

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस - V) कार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA - URAN, DISTRICT - RAIGAD, MAHARASHTRA -400707
तालुका - उरण, जिला - रायगढ़, महाराष्ट्र 400707

DIN - 20260278NX00000530B7

Date of Order: 26.02.2026

F. No. S/10-20/2024-25/Commr/Gr.VB/NS-V/CAC/JNCH

Date of Issue: 26.02.2026

SCN No.: 152/2024-25/Gr.VB/Commr/NS-V/CAC/JNCH

SCN Date: 29.04.2024

Passed by: Sh. Anil Ramteke

Commissioner of Customs, NS-V, JNCH

Order No: 399/2025-26/COMMR/GR.VB/NS-V/CAC/JNCH

Name of Noticees: M/s. Suhani International (IEC- 0310049440) and others.

ORDER-IN-ORIGINAL

मूल - आदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि:शुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम 1962 की धारा 129 (ए) के तहत इस आदेश के विरुद्ध सी.ई.एस.टी.ए.टी., पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीजनल बेंच), 34, पी. डी.मेलो रोड, मस्जिद (पूर्व), मुंबई - 400009 को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal:-

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - सीए3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

Time Limit - Within 3 months from the date of communication of this order.

समय सीमा - इस आदेश की सूचना की तारीख से 3 महीने के भीतर

Fee -फीस-

(a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

(क) एक हजार रुपये जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये या उस से कम है।

- (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 Lakh.
- (ख) पाँच हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।
- (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
- (ग) दस हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 50 लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favor of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति – क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सी.ई.एस.टी.ए.टी., मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, 1962, सीमाशुल्क (अपील) नियम, 1982, सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, 1982 का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का 7.5 % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 E के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Subject: Adjudication of Show Cause Notice No. 152/2024-25/COMMR/NS-V/CAC/JNCH dated 29.04.2024 issued to M/s Suhani International (IEC-0310049440) & Others. – reg.

1. BRIEF FACTS OF THE CASE

1.1 It is stated in the Show Cause Notice No. 152/2024-25/COMMR/NS-V/CAC/JNCH dated 29.04.2024 that **M/s Suhani International** (IEC: 0310049440) having registered address at Omshree Siddharameshwar CHS, Shop No. 1, Plot No. 28, Sector-1, Sanpada, Navi Mumbai-400705, (hereinafter referred to as the 'Importer' or 'Noticee') through their Customs Broker (CB), M/s Xpress Interlink Logistic, filed following Bills of Entry as mentioned in Table-I (hereinafter referred to as 'subject Bills of Entry').

TABLE-I

Sr. No.	Bill of Entry & date	Importer	Container No.	Examination Under Panchnama Dated	Seizure Memo No. & Date
1.	6739775 / 03.02.2020	M/s Suhani International	KOCU4309967	05.02.2020	06.02.2020
2.	6747464 / 04.02.2020	M/s Suhani International	TCNU8538446	14.02.2020	23.03.2020

1.2. On the basis of specific intelligence about imports of Spectacle Lens being undervalued, above consignments of Spectacle Lens along with mix trading commodities like Imitation Jewellery, various types of Hair Accessories etc. imported by M/s Suhani International were put on hold by SIIB(I), JNCH. The goods covered under Bills of Entry mentioned above in Table-I were examined by SIIB(I), JNCH under panchnama. After examination of the subject goods covered under above mentioned Bills of Entry, discrepancies were noticed in terms of quantity, weight, classification and declared values.

1.3 Bill of Entry No. 6739775 / 03.02.2020.

1.3.1 Discrepancies were observed in terms of valuation, quantity & description of the declared offending goods in BE No. 6739775 / 03.02.2020. Item No. 25 declared as Spectacle Lens in the Bill of Entry were found to be as Spectacle Lens of various types (BC HMC, HC, HMC & Prog. HMC etc.) which were not declared in the BE. Further, 63887 pairs of Spectacle Lens were found to be in excess quantity than the quantity declared in BE. The Spectacle/Optical Lens appeared to be undervalued with respect to the Contemporaneous Import prices.

1.3.2 Items declared as Bracelet (Imitation Jewellery), Earring (imitation Jewellery) & Kids Backpack in the Bill of Entry were found mis-declared in terms of value with respect to contemporaneous import. Item No. 13 i.e. Hair Pins were found in less quantity (161 Kgs.) than the declared quantity (179 Kgs.) in the Bill of Entry.

1.3.3 The details of the offending goods of BE No. 6739775 / 03.02.2020 are as per Table-II given below:

Table-II

S. No.	BE Sr. No.	Item Declared	QTY. Declared in the BE	Item Description Found as per Examination Under Panchnama	Qty Found as per Examination Under Panchnama	Remarks/ Discrepancy observed
1	25	Spectacle Lens (8670KGS)	286559 PRS	BC HMC	27925 PRS	Description, Quantity & Value
2	HC			240320 PRS		

3				PROG. HMC	24785 PRS	
4				HMC	57416 PRS	
5	1	HAIR RUFFLES (30 KGS)	200 PKT	HAIR RUFFLES	200 PKT (30 KGS)	
6	2	BRACELET IMITATION (15 KGS)	22 DOZ	BRACELET IMITATION	20 DOZ (15 KGS)	Value
7	9	EARRING IMITATION JEWELRY (80 KGS)	8178 PRS	EARRING IMITATION JEWELRY	80 KGS (7978 PRS)	
8	12	HAIR CLIPS (80 KGS)	62 DOZ	HAIR CLIPS	80 KGS (62 DOZ)	
9	13	HAIR PINS (179 KGS)	179 KGS	HAIR PINS	161 KGS	Less Quantity
10	14	HAIR RUBBER BAND (72 KGS)	226 PACKETS	HAIR RUBBER BAND	228 Packets (72 KGS)	
11	16	IMITATION JEWELLERY (60 KGS)	1740 SET	IMITATION JEWELLERY	60 KGS (1630 SET)	Value
12	18	KIDS BACKPACK BAG	400 PCS	KIDS BACKPACK	400 PCS	Value

1.3.4 Based on the above facts, it appeared that instant case involves mis-declaration of goods in terms of description, value, quantity and suppression of facts by not declaring the exact description of the Spectacle/Optical Lens. Accordingly, the impugned goods were liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962. Accordingly, the goods were seized under Section 110(1) of the Customs Act, 1962 vide **Seizure Memo dated 06.02.2020**.

1.4. Bill of Entry No. 6747464/04.02.2020.

1.4.1 During examination under Panchnama dated 14.02.2020, the majority of the goods were found to be grossly undervalued and undeclared goods were also found. Discrepancies observed in the Bill of Entry No. 6747464 / 04.02.2020 are as follows:

1.4.2 Discrepancies were observed in terms of undervaluation, quantity & description of the declared goods for the BE No. **6747464 / 04.02.2020**. Item No. 29 declared as Spectacle Lens in the Bill of Entry were found to be as Spectacle Lens of various types (HC BF, BC HMC, BC Progressive, Prog. HMC, Prog. HC & PC HMC etc.) which was not declared in the BE. Further, **121101 pairs of spectacle Lens found in excess quantity** than the declared in BE.

1.4.3 Items No. 12, 13 & 14 declared as Hair Bands, Hair clips & Hair Ruffles in the Bill of Entry were found mis-declared in terms of quantity. Items No. 10 & 17 declared as Face Massager and Knife Sharpener in the Bill of Entry were found mis-declared in terms of value with respect to contemporaneous import.

1.4.4 The details of the offending goods under Bills of Entry No. 6747464 / 04.02.2020 are as per Table-III:

Table-III

S. No.	BE Sr. No.	Item Declared	QTY Declared in the BE	Item Description Found as per Examination Under Panchnama	Qty Found as per Examination Under Panchnama	Remarks / Discrepancy observed
1	29	SPECTACLE LENS (7755 KGS)	312574 PRS	HC BC	232430	Description, Quantity & Value
2				BC HMC	102287	
3				BC PROG	11000	

4				PROG. HMC	19230	
5				PROG. HC	17805	
6				PC HMC	50923	
7	10	FACE MASSAGER	300 PCS	FACE MASSAGER	300 PCS	Value
8	12	HAIR BANDS (16 KGS)	100 DOZ	HAIR BANDS	1050 PCS	Quantity
9	13	HAIR CLIPS (45 KGS)	375 DOZ	HAIR CLIPS	4120 PCS	Quantity
10	14	HAIR RUFFLES (45 KGS)	300 DOZ	HAIR RUFFLES	3100 PCS	Quantity, Value
11	17	KNIFE SHARPENER (80 KGS)	720 PCS	KNIFE SHARPENER	720 PCS	Value

1.5 Based on the above facts, it appeared that instant case involves mis-declaration of goods imported by the importer, M/s Suhani International in terms of description, value, quantity and suppression of facts by not declaring the exact description of the Optical Lens. Accordingly, the impugned goods were liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962. Accordingly, the goods were seized under Section 110(1) of the Customs Act, 1962 vide **Seizure Memo dated 23.03.2020**.

1.6. Searches: In furtherance of the investigation, Search Authorisation were issued under Section 105 of the Customs Act, 1962 and searches were conducted on 05.02.2020 & 06.02.2020 at the office's premises of M/s Suhani International, residential premises and Godown of Shri Sandeep Tukaram More, proprietor of M/s Suhani International, office premises of M/s Sparsh Universal & Office premises of Custom Broker, M/s Xpress Interlink Logistics. During the search, Laptop (HP), All in One Computer (HP), CPU (Sony Circle, LG-Foxin, CPU Sr. No. 1501192000231), Mobiles (Google Pixel, iPhone 6, Samsung Galaxy A30S & iPhone 11 Pro) were seized from the above-mentioned office/residential premises. Further, During the statement of the Proprietor of M/s Suhani International, relevant chats between Sandeep More and other relevant persons were mailed from the mobile (I Phone 6 & Google Pixel Phone) of Sandeep More to SIIB(I) email and print out of relevant documents were taken out.

1.6.1 Further, the above-mentioned seized Mobiles, Laptops/CPU were sent to the Cyber Forensic Lab for data retrieval. The data retrieval of the seized items was done under Panchnama dated 11.03.2020, 12.03.2020, 13.03.2020 & 16.03.2020 in the presence of independent panchas & data of above devices was retrieved in External Portable Hard Disks Drives. Retrieved data was analysed and examined and relevant data was found:

- WhatsApp chat between Sandeep More and Shahid (Employee of Custom Broker, M/s Xpress Interlink Logistics),
- WhatsApp chat between Sandeep More & Ashok Vivekbhai,
- WhatsApp chat between Sandeep More & Sparsh Universal Team (Firm/Company managed by Sandeep More and owned by his wife Suhani More).
- Cash transaction (Receiving of cash and Payment by Cash to/from Sandeep More/his relative/employees from/to his Buyers/sellers and vice versa. (e.g. Cash received from Ashok Bhai his buyer of goods, Cash paid to Paragbhai v/s excess RTGS entry).
- Copy of Diary pages containing Bill amount raised by Custom Broker.
- Data printout obtained from Sandeep More's phone during his statement dated 06-02-2020, whose page numbers are 42, 362, 412 and 421 have original commercial invoices of higher value of Lens.

1.6.2 Further, Search was conducted at office premises of Imran Amin Kandya cousin of Mr. Saifu (person related in this case) on 06.02.2020. Mr. Saifu was called to come to this shop.

During the search, no documents related to import of goods for investigation in case of M/s Suhani International was found so nothing was taken over.

1.6.3 Search was conducted at office premises of M/s Sigma Forwarders on 21.02.2020. During the search, no documents related to investigation being done by SIIB(I), JNCH was found during the search.

1.7 Statement of the Importer, Custom broker & Other Relevant Persons:

1.7.1 During the course of investigation, following persons were summoned and their statements were recorded under the provisions of Section 108 of the Customs Act, 1962.

1.7.2 Statement of **Shri Vishal Salvi** was recorded in Hindi on 05.02.2020 and the same has been translated in English wherein he *inter alia* stated that:

- He is working at Suhani International for 4 years as godown incharge and does the work of collection of cheques and cash, that Sandeep More gives him details of the containers which are unloaded by workers and in those goods, there are different markings of different buyers like PS, MK, MSA, SR, RC etc. After that these goods are supplied through transport as per Markings of buyers like PS to M/s Vimson Optics (Kolkata), MK to M/s Akshay Optician of Chennai. Dipesh More mail (vishalsuns31@gmail.com) him (Sandeep More), Invoice Bill for the particular consignment on his Mobile, printout of which he sends it to transporters and buyers.
- Their godown is in Prerna Complex, F-4, Gala No. 8, Dapoda Road, Bhivandi which is being rented by us for this work. Transport charges are paid by Buyer. That he also collects money from Mumbai Buyers and on the directions of Sandeep More, he gives the money (cash) at Custom Broker/Raja Bhai's Office to Shahid.
- On 4th Feb 2020, on the directions of Sandeep More he collected Rs. 3,00,000/- cash from buyer Ashok Bhai (Mum Marker) and handed it over to Shahid at Custom Broker/Raja Bhai's Office situated at Opp. Bank of Baroda, Kazi Sayed Gali, Masjid, Kamgar Sena Building, first Floor.
- He keeps details of all the transport movement in a Diary in which marking of SD-1 & SD-2 is related to container whose full form is written in Sanpada Office. Also, this diary contains PS, MK etc. goods markings, Total Carton Numbers and Delivery Date and Transport Company Name.
- On the directions of Sandeep More, he collected money/handed over the cash.
- Other than him, Yashwant More and Karan more were also doing this work of collection of money/handing over the cash.

1.7.3 Statement of **Shri Yashwant More** was recorded on 05.02.2020 wherein he *inter alia* stated that:

- Sandeep More, the proprietor of M/s Suhani international has employed him in M/s Suhani international firm. His job is to deliver the goods from Bhiwandi Godown to respective clients in Mumbai. He used to deliver the Bills to those clients and on directions of Sandeep More, he used to go to collect Cash from some of these clients.
- His Brother Sandeep More used to ask him to go to Angadiaas in Popalwadi near Bhuleshwar, Hindustan Chambers in Kalbadevi Road & Sometimes at APMC Masala Market. As per instructions, he used to collect/give cash amounts ranging between 1.5 lakhs to 4 lakhs. However, He is not aware of the names of the person from whom he used to collect/give money. After deducting their commissions, they used to give him the Cash amounts.
- It is noticed that another importing firm M/s Sparsh Universal is operating from his residence when asked about the same he stated that The IEC of M/s Sparsh Universal was obtained in the name of Suhani More, wife of Sandeep More, when they all used to stay together at his residence located at 501, Bldg. No. 10, Ganesh CHS, Lallubai Compound,

Mankhurd, Shivaji Nagar, Mumbai-400043. The business of M/s Sparsh Universal is run by Sandeep More and his wife Suhani More assists him in this. Sparsh universal and Suhani International have common client base.

- He is just an employee in M/s Suhani International and do not get any monetary consideration from M/s Sparsh Universal.
- When asked whether he has visited the Custom Broker's office, he stated that as & when required, at the time of any shipments, He used to collect documents from the Customs Broker who has office in Kazi Syed Street, Opp. Bank of Baroda Bldg., Masjid Bunder. The place is known as Rajabhai's office and Shahid was the contact person there.

