2015 (330) ELT 561 (Tri. Ahd.)
- Krishna Brothers v. Commissioner of Customs) [2017 (356) E.L.T. 222 (Ker.)]
- Andaman Timber Industries v. Commissioner of Central Excise, Kolkata, (2016) 15 SCC 785 = 2015 (324) E.L.T. 641 (S.C.) = 2017 (50) S.T.R. 93 (S.C.)
- M/s. Kanungo and Co. v. Collector of Customs, Calcutta, 1973 KHC 589 : (1973) 2 SCC 438 = 1983 (13) E.L.T. 1486 (S.C.)

54.1 In this regard, I find that in the instant case, neither the residential premises of M/s. Dhanvarsha Impex was searched nor a pendrive was seized from his premises during the course of search proceedings. Search was conducted at the office premises of M/s. Dhanvarsha Impex, located at 2/84/B, Faram Mohollow, Near Ravan Tad Temple, Rustampura, Surat on 13.06.2022 and during the search proceedings, some incriminating documents and a mobile phone were seized under panchnama dated 13.06.2022. Thus, it is apparent that the above submissions of M/s. Dhanvarsha Impex that the only basis of department case is pendrive found in the residential premises of the noticee, is factually incorrect. Further, I find that during the course of investigation, voluntary statements of responsible persons of other importing entities/concerned entities were recorded wherein they have corroborated the documentary evidences produced before them. I also find that none of the said persons has raised any objection to the content of their statement(s) or retracted from their statement(s). I also find that during the course of search and panchnamas proceedings, besides the panchas and officers, responsible persons(s) of the concerned entities were also present and they have agreed with the content of the said panchnamas and have also duly signed the same. Further, I also find that the instant case is primarily based on documentary evidence. The statements recorded are in the nature of additional supporting evidence. It is worth mentioning here that, the proprietor of M/s.Dhanvarsha Impex have also substantiated the content of the statements of other persons, in his voluntary statements recorded under Section 108 of the Act *ibid*.

54.2 I find that the said voluntary statements were primarily based on the documents procured/obtained/retrieved during the course of investigation. The investigation report & documents provided by Sri Lanka Customs revealed that the goods viz. CTCP Digital Double Layer Plates imported by M/s Dhanvarsha Impex from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka. It also revealed that the goods

supplied by M/s. Cento Graph, Sri Lanka to M/s Dhanvarsha Impex were purchased by M/s. Cento Graph from Chinese entities, and when the goods shipped from China reached Colombo port, they reworked the containers at Colombo port through their forwarders, and thereafter, they shipped the same goods, as new shipment, from Colombo to India. Shri Jayeshkumar P Soni, proprietor of M/s. Dhanvarsha Impex has also admitted the same in his voluntary statements recorded under Section 108 ibid. Thus, it is clear that similar assertions were made in the voluntary statements of responsible persons of other concerned entities as well as in the statements made by the proprietor of M/s.Dhanvarsha Impex.

54.3 From the above, it is clear that the instant case is primarily based on the documentary evidences, and the statements of persons of other entities, who had also imported similar goods from M/s.Cento Graph, Sri Lanka, are additional and supportive.

54.4 Further, I have gone through all the case laws cited by M/s. Dhanvarsha Impex and observe that in all those cases, the case was primarily based on the statements recorded during the inquiry without other corroborative evidences. However, as is obvious from the discussions supra that the instant case is primarily based on solid, direct, tangible and clinching documentary evidence and the statements are additional and supportive in nature, therefore, I find that the facts of the case laws cited by M/s. Dhanvarsha Impex are differentiable from the facts of the instant case. In the instant case, based on such cogent and tangible documentary evidences, it has been proven beyond doubt that the goods viz., CTCP Digital Printing Plates imported by M/s. Dhanvarsha from M/s. Cento Graph, Sri Lanka, were of Chinese origin, manufactured in China. The Sri Lanka Customs authorities have also reported that the goods exported by M/s.Cento Graph, Sri Lanka were of China origin. I also find that M/s. Dhanvarsha has nothing to show and prove in their defence that the said imported goods were not of Chinese origin. I find that none of the case laws referred by M/s. Dhanvarsha is related to import of CTCP Digital Printing Plates of Chinese origin but routed through Sri Lanka to evade payment of Anti-dumping duty. Hence, I find that the case laws referred by M/s. Dhanvarsha can be differentiated from the present facts of the case, and therefore, the same are not applicable in the instant case.

54.5 Further, I find that M/s. Dhanvarsha Impex has sought cross-examination of the said persons without indicating any specific reason. In this regard, I rely upon the case of Fortune

Impex Vs. Commissioner of Customs, Calcutta [2001(138) E.L.T.556 (Tri. -Kolkata)], wherein Hon'ble Tribunal has *interalia* observed that:

"...it is not required that in each and every case, cross-examination should necessarily be allowed. There is no absolute right of cross-examination provided in the Customs Act. The Advocate had given a list of 26 persons for cross-examination without indicating the specific reasons for cross-examining the...it cannot be said that there was violation of principles of natural justice by not allowing the cross-examination of the persons sought by him."

54.5.1 The above view taken by the Tribunal has been affirmed by Hon'ble Supreme Court – [2004 (164) E.L.T. 4 (S.C.) & 2004 (167) E.L.T.A. 134 (S.C.)].

54.6 Similarly, I rely on the decision of the Hon'ble CESTAT Kolkata in the case of Dipu Das v/s Commissioner of Customs Kolkata reported as 2010(261)ELT408 (Tri-Del), wherein it has been *interalia* held that;

".....In adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same".

54.7 In view of the above case laws, I find that in the instant case, the request of M/s. Dhanvarsha Impex is not admissible, since they have not specified any valid reason for seeking the cross-examination of their job workers. Further, I rely upon the following case laws, which are relevant in the instant case :-

- (i) In the case of Union of India vs. Bhagwati Steel Rolling Mills (2012) 285 ELT 481 (Tri-Del), the Hon'ble Tribunal held that :-

"the request for cross-examination of witnesses and inspection of documents cannot be allowed as a matter of right -----"

- (ii) In the case of Commissioner of Central Excise vs. Hindustan Sanitaryware & Industries Ltd. (2014) 303 ELT 209 (SC), the Supreme Court held that:-

"the adjudicating authority has the discretion to allow or reject the request for cross-examination of witnesses -----"

- (iii) In the case of CCE vs. Venus Castings (P) Ltd. (2016) 332 ELT 577 (Tri-Ahmd), the Hon'ble Tribunal held that:-

"the request for relied upon documents and cross-examination of witnesses was not allowed as it was made at a belated stage -----"

54.8 Further, I also find that the right to cross-examine flows from the principles of Natural Justice. However, it needs to be examined whether cross-examination is necessary in taxation matters, where facts are visible on the face of the record. Here, I take note of Section 56 of the Indian Evidence Act, of 1872, which prescribes that facts judicially noticeable need not be proved. In this connection, I reply upon the decision of the Supreme Court [report in AIR 1963 SC 375 (State of Mysore v. Shivabasappa)], wherein it was held that decision in quasi-judicial proceedings the authorities are not bound by the strict rules of evidence and procedure. They can get information through their sources, which could be acted upon provided the result of the inquiry, on which they are acting, was made available to the accused person, to give him an opportunity to rebut the same.

54.9 Based on the above-discussed judgments of higher judicial forums and documentary evidence, I find that M/s. Dhanvarsha's request for cross-examination of the persons whose statements were recorded under Section 108 ibid, the panchas, etc., were just a dilatory tactics. They have not specified any valid reason for seeking the cross-examination. I find that they have already been given sufficient opportunity to present their case during the course of investigation, as well as during the adjudication proceedings. Therefore, M/s. Dhanvarsha would not be prejudiced by the rejection of their request, as they have already had ample opportunity to present their case on merit and submit documentary evidence, if any, in their defense. Accordingly, I observe that there is no need for any cross-examination, when the case is primarily based on documentary evidence and the oral statements are just supporting in nature.

55. It is also seen that M/s. Dhanvarsha has referred a number of case laws in their written replies. However, on going through the said case laws, I find that the facts of the cases cited by M/s. Dhanvarsha are different from the facts of the instant case. I find that in the instant case, based on direct, cogent, conclusive and clinching evidence, it has been proven beyond doubt that the goods viz., CTCP Digital Printing Plates imported by M/s. Dhanvarsha from M/s. Cento Graph, Sri Lanka, were of Chinese origin, manufactured in China. The Sri Lanka Customs authorities have also reported that the goods exported by M/s. Cento Graph, Sri Lanka were of China origin. In this regard, I also find that M/s. Dhanvarsha has nothing to show and prove in their defence that the said imported goods were not of Chinese origin. I find that none of the case laws referred by M/s. Dhanvarsha is related to import of CTCP

Digital Printing Plates of Chinese origin but routed through Sri Lanka to evade payment of Anti-dumping duty. Hence, I find that the case laws referred by M/s. Dhanvarsha can be differentiated from the present facts of the case, and therefore, the same cannot be relied upon in the present case.

56. I also find that it is a settled position that Customs Act is a civil act, and the present case before me is a civil case. I also find that unlike a criminal case, civil disputes are decided on **preponderance of probabilities**. So, it is settled law that every allegation is not required to be proved with mathematical precision. It is also noticed that evidences collected in the subject case as discussed in the Show Cause Notice and in the paras supra clearly highlight the modus operandi to import CTCP Digital Printing Plates of Chinese origin routed through Sri Lanka. Further, it is well settled law that, being a civil case, the department is not required to prove its case with mathematical precision to a demonstrable degree. The law does not require the department to prove the impossible. All that it requires is the establishment of such a degree of probability that a prudent man may, on its basis, believe in the existence of the fact in issue. In support of my contention, I rely on the following judgments:-

- The Hon'ble Bombay High Court in the case of Vinod M.Chitalia Vs Union Of India has held that;

“Para 21. —Court cannot be oblivious of the fact that clandestine transaction of nature involved in the present case are with the peculiar knowledge of persons such as appellant, who are parties to those transactions. The burden which is cast upon the adjudicating authority to establish a violation must be assessed from a robust and common sense perspective. Clandestine violations take place under the cloak of secrecy. To impose a burden of establishing in an adjudication proceeding, every conceivable link of an unlawful transaction would result in a manifest failure of justice and would defeat the underlying purpose of the Act. The standard of proof in an adjudication proceeding cannot be equated with the rigorous standard in a criminal trial. The proof required in an adjudication proceeding is on a preponderance of possibilities.”

- The Hon'ble Supreme Court in the case of Dr. N. G. Dastane vs. Mrs. S. Dastane has held that:

“24. The normal rule which governs civil proceedings is that a fact can be said to be established if it is proved by a preponderance of probabilities. This is for the reason that under the Evidence Act, Section 3, a fact is said to be proved when the court either believes it to exist or considers its existence so probable that a prudent man

ought, under the circumstances of the particular case, to act upon the supposition that it exists. The belief regarding the existence of a fact may thus be founded on a balance of probabilities. A prudent man faced with conflicting probabilities concerning a fact-situation will act on the supposition that the fact exists, if on weighing the various probabilities he finds that the preponderance is in favour of the existence of the particular fact. As a prudent man, so the court applies this test for finding whether a fact in issue can be said to be proved. The first step in this process is to fix the probabilities, the second to weigh them, though the two may often intermingle. The impossible is weeded out at the first stage, the improbable at the second. Within the wide range of probabilities the court has often a difficult choice to make but it is this choice which ultimately determines where the preponderance of probabilities lies. Important issues like those which affect the status of parties demand a closer scrutiny than those like the loan on a promissory note: "the nature and gravity of an issue necessarily determines the manner of attaining reasonable satisfaction of the truth of the issue [Per Dixon, J. in Wright v. Wright, (1948) 77 CLR 191, 210] "; or as said by Lord Denning, "the degree of probability depends on the subject-matter. In proportion as the offence is grave, so ought the proof to be clear [Blyth v. Blyth, (1966) 1 AER 524, 536] ". But whether the issue is one of cruelty or of a loan on a promissory note, the test to apply is whether on a preponderance of probabilities the relevant fact is proved. In civil cases this, normally, is the standard of proof to apply for finding whether the burden of proof is discharged."

57. In view of the foregoing discussions of the facts and the documentary evidences available on record including evidences & investigation reports provided by Sri Lanka Customs, as well as voluntary statements of Indian importers who had imported goods from M/s. Cento Graph, Sri Lanka and admission of Shri Jayeshkumar P. Soni, Proprietor of M/s.Dhanvarsha Impex, I find that it is conclusively proved the goods viz.,Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates falling under CTH 94425090, imported by M/s.Dhanvarsha Impex from M/s. Cento Graph, Sri Lanka were of Chinese origin, manufactured in China, and were routed through Sri Lanka to evade Anti-dumping duty.