1.7.4 Statement of Shri Dipesh Kashinath More was recorded in Hindi on 05.02.2020, the same has been translated in English wherein he *inter alia* stated that:

- He looks after the work of Billing and banking transactions of M/s Suhani International for the last three years.
- Other than above work, He checks emails and does the work as per directions of Sandeep Sir.
- Earlier, he has worked in Global Mind Company of Mr. Rupesh Panade. Sandeep More was his partner in that company.
- When asked to explain the mails found in his inbox which has been sent from coolmoonlight@gmail.com. Who is sender and the purpose of the mails, he stated that the mails received from coolmoonlight were sent to him by Sandeep More in his personal account and He used to check the cashbook details sent in his mail and printed it and further on the directions of Sandeep More he used to send it to clients.
- When asked about the entries in the Cashbook mentions as "Cash paid against excess RTGS entry", he stated that he does not know about the entries made in the cashbook mentions as "Cash paid against excess RTGS entry". Sandeep More would be able to tell about that.
- When asked about the payments received from the Angadiyas in respect of some clients, he stated that Yashwant and Vishal are looking after the work of Payments/Receipts of cash/money from Angadiyas and they would be able to tell about that. He only knows about the Angadiya of Aarti Ent. at APM Masala Market Central facility building Room No. 136, 1ST Floor.
- When asked about whether he is aware that he is the proprietor of M/s Prashik Universal, He stated that he knows that IEC of Prashik Universal is in his name but all its work are taken care by Sandeep More. Its address is in the name of his grandmother. This IEC was opened/obtained on the instructions/directions of Sandeep More. He agreed to issue IEC of Prashik Universal on his directions. He does not get any monetary consideration for obtaining IEC of Prashik Universal. He only gets monthly salary for the work of M/s Suhani International.
- There was a credit of Rs. 5 Lakh in his account when asked to explain this, He submitted that he booked a flat in his name at Badlapur. For its payment, he took help from Yashwant More, Vishal Salvi and some relatives.
- He does not have original invoices raised by Chinese suppliers for the consignment.

1.7.5 Statement of **Shri Sandeep More** was recorded in Hindi on 05/06.02.2020, the same has been translated in English wherein he *inter alia* stated that:

- He Started import from the IEC of M/s Suhani International in 2011. He does trading of goods/items such as Decorative items, Garment accessories, Hair Accessories, Lens etc.
- He declared that his Customers SRC, Feelings Bags, Ashok Opticians, VIMCO Optical etc. contact him for import of their goods in India. He asked them the price and volume (CBM) of their goods. After fixing the price, he asked them to keep the goods in the warehouse of his supplier in China and after that ask the supplier to send the loading list on his mail ID coolmoonlight@gmail.com (PASS-SPARSH-1985). After that he sends

this loading list through email to Custom House Agent Raja Bhai and Shahid Bhai (email- Braj 2000@yahoo.com). His Email id is- coolmoonlight2014@gmail.com- He has given password of email id to Custom Broker Shahid & Raja Bhai. Raja Bhai's name is saved in his mobile in the name of RB. The supplier never sends him invoice and packing list. In the loading list itself, price of the goods are mentioned. This Loading list is sent by him to rajabhai and shahid bhai to their mail id.

- The final price of the goods is fixed as per the plan previously settled between him and Custom Broker Raja Bhai so that they can show low price in the Bill of Entry and evade Customs Duty.
- He has blank letter head of the supplier having sign of the supplier. He sends them to the custom broker and on these blank letter heads, the custom broker prepares an invoice and packing list in his office showing the lower price.
- After that CB employee Shahid send him the value and Customs duty amount on WhatsApp and he pays duty according to that only.
- He prepares Bills of imported value of the goods and sends it to those parties who kept the goods in his supplier's godown & then parties send money through RTGS in his account and balance amount is given to him in cash. This cash amount is given to Saifu who through hawala send money outside India. Saifu send this money to David who is supplier's employee/man.
- He imports goods through IEC of three Companies/Firms namely:
 - (i) Suhani international- proprietor- Sandeep More (Himself)
 - (ii) Prashik International- proprietor - Deepesh More
 - (iii) Sparsh International- proprietor - Suhani More (His Wife)
- He mainly imports Goods such as Hair Accessories, Garment Accessories, Consumer Goods, Optical Goods, Lens etc.
- He has ordered the Goods from Only one supplier i.e., M/s JIYONG TRADING CO. LTD.
- His Custom Broker is M/s Xpress Interlink whose reference was given to him by a friend.
- He orders the goods from his supplier through mail. Invoice and Packing list are received in mail.
- He was asked about his email id and its users, in reply he stated that his email id is coolmoonlight2014@gmail.com which is used by him and Custom Broker. He has given password of email id to Custom Broker Shahid & Rajabhai.
- When asked about the letter heads (Blank and signed) found in his house and how he used them, he stated that the Supplier send him the original invoice and packing list to his mail id coolmoonlight2014@gmail.com. After that he forwards original invoice and packing list and loading list to custom broker after that they prepare invoice and packing list on signed letter head of supplier and they print it and submit it in the Customs House. In this invoice there is misdeclaration with respect to quantity, value, description so that custom duty can be evaded. He gives Rs. 73000/- per container to Custom Broker for doing all this.
- They are doing this under invoicing, misdeclaration, misclassification since 2017. They mis-declared the goods in terms of undervaluation, description and quantity.
- They declare only 10-20% of the actual value in BE.
- When asked how he made payment of the imported Goods to his supplier, he stated that he pays Customs Declared Value to supplier through bank transactions & balance amount is sent through Hawala.
- When asked who helps him for payments through Hawala, he stated that a person named Saif help him to send the Hawala money. He sends the balance amount to Saifu and Saifu sent it to David. As per his directions, Vishal and Yashwant send money to Saifu in Cash in Mumbai. After that Saifu by his own ways send money to David through Hawala.
- When asked how he gets so much cash, he stated that Some Customers gives him Cash and some sent money through RTGS. Some customers pay through both modes.

Generally, invoice amount payment is made through RTGS and remaining amount is paid to him through Cash.

- He was shown all the samples of Lens imported vide Bill of ENTRY No. 6739775/03.02.2020 which were examined by SIIB(I)/JNCH under panchnama and asked about their quality and value. He stated that these samples are of finished quality and not raw material. Their real/actual value range is 0.30-1.5 USD per Pair. But to save/evade duty from Customs, they decided their value @ 0.05 USD/Pair. They have also undervalued other items in BE No. 6739775/03.02.2020.
- He is doing undervaluation since March 2017.
- He was shown the Notebook (Real Long Book) which was found from his house during search which contains the entries related to cash/money transactions and was asked who made these entries. He stated that these Entries in the Notebook were made by Suhani More his wife as per his directions.
- The Notebook contains entries of transactions of money which are marked in the name of Saifu. They are details of the cash sent to David through hawala medium.
- The amount/Value of imported goods evaded/not shown at the time of clearance from Customs is given to Saifu to send it through Hawala.
- He was asked about the Documents related to actual value, he stated that Documents related to the Actual value of Imported Goods & other related documents like Bill of Lading and Loading list are sent by David through (his mail id) to Sandeep More's mail id which are deleted by him so that at the time of SIIB Investigation no proof can be obtained by them. But the same mail id is also he uses through his phone/mobile and he forgot to delete the loading list downloaded in his phone from his mail id. He printed all those loading lists and submitted it during his statement and signed them with date numbering from page 1 to 429. Further from his mobile, WhatsApp chats with some persons like Shri Ashok, Vivek Bhai, Dipesh More, Raj Odissa etc. are obtained and print out of the same was taken. They are numbered from Page 1 to 397 and he signed on them with date.
- He has saved/evaded duty of approximately Rs. 5 crore. He promised to submit Rs. 1 Crore on 07.02.2020 and for remaining Rs. 4 Crore, he promised to pay 1 crore each on the interval of 10 days.

1.7.6 Statement of Shri Charli Dilip Nagda recorded on 07.02.2020 wherein he *interalia* stated that:

- He is the Employee in Custom Broker, M/s Xpress Interlink Logistics since 2017. He looks after online customs documents filing of the CB.
- He has been filing the documents of M/s Suhani International from the time he joined the Xpress Interlink Logistics. On an average he files 3-4 documents per month.
- Documents of M/s Suhani International are mailed by Importer or his employee. After taking print out from the mail the same was deleted and the office docket were prepared.
- When asked that importer in his statement stated that the invoices are prepared by the Customs Brokers, in reply of that he submitted that the invoices are not prepared by them. Values of the imported items were asked by the Importer as to what rate it will be assessed in the Customs. The value assessed as per group practice was told to him/importer and accordingly he used to send the documents. Sometimes the value which he had declared was too high or too low and he was suggested accordingly to rectify. He used to say that he needs particular item at this price as he has to look into his billing.
- When asked about the meaning of high value, he stated that too high value in the sense that normal metal button/button garment accessories is assessed in Customs at 1.3-1.5 USD/KGS but importer used to declare higher value of the same say around 15-19 USD/KGS. When he pointed out to him, he used to say that he wanted it for his billing purpose. What billing purpose he does not know.

- He noticed such variations in value of spectacle Lens also earlier he used to declare at 0.08 USD/Pair, and then he reduced it to 0.05 USD/Pair and even sometime 0.06 USD per pair.
- He does not have any idea about importer's clients. They (Custom Broker) were limited to his/Importer's clearing part. They do not know about his clients.
- When asked whether Rajesh Bhanushali has any idea about his clients, he stated that he don't think so he also has any idea. Rajesh Bhanushali will be better person to tell whether he knows about Importer's clients.
- Email Id of Custom Broker is xpressinterlink2025@gmail.com, kmcsnip@gmail.com. These two email IDs were accessed by him and shahid.xpressinterlink2025@gmail.com was accessible to other employees of the office to take print out of Bill of Entry like Prashant Bhanushali.
- He was asked whether Shahid is regular employee of his CB firm and since when, he stated that Shahid is regular employee of CB since the start of 2017.
- When asked how does he, Shahid and rest of the staff gets monthly payment, he stated that they got their monthly payment through cheque and Khalid gets his payment in cash.
- When asked about the role of Shahid in their office, he stated that Shahid was particularly an office boy who used to assist him in his daily work like taking Xerox, print outs etc. He used to also send checklists to parties and even send Bills of Entries prints to them/parties.
- He was shown the set of documents downloaded from Sandeep More's email id and was asked about the process he carried on these loading lists, he stated that he has seen the documents downloaded from Sandeep More's email and put his dated signature on the same. These documents are Loading list which were mailed by Sandeep more and values were suggested by him. The checklist of Bill of Entry was accordingly prepared and forwarded to him. He used to ask for Bill of Entry and also to prepare an excel sheet of his invoice and packing list for billing purpose.
- Printouts of chats between Khalid khan and Sandeep More are shown to him and he was asked about the chats. He put his dated signature on the same. Further, he stated that these documents are details of bills raised after clearance of the consignments pertaining to Suhani International and other two parties.

1.7.7 Statement of **Shri Rajesh Bhanushali** (G-P/A Power of Attorney Holder of Custom Broker, M/s Xpress Interlink Logistics dated 07.02.2020 was recorded in Hindi, the same has been translated in English wherein he *inter alia* stated that:

- He is working for different Custom Brokers since last 20 years.
- For last 5 years he is working for Custom Broker, M/s Xpress Interlink Logistics
- He uses license of CB, M/s Xpress Interlink Logistics on commission basis for Rs. 40,000/- per month from Selva Kumar.
- Further he stated that 15 (Fifteen) Employees are working for him. Their names are 1) Vipul Bhanushali, 2) Suresh Bhanushali, 3) Nitesh Bhanushali, 4) Charli Nagda, 5) Khalid Khan, 6) Abbas Khans, 7) Shahid Shaikh, 8) Prashant Bhanushali, 9) Amit Mange 10) Amit Bhanushali, 11) Mehul Bhanushali, 12) Shyam Bhanushali, 13) Dhiren Gajra, 14) Mayur Bhanushali, 15) Piyush Bhanushali. Seven (7) out of 15 employees are getting paid their salary by cheque and rest are paid in cash.
- They file BE/Import documents of three firms of Shri Sandeep More namely:
 - (i) Suhani International
 - (ii) Prashik International
 - (iii) Sparsh International
- He (Rajesh Bhanushali), Charli Nagda and Khalid Khan used to talk/chat and exchange import related documents from Sandeep More through WhatsApp and email.
- Sandeep More's email id is coolmoonlight2014@gmail.com. He used to send loading list and Bill of Lading from this email id. After that he used to provide value of some items

through WhatsApp and value of some items they used to suggest him as per Group Practice. Based on that they used to prepare Import Invoice and based on this invoice, they filed the Bill of Entry.

- For clearance of each consignment, Sandeep More used to give Rs. 73,000/- in cash and Rs. 7000 through banking channel.
- As they got to know about SIIB Investigation, they deleted all mails and WhatsApp chat. He don't know who used to mail and what was the content in the chats. Charli Nagda was given responsibility to see and check the mails.
- In all the three firms of Sandeep more, the value declared was low than their actual/real value. As there is lot of competition in the market and they used to get good amount for clearance, they did not tell this to customs.
- He agreed that he has violated the CBLR Rules. He is ready for any kind of punishment as per CBLR rules.

1.7.8 Another Statement of **Sandeep More** was recorded in English on 12.02.2020, the same has been translated in English wherein he *inter alia* stated that:

- He was asked how he used to contact his Custom Broker, M/s Xpress Interlink Logistics, He stated that he used to talk to Mr. Shahid, Employee of CB, M/s Xpress Interlink Logistics through Phone call and WhatsApp. Shahid's mobile No. is 8655440077.
- He was asked what information related to Bill of Entry he used to give to Shahid and through what medium, he stated that He used to give information to Shahid about Bill of Lading, Loading List, Packing List, Item Wise Quantity, number of PCS, quantity in Kgs of goods and value of the items to be declared. He used to send this information to Shahid on his WhatsApp number 8655440077 and email ID of KMC SHIP.
- He asked Shahid to declare the value of the lens from 0.02 to 0.15 USD in different Bills of Entry.
- On showing him the print out of his and Shahid's WhatsApp message/chat dated 02/05/19 at 4:08 pm in which Shahid has been asked to declare price/value of lens at \$0.05, He stated that Printouts of the WhatsApp chat between him and Shahid have been taken out and He read it completely. He completely agreed with what has written in the chats. This chat was done by him with Shahid. He put his dated signature on every page of this chat which is from page 1 to 50. On 12/02/2020, his 2 phones (I Phone & Google Phone) were seized under Panchnama dated 07/02/2020. The sealed envelope was opened in front of him and two witnesses in which his 2(two) phones (I-PHONE and Google Phone) were found. After that, the WhatsApp conversation/chats with him and Shahid found in his phone (GOOGLE PHONE) were sent to SIIB's official mail ID & their printouts have been taken. He has put his dated signature on these printouts.
- He used to ask Shahid to create INVOICE with loading list containing VALUE and QUANTITY. He completely agreed with the conversation that took place between him and Shahid on May 2, 2019 at 4:08PM, in which it is written as "PLS MAKE LENS DECLARATION AT \$0.05" and this conversation was done by him.
- He was shown and asked to comment on the data printout which was obtained from his phone during his statement dated 05/06-02-2020, whose page numbers are 42, 362, 412 and 421 which have commercial invoices on them., he stated that during his statement dated 05/06-02-2020, the data printout which was taken out from his phone, their page no. 42, 362, 412 and 421 have lens commercial invoice and he has completely seen it and put his dated signature on it. He always imports Lens in the price range that is shown in these commercial invoices. However, he used to declare their price in the range of 0.02 USD to 0.15 USD at customs and saved customs duty. The quality of the lens was also of that range.