58. I also find that M/s. Dhanvarsha Impex, despite being aware of the correct country of origin (i.e., China), had mis-declared the Country of Origin in the Bills of Entry filed under the provision of Section 46 of the Customs Act, 1962 for clearing the said goods imported through M/s. Cento Graph, Sri Lanka. Section 46(4A) of the Act casts an obligation on the

importer to ensure accuracy of the declaration and authenticity of the documents supporting such declaration. In the instant case, M/s. Dhanvarsha Impex failed to discharge the statutory obligation cast upon him and made wrong declaration about the country of origin of the imported goods. It is further seen that M/s. Cento Graph, Sri Lanka, Mr.Llyod Harridge of M/s. Cento Graph, the forwarders viz., M/s Eagle Global Express (Pvt.) Ltd., M/s Worldgate Express Lines Lanka Pvt. Ltd., etc. have aided M/s.Dhanvarsha Impex in the evasion of Anti-dumping duty imposed under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 by reworking the containers at Colombo port which were originally originated from Chinese port and thereafter exporting the said goods to India showing country of origin as Sri Lanka/Spain. It is seen that M/s.Dhanvarsha Impex colluded with M/s. Cento Graph, Sri Lanka and obtained country of origin certificate on strength of fake/false documents. It is also seen that the shipping lines/shipping agents have changed the bills of lading, as is illustrated at Para 45 supra. Therefore, I find that M/s.Dhanvarsha Impex had not declared the correct Country of Origin in the instant case to evade the Anti-dumping duty imposed under the said Notifications, and the same has also been admitted by Shri Jayeshkumar P. Soni, Proprietor of M/s.Dhanvarsha Impex. Therefore, it is beyond doubt that M/s.Dhanvarsha Impex had been deliberately contravening the provisions of the Customs Act, 1962 to evade the Customs Duty/Anti-dumping duty which clearly shows mensrea on their part. When material evidence establishes fraud against Revenue, white collar crimes committed under absolute secrecy shall not be exonerated as has been held by Apex Court Judgment in the case of K.L Pavunny v. AC, Cochin - 1997 (90) E.L.T. 241 (S.C.). No adjudication is barred under Section 28 of the Customs Act, 1962, if Revenue is defrauded for the reason that enactments like Customs Act, 1962, and Customs Tariff Act, 1975 are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent practices of undue claim of fiscal incentives. In view of the above, I find that extended period under Section 28(4) of Customs Act, 1962 has correctly been invocable in the instant case.

59. In view of the above, I find that Anti-dumping duty (ADD) is leviable @0.57 USD per SQM as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 w.e.f. 30.01.2020, and @0.77 USD per SQM as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020 w.e.f. 29.07.2020 on the said goods viz., Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates falling under CTH 84425090 imported by

M/s.Dhanvarsha Impex from M/s. Cento Graph, Sri Lanka which were of Chinese origin. Therefore, I hold that the following differential Customs duty (ADD and IGST) is recoverable from M/s.Dhanvarsha Impex under Section 28(4) of Customs Act, 1962 along with applicable interest under Section 28AA ibid.

(i) Differential Duty (Anti-dumping Duty & IGST) recoverable in respect of seized goods i.e. Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s Dhanvarsha Impex, (IEC-ACVPS5663C), through Nhava Sheva (INNSAI):-

Sr.No.	Bills of Entry No. & Date	Quantity of goods Imported (SQM)	Assessable Value of goods imported (Rs.)	Duty (Anti-dumping Duty & IGST) not paid/to be recovered (Rs.)
1	2	3	4	5
1	Shown in Annexure-A-1 to the impugned SCN	29906.12	87,09,528	21,86,044
Total		29906.12	87,09,528	21,86,044

(ii) Differential Duty (Anti-dumping Duty & IGST) recoverable in respect of goods i.e. Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by M/s. Dhanvarsha Impex (IEC-ACVP35663C) through Nhava Sheva (INNSAI) during the period from 04.06.2020 to 08.08.2022;-

Sr.No.	Bills of Entry No. & Date	Quantity of goods Imported (SQM)	Assessable Value of goods imported (Rs.)	Duty (Anti-dumping Duty & IGST) not paid/to be recovered (Rs.)
1	2	3	4	5
1	Shown in Annexure-A-2 to the impugned SCN	490638.98	11,38,25,499	3,31,71,247
Total		490638.98	11,38,25,499	3,31,71,247

59.1 Further, I find that during the course of investigation, M/s. Dhanvarsha Impex has made payment of Anti-dumping duty amounting to Rs. 1,00,00,000/- vide TR-6 Challan no. HC-3 dated 01.06.2023 and HC-93 dated 07.08.2023 (Rs.50,00,000/- each) against their liability of Anti-dumping duty on the said goods i.e. CTCP Digital Double Layer of Chinese origin routed through Sri Lanka. Therefore, the said payment of Anti-dumping duty amounting to Rs. 1,00,00,000/- is liable to be appropriated against their Anti-dumping duty liability.

Interest under section 28AA of the Act

60. I find that the impugned SCN has proposed to recover interest on the demanded duty, under Section 28AA of the Customs Act, 1962. The provisions for recovery of interest on delayed payment of duty as per Section 28AA of the Customs Act, 1962, read as under: -

'28AA. Interest on delayed payment of duty

(1) Notwithstanding, 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.'

60.1. From the above, it is seen that Section 28AA of the Act mandates that any person, who is liable to pay duty as per Section 28 of the Act, is also liable to pay the applicable interest, in addition to the said duty. As already discussed hereinabove, M/s. Dhanvarsha Impex is liable to pay the differential Duty (Anti-dumping Duty & IGST), as mentioned in Para 59 supra, under the provisions of Section 28(4) of the Customs Act, 1962, therefore, they are liable to pay interest at applicable rate as per the provisions of Section 28AA of the Act. I also find that Hon'ble Supreme Court, in the case of *Pratidha Procesors Vs. Union of India reported in (1996)11 SCC 101*, has settled this issue and held that interest is compensatory in character and is imposed on the assessee who has withheld payment of any tax as and when it is due and payable; that the levy of interest is levied on the delay in payment of tax due and payable on the due date. I further find that Hon'ble Supreme Court in the case of *Commissioner of Trade Tax Lucknow Vs Kanhai Ram Tekedar, 2005 (185) ELT 3 (SC)* had held that interest liability accrues automatically from confirmation of demand of duty/tax as recoverable. Thus, I find that payment of interest under Section 28AA of the Act is mandatory on every person who is liable to pay duty as per Section 28 of the Act. Therefore, I hold that M/s. Dhanvarsha Impex is liable to pay interest under the provisions of Section 28AA of the Act.

Issue of Confiscation of the goods under Section 111(m) and 111(o) of the Customs Act, 1962

61. I find that the impugned SCN has alleged that the said goods imported by M/s. Dhanvarsha Impex, which were seized on 13.01.2023 (as detailed in Annexure-A-1) are liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962; and the goods imported by M/s. Dhanvarsha Impex during the period from 04.06.2020 to 08.08.2022 (as detailed in Annexure-A-2) are liable for confiscation under Section 111(m) *ibid*. In this

context, it would be pertinent to go through the provisions of the same. The provisions of Section 111(m) & 111(o) of the Customs Act, 1962 are reproduced below: -

Section 111. *Confiscation of improperly imported goods, etc. –*

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

(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 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;

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non observance of the condition was sanctioned by the proper officer;

61.1 From the above, it is apparent that as per the above provisions of the Section 111(m) & 111(o) of the Customs Act, 1962, any goods, being imported, contrary to any prohibition imposed by/or under this Act, or imported by way of misdeclaration, or any goods exempted, subject to any condition, in respect of which the condition is not observed, will be liable to confiscation.

61.2 I find that in the instant case, it is proved beyond doubt that M/s. Dhanvarsha Impext had imported Chinese origin goods, however, deliberately routed the same goods through Sri Lanka to evade the Customs Duty/Anti-dumping duty. For this, they have also deliberately declared incorrect Country of Origin in the Bills of Entry filed by them to clear the said goods from Nhava Sheva Port. They declared the Country of Origin as Sri Lanka/Spain in their Bills of Origin instead of the actual Country of Origin i.e, China. Thus, I find that the imported goods do not correspond with declaration made by M/s. Dhanvarsha Impex in the Bills of Entry filed by them. Therefore, I find that the provisions of Section 111(m) of the Customs Act, 1962 is squarely applicable to the present case. I find that to invoke the provisions of Section 111 (m) of the Customs Act, this clause does not even require intentional non-disclosure; simple mismatch is sufficient. In support of my contention, I rely on the judgement of Pine Chemicals Suppliers V/s. Collector of Customs 1993(67) E.L.T. 25: 1993 Supp (2) Supreme Court Cases 124, wherein it was held that *as the case of mis-declaration of description and value of imported goods, the question of mens rea was not relevant for liability to confiscation and that penalty was possible under Sections 111(m) and 112 of Customs Act.* I also rely on the judgement of CC Mumbai Vs Multimetal Ltd.-

2002(Tri-Mumbai), upheld in Apex court in 2003 (ELT A309 (SC), wherein it is held that *when mis-declaration is established, goods are liable for confiscation irrespective of whether there was mala fide or not.*

Further, I find that once the goods are found violating the relevant provisions of the Customs Act, 1962, the liability of confiscation arises as per Section 111 of the Act, and the physical availability of goods or seizure doesn't alter this position. I find that this position has already been settled by the Hon'ble Madras High Court in the case of M/s. Dadha Phama Private Limited vs. Secretary to Govt of India 2000 (126) E.L.T. 535 (Mad.).

In view of above, I hold that all the subject goods, as detailed in Annexure-A-1 and Annexure-A2 of the impugned SCN, are liable for confiscation under Section 111 (m) of the Customs Act, 1962.

61.3 However, I observe that the confiscation of goods under section 111(o) is applicable in case of import of goods wherein conditional duty exemption from duty is provided under the Customs Act, 1962 or any other law, however, the conditions prescribed thereunder has not been fulfilled by the importer. In this regard, I find that in the instant case, the goods imported by M/s. Dhanvarsha Impext are not exempted from duty. The subject goods are liable for Anti-dumping duty over and above the applicable Custom duty. Therefore, I find that the goods imported by M/s. Dhanvarsha Impex, which were seized on 13.01.2023 (as detailed in Annexure-A-1) are not liable for confiscation under Section 111(o) *ibid*.

Applicability of Redemption fine

61.4 As the impugned goods are found to be liable for confiscation under Section 111 (m) of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCN. The Section 125 *ibid* reads as under:-

125. Option to pay fine in lieu of confiscation.—

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

A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods, by paying redemption fine.

61.5 In the instant case, it is evident that the subject goods, as detailed in Annexure-A-1 of the impugned SCN were seized on 13.01.2023 by the DRI and are under the possession of DRI/Customs; however, the subject goods, as detailed in Annexure-A-2 of the impugned SCN, are have been cleared and are not physically available for confiscation under Section 111(m) of the Customs Act, 1962. In this regard, I find that redemption fine is imposable even if the goods are not seized & are not available for confiscation. There is a catena of judgments wherein it has been held that the availability of the goods is not necessary for imposing the redemption fine. A couple of them are cited below and relied upon by me.

- (i) In the case of M/s.Venus Enterprises Vs. CC, Chennai [2006(199)E.L.T.66(Tri-Chennai)], it has been held that:

"We cannot accept the contention of the appellants that no fine can be imposed in respect of goods which are already cleared. Once the goods are held liable for confiscation, fine can be imposed even if the goods are not available. We uphold the finding of the misdeclaration in respect of the parallel invoices issued prior to the date of filing off the Bill of Entry. Hence, there is misdeclaration and suppression of value and the offending goods are liable for confiscation under Section 111(m) of the Customs Act. Hence the imposition of fine even after the clearance of the goods is not against the law."

- (ii) Further, in the case of M/s. Visteon Automotive Systems India Ltd. [reported in 2018(9)G.S.T.L.142(Mad)], the Hon'ble High Court of Madras has passed the landmark judgment. In the said judgment, it has been held that:

"23. The penalty directed against the import under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act.....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section 111 of the Act, we

are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

(iii) Further, in case of Synergy Fertilchem Ltd vs. Union of India, reported in 2020(33)G.S.T.L.513(Guj.), the Hon’ble Gujrat High Court has relied on the judgment in case of C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT. Chennai [2018(9)G.S.T.L.142(Mad)] and held that *we would like to follow the dictum as laid down by the Madras High Court”.*

61.6 Relying on the above guiding judgments, I conclude that imposition of redemption fine under Section 125 of the Customs Act, 1962, is not contingent upon the physical availability of the goods. Redemption fine is intrinsically linked to the authorization of confiscation under Section 111 and serves to mitigate the consequences of such confiscation. Therefore, the absence of the impugned goods does not preclude the imposition of redemption fine, which remains valid and enforceable in accordance with the law. Thus, I find that the goods, as detailed in Annexure-A-2 of the impugned SCN, which are not available for confiscation does not prevent me to impose redemption fine.

61.7 In view of the discussions, I find that redemption fine is liable to be imposed on all the said goods, as detailed in Annexure-A-1 and Annexure-A2 of the impugned SCN, which has been held to be liable for confiscation under Section 111 (m) of the Customs Act, 1962.

Issue of imposition of penalty on Shri Jayeshkumar P. Soni, proprietor of M/s. Dhanvarsha Impext under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962

62. It is seen that the impugned SCN has proposed penalty on Shri Jayeshkumar P. Soni, proprietor of M/s. Dhanvarsha Impext under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962. In this regard, Shri Jayeshkumar P. Soni in his defence reply has inter alia contended that, once proprietary unit has also been penalized, imposition of separate penalty on proprietor would amount to double penalization. However, I find that in the instant case, penalty has been proposed on Shri Jayeshkumar P. Soni being the proprietor of M/s. Dhanvarsha Impext, and no separate penalty is proposed on the firm. So, there is no double

penalization in the instant case. Thus, I find that the contention of Shri Jayeshkumar P.Soni is incorrect and devoid of merit.