1.7.9 Further Statement of **Sandeep More** was recorded on 23.09.2021 in English and the same has been translated to him wherein he *inter alia* stated that:

- Basic factor which decides the values of the optical Lens is the quality of lens such as their power, coating (HC/HMC), Type (Progressive, Round Top, Photogrey etc.)
- When asked that the Goods Optical Lens imported by M/s Suhani International were declared simply as "Spectacle Lens" in Bills of Entry No. 6747464/04.02.2020 & 6739775/03.02.2020. No specification/detailed description were given in the Bills of Entry wherein upon Examination of the Goods, the Lens were found as Lens 1.56 HC Plano CYL Bifocal/round top/ Progressive etc. When asked why detailed description was not mentioned in the Bill of Entry, he stated that they buy the goods in stock lot and their specification/type does not affect the price much. As a general practice they have been declaring these Goods as "spectacle Lens" in Bills of Entry.
- He was shown the details of past imports of spectacle Lens made by M/s Suhani International where only general description as "Spectacle Lens" is given and the declared value of these goods were also similar to the value declared in the Bills of Entry No. 6747464/04.02.2020 & 6739775/03.02.2020 and was asked to comment on that, he has seen the said details and stated that they bought the goods in stock lot and their specification/type does not affect the price much. All these goods were similar to goods imported vide Bills of Entry No. 6747464/04.02.2020 & 6739775/03.02.2020 and as a general practice they have been declaring these Goods as "spectacle Lens" in Bills of Entry.

1.7.10 Further, another Statement of **Sandeep More** was recorded in English on 02.01.2024, the same has been translated to him wherein he *inter alia* stated that:

- He is the Proprietor of M/s. Suhani International (IEC- 0310049440). The company is mainly involved in trading of Spectacle Lens.
- He incorporated this company in 2010.
- Main items in the consignments imported in the past are Spectacle Lens/Optical Lens other than that we have imported Hair Accessories, Ladies/Kids Bags, Imitation Jewellery and other Trading items. Further, Six Bills of Entry No. i.e. BE No. 6747464/04.02.2020, 6739775/03.02.2020, 7665082/15.05.2020, 7665083/15.05.2020, 7665084/15.05.2020, 7665085/15.05.2020 were examined by the SIIB(I), JNCH under Panchnama in 2020 due to Undervaluation of Spectacle Lens.
- When asked about the criteria/specifications that decides the values of the optical/spectacle Lens, he stated that Value of the Goods are decided based on quality of the material used, type/specification of Lens such as their power, coating and type etc.
- The Goods Optical Lens were declared as "Spectacle Lens" in Past Bills of Entry. However, During Examination of the Goods, the Lens were found as Lens 1.56 HC Plano CYL Bifocal/round top/ Progressive etc. When asked why detailed description was not mentioned in the Bill of Entry, he stated that they buy the goods in stock lot and their specification/type does not affect the price much. As a general practice they have been declaring these Goods as "spectacle Lens" in Bills of Entry.
- Further, he accepted that all these goods were similar to goods imported vide above mentioned six bills of Entry where goods were examined under panchnama and as a general practice they have declared these goods as spectacle Lens in the bills of entry.
- He was shown the duty calculation sheet for the six provisionally released Bills of Entry and Past Bills of Entry where Spectacle Lens were imported and asked whether he agrees to pay the differential duty to Customs, in reply of that he stated that he is not in condition to pay the differential duty for the past imports. They have closed their business of Import for IEC of M/s Suhani International in 2020 itself. Now they do the trading of Goods locally in Indian Market. They have already paid duty amount of more than Two Crores vide following challan No:
 - (i) Differential duty of Rs. 73,98,000/- for BE No. 6739775/03.02.2020 & 6747464/04.02.2020 vide challan No. HC 27 dated 08.06.2020.

- (ii) Differential duty of Rs. 36,40,601/- for BE No. 7665082/15.05.2020 vide Challan No. HC 139 dated 18.08.2020.
- (iii) Differential duty of Rs. 32,44,044/- for BE No. 7665084/15.05.2020 2020 vide Challan No. HC 02 dated 01.09.2020.
- (iv) Differential duty of Rs. 35,07,456/- for BE No. 7665085/15.05.2020 vide Challan No. HC 80 dated 08.09.2020,
- (v) Differential duty of Rs. 35,07,899/- for BE No. 7665083/15.05.2020 vide Challan No. HC 237 dated 26.08.2020.

- He stated that he is submitting the Copy of Challans of the same. Now he is not in condition to pay the remaining differential duty. Declared value of the Goods by him is fair and as per market practice.
- They import the goods on credit basis of 90/180 days after delivery. They have made payment for all Past Bills of Entries. He is submitting SWIFT Transaction details for the payment of import made for the period 2019-2020.
- They sell goods to M/s Vishal Optics, Ashok Enterprises, Ashok Opticians and others. He will submit the sales invoice copies for all the Past Bills of Entry for the period 2019 to 2020 in few days.
- Further, He stated that declared value of Past Bills of Entry for the period 2019 to 2020 is fair and it is as per market price. He requested to issue the Investigation Report/Show Cause Notice at the earliest.

1.7.11 Statement of **Shri Rajesh Bhanushali** (G-P/A Power of Attorney Holder of Custom Broker, M/s Xpress Interlink Logistics was recorded in English on 02.01.2024 the same has been translated to him, wherein he *inter alia* stated that:

- He is the G-Card holder (No. B-1314) with P/A (Power of Attorney) authorized person of CB firm M/s Xpress Interlink Logistics.
- Custom Broker, M/s Xpress Interlink Logistics and the said main firm is Chennai; that handles the work of M/s Xpress Interlink Logistics in Mumbai port & JNCH port.
- Bills of Entry No. 6747464 dtd.04.02.2020 & 6739775 dtd. 03.02.2022 was filed by his staff on behalf of Custom Broker, M/s Xpress Interlink Logistics and were declared as per documents submitted by Importer.
- When asked whether he is aware that the goods i.e. Optical Lens imported by M/s Suhani International were declared simply as Spectacle Lens & in the Bill of Entry no. 6747464 dtd.04.02.2020 and Bill of Entry No. 6739775 dtd. 03.02.2020 and No specifications/detailed descriptions were given in the bill of entry wherein upon examination the Lens were found as Lens 1.56 HC Plano CYL Bifocal/round Toy bifocal/Progressive etc., he stated that he was not aware of the goods actually imported. He came to know about the goods only at the time of the examination as he was told by his employee that goods are found as above. Further, they contacted the importer, who claimed the goods.
- Mr. Nitesh D. Hurbada, G-card holder of their firm M/s Xpress Interlink Logistics was present during the examination on maximum occasions; that he has left their Company.
- They have verified KYC documents of the Importer, M/s Suhani International. They had filed approximately 50 to 60 Bills of M/s Suhani International filed since 2019.
- He was shown the list of past/previous Bills of entry for spectacle leans which were filed though your broker firm. In this regard, he stated that the aforesaid bills of entry were filed by their office on the basis of documents submitted by Importer, M/s Suhani International i.e. Invoice, Packing list & Bill of lading etc.
- He was asked whether he suggested any change in the classification, valuation etc. in the past/previous Bills of entry or any guidance given to Importer in this regard. He stated that he has not suggested any change in the classification or valuation to the Importer,

M/s Suhani International for the said goods. They have not given any guidance to the Importer in this regard.

- Further, he stated that their CB firm used to get agencies charges at Rs.14000/- per Bill of entry for clearance of the goods.

1.8 From the above statements and Relevant Retrieved data found during search/ from seized Goods, following points have been observed:

- Shri Vishal Salvi does the work of collection of cheques and cash. He collected money from Mumbai buyers and gave the money (cash) at Custom Broker / Raja Bhai's office to Shahid. On 4th Feb 2020, on the directions of Sandeep More, he collected Rs. 3,00,000/- cash from Ashok Bhai (Mum Marker) and handed it over to Shahid at Custom Broker/Raja Bhai's Office. Further, it is found that he has also collected and gave money from various persons in the Past.
- Other than Vishal Salvi, Yashwant More, Dinesh More and Karan More were also doing the work of collection of money (handing/taking cash/money) from Angadiyas.
- Yashwant More used to collect documents from the Customs Broker who has office in Kazi Syed Street, Masjid Bunder, Mumbai.
- Shri Dipesh Kashinath More used to check the cashbook details in the mail received from coolmoonlight2014@gmail.com-(email id of Sandeep More) which has entries as "*Cash paid against excess RTGS entry*". From the statements of Importer and others, it appears that this excess RTGS entry was paid to the supplier in form of Cash by Sandeep More.
- Further, there are chats between Sandeep More and Shahid (Custom Broker Employee) related to payment in Cash to Custom Broker by Sandeep More.
- Password of Sandeep more's email coolmoonlight2014@gmail.com- was given to Custom Broker Shahid & Rajabhai.
- There are following three firms whose work is taken care by Sandeep More:
 - (i) M/s Suhani International- Proprietor- Sandeep More
 - (ii) M/s Sparsh Universal- Proprietor- Suhani More (Wife of Sandeep More)
 - (iii) M/s Prashik Universal IEC is in name of Dipesh More but all its work are taken care by Sandeep More.
- Sandeep More has ordered the Goods from Only one supplier i.e. M/s JAYOUNG TRADING CO. LTD.
- The Supplier sends him (Sandeep More) the original invoice and packing list to his mail id coolmoonlight2014@gmail.com. After that He forwards original invoice and packing list and loading list to custom broker after that they prepare invoice and packing list of lower value on signed letter head of supplier and they print and submit it in the Customs House. In the invoice there is misdeclaration with respect to quantity, value, description so that custom duty can be evaded. He gives Rs. 73000/- per container to Custom Broker for doing all this. They are doing this under invoicing, misdeclaration, misclassification since 2017.
- The price of the goods is fixed as per the plan previously settled between Sandeep More and Custom Broker Raja Bhai (Rajesh Bhanushali).
- He prepares Bills of imported value of the goods and send it to those parties who kept the goods in his supplier's godown & then parties send money through RTGS in his account and balance amount is given to him in cash. Vishal Salvi and Yashwant give this cash amount to Saifu on the directions of Sandeep More in Mumbai and through Hawala, Saifu send this money to David in China who is Chinese supplier's employee/man.
- Importer/Sandeep More paid Customs Declared Value to supplier through bank transactions (RTGS) & balance amount is sent through Hawala& the same procedure is used in India when he sells the goods to his Indian Buyers.
- Data printout which was obtained from his phone had commercial invoices of higher values from the other supplier, M/s Jiangsu Junshi Optics Co. Ltd. Real/actual value range of Imported Spectacle Lens 0.30-1.5 USD per Pair. But to save/evade duty from

Customs, they declared their value @ 0.05 USD/Pair. Sandeep More asked Shahid to declare the value of the lens from 0.02 to 0.15 USD in different Bills of Entry. Further, chat between Sandeep and Shahid on May 2, 2019 at 4:08 PM clearly proves that it is Sandeep More who was giving directions to Shahid to declare the lens price "@ \$0.05 per pair".

- In all the three firms of Sandeep more, the value declared was low than their actual/real value.
- Sandeep More, Proprietor of M/s Suhani International has saved/evaded duty of approximately Rs. 5 crore by under invoicing, misdeclaration.
- Sandeep used to give information to Shahid about Bill of Lading, Loading List, Packing List, Item Wise Quantity, number of PCS, quantity in Kgs of goods and value of the items to be declared through WhatsApp.
- The value of some items assessed as per group practice was told to him and Values of some items were suggested by Sandeep More. Based on that they used to prepare Import Invoice and based on this invoice and accordingly checklist of Bill of entry was forwarded to him and after that CB filed the Bill of Entry.
- For clearance of each consignment, Sandeep More used to give Rs.73,000/- in cash and Rs. 7000 through banking channel.
- Shahid and Charlie Nagda are Employees of Rajesh Bhanushali/ CB Firm M/s Xpress Interlink Logistics.
- Rajesh Bhanushali (Custom Broker) accepted that he has violated the CBLR Rules. He is ready for any kind of punishment as per CBLR rules.
- Sandeep More knew about the specifications of the Lens. There are chats wherein there is mention of 1.56 Progressive HC Shipment, 1.56 Progressive HMC ready Shipment, Blue Cut RT Lens shipment. Further, these chats/data were obtained/retrieved from the seized Mobile (Google Pixle Phone) of Sandeep More, Proprietor of M/s Suhani International by Cyber Forensic Lab under Panchnama.
- The above conversation between Importer and Custom Broker/Buyers suggest that they know about the specification/types of imported Lens and despite knowing specification/type of Lens, they were declaring these goods with generic name only i.e. "Spectacle Lens" and declared these goods at very low prices.
- In his statement dated 02.01.2024, importer stated that Declared value of the Goods by him is fair and as per market practice. However, this retraction appears to be an afterthought as he has already accepted in his earlier statement dated 05/06.02.2020 that they have mis-declared the goods (spectacle Lens and other items) in terms of undervaluation, description and quantity. He was involved in undervaluation of the spectacle Lens and other goods which is proved from the chats between him and Custom broker employee Shahid.
- Further there are several chats related to cash Transaction, cash taken/given in large amounts from/to various persons known to Sandeep More. (Chat between Sandeep More and Shahid for payment in cash).
- Sandeep More, proprietor of M/s Suhani International & Rajabhai Custom Broker admitted their guilt and knowledge about the undervaluation of Lens. M/s Suhani International submitted letter dated 12.02.2020, wherein it is submitted that he evaded Customs Duty of Rs. 5 Crore and promised that he will pay the same as early as possible.
- Further, Importer, M/s Suhani International agreed to pay the remaining differential Customs Duty as early as possible and he undertake to co-operate with the Investigation.
- M/s Suhani International paid Rs. 50,00,000/- Vide Challan No. HC 199 dated 12.02.2020 having DD No. 58274/10.02.2020 which may be verified at the time of adjudication.
- Further, they have paid duty amount of more than Two Crores vide following challan No:
i. Differential duty of Rs. 73,98,000/- for BE No. 6739775/03.02.2020 & 6747464/04.02.2020 vide challan No. HC 27 dated 08.06.2020.

- ii. Differential duty of Rs. 36,40,601/- for BE No. 7665082/15.05.2020 vide challan No. HC 139 dated 18.08.2020.
- iii. Differential duty of Rs. 32,44,044/- for BE No. 7665084/15.05.2020 2020 vide challan No. HC 02 dated 01.09.2020.
- iv. Differential duty of Rs. 35,07,456/- for BE No. 7665085/15.05.2020 vide challan No. HC 80 dated 08.09.2020.
- v. Differential duty of Rs. 35,07,899/- for BE No. 7665083/15.05.2020 vide challan No. HC 237 dated 26.08.2020.

1.9 From the above stated facts/observations, it appears that Shri Sandeep More, Proprietor of M/s Suhani International was involved in the misdeclaration of the Goods (Spectacle Lens and other trading goods) in terms of Value in the Past as well as Provisionally released Bills of Entry Examined by SIIB(I)/JNCH. Further, it is found that there are Cash transactions and Exchange of Money through various employees/relative of Mr. Sandeep More between his supplier/buyers and Custom Broker. He accepted that he has evaded the Customs Duty to the tune of Rs. 5 Crore by under invoicing / undervaluation of the Goods. Custom Broker, M/s Xpress Interlink Logistics was also involved in the undervaluation of the goods as accepted by Mr. Rajesh Bhanushali (G-P/A Card Holder of Custom Broker) in his statement dated 07.02.2020 wherein he stated that the value of the imported goods declared by M/s Suhani International was low than their actual/real value. They knew about this fact. As there is lot of competition in the market and they used to get good amount for clearance, they did not tell this to customs.

1.10 From the above explanation, it appears that M/s Suhani International have mis-declared the goods imported vide Bill of Entry No. 6739775/03.02.2020 & 6747464/04.02.2020 in terms of description, value, quantity and suppression of facts by the Importer by not declaring the exact description of the optical Lens. Hence, the offending goods as mentioned in Table-II & III above were liable for confiscation under section 111(l) and 111(m) of the Customs Act, 1962. Accordingly, the goods were seized under section 110(1) of the Customs Act, 1962 vide Seizure Memo dated 06.02.2020 & 23.03.2020 respectively. Further, with regard to the rest of the items of the above mentioned two Bills of Entries, no discrepancies were noticed with respect to declared quantity, classification and value (as compared with the contemporaneous Import).

1.11 Further, Four more Bills of Entry of M/s Suhani International having one of the imported items as "Spectacle Lens" were put on hold by SIIB(I)/JNCH and examined under panchnama. The details of the said Bills of Entry are as follows:

TABLE-IV

Sr. No.	Bill of Entry & date	Importer	Container No.	Examination Under Panchnama Dated	Seizure Memo No. & Date
1.	7665082 dtd. 15.05.2020	M/s Suhani International	KOCU4153112	21/22.05.2020	12.06.2020
2.	7665083 dtd. 15.05.2020	M/s Suhani International	CLHU9088904	30.05.2020& 01.06.2020	12.06.2020
3.	7665084 dtd. 15.05.2020	M/s Suhani International	CAIU7638848	21.05.2020	12.06.2020
4.	7665085 dtd. 15.05.2020	M/s Suhani International	DFSU6947850	26.05.2020	12.06.2020

1.12 After examination of the subject goods covered under above mentioned Four Bills of entry, discrepancies have been noticed with respect of declared description, values, classification and quantity of the below tabulated items:

1.12.1 Table-V (Bill of Entry No. 7665082 DATED 15.05.2020): -

Sr. No.	Declared Description	QTY& Unit	Description Found	Quantity & Unit	Remarks/ Discrepancy with
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		(Dec.)		Found	respect to
1.	Mosquito killer	1740 Pcs	E-Mosquito killer	990 Pcs	Description
			Mosquito killer lamp (with branded 'Nova')	750 Pcs	
2.	Beard straighter	700 Pcs	Electric beard / hair straighter	700 Pcs	Description
3.	Mole remover pen	1200 Pcs	Beauty mole removal sweep spot pen	1200 Pcs	Misclassification (Correct CTH - 85167990)
4.	Night lamp	984 Pcs	Moon lamp (two types)	984 Pcs	Undervaluation
5.	Face massager	500 Pcs	Electric face massager device (Facial cleansing device)	500 Pcs	
6.	Black head remover	780 Pcs	Electric blackhead remover device	780 Pcs	Misclassification (Correct CTH - 85167990)
7.	Portable juicer bottle	480 Pcs	Portable and rechargeable battery juice blender (380 ml)	480 Pcs	Misclassification (8509)
8.	Spectacles Lens	316645 PRS	1.56 HC Cylinder Round top Bifocal	10405 PRS	Description, Undervaluation & Excess Quantity
			1.56 Crossbow Progressive Hard Coated	2025 PRS	
			1.56 Progressive HC	8961 PRS	
			1.56 Progressive HMC	4572 PRS	
			1.56 Progressive Cyl. HMC	9385 PRS	
			Photochromatic HMC Lens	625 PRS	
			UV Blue cut 1.56 round HMC	23012 PRS	
			1.56 Blue cut Progressive Lens	4211 PRS	
			1.56 Hard Multi EMI Coated	12183 PRS	
			1.56 Progressive HMC Lens	5890 PRS	
			1.56 Blue Cut UV HC SV Super Hard Coated Lens	4725 PRS	
			Mega Plus 1.56 Round top	68726 PRS	
			1.56 Progressive HMC	3475 PRS	
			1.56 Progressive HC	4485 PRS	
			1.56 Round Bifocal Hard coated lens	36862 PRS	
			1.56 HMC Superhydrobic Middle Index Super Hard Coated	15207 PRS	
			1.56 Progressive HC	5613 PRS	
			Digital pro + 1.56 freedom pro	8727 PRS	
			1.56 Progressive HC short corridor	2306 PRS	
			1.56 Progressive HC short corridor	3636 PRS	
			Polycarbonate Progressive HMC lens	626 PRS	
			1.56 Progressive HMC short corridor	824 PRS	
			1.56 HC progressive Lens	10960 PRS	
			1.56 Blue Cut short Pro	1867 PRS	
			1.56 CR Progressive Lens	16267 PRS	
			1.60 HMC Blue cut	17934 PRS	
			Blue Block Lens	17463 PRS	
1.67 HMC	548 PRS				
New generation Photochromatic Lens	15170 PRS				
	TOTAL	318560 (Excess by 1915)			
9.	Optical frames	200Doz	Optical frames	200Doz	Undervaluation

1.12.2 Discrepancy observed in terms of Undervaluation, Quantity, Misclassification & Description of the declared Goods. Spectacle Lens detailed description (HC, HMC, RT, Blue Block etc.) were not declared in BE. 1915 pairs of spectacle Lens found in excess quantity than the declared in BE No. 7665082/15.05.2020.

1.12.3 Further, Item No. 4 & 8 declared as Mole Remover Pen and Blackhead remover respectively were found as Beauty Mole Removal Sweep Spot Pen & Electric blackhead remover device respectively. Beauty Mole Removal Sweep Spot Pen was classified under CTH 85437099 (BCD 7.5 %, IGST 18 %, Total Customs Duty = 27.73%) & Electric blackhead remover device was classified under CTH 82149090 (BCD 10 %, IGST 18 %, Total Customs Duty = 30.98%) but it is found that both the items are rightly classifiable under CTH 85167990 (BCD 20 %, IGST 18%, Total Customs Duty =43.96 %). Hence, the goods (Item No. 4 & 8 are found mis declared in terms of description and classification.

1.12.4 Further, Item No. 9 declared as portable juicer bottle were found as Portable rechargeable battery juice blender and thus were found mis-declared in terms of description and classification. Portable juicer bottle classified under CTH 39269099 (BCD 15%, IGST 18%, Total Customs Duty = 37.47%) was found as Portable and rechargeable battery juice blender and is rightly classified under CTH 85094090 (BCD 20%, IGST 18%, Total Customs Duty =43.96%).

1.12.5 Items No. 5 & 21 declared in the Bill of Entry as Nightlamp and Optical Frames respectively were found to be mis-declared in terms of value with respect to Contemporaneous Import.

1.13 Table-VI (Bill of Entry No. 7665083 dtd. 15.05.2020):

Sr. No.	Declared Description	QTY (Decl.) & Unit	Description Found	Qty Found & (Unit)	Remarks/ Discrepancy with respect to
1.	Spectacle Lens	399838 Pairs	Progressive Index 1.56 Progressive Hard Coated	15332 PRS	Description, Value & Excess Quantity
			1.56 Photogrey Round Top Cyl HC	3430 PRS	
			1.56 HC Compound Round Top	20875 PRS	
			1.61 Blue Cut UV HMC + EMI Super-Hydrophobic & Anti-Scratch coating Aspheric Designed Green Coated	3850 PRS	
			1.56 HC Lens	4165 PRS	
			1.56 HC Lens	3300 PRS	
			1.56 HC Lens	48500 PRS	
			CR 1.56 Round TOP HC lens	11500 PRS	
			1.56 HC Lens	26465 PRS	
			CR 1.56 HC Lens Hard Coat	19618 PRS	
			1.56 Round Top Cyl HC	27890 PRS	
			1.56 Index Round Top Bifocal	12400 PRS	
			1.56 HC Cylinder Round Top Bifocal	14820 PRS	
			Photochromatic Grey Cyl Round Top HC PG RT Cyl HC	8119 PRS	
			CR HC Round Top Cylinder Lens	36631 PRS	
			1.59 Polycarbonate lens scratch Resistant HMC + EMI Coating	12039 PRS	
			1.56 Photogrey Round Top Cyl HC	9965 PRS	
			Progressive 1.56 Progressive Blue Cut HMC	4082 PRS	
			1.56 Photogrey Round Top Cyl HC	4200 PRS	
			1.56 Photogrey Hard Coat	37032 PRS	
55mm HC 1.499 Risin Lens	2450 PRS				

			1.56 HC Round Top	24043 PRS	
			CR 1.56 HC Round Top Cylinder Lens	33570 PRS	
			1.56 Progressive Blue HMC lens UV 420	11220 PRS	
			Visro Polycarbonate single vision	8821 PRS	
			TOTAL	404317 (Excess by 4479)	
2.	Assorted Imitation Jewellery	30 Kgs	Assorted Imitation Jewellery	30 Kgs	Value
3.	Sublimation Tape	24 Pcs	Heat Transfer Film	24 Pcs	Description

1.13.1 Discrepancy observed in terms of Undervaluation, Quantity & Description of the declared Goods. Spectacle Lens detailed description (HC, HMC, RT, Blue Block etc) were not declared in BE. 4479 pairs of spectacle Lens found in excess quantity than the declared in BE. Items No. 12 declared in the Bill of Entry as Sublimation Tape were found as Heat Transfer Film and hence misdeclared in terms of description. However, there is no change in classification and duty structure due to change in description of the Goods.

1.13.2 Item No. 13 declared in the Bill of Entry as Assorted Imitation Jewellery was found to be misdeclared in terms of value with respect to Contemporaneous Import.

1.14. Table-VII (Bill of Entry No.7665084 dtd. 15.05.2020):

S. No.	Declared Description	QTY (Decl.) & Unit	Description Found	Qty Found & (Unit)	Remarks/ Discrepancy with respect to
1.	Spectacle lens	2,90,620 Pairs	1.56 HC Round Top Cylindrical Lens	32,360	Description, Undervaluation and excess quantity
			1.56 UV-420 Night Driving SHMC 70 mm	3530	
			Round Top 28 ORG 1.56 65 Photogrey HC Cylindrical)	1,155	
			1.56 PB KT HC	7,737	
			PG Com. KT HC	3,607	
			Round Top Bifocal (Super Hard Coated Surface)	4,622	
			Round Top Bifocal Spherical	36,097	
			1.56 Progressive HC	4,180	
			1.56 HMC Blue Block Progressive	3,448	
			1.56 Photogrey Round Bifocal	20,750	
			Photogrey Round Top Cylindrical	24,977	
			1.56 HC High Cylindrical	16,140	
			1.56 Anti – UV Progressive Short Lens	24,375	
			1.56 Progressive Short Lens	15,600	
			1.56 HMC High Cylindrical	14,045	
			1.56 Bifocal HMC	15,205	
			Round Top Photogrey HC 28/65	10,094	
			1.499 WT Round Top U/C	26,625	
			1.56 Photogrey SV Semi Finished	1,925	
			1.56 Blue cut SV Semi Finished	2,675	
1.56 Blue Cut Prog. Short Corridor	2,750				

			1.56 Photo grey S/F Progressive Short Corridor 72/12 mm	8,388	
			1.49 Progressive Semi Finished	1604	
			1.49 Flat Top Semi Finished	5746	
			1.49 Polarized SV Semi-Finished	3,951	
			Progressive Semi-Finished	1,125	
			TOTAL	2,92,711 (Excess 2,091 Pairs)	
2.	Metal Fitting for Shoes	350 kgs	Metal Fitting for Shoes	350 Kgs	Misclassification
3.	Plastic Fitting for Shoes	420 Kgs	Plastic Fitting for Shoes	420 Kgs	Misclassification (No duty Change)
	Plastic Fitting for Shoes	122 X 33Kgs	Plastic Fitting for Shoes	122 X 33Kgs	
4.	Hand Blender	720 PCS	Electric Hand Blender (Scarlett Brand)	720 PCS	Description, Misclassification, IPR Angle
5.	Kettle	592 Pieces	Electric Kettle (Scarlett Brand)	592 PCS	Misclassification, IPR Angle

1.14.1 Discrepancy observed in terms of undervaluation, quantity & description of the declared goods. Spectacle Lens detailed description (HC, HMC, RT, Blue Block etc.) were not declared in BE. 2091 pairs of Spectacle Lens found in excess quantity than the declared in BE.

1.14.2 Item No. 1 & 2 declared as Plastic fitting for Shoes & Metal fitting for shoes respectively were found misdeclared in terms of classification. Plastic fitting for Shoes was classified under CTH 39269099 (BCD @ 15% & IGST @ 18%, Total Customs Duty =37.47%) & Metal fitting for shoes was classified under CTH 83089099 (BCD @ 10% & IGST @ 18%, Total Customs Duty =30.98%) but they are found to be rightly classifiable under CTH 39269099(BCD @ 15% & IGST @ 18%, Total Customs Duty =37.47% (no duty change) &83021090(BCD @ 15% & IGST @ 18%, Total Customs Duty =37.47%) respectively.

1.14.3 Items No. 7 & 8 declared as Hand Blender and Kettle under CTH 85166000(BCD @ 20% & IGST @ 18%, Total Customs Duty =43.96%) & 85169000(BCD @ 10% & IGST @ 18%, Total Customs Duty =30.98%) respectively were found to be rightly classifiable under CTH 85094090(BCD @ 20% & IGST @ 18%, (Total Customs Duty =43.96%) (No Duty Change) & 85167990(BCD @ 20% & IGST @ 18%, (Total Customs Duty =43.96%) respectively.

1.15. Table-VIII (Bill of Entry No. 7665085 dtd. 15.05.2020):

S. No.	Declared Description	QTY (Decl.) & Unit	Description Found	Qty Found & (Unit)	Remarks/ Discrepancy with respect to
1.	Spectacle lens (with 1 Ctn optical lens sample acc.)	131187 pairs	1.56 CR HC Round Top lens	42000	Description, Value and Excess Quantity
			1.56 Progressive short Lens	3120	
			1.56 Photogrey Round Top age HC Lens	4823	
			1.56 Round Top HC Lens	14732	

			1.60 Blue Cut HMC Lens	10589	
			1.56 Photogreyprocession HC Lens	1431	
			1.56 Photogreyprocession HMC Lens	2375	
			1.56 S/V Hardcoated	10595	
			1.56 HMC + EMI Midinda	2730	
			1.61 Blue Cut UV HMC + EMI	39276	
			1.60 Blue Cut HC	2250	
			Optical lens sample acc.	1	
			TOTAL	133921 (Excess 2734 Pairs)	
2.	Optical frame	250Doz	Optical frame	250 Doz	valuation
3.	Glass fitting for shoes	1300Kgs	Glass fitting for shoes	1309 Kgs	Misclassification, Qty.
4.	Optical mould	132Kgs	Optical mould	135 Kgs	valuation and Qty.
5.	Optical acc.	30Kgs	Optical acc.	33 Kgs	valuation and Qty.
6.	Metal optical frame	584Doz	Metal optical frame	584 Doz	Valuation

1.15.1 Discrepancy observed in terms of Undervaluation, Quantity & Description of the declared Goods. Spectacle Lens detailed description (HC, HMC, RT, Blue Block etc.) were not declared in BE. **2734 pairs of spectacle Lens found in excess quantity than the declared in BE.** Items No. 17 declared as Glass fitting for Shoes classified under CTH 70200090 (BCD @ 10% & IGST @ 18%, Total Customs Duty =30.98%) but it is found to be rightly classifiable under CTH 83021090(BCD @ 15% & IGST @ 18%, Total Customs Duty =37.47%).