62.1 The impugned SCN has proposed penalty on Shri Jayeshkumar P.Soni, proprietor of M/s. Dhanvarsha Impex under Section 112(a) & 112(b) of the Customs Act, 1962. Therefore, it would be pertinent to go through the provisions of the said Sections. The same are reproduced below:-

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, 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,*

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 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:*

62.1.1 From the above, it is apparent that penalty under Section 112(a) & 112(b) is imposable if goods are liable to confiscation under Section 111 of the Customs Act, 1962. In the foregoing discussions, it has been held that the subject goods imported by M/s. Dhanvarsha Impex are liable to be confiscated under 111(m) of the Customs Act, 1962. It is also apparent that Shri Jayeshkumar P.Soni has imported Chinese origin goods re-routed through Sri Lanka and declared incorrect Country of Origin in the Bills of Entry to evade the Customs Duty/Anti-dumping duty making the said goods liable to be confiscated under Section 111(m) of the Act. Therefore, I find that Shri Jayeshkumar P.Soni, proprietor of M/s. Dhanvarsha Impex has contravened the provisions of Section 112(a) / 112(b) of the Customs Act, 1962. However, from the provisions of Section 112 of the Act, it is clear that

both the clauses (a) and (b) of this section cannot be invoked simultaneously. The same has also been settled by various courts orders/judgments. It is also seen that the subject goods liable for confiscation under Section 111(m) of the Act, are not prohibited goods. Therefore, I find that Shri Jayeshkumar P.Soni, proprietor of M/s. Dhanvarsha Impex is liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

62.2 The impugned SCN has proposed penalty on Shri Jayeshkumar P.Soni, proprietor of M/s. Dhanvarsha Impex under Section 114AA of the Customs Act, 1962. In this regard, Shri Jayeshkumar P.Soni in his written reply has contended that he had not made any incorrect statements or signed or submitted any fraudulent documents in the entire matter, and that duty has been already paid along with the interest; therefore, no penalty can be imposed on him under Section 114AA of the Act.

62.2.1 In this regard, I find that Section 114AA of the Customs Act, 1962 deals with the penalty for use of false or incorrect documents in customs transactions. The same are reproduced below:-

“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”.

62.2.2 As discussed and proved with documentary evidence in the foregoing paras that Shri Jayeshkumar P.Soni being the proprietor of M/s. Dhanvarsha Impex, had fraudulently imported Chinese origin goods and routed the said goods through Sri Lanka, and deliberately declared the Country of Origin as Sri Lanka/Spain to evade payment of Anti-dumping duty imposed under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020. It has been proved beyond doubt that in order to hide the true origin of the subject goods, Shri Jayeshkumar P.Soni in collusion with Mr. Llyod Harridge owner of M/s Cento Graph, the forwarders, shipping lines/shipping line agents, etc. and fabricated/got fabricated the documents like Bills of Entry, Bills of Lading, Country of origin, Proforma/ Commercial Invoices, etc. I also find that he, in his statements recorded under Section 108 of the Act, has accepted that the goods imported from M/s. Cento

Graph, Sri Lanka were actually of Chinese origin and the same were re-routed through Sri Lanka to evade payment of Anti-dumping duty imposed under the said Notifications.

In view of the same, I find that Shri Jayeshkumar P.Soni, proprietor of M/s. Dhanvarsha Impex had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. Further, he also prepared/got prepared, signed/got signed documents, as discussed in para supra, which they had reasons to believe were false. It is thus also clearly established that the ingredient of mens rea in the instant case on part of Shri Jayeshkumar P.Soni, proprietor of M/s. Dhanvarsha Impex and other noticees. Even though, I find that it is well settled law that, in case of taxing statute, various penal provisions are in the nature of civil obligations and do not require any mens rea or wilful intention until and unless the relevant provision provides for the same. Hon'ble Supreme Court in the case of UOI vs Dharmendra Textile Processors - 2008 (231) ELT3 (SC) observed that *mens rea is not essential ingredient in a civil liability*. Further, the Apex Court in the case of Chairman, SEBI v. Shriram Mutual Fund [(2006) 5 S.C.C. 361] held as under:-

"Mens rea is not an essential ingredient for contravention of the provisions of a civil Act. Unless the language of the statute indicates the need to establish the element of mens rea, it is generally sufficient to prove that a default in complying with the statute has occurred and it is wholly unnecessary to ascertain whether such a violation was intentional or not. The breach of a civil obligation which attracts a penalty under the provisions of an Act would immediately attract the levy of penalty irrespective of the fact whether the contravention was made by the defaulter with any guilty intention or not."

In view of the above, I hold that Shri Jayeshkumar P.Soni, proprietor of M/s. Dhanvarsha Impex is liable to penalty under the provisions of Section 112 and 114AA of the Customs Act, 1962.

62.3 It is seen that the impugned SCN has also proposed penalty on Shri Jayeshkumar P. Soni, proprietor of M/s. Dhanvarsha Impex under Section 117 of the Customs Act, 1962. In his written submissions, Shri Jayeshkumar P. Soni has inter alia contended that penalty under Section 117 is attracted when no express penalty is elsewhere provided for such contraventions or failures. In other words, penalty under Section 117 cannot be imposed for a contravention/failure, where for such contraventions/failures a specific penalty is also provided for.

In this regard, I find that the penalties for contraventions of the legal provisions of the Customs Act, 1962 on part of Shri Jayeshkumar P. Soni are duly covered under Section 112 and 114AA of the Act. Therefore, I find that Shri Jayeshkumar P. Soni, proprietor of M/s. Dhanvarsha Impex is not liable for penalty under Section 117 of the Customs Act, 1962.

Issue of imposition of penalty on M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph

63. It is seen that the impugned SCN has proposed penalty on M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge owner of M/s Cento Graph under Section 112(a) and 114AA of the Customs Act, 1962. It is also observed that they have neither submitted their defence reply nor appeared for Personal Hearing(s) during the adjudication procedure. Thus, it is clear that ample opportunities were granted to the Noticee following the principles of natural justice. Therefore, it appears that they have nothing to say in their defence. Accordingly, I decide the case of the noticee based on the evidences on record.

63.1 I have discussed in detail the role and modus operandi of M/s Cento Graph, Sri Lanka and its owner Mr. Llyod Harridge in the foregoing paras of this order. They have conspired and colluded with Indian importers including M/s. Dhanvarsha Impex in acquiring Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates from Chinese manufacturers and routing the said China origin goods through Sri Lanka to defraud the Indian Government exchequer. As discussed in paras supra that M/s. Cento Graph, Sri Lanka would purchase the said goods from various Chinese manufacturers/entities and after arrival of the shipment at Colombo port, M/s. Cento Graph, Sri Lanka, through their freight forwarders, M/s Eagle Global Express (Pvt.) Ltd. & M/s Worldgate Express Lines Lanka Pvt. Ltd. carried out transshipment operations and reworked the containers at Colombo before further exported to India. Further, Mr. Llyod Harridge would arrange Proforma/Commercial invoices and other documents of M/s. Cento Graph and change Bills of Lading through their shipping line agents before the said Chinese origin goods were exported to M/s. Dhanvarsha Impex. Further, the Sri Lanka Customs have also confirmed vide their investigation report that M/s. Cento Graph, Sri Lanka were importing containers from China and reworked the said containers in Colombo to ship the same to India. From the documentary evidences, it is also revealed that Mr. Llyod Harridge was aware that Anti-dumping duty was leviable on the Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates supplied by him to

the Indian importer. Thus, I find that M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge have aided and abetted M/s. Dhanvarsha Impex and other Indian importers in evading the of Anti-dumping duty imposed under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020. I also find that all the above mentioned acts of omission and commission on part of M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge have rendered the said goods imported by M/s. Dhanvarsha Impex liable to confiscation under Section 111(m) of the Customs Act, 1962.