1.15.2 Item No. 15 & 30 declared as Optical Frame and Metal Optical Frame respectively were found to be misdeclared in terms of value as per contemporaneous Import. Item No. 27 & 28 declared as Optical Moulds and Optical accessories respectively were found to be misdeclared in terms of quantity and value as per contemporaneous Import.

1.16 Further, goods namely 'Mosquito killer lamp' with brand name 'Nova' (Bill of Entry No. 7665082/15.05.2020), Electric Kettle, Electric Hand Blender with Brand name Scarlett and Dolphin Body Massager with Brand name Kangling (BE No. 7665084/15.05.2020) appeared to be in violation of IPR Rules, 2007, hence a letter dated 12.06.2020 to IPR Cell/JNCH for verification of IPR Angle whether the goods namely (Mosquito Killer Lamp(Brand NOVA), Electric Hand Blender & Electric Kettle (Brand- Scarlett) & Dolphin Massager (Brand-Kangling) are registered by IPR holder or otherwise was sent. Vide their letter dated 12.06.2020, IPR Cell/JNCH informed that Brand NOVA, SCARLETT & KANGLING are not registered with Customs and NOC in respect of IPR angle was granted for above mentioned Brands as per IPR Rules, 2007 and granted NOC for the same.

1.17 In view of the above stated facts, the impugned goods covered under Four Bills of Entry mentioned as per Table- V-VIII above were found to be liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962. Accordingly, offending goods were seized under section 110(1) of the Customs Act, 1962 vide seizure memos dated as mentioned above in Table-IV above. Further, with regard to the rest of the items of the above mentioned four Bills of Entries, no discrepancies were noticed with respect to declared quantity, classification and value.

1.18 Provisional Release

1.18.1 Provisional Release for Bills of Entry No. 6739775 / 03.02.2020 & 6747464/04.02.2020:

Importer vide their letter dated 13.03.2020 & 11.05.2020 requested for provisional release of the goods covered under Bill of Entry No. 6739775 / 03.02.2020 & 6747464 / 04.02.2020 after taking appropriate bond and security, vide letter dated 18.05.2020, NOC for provisional release of the seized goods was granted subject to execution of bond of the full value of seized goods against above mentioned two bills of Entry on furnishing the security deposit to cover the differential duty payable on offending goods of above mentioned BE No. and requisite fine and penalty as per Para 2.2(ii) & (iii) of CBIC Circular No. 35/2017-Customs dated 16.08.2017.

1.18.2 Provisional Release for Bills of Entry No. 7665082, 7665083, 7665084 & 7665085 all dtd. 15.05.2020:

A provisional release letter dated 14.07.2020 was issued by Group 5B/JNCH wherein it was mentioned that provisional release of the goods covered under four Bills of Entry No. 7665082, 7665083, 7665084 & 7665085 all dtd. 15.05.2020 may be considered subject to execution of Bond of the full value of seized goods and on furnishing of security deposit to cover differential duty payable on offending goods & requisite fine and penalty as per para 2.2 (ii) & (iii) of CBIC circular No. 35/2017-Customs Dated 16.08. 2017. Further, vide letter dated 05.08.2020 NOC for provisional release of the seized goods was granted to Group 5B.

1.19 Redetermination of Value of the goods for Six provisionally released Bills of Entry as per Table-I& Table-IV above:

In order to arrive at appropriate value of the goods market inquiry was proposed to be conducted. However, due to the COVID-19 situation, the market enquiry could not be conducted. In absence of market enquiry, the value has been arrived considering the contemporaneous import values as available in NIDB and the evidences gathered.

1.19.1 As per Examination findings, the impugned goods appeared mis-declared in terms of their value, description, classification & quantity. Hence, their Transaction Values / Declared Value in Bills of Entry are liable to be rejected in terms of Rule 12 of **Customs Valuation (Determination of value of imported Goods) Rules 2007 (CVR, 2007)**. As the value of the subject goods cannot be determined under the provisions sub-rule (1) of Rule 3 of the Customs Valuation Rules, 2007, the same is required to be determined by sequentially proceeding in terms of Rule 4 to Rule 9 of the Customs Valuation Rules, 2007. As the goods appeared undervalued, values at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were analyzed, and it was noticed that the similar/identical goods were being imported at higher values. Rule 4 and Rule 5 of the CVR, 2007 stipulates valuation based on the contemporaneous import data of identical and similar goods respectively. Hence, the value of the imported goods has been arrived at using the contemporaneous import data of similar goods as per Rule 5 of CVR, 2007. The values so arrived are tabulated and annexed to this Investigation Report as Annexure-I& II and accordingly, Duty Calculation Sheet for six provisionally released Bills of Entry has been prepared.

1.20 Accordingly, the re-determined value of the offending goods covered under two Bills of Entry (provisionally released) as per Annexure-I& Table-I comes to Rs. 2,49,42,613/- against declared Assessable Value of Rs. 21,40,019/- Further, the Re-determined duty comes to Rs. 60,80,294/- against duty declared by the importer of Rs. 5,28,374/-. Therefore, the differential duty for the offending Goods of Two Provisionally Released Bills of Entry covered under Table-I comes out to Rs. **55,51,920/-**. The details of differential duty are given as per Table-IX below:

Table-IX

Sr. No.	BE No. & Date	Declared Value of Offending Goods (In Rs.)	Declared Duty of Offending Goods (In Rs.)	Redetermined Assessable Value of Offending Goods (In Rs.)	Redetermined Duty of Offending Goods (In Rs.)	Differential Duty (Rs.)
1	6739775/ 03.02.2020	11,00,113	2,73,802	1,05,34,283	25,74,450	23,00,648
2	6747464/ 04.02.2020	10,39,906	2,54,572	1,44,08,330	35,05,844	32,51,272
		21,40,019	5,28,374	2,49,42,613	60,80,294	55,51,920

1.20.1 Further, the re-determined value of the offending goods covered under Four Bills of Entry (provisionally released) as per Annexure-II to this Investigation Report comes to Rs.4,39,82,307/- against declared Assessable Value of Rs. 48,86,636/- Further, the Redetermined duty comes to Rs. 1,08,16,793/- against duty declared by the importer of Rs. 12,84,512/-. Therefore, the differential duty for the offending Goods of Four Bills of Entry (Provisionally released) detailed as per Table-(V-VIII) above comes out to Rs. 95,32,281/-. The details of differential duty is given as per Table-X below:

Table-X

Sr. No.	BE NO & DATE	DECL AV OF OFFENDING GOODS	DECL DUTY OF OFFENDING GOODS	REDETR. AV	REDETERMINED DUTY	DIFF DUTY
1	7665082/15.05.2020	12,96,790	3,39,295	1,34,74,752	33,11,524	29,72,229
2	7665083/15.05.2020	12,61,569	3,07,005	1,28,00,548	31,13,324	28,06,319
3	7665084/15.05.2020	16,31,500	4,60,853	1,23,89,469	30,82,172	26,21,319
6	7665085/15.05.2020	6,96,777	1,77,359	53,17,538	13,09,773	11,32,414
	Four Bills of Entry details as per PROVISIONAL RLEASE (Annexure-II)	48,86,636	12,84,512	4,39,82,307	1,08,16,793	95,32,281

1.20.2 Hence, the total re-determined value of the offending goods covered under Six provisionally released Bills of Entry No. as per Table-XI given below comes to Rs. **6,89,24,920/-** against declared Assessable Value of Rs. **70,26,655/-** Further, the Re-determined duty comes to Rs. **1,68,97,087/-** against duty declared by the importer of Rs. **18,12,885/-**. Therefore, the Total differential duty for the offending goods of six provisionally released Bills of Entry covered under Table-II, III & V-VIII above comes out to Rs. **1,50,84,201/-**. The details of differential duty is given as per Table-XI below:

Table-XI

S. No.	BE No. & Date	AV Declared	Duty Declared	AV Redetermined	DUTY Redetermined	Differential duty
1	6739775/03.02.2020	1100113	273801.6	10534283	2574450	2300648
2	6747464/04.02.2020	1039906	254571.8	14408330	3505844	3251272
3	7665082/15.05.2020	1296790	339295	13474752	3311524	2972229
4	7665083/15.05.2020	1261569	307005	12800548	3113324	2806319
5	7665084/15.05.2020	1631500	460853	12389469	3082172	2621319
6	7665085/15.05.2020	696777	177359	5317538	1309773	1132414
	SIX PROVISIONAL RLEASE Bills of Entry details as per (Annexure I & II)	7026655	1812885.4	68924920	16897087	15084201

1.21 Details of the Past Imports of M/s Suhani International

Further, during the course of investigation, it appeared that the importer has cleared 37 Bills of Entry in the Past (other than six bills of entry mentioned in Table-XI above) having similar description of goods viz. "Spectacle Lens" of Various Types. The details of the past Bills of Entry are as follows:

TABLE-XII

S. No.	BE Number	BE Date	Full Item Description	Unit Price (USD)	QUANTITY (PRS)
1	3673612	15-06-2019	SPECTACLE LENS (9828KGS)	0.05	391092
2	3196352	11-05-2019	SPECTACLE LENS (3975KGS)	0.05	223898
3	2980452	25-04-2019	SPECTACLE LENS (4248KGS)	0.06	147905
4	3277466	17-05-2019	SPECTACLE LENS (5096KGS)	0.05	268747
5	5693330	15-11-2019	SPECTACLE LENS (6120KGS)	0.02	283453
6	3277463	17-05-2019	SPECTACLE LENS (8010KGS)	0.05	346245
7	4480459	13-08-2019	SPECTACLE LENS (8298KGS)	0.05	309511
8	6178620	21-12-2019	SPECTACLE LENS (9576KGS)	0.025	361008
9	6011987	09-12-2019	SPECTACLE LENS (7424KGS)	0.05	330458
10	5048232	25-09-2019	SPECTACLE LENS (10368KGS)	0.05	375095
11	3801857	25-06-2019	SPECTACLE LENS (6105KGS)	0.05	255368
12	5307879	15-10-2019	SPECTACLE LENS (6000KGS)	0.05	261291
13	6308026	31-12-2019	SPECTACLE LENS (3024KGS)	0.05	130551
14	3446565	30-05-2019	SPECTACLE LENS (3920KGS)	0.05	285828
15	6308016	31-12-2019	SPECTACLE LENS (6624KGS)	0.045	285186
16	5522235	01-11-2019	SPECTACLE LENS (6975KGS)	0.05	321242
17	4187955	23-07-2019	SPECTACLE LENS (10587.50KGS)	0.05	375622
18	4957797	18-09-2019	SPECTACLE LENS (7326KGS)	0.05	284555
19	3984087	08-07-2019	SPECTACLE LENS (8658KGS)	0.05	320683
20	5139187	01-10-2019	SPECTACLE LENS (6678KGS)	0.05	269882
21	6629285	25-01-2020	SPECTACLE LENS (5382KGS)	0.05	185977
22	5650205	12-11-2019	SPECTACLE LENS (7182KGS)	0.05	267345
23	4588905	21-08-2019	SPECTACLE LENS (11514KGS)	0.05	434376
24	5226409	09-10-2019	SPECTACLE LENS (8144KGS)	0.06	307980
25	4729396	31-08-2019	SPECTACLE LENS (6480KGS)	0.05	368395
26	3566165	07-06-2019	SPECTACLE LENS (4602KGS)	0.05	240057
27	3080198	02-05-2019	SPECTACLE LENS (3036KGS)	0.05	144823
28	6082863	14-12-2019	SPECTACLE LENS (11039KGS)	0.045	395381
29	3867472	29-06-2019	SPECTACLE LENS (8385KGS)	0.05	368029
30	2980450	25-04-2019	SPECTACLE LENS (4100KGS)	0.06	135079
31	4088995	16-07-2019	SPECTACLE LENS (10224KGS)	0.05	361357
32	4835202	09-09-2019	SPECTACLE LENS (10098KGS)	0.05	434663
33	3277457	17-05-2019	SPECTACLE LENS (3744KGS)	0.05	140830
34	3613882	11-06-2019	SPECTACLE LENS (6256KGS)	0.05	288382
35	3080190	02-05-2019	SPECTACLE LENS (2760KGS)	0.05	128099
36	3809099	25-06-2019	SPECTACLE LENS (6150KGS)	0.05	288381
37	3080197	02-05-2019	SPECTACLE LENS (2808KGS)	0.05	155746

1.21.1 During Examination of the Goods, Various types of spectacle Lens were found as Lens 1.56 HC Plano CYL Bifocal/ HC (Hard Coated)/HMC (Hard Multi Coated)/Single Vision/Round Top/Progressive/Blue Cut etc. However, Importer has not declared detailed description in Past Bills of Entry which affect the prices of the Lens and simply declared general description of the goods as Spectacle lens. There are chats between Sandeep More (Proprietor of M/s Suhani International) and Custom Broker/his Buyers where there is mention of detailed description of Lens viz. 1.56 Progressive HC Shipment, 1.56 Progressive HMC ready Shipment, Blue Cut RT Lens etc.

1.21.2 Importer in his statement dated 02.01.2024 stated that they buy the goods in stock lot and as a general practice they have been declaring these Goods as "Spectacle Lens" in Bills of Entry. However, in his statement dated 02.01.2024, importer/proprietor of M/s Suhani International

accepted that all these goods (Spectacle Lens) were similar to goods imported vide above mentioned six bills of Entry. Hence, it appeared that the past imports of spectacle Lens also had description of Round Top/Single Vision/Bifocal/Progressive, HC/HMC/Blue Cut, Photogrey etc.

1.21.3 Importer in his statement dated 05/06.02.2020 has accepted that the Real/actual value range of Imported Spectacle Lens is 0.30-1.5 USD per Pair. But to save/evade duty from Customs, they declared their value @ 0.05 USD/Pair. Further, chat between Sandeep and Custom Broker Employee Shahid on May 2, 2019 at 4:08 PM clearly proves that it is Sandeep More who asked Shahid (Custom Broker Employee) to declare the lens price "@ \$0.05 per pair".

1.21.4 Importer in his statement has accepted that there is misdeclaration in invoices with respect to quantity, value, description so that custom duty can be evaded and they are doing under invoicing, misdeclaration, misclassification since 2017.

1.21.5 Sandeep More, proprietor of M/s SUHANI International & Rajabhai Custom Broker admitted their guilt and knowledge about the undervaluation of Lens and paid Rs. 50,00,000/- Vide Challan No. HC 199 dated 12.02.2020 having DD No. 58274/10.02.2020 which may be verified at the time of adjudication.

1.21.6 From the statement of the Importer, Customs Broker and other relevant persons, it appears that the importer has mis-declared the goods in the past also in terms of value and description to evade customs duty and hence the past goods are also liable for confiscation under section 111 (m) of the Customs Act 1962.

1.22 Redetermination of Value of the goods for all Past Bills of Entry where undervaluation was noticed:

Since the impugned goods appeared mis-declared in terms of their value & description, the transaction value as declared by the importer may be rejected under Rule 12 of the Customs Valuation Rule (CVR), 2007. Now, the value of the goods as mandated by the CVR, 2007 needs to be re-determined following rules 4 to 9 sequentially as it was not correctly declared. Further, it appeared that the value of goods cannot be re-determined in terms of Rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Rule 3 of the Customs Valuation Rules 2007 as data for identical goods was not available for impugned goods. Further, as there is import data form NIDB for the similar goods at comparable level the value of the said goods can be re-determined in terms of Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with rule 3 of the CVR 2007 as data for similar goods was available, after rejecting the same under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

1.22.1 Further, value of Spectacle Lens has also been considered based on Alert Circular No. 01/2020-NS-V, JNCH vide F. No. SG/Inv-51/2019-20/F Cell/ SIIB(I)/JNCH dated 25.08.2020 which consists fair prices of Spectacle Lens having detailed description declared by the importers and the prices of the same are being used as benchmark for determining the value of various types of Spectacle Lens being imported at JNCH since its issuance.

1.22.2 Further, regarding past Bills of Entry, as the physical goods are not available, therefore based on generic description, it cannot be ascertained what type of Lens have been imported in past in guise of generic name i.e. Spectacle Lens declared by the Importer in above mentioned past Bills of Entry. Importer in his statement has stated that the Goods are part of Stock lot. Further, the conversation between Importer and Custom Broker/Buyers/his Employees suggest that they knew about the specification/types of imported Lens and despite knowing specification/type of Lens, they were declaring these goods with generic name only i.e. "Spectacle Lens" and declared these goods at very low prices, Hence it may be assumed that the

Imported Lens will have assorted quantity of various types of Lens (HC, HMC, Blue Ray Cut/SV, RT, KT, Progressive etc.) as found during Examination of Six Provisionally released Bills of Entry mentioned above. Therefore, it is proposed that the least value determined as per the alert circular No. 01/2020-NS-V, JNCH dated 25.08.2020 and contemporaneous import may be assigned to the subject goods for the purpose of valuation of the past Bills of Entry.

1.22.3 As per Alert Circular and Contemporaneous Import, the Minimum Import Price for spectacle Lens was found to be 0.34 USD per pair. Considering exchange rates in 2019, the approx. minimum value of a pair of Spectacle lens comes out to @ Rs. 24 per pair. Accordingly, value of the Past Bills of Entry has been calculated.

1.23 Accordingly, the re-determined value of the impugned goods covered under Bills of Entry as per Annexure-III (Past Bills of Entry) comes to Rs. **25,13,40,480/-** against declared Assessable Value of Rs. 3,66,47,568/- Further, the Re-determined duty comes to Rs. **6,11,76,273/-** against duty declared by the importer of Rs. 89,12,688/-. Therefore, there is **differential duty of Rs. 5,22,63,585/-** for the goods covered under Past Bills of Entry as per Table-XII & Annexure-III (Past BE Duty Calculation Sheet) to this IR.

1.24 Accordingly, Total re-determined value of the impugned goods i.e. spectacle Lens covered under Bills of Entry No. as per Annexure-I, II& III comes to Rs. 32,02,65,400/- (Rupees Thirty-Two Crore Two Lakh Sixty-Five Thousand Four Hundred Only) against declared Assessable Value of Rs. 4,36,74,223/- Further, the Re-determined duty comes to Rs. 7,80,73,360/- against duty declared by the importer of Rs. 1,07,25,574/-. Therefore, there is differential duty of Rs. 6,73,47,786/- (Rupees Six Crore Seventy-Three Lakh Forty-Seven Thousand Seven Hundred Eighty-Six Only) for the for impugned goods covered under Bills of Entry detailed as per Table-XIII given below & Annexure I-III to this Investigation Report.

TABLE-XIII

SR. NO.	BE NO & DATE	DECL AV OF OFFENDING GOODS	DECL DUTY OF OFFENDING GOODS	REDETR. AV	REDETE RMINED DUTY	DIFF DUTY
1	6739775/ 03.02.2020	1100113	273802	10534283	2574450	2300648
2	6747464/ 04.02.2020	1039906	254572	14408330	3505844	3251272
3	7665082/ 15.05.2020	1296790	339295	13474752	3311524	2972229
4	7665083/ 15.05.2020	1261569	307005	12800548	3113324	2806319
5	7665084/ 15.05.2020	1631500	460853	12389469	3082172	2621319
6	7665085/ 15.05.2020	696777	177359	5317538	1309773	1132414
Anne x. -I&II	TOTAL (PROVISIONAL RELEASE Bills of Entry)	7026655	1812886	68924920	16897087	15084201
Anne x. -III	Total PAST IMPORT	36647568	8912688	251340480	61176273	52263585
	TOTAL	43674223	10725574	320265400	78073360	67347786

1.25 With the introduction of the Self-Assessment Scheme, the onus is on the Importer to comply with the various laws, determine his tax liability correctly and discharge the same. The Importers are required to declare the correct description, value, classification, notification number, if any, on the imported goods. Self-assessment is supported by Section 17, 18 and 46 of the Customs Act, 1962 and the Bill of Entry (Electronic Declaration) Regulation, 2011. The

Importer is squarely responsible for self-assessment of duty on imported goods and filing all declaration and related documents and confirming these are true, correct and complete. Self-Assessment can result in assured facilitation for compliant Importers. However, delinquent importers would face penal action on account of wrong self-assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade Policy or any other provisions under the Customs Act, 1962 or the allied acts. The relevant provisions of law relating to import, assessment of duty, and the liability of the goods to confiscation and imposition of penalty are as per the provisions of the Customs Act, 1962 as amended from time to time.

1.26 The extracts of the following relevant provisions of the Customs Act, 1962; Customs Valuation Rules, 2007 and Foreign Trade (Regulation) Rules, 1993, for the time being in force, were mentioned in the subject SCN. The same are not reproduced in this Order-in-Original for the sake of brevity:

- Section 17 - Assessment of duty.
- Section 28(4) – Recovery of duties not levied or not paid or short-levied or short paid.
- Section 46 - Entry of goods on importation.
- Section 111(l) and 111(m) - Confiscation of improperly imported goods, etc.
- Section 112(a)- Penalty for improper importation of goods.
- Section 114A - Penalty for short-levy or non-levy of duty in certain cases.
- Section 114AA - Penalty for use of false and incorrect material.
- Section 125- Option to pay fine in lieu of confiscation.

1.27. Investigation and findings:

1.27.1 M/s Suhani International had imported goods viz. Spectacle LENS OF VARIOUS TYPES by way of wilful mis-declaration in terms of description, misclassification, quantity and value to evade Customs duty as explained below:

Provisionally Released Goods of Six Bills of Entry as per Annexure I & II to this SCN:

- (i) From the Examination panchnama, findings, statements of the Importer, Custom Broker, other relevant persons and other relied upon documents as stated above, the goods declared as Spectacle Lens (general description) were found as various types of Lens (HC, HMC, Blue Ray Cut/ SV, RT, KT, Progressive etc.) and the Declared value of the Goods (Spectacle Lens and other goods found during examination of six provisionally released Bills of entry as mentioned in Annexure I& II to the SCN) is found to be low in respect of contemporaneous Import data and as per Alert Circular No. 01/2020 dated 25.08.2020.
- (ii) Further, Mr. Sandeep More, Proprietor of M/s Suhani International and Custom Broker, Mr. Rajesh Bhanushali, G/Power of Attorney Holder of M/s Xpress Interlink Logistics agreed in their statements that they have undervalued the price of spectacle Lens imported vide above mentioned Six Bills of Entry.
- (iii) Further, Value of other items like Moon Lamp, Optical Frames/Metal Optical Frames, Optical Mould & Assorted Imitation Jewelry, etc. are also found to be undervalued as per contemporaneous Import.
- (iv) Further, Items declared as Beauty Mole Removal Sweep Spot Pen, Electric Black Head Remover Device, Portable and Rechargeable battery Juice Blender, Plastic/Metal/Glass Fitting for Shoes, Electric Hand Blender and Electric Kettle were found to be misdeclared in terms of description and classification as detailed in the foregoing paras above.
- (v) Further items declared as Spectacle Lens, Glass Fitting for Shoes, Optical Mould, Optical accessories were found to be misdeclared in terms of quantity.

- (vi) Hence, it appears that the Importer has misdeclared the offending goods (as per Annexure-I&II) covered under six Bills of Entry No. 6739775/03.02.2020, 6747464/04.02.2020, 7665082, 7665083, 7665084 & 7665084 all dated 15.05.2020 in terms of Value, description, quantity and classification and hence the offending goods above are liable for confiscation under section 111(m) and 111(l) of the Customs Act 1962.
- (vii) Accordingly, the impugned goods were seized under section 110(1) of the Customs Act, 1962 vide Seizure Memo dated 06.02.2020 & 23.03.2020 & 12.06.2020. On request of the Importer, Provisional release letters dated 18.05.2020, 14.07.2020/05.08.2020 were sent to Assessment Group for the Six Examined Bills of Entry as detailed in Annexure I & II to the SCN.
- (viii) As the Goods covered under Bill of Entry No. 6859264/12.02.2020 have been misdeclared in terms of description, classification and value, Hence, their declared values are liable to be rejected in terms of Rule 12 of Customs Valuation (Determination of value of imported Goods) Rules 2007 (CVR, 2007) and the value of the imported goods has been arrived at using the contemporaneous import data of similar goods as per Rule 5 of CVR, 2007 and Alert circular No. 01/2020-NS-V, JNCH vide F. No. SG/Inv-51/2019-20/F Cell/ SIIB(I)/JNCH dated 25.08.2020. Accordingly, the re-determined value of the offending goods covered under six Bills of Entry (Provisionally released) as per Annexure I & II to the SCN comes to Rs. 6,89,24,920/- against declared Assessable Value of Rs. 70,26,655/-. Further, the Re-determined duty comes to Rs. 1,68,97,087/- against duty declared of Rs. 18,12,886/- by the importer. Therefore, the differential duty for six Bills of Entry comes out to Rs. 1,50,84,201/-.

1.28. Past Bills of Entry

- (i) During Examination of the Goods, Various types of spectacle Lens were found as Lens Bifocal/ HC (Hard Coated)/HMC (Hard Multi Coated)/Single Vision/Round Top/Progressive/Blue Cut etc. which affect the prices of the Lens. However, Importer has not declared detailed description in the Bills of Entry (Examined as well as other Past Bills of Entry) and simply have declared general description of the goods as Spectacle lens.
- (ii) Importer in his statement stated that they buy the goods in stock lot and as a general practice they have been declaring these Goods as "spectacle Lens" in Bills of Entry. However, from the statements and chats between Sandeep More and shahid (Custom Broker Employee), it is clear that Sandeep More knew about the specifications of the Lens as the chats have mention of description of spectacle Lens as 1.56 Progressive HC Shipment, 1.56 Progressive HMC ready Shipment, Blue Cut RT Lens shipment.
- (iii) Further, in his statement importer/proprietor of M/s Suhani International accepted that all past imports of spectacle Lens were similar to goods imported vide above mentioned six bills of Entry (provisionally released). Hence, it appears that the past imports of spectacle Lens also had description of Round Top/Single Vision/Bifocal/Progressive, HC/HMC/Blue Cut, Photo grey etc. as found in the examined Bills of Entry.
- (iv) Importer in his statement has accepted that there is misdeclaration in invoices with respect to quantity, value, description so that custom duty can be evaded and they are doing under invoicing, misdeclaration, misclassification since 2017.
- (v) Sandeep More, proprietor of M/s SUHANI International & Rajabhai Custom Broker admitted their guilt and knowledge about the undervaluation of Lens and paid Rs. 50,00,000/- Vide Challan No. HC 199 dated 12.02.2020 having DD No. 58274/10.02.2020. Further, they have also paid differential duty amount of more than Two Crores during Provisional release of the Six Bills of Entry which are detailed as below:
- Differential duty of Rs. 73,98,000/- for BE No. 6739775/03.02.2020 & 6747464/04.02.2020 vide challan No. HC 27 dated 08.06.2020.

- Differential duty of Rs. 36,40,601/- for BE No. 7665082/15.05.2020 VIDE CHALLAN No. HC 139 dated 18.08.2020.
 - Differential duty of Rs. 32,44,044/- for BE No. 7665084/15.05.2020 2020 VIDE CHALLAN No. HC 02 dated 01.09.2020.
 - Differential duty of Rs. 35,07,456/- for BE No. 7665085/15.05.2020 VIDE CHALLAN No. HC 80 dated 08.09.2020,
 - Differential duty of Rs. 35,07,899/- for BE No. 7665083/15.05.2020 VIDE CHALLAN No. HC 237 dated 26.08.2020.
- (vi) In his statement dated 02.01.2024, Sandeep More, Proprietor of M/s Suhani International stated that Declared value of the Goods by him is fair and as per market practice, however this retraction/change in statement appears to be an afterthought as he has already accepted in his earlier statement that he was involved in undervaluation of the spectacle Lens which is proved from the chats between him and custom broker employee Shahid. Importer in his statement has accepted that the Real/actual value range of Imported Spectacle Lens is 0.30-1.5 USD per Pair but to save/evade duty from Customs, they declared their value @ 0.05 USD/Pair. Further, chat between Sandeep and Custom Broker Employee Shahid on May 2, 2019 at 4:08 PM clearly proves that it is Sandeep More who asked Shahid (Custom Broker Employee) to declare the lens price "@ \$0.05 per pair". Hence there are conclusive evidences supported by evidence in the form of incriminating material (above mentioned chats/data was retrieved from the mobile (Google Pixle Phone) of the Importer Shri Sandeep More by Forensic Lab, NCH, Mumbai) seized during the course of search. Hence this change in statement that value of the Goods is fair does not hold water.
- (vii) From the statement of the Importer, Customs Broker and other relevant persons and the chats (incriminating material obtained during the search), it appears that the importer has misdeclared the goods in the Past in terms of value and description to evade customs duty and hence the past goods are also liable for confiscation under section 111 (m) of the Customs Act 1962.
- (viii) From the chats wherein there is mention of 1.56 Progressive HC Shipment, 1.56 Progressive HMC ready Shipment, Blue Cut RT Lens shipment, it is clear that Sandeep More/Importer knew about the specifications of the Lens. Further, these chats/data were obtained/retrieved from the seized Mobile (Google Pixle Phone) of Sandeep More, Proprietor of M/s Suhani International by Cyber Forensic Lab under Panchanama.
- (ix) The conversation between Importer and Custom Broker/Buyers suggest that they know about the specification/types of imported Lens and despite knowing specification/type of Lens, they were declaring these goods with generic name only i.e. "Spectacle Lens" and declared these goods at very low prices.
- (x) As the Goods covered under Past Bill of Entry as detailed in Annexure-III to this Investigation Report & Table-XII above, have been misdeclared in terms of description and value, Hence, their declared values are liable to be rejected in terms of Rule 12 of Customs Valuation (Determination of value of imported Goods) Rules 2007 (CVR, 2007). Now, the value of the goods as mandated by the CVR, 2007 needs to be re-determined following rules 4 to 9 sequentially as it was not correctly declared. Further, it appeared that the value of goods cannot be re-determined in terms of Rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Rule 3 of the Customs Valuation Rules 2007 as data for identical goods was not available for impugned goods. Further, as there is import data form NIDB for the similar goods at comparable level the value of the said goods can be re-determined in terms of Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with rule 3 of the CVR 2007 as data for similar goods was available, after rejecting the same under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (xi) Further, Value of spectacle Lens has also been considered based on Alert circular No. 01/2020-NS-V, JNCH vide F. No. SG/Inv-51/2019-20/F Cell/ SIIB(I)/JNCH dated

25.08.2020 which consists fair prices of spectacle Lens having detailed description declared by the importers and the prices of the same are being used as benchmark for determining the value of various types of spectacle Lens being imported at JNCH since its issuance.