63.2 In view of the above, I find that M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. Therefore, I hold them liable to penalty under the provisions of Section 112(a) of the Customs Act, 1962. Further, since they had also prepared/got prepared, signed/got signed documents, as discussed in para supra, which they had reasons to believe were false, therefore, I hold that they are also liable for penalty under Section 114AA of Customs Act, 1962.

Issue of Imposition of penalty on M/s Eagle Global Express (Pvt.) Ltd., Sri Lanka & M/s Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka

64. It is seen that the impugned SCN has proposed penalty on M/s Eagle Global Express (Pvt.) Ltd., Sri Lanka & M/s Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka under Section 112(a) and 114AA of the Customs Act, 1962. It is also observed that they have neither submitted their defence reply nor appeared for Personal Hearing(s) during the adjudication procedure. Thus, it is clear that ample opportunities were granted to the Noticee following the principles of natural justice. Therefore, it appears that they have nothing to say in their defence. Accordingly, I decide the case of the noticee based on the evidences on record.

64.1 I have discussed in detail in para supra that the forwarders, M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka and M/s. Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka had colluded with M/s. Cento Graph to export Chinese origin goods to India. On behalf of M/s. Cento Graph, they had filed application to the Sri Lanka Customs for permission to rework the containers of shipment originated from China and destined to India on the pretext that there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the said shipment would be reworked in Colombo and stuffed into

container service that would offer an immediate service to Nhava Sheva, India. They had also sought approval to bring empty containers to rework the transshipment containers under Customs supervision. After arrival of the Chinese shipment at Colombo port, the goods stuffed in the containers originated from China were de-stuffed at Colombo and loaded in other containers for further export to India. They had also issued/got issued Bills of Lading for M/s. Cento Graph wherein the country of origin was declared as Sri Lanka. Thus, it is apparent that they had aided and abetted M/s. Cento Graph by changing the containers at Colombo to avoid identification of the original Chinese suppliers of the goods. As such, it is apparent that they had helped M/s. Cento Graph in re-routing the Chinese goods through Sri Lanka to India to evade payment of Anti-dumping duty by the Indian importer, imposed under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Hence, I find that all the above mentioned acts of omission and commission on part of M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka and M/s. Worldgate Express Lines Lanka Pvt. Ltd. have rendered the said goods imported by M/s. Dhanvarsha Impex liable to confiscation under Section 111(m) of the Customs Act, 1962.

64.2 In view of the above, I find that M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka and M/s. Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. Therefore, I hold them liable to penalty under the provisions of Section 112(a) of the Customs Act, 1962. Further, since they had also prepared/got prepared, signed/got signed documents, as discussed in para supra, which they had reasons to believe were false, therefore, I hold that they are also liable for penalty under Section 114AA of Customs Act, 1962.

Issue of Imposition of penalty on M/s. Worldgate Express Lines International Pvt. Ltd.

65. It is seen that the impugned SCN has proposed penalty on M/s Worldgate Express Lines International Pvt. Ltd. under Section 112(a) and 114AA of the Customs Act, 1962. In their defence, M/s Worldgate Express Lines International Pvt. Ltd. have inter alia contended that they had no dealings and/or correspondence with the Shipper/its agent for carriage of the cargo from Colombo to Nhava Sheva; they had not issued the Bill of Lading and / or filed the Bill of Entry and/or made any declaration to the Custom Authorities in Colombo and/or Nhava Sheva in respect of the country of origin of the cargo; their role was limited to ensure

that all handling charges are paid by the importer prior to taking delivery of the goods and issuing delivery order to the importer for taking delivery of the goods; as discharge port agents, they are not concerned with the goods, the nature of the goods, the country of origin and do not make any declarations in respect of the goods to the Custom Department; and that there is no act and/or omission on their part that would render them liable to any penalty u/s 112(A) and /or 114AA of the Customs Act, 1962.

65.1 In this regard, I find that it is an undisputed fact that M/s Worldgate Express Lines International Pvt. Ltd. are the counterpart/port agent (in India) of M/s Worldgate Express Lines Lanka Pvt. Ltd. It is also an undisputed fact that M/s Worldgate Express Lines Lanka Pvt. Ltd. had colluded with M/s. Cento Grpah to export Chinese origin goods to India after reworking the containers originated from China at Colombo. M/s Worldgate Express Lines Lanka Pvt. Ltd. had, on behalf of M/s. Cento Grpah, filed application to the Sri Lanka Customs for permission to rework the containers of shipment originated from China and destined to India on the pretext that there were no immediate connecting vessel services available from Colombo to India on current Shipping line. They had also replaced the original bill of lading issued by the Chinese entities with new one (switch B/L) issued/got issued by them to conceal the true country of origin of the goods supplied by M/s. Cento Graph to M/s. Dhanvarsha Impex and other Indian entities. Thus, it is apparent that they had colluded with M/s. Cento Graph, Sri Lanka and Indian importers and aided and abetted them by changing/reworking the Chinese origin containers at Colombo and issuing/getting issued switch Bills of Lading from Colombo to avoid identification of true country of origin. The entire modus operadi was adopted by them to re-route the Chinese origin goodsthrough Sri Lanka to India to evade payment of Anti-dumping duty by the Indian importer, imposed under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020.

Further, I find that M/s Worldgate Express Lines International Pvt. Ltd. is not only the Indian agent/counterpart but also a subsidiary/sister company of the said M/s Worldgate Express Lines Lanka Pvt. Ltd. As an agent/counterpart, they act in India on behalf of their Sri Lankan counterpart and thus are bound by the actions of their counterpart. They work as a team, coordinating the entire shipment process from origin to destination which includes coordinating transportation, managing documentation, handling customs clearance, and ensuring compliance with local regulations. For this, they are required to maintain direct and transparent communication with each other.

Thus, the very fact that M/s Worldgate Express Lines International Pvt. Ltd. are the counterpart/agent as well as subsidiary/sister concern of M/s Worldgate Express Lines Lanka Pvt. Ltd., who played a crucial role in re-routing the Chinese origin goods, indicate that M/s Worldgate Express Lines International Pvt. Ltd. had knowledge about the said modus operandi. The same is also apparent from the fact that they were the Indian counterpart of M/s Worldgate Express Lines Lanka Pvt. Ltd. in all cases of supplies made by M/s. Cento Graph, Sri Lanka to Indian importers. During the course of investigation, they had also not furnished the required documents pertaining to first leg of the operations and shipping instructions received from the shipper. As such, I find that they have also aided and abetted in the said modus operandi. Therefore, I am of considered view that M/s Worldgate Express Lines International Pvt. Ltd. are liable for penalty under Section 112(a) of Customs Act, 1962.

65.2 On going through the impugned SCN and the defence reply, I also find that, in the instant case, M/s Worldgate Express Lines International Pvt. Ltd. had acted as a handling agent of their Sri Lankan counterpart viz., M/s Worldgate Express Lines Lanka Pvt. Ltd. They had not issued the Bill of Lading or filed the Bill of Entry or made any declaration to the Custom Authorities in Colombo and/or Nhava Sheva in respect of the country of origin of the cargo. They had only issued delivery order to the importer. It is seen that in the impugned SCN also, there is no any specific allegation that they had issued Bill(s) of Lading, Bill(s) of Entry, or made any declaration in the instant case. It is also seen that Section 114AA of the Act can be invoked only on the establishment of the fact that the declaration, statement or document submitted in the transaction of any business for the purpose of the act is false or incorrect. As there is no such specific allegation against M/s Worldgate Express Lines International Pvt. Ltd. in the impugned SCN, I am of considered opinion that they are not liable for penalty under Section 114AA of Customs Act, 1962.

Issue of Imposition of penalty on M/s. Nekoda Global Logistics India Pvt. Ltd.

66. It is seen that the impugned SCN has proposed penalty on M/s. Nekoda Global Logistics Pvt. Ltd. under Section 112(a) and 114AA of the Customs Act, 1962. In their defence, M/s. Nekoda Global Logistics Pvt. Ltd. have inter alia contended that in case of any CIF terms shipment, business is generated from origin offices or overseas agent plays all role and they have no role to play; that they were at the receiving side and they came to know about the shipment only when the documents were received from overseas counterpart; that

in these cases they were restricted to handling agent to issue NOC to importers after which they get Delivery Order from the shipping lines; that their counterpart has made true declaration to the Customs officers at the port of loading; that they were not aware about the reworking at Colombo port as the same was not required to be intimated by our overseas counterpart as per the practice in the shipping industry; as a Freight Forwarder, they had nothing to do with the entries made in the Bill of Entry, to attract the provisions of Sub Section 111(m) of the Customs Act, 1962, and in fact, there is no provision in the Bill of Lading for entering the Country of Origin of the goods; they had not filed any document or statement in any transaction of any business for the purpose of Customs Act, 1962; and that there was no intentional non-cooperation from their side, and in fact, they had requested their counterpart to provide the same.

66.1 In this regard, I find that it is an undisputed fact that M/s. Nekoda Global Logistics Pvt. Ltd. are the counterpart/port agent (in India) of M/s Eagle Global Express (Pvt.) Ltd., Sri Lanka. It is also an undisputed fact that M/s Eagle Global Express (Pvt.) Ltd., Sri Lanka had colluded with M/s. Cento Graph to export Chinese origin goods to India after reworking the containers originated from China at Colombo. As detailed in para supra, they had reworked the containers as well as replaced the original bill of lading issued by the Chinese entities with new one (switch B/L) issued/got issued by them to conceal the true country of origin of the goods supplied by M/s. Cento Graph to M/s. Dhanvarsha Impex and other Indian entities. Thus, it is apparent that they had colluded with M/s. Cento Graph, Sri Lanka and Indian importers and aided and abetted them by changing/reworking the Chinese origin containers at Colombo and issuing/getting issued switch Bills of Lading from Colombo to avoid identification of true country of origin. The entire modus operandi was adopted by them to re-route the Chinese origin goods through Sri Lanka to India to evade payment of Anti-dumping duty by the Indian importer, imposed under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020.

Further, I observe that as an agent/counterpart, M/s. Nekoda Global Logistics Pvt. Ltd. act in India on behalf of M/s Eagle Global Express (Pvt.) Ltd. (Sri Lanka) and thus are bound by the actions of their said Sri Lankan counterpart. They work as a team, coordinating the entire shipment process from origin to destination which includes coordinating transportation, managing documentation, handling customs clearance, and ensuring compliance with local regulations. For this, they are required to maintain direct and transparent communication with each other.

Thus, the very fact that M/s. Nekoda Global Logistics Pvt. Ltd. are the counterpart/agent of M/s Eagle Global Express (Pvt.) Ltd. (Sri Lanka), who played a crucial role in re-routing the Chinese origin goods, indicate that M/s. Nekoda Global Logistics Pvt. Ltd. definitely had knowledge about the said modus operandi. The same is also apparent from the fact that they were the counterpart of M/s. Eagle Global Express (Pvt.) Ltd. (Sri Lanka) in all cases of supplies made by M/s. Cento Graph, Sri Lanka to Indian importers. During the course of investigation, they had also not furnished the documents required by the investigating officers. As such, I find that they have also aided and abetted in the said modus operandi. Therefore, I am of considered view that M/s Worldgate Express Lines International Pvt. Ltd. are liable for penalty under Section 112(a) of Customs Act, 1962.

66.2 On going through the impugned SCN and the defence reply, I also find that, in the instant case, M/s. Nekoda Global Logistics Pvt. Ltd. had acted as a handling agent of M/s Eagle Global Express (Pvt.) Ltd., a Sri Lanka based freight forwarder. It is also seen that, in the instant case, M/s. Nekoda Global Logistics Pvt. Ltd. had not issued Bills of Lading or filed Bills of Entry or made any declaration to the Customs. As a handling agent of their Sri Lankan counterpart, they had issued NOC to importers for getting Delivery Order from the shipping lines. It is seen that in the impugned SCN also, there is no any specific allegation that they had issued Bill of Lading or filed Bill of Entry, or made any declaration in the instant case. In this regard, I observe that Section 114AA of the Act can be invoked only on the establishment of the fact that the declaration, statement or document submitted in the transaction of any business for the purpose of the act is false or incorrect. As there is no such specific allegation against M/s. Nekoda Global Logistics Pvt. Ltd. in the impugned SCN, I am of considered opinion that they are not liable for penalty under Section 114AA of Customs Act, 1962.