- (xii) Further, Regarding Past Bills of Entry, As the physical goods are not available, therefore based on generic description, it cannot be ascertained what type of Lens have been imported in past in guise of generic name i.e. Spectacle Lens declared by the Importer in above mentioned Past Bills of Entry. Importer in his statement has stated that the Goods are part of Stock lot. Further, the conversation between Importer and Custom Broker/Buyers/His Employees suggest that they knew about the specification/types of imported Lens and despite knowing specification/type of Lens, they were declaring these goods with generic name only i.e. "Spectacle Lens" and declared these goods at very low prices, Hence it may be assumed that the Imported Lens will have assorted quantity of various types of Lens (HC, HMC, Blue Ray Cut/ SV, RT, KT, Progressive etc.) as found during Examination of Six Provisionally released Bills of Entry mentioned above. Therefore, it is proposed that the least value determined as per the alert circular No. 01/2020-NS-V, JNCH dated 25.08.2020 and contemporaneous import may be assigned to the subject goods for the purpose of valuation of the Past Bills of Entry.
- (xiii) As per Alert Circular and Contemporaneous Import, the Minimum import price for spectacle Lens was found to be 0.34 USD per pair. Considering exchange rate of 2019, the approx. value of a pair of Spectacle Lens comes out to @ Rs. 24 per pair. Accordingly, value of the Past Bills of Entry has been calculated and accordingly Assessable Value and Customs duty payable have been re-determined for the Past undervalued Bills of Entry. Accordingly, the re-determined value of the offending goods covered under past Bills of Entry as per Annexure III to the SCN comes to Rs. 25,13,40,480/- against declared Assessable Value of Rs. 3,66,47,568/-. Further, the Re-determined duty comes to Rs. 6,11,76,273/- against duty declared of Rs. 89,12,688/- by the importer. Therefore, the differential duty for past Bills of Entry comes out to Rs. 5,22,63,585/-
- (xiv) The Details of undervalued Past Bills of Entry and Six Provisionally released Bills of Entry are as per Annexure I-III (Duty Calculation Sheet) attached with the SCN.
- (xv) Further, it is found that there are importers who are declaring the goods with detailed description and at higher value as per Contemporaneous Import. It is observed that the genuine importers of the said products namely, Spectacle Lens are properly declaring their goods with all the specifications like the Index / Coating and particular variations like Single Vision or Bifocal/Round Top. Further, other relevant factors / properties of Spectacle Lens like coatings types Hard Coating (HC)/Hard Multi Coating (HMC), added features like Blue Block (BB) and Photochromic/Photogrey (PG) and corrective power range of the product in Spherical (Sph) / Cylindrical (Cyl) also influences/increase the price of the said goods. However, Importer M/s Suhani International has only declared a generic description of the Goods as "Spectacle Lens". The haphazard trend of declaring the subject goods, merely as "Spectacle Lens", without its Index / Coatings, without its composite material as well as its added features, clearly indicates willful suppression of the facts on the part of the importers to mis-declare the transaction values and in turn, his intention to evade the appropriate duty liability. From the above explanation, it appears that the importer has misdeclared the Goods in the Past (as per Annexure-III) in terms of value and hence the impugned goods covered under Past Bills of Entry as per Annexure-III & Table-XII above are liable for confiscation under section 111(m) of the Customs Act, 1962 and for the act of willful suppression on the part of the importer to mis-declare the transaction value despite knowing the exact description of the goods (spectacle Lens), importer is liable for penalty under section 114 AA of the Customs Act, 1962.
- (xvi) Importer is responsible to provide accurate and complete information in Bill of entry, which he willfully mis-declared the goods in terms of value, description, quantity and classification, therefore, the importer violated section 46(4) and Section 46(4A) of the

Customs Act, 1962 and made the Importer liable for penal action in terms of provisions of Section 114A/112(a) of the Customs Act, 1962.

- (xvii) Accordingly, Total re-determined value of the impugned goods i.e. optical Lens/optical frame Lens covered under Bills of Entry No. as per Annexure-I, II & III comes to Rs. 32,02,65,400/- against declared Assessable Value of Rs. 4,36,74,223/- Further, the Re-determined duty comes to Rs. 7,80,73,360/- against duty declared by the importer of Rs. 1,07,25,574/-. Therefore, there is differential duty of Rs. 6,73,47,786/- for the Bills of Entry covered under Annexure I, II & III to the SCN.

1.29 The importer M/s Suhani International has willfully evaded duty to the tune of Rs. 6,73,47,786/- with applicable interest by providing incorrect data in bill of entry in terms of description, classification and value of the imported goods. The non-payment duty of **Rs. 6,73,47,786/- (Rupees Six Crore Seventy Three Lakh Forty Seven Thousand Seven Hundred Eighty Six only)**, is liable to be demanded from Importer under Section 28(4) of Customs Act, 1962, along-with applicable interest thereon in terms of provisions of Section 28AA of the Customs Act, 1962.

1.30 The act of willful mis-declaration in terms of description, quantity, classification and value of the impugned goods by the importer has resulted in short payment of duty on the impugned goods. This appears to have made the impugned goods having Re-determined Assessable valued at **Rs. 32,02,65,400/- (Rupees Thirty Two Crore Two Lakh Sixty Five Thousand Four Hundred only)**, as per Annexure-I, II & III (includes provisional Bills of Entry and Past Bills of Entry) liable for confiscation in terms of provisions of Section 111 (l) and Section 111(m) of the Customs Act, 1962.

1.31 The above act of commission and omission, of mis-declaration/mis-statement of valuation of impugned goods, has rendered the subject goods liable to confiscation in terms of provisions of Section 111(m) of the Customs Act, 1962, also in turn appears to have made the Importer liable for penal action in terms of provisions of Section 112(a)(ii) / 114A and 114AA of the Customs Act, 1962.

1.32 Importer/Sandeep More, his employees (Yashwant More, Deepesh More), his buyers and Custom Broker appear to be involved in cash transactions excessive of invoice value of the goods as accepted by the Importer in his statements above. As per his statement, he paid Customs Declared Value to supplier through bank transactions (RTGS) & balance amount is sent through Hawala& the same procedure is used in India when he sells the goods to his Indian Buyers. There were several chats related to cash Transaction, cash taken/given in large amounts from/to various persons known to Sandeep More. (Chat between Sandeep More and Shahid for payment in cash).

1.33 Custom Broker used to charge Rs.73,000/- in cash and Rs. 7000 through banking channel from the Importer for clearance of each consignment from M/s Suhani International which is in excess of normal prices (7000-10000 Rs. Per container) charged by the Custom Brokers. There are chats where it is found that they have received the money in cash from M/s Suhani International.

1.34 Rajesh Bhanushali (G/P-A Card Holder of Custom Broker, M/s Xpress Interlink Logistics) accepted that he has violated the CBLR Rules. He is ready for any kind of punishment as per CBLR rules. He accepted that his CB firm undervalued the Goods/ Spectacle Lens imported by M.s Suhani International in his statement dated 07.02.2020 and did not inform the Customs about the same. It appears that the CB firm did not advise their client M/s Suhani International to comply with the provisions of the Customs Act, 1962, which is expected by them in terms of Customs Brokers Licensing Regulations, 2013 (CBLR). Thus, the CB firm has failed to discharge their obligations as Customs Broker as required under Regulation 11(d), 11(e), and

17(9) of CBLR, 2013. Thus, due to above act of Custom Broker, M/s Xpress interlink Logistics, Mr. Rajesh Bhanushali and Mr. Shahid (CB Employee) have rendered themselves liable for penalty under section 112(a) of the Customs Act, 1962.

1.35 From the foregoing Investigation, it appeared that:

- (i) Total declared value of Rs. 4,36,74,223/- of offending goods declared as Spectacle lens (Including Six provisionally released BE and Past Bills of Entry appears liable for rejection under Rule 12 of the Customs valuation Rule, 2007 and the same is proposed to be re-determined at Rs. 32,02,65,400/- as per Rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007), thereby, impugned goods covered under Annexure-I, II & III of the SCN are liable for confiscation under Section 111 (l) and Section 111(m) of the Customs Act, 1962.
- (ii) Thus, total re-determined assessable value of the impugned goods imported vide Bills of Entry as per Annexure-I, II & III worked out as Rs. 32,02,65,400/- and applicable customs duty amounts to Rs. 7,80,73,360/-. Further, declared duty is Rs. 1,07,25,574/- and thus, the differential duty amount of Rs. 6,73,47,786/- (Rupees Six Crore Seventy Three Lakh Forty Seven Thousand Seven Hundred Eighty Six Only) is liable to be demanded from Importer under Section 28(4) of Customs Act, 1962, along-with applicable interest thereon in terms of provisions of Section 28AA of the Customs Act, 1962.
- (iii) For the acts of omission and commission and wilful suppression of facts as discussed in foregoing paras, the importer M/s Suhani International rendered itself liable for penal action under Section 112(a)(ii) /114A and 114AA of the Customs Act, 1962.
- (iv) Thus, the CB firm has failed to discharge their obligations as Customs Broker as required under Regulation 10, 11(b), 11(d), 11(n), and 17 of CBLR, 2013. Thus, their this failure have rendered the goods liable for confiscation and the Custom Broker, M/s Xpress interlink Logistics, Mr. Rajesh Bhanushali and Mr. Shahid have rendered themselves liable for penalty under section 112(a) of the Customs Act, 1962.
- (v) Consequently, Sandeep More, proprietor of M/s SUHANI International & Rajabhai Custom Broker admitted their guilt and knowledge about the undervaluation of Lens. M/s Suhani International submitted letter dated 12.02.2020, wherein it is submitted that he evaded Customs Duty of Rs. 5 Crore and promised that he will pay the same as early as possible. M/s Suhani International paid differential duty of Rs. 2,62,98,000/- Vide six Challans as mentioned and the same has been verified by the Cash Section/JNCH. This amount towards differential duty payments for the Bills of Entry covered under this Investigation Report may be adjusted against the total differential duty demand as per this Investigation Report at the time of adjudication by the Adjudicating Authority.

1.36 In view of the above, vide Show Cause Notice No. 152/2024-25/COMMR/NS-V/CAC/JNCH dated 29.04.2024, **M/s Suhani International** (IEC: 0310049440), was called upon to show cause to the Commissioner of Customs (NS-V), Jawaharlal Nehru Custom House, Nhava Sheva (the Adjudicating Authority), as to why:

- (a) **Declared Assessable Value of Rs. 70,26,655/-** should not be rejected in terms of Rule 12 of Customs Valuation (Determination of value of imported Goods) Rules 2007 (CVR, 2007) and should not be **re-determined to Rs. 6,89,24,920/-** (Rupees Six Crores Eighty Nine Lakhs Twenty Four Thousand Nine Hundred Twenty Only) in terms of Rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007), for the goods imported **under Provisionally released 6 Bills of Entry** as detailed in **Annexure I, II & Table XI**.
- (b) **Declared Assessable Value of Rs. 3,66,47,568/-** should not be rejected in terms of Rule 12 of Customs Valuation (Determination of value of imported Goods) Rules 2007 (CVR, 2007) and should not be **re-determined to Rs. 25,13,40,480/-** (Rupees Twenty Five Crores Thirteen Lakhs Forty Thousand Four Hundred Eighty Only) in terms of Rule 5 of Customs

Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007), for the goods imported **under Past 37 Bills of Entry** as detailed in **Annexure III & Table XII**.

- (c) The declared duty, for the goods having **re-determined Assessable Value of Rs. 6,89,24,920/-** (Rupees Six Crores Eighty Nine Lakhs Twenty Four Thousand Nine Hundred Twenty Only), should not be **re-determined to Rs. 1,68,97,087 (Rupees One Crore Sixty Eight Lakhs Ninety Seven Thousand Eighty Seven Only)** and differential/short paid Duty amounting to **Rs. 1,50,84,201/-**(Rupees One Crore Fifty Lakhs Eighty Four Thousand Two Hundred One Only) for the goods imported **under Provisionally released 6 Bills of Entry as detailed in Table XI** should not be demanded under Section 28(4) of the Custom Act, 1962, along-with applicable interest thereon in terms of provisions of Section 28AA of the Customs Act, 1962.
- (d) The declared duty, for the goods having **re-determined Assessable Value of Rs. 25,13,40,480** (Rupees Twenty Five Crore Thirteen Lakhs Forty Thousand Four Hundred Eighty Only), should not be **re-determined to Rs. 6,11,76,723** (Rupees Six Crore Eleven Lakhs Seventy Six Thousand Seven Hundred Twenty Three Only) and Differential/short paid Duty amounting to **Rs. 5,22,63,585/-**(Rupees Five Crores Twenty Two Lakhs Sixty Three Thousand Five Hundred Eighty Five Only) for the goods imported under Past 37 Bills of Entry as detailed in **Table XIII** should not be demanded under Section 28(4) of the Custom Act, 1962, along-with applicable interest thereon in terms of provisions of Section 28AA of the Customs Act, 1962.
- (e) The goods imported under 6 Provisionally released Bills of Entry as per Annexure I, II & Table XI to this notice having total re-determined Assessable Value of **Rs. 6,89,24,920/-** and total re-determined duty of **Rs.1,68,97,087/-**(Rupees One Crore Sixty Eight Lakhs Ninety Seven Thousand Eighty Seven Only), should not be held liable to confiscation as per provisions of Sections 111(m) and 111(l) of the Customs Act, 1962, as applicable.
- (f) The goods imported under 37 Past Bills of Entry as per Annexure-III & Table-XII to this notice having Re-determined Assessable valued at **Rs. 25,13,40,480/-** and total re-determined duty of **Rs. 6,11,76,273/-** (Rupees Six Crores Eleven Lakhs Seventy Six Thousand Two Hundred Seventy Three Only), should not be held liable to confiscation in terms of provisions of Section 111(m) of the Customs Act, 1962.
- (g) M/s Suhani International should not be held liable for penal action under Section 112(a)(ii) /114A and 114AA of the Customs Act, 1962 for the acts of omission and commission and wilful suppression of facts.
- (h) The Custom Broker, M/s Xpress interlink Logistics should not be held liable for penalty under section 112(a) of the Customs Act, 1962 as he failed to discharge their obligations as Customs Broker as required under Regulation 10, 11(b), 11(d), 11(n), and 17 of CBLR, 2013 as their failure have rendered the goods liable for confiscation.
- (i) Mr. Rajesh Bhanushali, should not be held liable for penalty under section 112(a) of the Customs Act, 1962 as he failed to discharge their obligations as Customs Broker as required under Regulation 10, 11(b), 11(d), 11(n), and 17 of CBLR, 2013 as, his failure have rendered the goods liable for confiscation.
- (j) Mr. Shahid, should not be held liable for penalty under section 112(a) of the Customs Act, 1962 as he failed to discharge their obligations as Customs Broker as required under Regulation 10, 11(b), 11(d), 11(n), and 17 of CBLR, 2013 as his failure have rendered the goods liable for confiscation and.

2. WRITTEN SUBMISSION OF THE NOTICEES

2.1 The Noticees, M/s Suhani International, vide their letter No. GBY/S.I./24 gave written reply to the subject SCN through their advocate, Mr. G B Yadav. Vide the above reply, they denied all the allegations made in the SCN and made submissions *inter alia* as under:

- a) Vide his letters dated 07.06.2024, 02.08.2024, 18.04.2025 and 05.12.2025, the Advocate for the Noticee requested the Adjudicating Authority to supply certain documents which

are necessary but the same was not accepted due to which the proper and effective reply to the Notice could not be filed by the Noticee.