67. In view of the foregoing discussions and findings, I pass the following order:

ORDER

- (i) I order to confiscate the 29906.12 SQM of goods valued at Rs. 87,09,528/- (Rupees Eighty-seven Lakhs Nine Thousand Five Hundred and Twenty-eight only), as detailed in Annexure A-1 of the impugned SCN, which were seized on 13.01.2023, under Section 111 (m) of the Customs Act, 1962. However, I give an option to the importer i.e., M/s. Dhanvarsha Impex to redeem the said

goods on payment of Redemption Fine of **Rs. 9,00,000/-** (Rupees Nine Lakhs only) under Section 125(1) of the Customs Act, 1962;

- (ii) I confirm the differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs. 21,86,044/-** (Rupees Twenty-one Lakhs Eighty-six Thousand Forty-four only) [Anti-dumping duty: Rs.18,52,580/- *plus* IGST: Rs.3,33,464/-], as detailed in Annexure A-1 of the impugned SCN, and order to recover the same from M/s. Dhanvarsha Impex under Section 28(4) of the Customs Act, 1962 read with Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA of the Customs Act, 1962;
- (iii) I order to confiscate the 490638.98 SQM of goods valued at Rs.11,38,25,499/- (Rupees Eleven Crore Thirty-eight Lacs Twenty-five Thousand Four Hundred and Ninety-nine only), as detailed in Annexure A-2 of the impugned SCN, which have been cleared, under Section 111 (m) of the Customs Act, 1962. However, since the said goods are not physically available, I impose a redemption fine of **Rs. 1,00,00,000/-** (Rupees One Crore only) on M/s. Dhanvarsha Impex in lieu of confiscation under Section 125(1) of the Customs Act, 1962;
- (iv) I confirm the differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs. 3,31,71,247/-** (Rupees Three Crore Thirty-one Lakhs Seventy-one Thousand Two Hundred Forty-seven only) [Anti-dumping duty: Rs.2,81,11,226/- *plus* IGST: Rs.50,60,021/-], as detailed in Annexure A-2 of the impugned SCN, and order to recover the same from M/s. Dhanvarsha Impex under Section 28(4) of the Customs Act, 1962 read with Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA of the Customs Act, 1962;
- (v) I appropriate the Customs Duty (Anti-dumping duty & IGST) amounting of **Rs. 1,00,00,000/-** (Rupees One Crore only) already paid by them during the course of investigations vide Challan No. HC-3 dated 01.06.2023 and HC-93 dated 07.08.2023 towards their duty liabilities confirmed at (iv) above;

- (vi) I impose penalty of **Rs. 30,00,000/-** (Rupees Thirty Lakhs only) on Shri Jayeshkumar P. Soni, proprietor of M/s. Dhanvarsha Impex under Section 112(a)(ii) of the Customs Act, 1962;
- (vii) I impose penalty of **Rs. 3,00,00,000/-** (Rupees Three Crore only) on Shri Jayeshkumar P. Soni, proprietor of M/s. Dhanvarsha Impex under Section 114AA of the Customs Act, 1962;
- (viii) I refrain from imposing penalty under Section 112(b) and 117 of the Customs Act, 1962 on Shri Jayeshkumar P. Soni, proprietor of M/s. Dhanvarsha Impex.
- (ix) I impose penalty of **Rs. 30,00,000/-** (Rupees Thirty Lakhs only) on M/s. Cento Graph, Sri Lanka under Section 112(a)(ii) of the Customs Act, 1962;
- (x) I impose penalty of **Rs. 3,00,00,000/-** (Rupees Three Crore only) on M/s. Cento Graph, Sri Lanka under Section 114AA of the Customs Act, 1962;
- (xi) I impose penalty of **Rs. 30,00,000/-** (Rupees Thirty Lakhs only) on Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka under Section 112(a)(ii) of the Customs Act, 1962;
- (xii) I impose penalty of **Rs.3,00,00,000/-** (Rupees Three Crore only) on Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka under Section 114AA of the Customs Act, 1962;
- (xiii) I impose penalty of **Rs.15,00,000/-** (Rupees Fifteen Lakhs only) on M/s. Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka under Section 112(a)(ii) of the Customs Act, 1962;
- (xiv) I impose penalty of **Rs. 2,00,00,000/-** (Rupees Two Crore only) on M/s. Worldgate Express Lines Lanka Pvt. Ltd., Sri Lanka under Section 114AA of the Customs Act, 1962;
- (xv) I impose penalty of **Rs.10,00,000/-** (Rupees Twenty Lakhs only) on M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka under Section 112(a)(ii) of the Customs Act, 1962;
- (xvi) I impose penalty of **Rs.1,00,00,000/-** (Rupees One Crore only) on M/s. Eagle Global Express (Pvt.) Ltd., Sri Lanka under Section 114AA of the Customs Act, 1962;

- (xvii) I impose penalty of **Rs.15,00,000/-** (Rupees Twenty Lakhs only) on M/s. Worldgate Express Lines International Pvt. Ltd., Navi Mumbai under Section 112(a) of the Customs Act, 1962;
- (xviii) I refrain from imposing penalty under Section 114AA of the Customs Act, 1962 on M/s Worldgate Express Lines International Pvt. Ltd., Navi Mumbai;
- (xix) I impose penalty of **Rs.10,00,000/-** (Rupees Ten Lakhs only) on M/s. Nekoda Global Logistics India Pvt. Ltd., Chennai under Section 112(a) of the Customs Act, 1962;
- (xx) I refrain from imposing penalty under Section 114AA of the Customs Act, 1962 on M/s. Nekoda Global Logistics India Pvt. Ltd., Chennai.

68. This order is issued without prejudice to any other action that may be taken against the importer M/s. Dhanvarsha Impex, the co-noticees or any other person under the Customs Act, 1962 or any other law for the time being in force in India.



(Dr. Atul Handa)
Commissioner

F.No: S/10-160/2023-24/CC/NS-V/CAC/JNCH

To,

1. **M/s Dhanvarsha Impex** (IEC- ACVPS5663C),
2/84/B, Faram Mohollow,
Near Ravan Tad Temple, Rustampura,
Surat, Gujarat – 395 003.
2. **Shri Jayeshkumar P Soni**,
Proprietor of M/s. Dhanvarsha Impex,
B-302, Vrajbhumi Apartment,
Opp Madhav Park Apartment,
Hone Part Road, Adajan, Surat,
Gujarat – 395 009.

3. **M/s. Cento Graph,**
No. 5, John Keells Housing Scheme,
Potherwara Road, Malabe,
Sri Lanka.
4. **Mr. Llyod Harridge,**
Owner of M/s Cento Graph,
No. 5. John Keells Housing Scheme,
Potherwara Road, Malabe, Sri Lanka.
5. **M/s. Worldgate Express Lines Lanka Pvt. Ltd.,**
No. 23, Floor, Palm Grove,
Colombo-03,
Sri Lanka.
6. **M/s. Eagle Global Express Pvt. Ltd.,**
281 RA De Mel Mawatha,
Colombo 03, Sri Lanka.
7. **M/s. Worldgate Express Lines International Pvt. Ltd.,**
7th Floor, Sharda Terrace (Warden House), Sector 11,
Plot No.65, CBD Belapur (West),
Navi Mumbai, Maharashtra – 400 614.
8. **M/s. Nekoda Global Logistics India Pvt. Ltd.,**
No. 7, 2nd Floor, Venkatswamy
Street, Chetpet, Chennai – 600 031.

Copy to:-

1. The Chief Commissioner of Customs Zone-II, Mumbai.
2. The Chief Commissioner of Customs Zone-III, Mumbai.
3. The Commissioner of Customs, NS-V, JNCH, Nhava Sheva, Raigad.
4. EDI Section, JNCH (for upload on website).
5. Notice Board.
6. Master File.