- b) The Noticee was importing Spectacle lenses like many others through Nhava Sheva port at prices negotiated by him with his suppliers. The allegation of undervaluation is based on assumptions and presumptions without any basis at all. On the contrary, the Noticee has the evidence of contemporaneous import of the similar goods showing the similar value as declared by the Noticee.
- c) There is no misdeclaration of description of goods in as much as goods were declared as Spectacle lenses which on examination were found Spectacle lenses only. Since the goods were purchased by the Noticee from foreign suppliers in stock lot and physically the goods could be of different types/sizes but all are Spectacle lenses.
- d) The excess quantity was found in respect of Spectacle lenses but in other goods imported under the same bill of Entry no excess quantity was found as evident from Table II and III of the SCN. Further in 4 out of 6 Bills of Entry Excess quantity of only 11219 (1915+4479+2091+2734) lenses limited to less than 1% was found which was negligible considering the large quantity purchased in stock lots of 11,49,509 (318560+4044317+202711+133921) under those Bills of entry. This cannot be treated as deliberate import of excess quantity and needs to be overlooked.
- e) Paragraph 19 of the SCN states that with regard to the rest of the items of the 4 live Bills of Entry, no discrepancies were noticed with respect to declared quantity, classification and value of goods.
- f) In effect, only charge of discrepancy of value of spectacle lenses is made on the basis of statements and undisclosed therefore nonexistent contemporaneous imports.
- g) Self-incriminating statements recorded by SIIB in February 2020 were all under duress and coercion which were later retraced 02.01204 as such; these statements cannot be relied against him in these proceedings.
- h) Similarly, statements of the Co accused without their corroboration in material particulars cannot be used in these proceedings.
- i) In his last statement dated 02.01.2024, the Sandeep More the Proprietor of the Importer he inter alia stated that the declared value for the Bills of Entry cleared in 2019-20 was fair and it was as per market price and practice.
- j) The differential duty on the goods covered by 6 Live Bills of Entry released provisionally has been worked out by SIIB Rs.1,50,84,201/- on the basis of certain statements extracted from importers and CHA without any regard to the provisions of the Customs Act 1962 and rules issued thereunder.
- k) As regards redetermination of value past imports covered by the 37 Bills of Entry, there is no evidence of the so called confessional statements also not to talk of Alert Circular, Contemporaneous imports covered by NIDB data with evidence of similar Bills of Entry.
- l) Statements and evidences collected by SIIB admittedly relate to on 6 Live Bills of Entry as such there is no evidence of alleged misdeclaration of description, quantity or value in respect of past 37 Bills of Entry. In fact, as stated above the Noticee also in his statement dated 02.01.2024 has categorically denied any type of misdeclaration of value stating that the declared value of past imports was fair. And as per market price.
- m) The allegation of undervaluation is based on assumptions and presumptions without any basis at all. In contrast the Noticee has the evidence of contemporaneous import of the similar goods showing the similar value as declared by the Noticee.
- n) Paragraph 24 of the Notice refers to contemporaneous import and NIDB data which has not been supplied to the Noticee at all. As such, value cannot be enhanced on that basis.
- o) Similarly, Alert Circular No.01/2020-NS-VJNCH dated 25.08.2020 referred to in Para 24.1 to 24.3 of the Notice has also not been supplied. Secondly assuming without admitting the illegality of the said Circular, it may be stated that the said circular is otherwise inapplicable retrospectively to the Noticee's goods covered by all 43 Bills of Entry as seized goods were imported in February 2020, May 2020 and past imports

were made between April 2019 to December 2019 which is the period prior to issue of the said circular on 25.08.2020. Thirdly, if circular fixing minimum value of any goods is against the provisions of the Customs Act, as the Commissioner has no power to fix the tariff value of any goods. It is only the Board which can fix the tariff value under Section 14(2) of the Act in respect of certain class of goods by issue of Notification which does not seem to have been issued.

- p) The Noticee was coerced by to pay Rs. 2,62,98,000/- (50,00,000/-+21298000/-) towards alleged differential duty arbitrarily assessed by the investigating agency.

2.1.1 In the light of the above facts, the Noticee wishes to submit that adjudication of this case without supply of Relied Upon Documents to the Noticee despite repeated requests as stated in Para 5(a) above would be against the Principles of Natural Justice and order passed if any shall be liable to be set aside in the light of the Judgment of the Apex Court in the case of **Kothari Filaments [2009 (233) E.L.T. 289 (S.C.)]**.

- (i) In absence of cotemporaneous import data, non-supply and legal validity of the Alert Circular referred in the SCN the value of impugned goods cannot be challenged. Self-incriminating statements recorded by SIIB in February 2020 were all under duress and coercion which were later retraced 02.01204 as such; these statements cannot be relied against him in these proceedings. Similarly, statements of the Co accused without their corroboration in material particulars cannot be used in these proceedings
- (ii) Self-incriminating statements recorded by SIIB in February 2020 were all under duress and coercion which were later retraced in the statement recorded on 02.01204. As such; these statements cannot be relied against him in these proceedings. Similarly, statements of the Co noticees and others without their corroboration in material particulars cannot be used in these proceedings.
- (iii) There is no evidence brought on record to show undervaluation of the said goods. On the contrary Paragraph 19 of the SCN states that with regard to the rest of the items of the 4 live Bills of Entry, no discrepancies were noticed with respect to declared quantity, classification and value of goods
- (iv) This is far from truth in as much as except excess quantity of Spectacle lenses to the extent of less than 1% in such huge quantity of over 11 lakhs as shown above there is no excess of any other item covered by any bill of Entry filed by the importer. In fact, there is shortage in quantity of certain items covered by 2 Bills of Entry. Description has been declared correctly on each bill of Entry.
- (v) Allegation of mis-declaration in terms of quantity, it is denied for want of any evidence brought on record as mentioned above.
- (vi) In the light of facts brought on record by the Noticee in Paras above. As such, no goods are liable to confiscation under Section 111(m) and 111(l) of the Customs Act 1962.
- (vii) Seizure was not warranted as goods are not liable to confiscation under the Customs Act 1962 for want of evidence of misdeclaration.
- (viii) In absence of cotemporaneous import data, non-supply and legal validity of the Alert Circular referred to above, the value of impugned goods cannot be challenged. Self-incriminating statements recorded by SIIB in February 2020 were all under duress and coercion which were later retraced 02.01204.
- (ix) The charge of non-declaration of detailed description is totally based on assumption and presumption without any basis at all. Since goods have been cleared 1 year before the seizure took place and there is no evidence of contemporaneous imports of NIDB date brought on record to prove this wild allegation against the Noticee.
- (x) What is found during examination is Spectacle Lenses. Then there can't be allegation of misdeclaration of description at all.
- (xi) Acceptance of importer during statement was under duress hence not reliable evidence in absence of contemporaneous data.

- (xii) The Noticee was forced to pay the amounts paid during investigation. They need to be refunded.
- (xiii) Incriminating evidence of confessional statement of Noticee and others is in relation to the goods seized and statement of Custom Broker and others are not reliable. The averment that retraction/change in statement is an afterthought is unacceptable as the statement dated 2.01.2024 was recorded by proper officer of customs under Section 108 of the Customs Act 1962. It is not the case of the department that the said officer has favored the maker of the statement on some consideration. There is no conclusive evidence of misdeclaration and or under valuation in the goods under question and the whole case is based on assumptions and presumptions. **The Noticee therefore requests Cross Examination of all persons who have deposed against him**
- (xiv) It is settled law that electronic evidence like WhatsApp Chats being downloaded from electronic device without of issue and supply of certificates issued under Section 138C of the Customs Act 1962 r/w Section 65B of the Indian Evidence Act 1872 to the Noticee is not evidence
- (xv) As already stated above, no evidence of contemporaneous import in the form of identical or similar Bill of Entry has been supplied to the Noticee. Therefore, this charge is baseless and unsustainable in law.
- (xvi) As stated above the said Circular is issued on 25.08.2020. As such it is inapplicable to these imports. Further, the Alert circular is against the Customs Act 1962.
- (xvii) This charge is based on admitted assumptions and presumptions as seen from under lined portions above and made without any concrete evidence at all. There is also no statement of anyone else admitting under valuation or misdeclaration. On the contrary, the Noticee has denied any misdeclaration in his statement dated 24.01.2020.
- (xviii) There is no undervaluation done by the Noticee as alleged in the Annexure I & II of SCN. No duty can be demanded in view of replies as above. Moreover, no IR. has been supplied hence no comments on IR.
- (xix) The Noticee is not liable to pay any duty. Therefore, no penalty is imposable under any provisions of the Customs Act 1962.
- (xx) Whatever was asked by proper officer has been provided by the Noticee. The charge of penalty is therefore unacceptable. The Noticee is not liable to pay any duty. Therefore, no penalty is imposable under any provisions of the Customs Act 1962.
- (xxi) Whole notice is misconceived, baseless and arbitrary. As explained above, there is no misdeclaration of description quantity and value as alleged in respect of the seized goods is past imports. As such no duty can be demanded and consequently no penalty can be imposed on the Noticee under any provision of the Customs Act 1962

2.1.2 It is further submitted that the main charge in the case is of undervaluation as summarized in the Para 28 & 29 of the SCN. Charge of misdeclaration of description and quantity is made mainly in respect of 2 Bills of Entry which has been explained above in or submission in Para 5 and 6 (paragraph wise Reply) herein above. There is no specific finding of misdeclaration of value, description and quantity in respect of Past 37 Bills of Entry. It is based only on findings in respect of seized and provisionally released goods covered by only 6 Bills of Entry on assumption and presumption and non existing grounds in as much as no documentary evidence of contemporaneous import or data thereof has been provided to prove the charge. Similarly, one Alert circular issued on 25.08.2020 is relied against imports covered by all 43 Bills of Entry. Apart from non supply and irrelevance of the said circular, issue of such circular laying down the guidelines by the Commissioner to redetermine the value of any particular goods or an importer and charging duty thereon is impermissible under Section 14 the Customs Act 1962 unless a notification is issued under Section 14(2) of the Act *ibid*. Further before rejecting the invoice price, the Department has to give cogent reasons for such rejection. Assessing authority has to examine each and every case on merits for deciding its validity and he cannot form a view to reject all transaction values on the basis of some general criteria based on even a Circular in terms of judgments in the cases of **Bharathi Rubber Lining & Allied Services P. Ltd. [2013**

(287) E.L.T.124], Amar Delhi Pvt. Ltd [2019(370) E.L.T.710] and Agarwal Metals & Alloys [2021(378)E.L.T.155] enclosed respectively as Annex- D, E & F

2.1.3 In paragraph 29 (vi) the SCN relies on the so-called evidence of electronic data downloaded from the Google Pixle Phone of the importer to corroborate the inadmissible statement support their charge of misdeclaration of value of goods under question but there is no certificate supplied to us as required by under Section 138C of the Customs Act 1962 r/w Section 65B of the Indian Evidence Act 1872. Therefore the said so called whatsapp evidence cannot be relied upon for enhancement of goods in question as held in the judgments in the cases of **S.N Agrotech [2018(361)E.L.T.761] and Junaid Kudia (2024)16 Centax 503** enclosed respectively as **Annex- G & H**

2.1.4 Burden to establish by methods known to law and in a satisfactory manner that the value of imported goods is not what the importer says it is and what that value actually is, that onus cannot be shifted to the importer in terms of the judgment in the case of **Sound N Images [200(117) E.L.T.538] enclosed as Annex- I**

2.1.5 It is submitted that while redetermining the assessable value in terms of Section 14 ibid read with Rules 3, 4, 5 of the Rules of 2007, the value of the goods shall be the transaction value, unless the same is rejected in terms of Rule 12 ibid and thereafter to proceed with Rules 4 to 9 sequentially. In the present case, these have not been followed. Furthermore, the principles of comparison with the goods which are alike in all respects for determining the value under Rule 5 on the basis of 'similar goods' i.e., export from the same country of exportation/ country of origin; manufactured by the same person or different person in the same country of export; sale at the same commercial level and in substantially the same quantities as the goods being valued, are required to be established. However, we find that none of these aspects have been complied with by the authorities in the proposal for enhancing the values under the Rules of 2007. The Hon'ble Apex Court in the case of Commissioner of Customs, Calcutta v. South India Television - 2007 (214) E.L.T. 3 (S.C.) had held that casting suspicion on invoice produced by the importer is not sufficient to reject it as evidence of value. The invoice price is not sacrosanct but before rejecting the invoice price, the department has to give cogent reasons for such rejection. Transaction value declared by the Noticee cannot be rejected without evidence and justifiable reasons. The word 'doubt' mentioned in Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 for such rejection has also to be based on evidence and reasons. Without quoting and supplying any NIDB data of contemporaneous bills of Entry do not indicate as to what evidence or special circumstances were taken into account for such rejection and to justify their doubt. For proving the value to be wrong declaration, independent evidence is required and mere reference to NIDB data is not sufficient in view of catena of Apex Court's judgments, fallacious approach adopted by authorities in the Notice for rejecting transaction value is not sustainable as held in **Akash Enterprises 2017(358) E.L.T 987 and Sumeet Exports (India)-[2019(370) E.L.T 423 and Nico Extrusions Limited [FINAL ORDER NO. A/86856-86857/2025]** enclosed respectively as **Annex- J, K. & L.**

2.1.6 Therefore, the allegation of undervaluation is not sustainable. Consequentially, the confiscation under Section 111(d) and (m), demand of differential duty of Rs. 6,73,47,785/- and proposal to impose any penalty on the Notice under section 112/114A and 114 AA is also not acceptable. In view of the above, the Noticee humbly requests the Commissioner to drop the proceedings without any penal action against the Noticee.

2.2 Further, Mr. Rasjkumar Maji, Advocate on behalf of the the noticees M/s. Xpress Interlink Logistics and Mr. Rajesh Bhanushali submitted written reply dated 14.08.2025 which states as:

2.2.1 Preliminary Submissions

(i) The Noticee deny all the allegations and charges levelled against us in the SCN. The allegations appear to be based on misinterpretation of the facts, particularly in relation to the statements of the importer, M/s Suhani International. As a G card holder of the Customs Broker, our primary role is to act as an intermediary between the importer and Customs authorities, ensuring all documentation is filed as per the regulations provided by the client. We acted in good faith and without any malafide intent to assist in duty evasion.

(ii) The allegations against the Noticee are based on a misinterpretation of facts, particularly in relation to the statements made by the importer. As a Customs Broker, our role is to act as a go-between for the importer and Customs authorities, ensuring that all necessary documentation is filed according to the regulations and based on the information provided by our client. We maintain that our actions were undertaken in good faith and without any malicious intent to aid in duty evasion.

2.2.2 The SCN is Vague and Legally Untenable

The SCN is legally indefensible and lacks a foundation of specific grounds. Its basis rests on surmise and assumption rather than substantive evidence, indicating it was issued without due care. This preliminary response is made without prejudice to a comprehensive and detailed reply on the merits of the allegations presented in the SCN.

2.2.2.1 Misapplication of Governing Regulations

The SCN incorrectly alleges that the Noticee violated provisions of the Customs Brokers Licensing Regulations (CBLR), 2013. This is a significant point of contention. The period for which the SCN was issued is after 2018, which means the Customs Brokers Licensing Regulations (CBLR), 2013 is not applicable. During the relevant period, the Customs Brokers Licensing Regulations (CBLR), 2018 was in effect. This misapplication of the law fundamentally undermines the basis of the notice's allegations regarding our obligations as a Customs Broker.

2.2.2.2 Jurisdictional and Procedural Defect in the Show Cause Notice

(i) The charging paragraph, specifically Paragraph 38 of the Notice, is unequivocally and solely addressed to "M/s Suhani International (IEC: 0310049440)". The Notice requires M/s Suhani International to show cause as to why various actions should not be taken, including the re-determination of assessable value, demand for differential duty, confiscation of goods, and imposition of penalties.

(ii) The SCN is procedurally flawed because Clause (j) of Paragraph 38 asks M/s Suhani International to address allegations against the Noticee. This clause alleges that the Noticee failed to fulfill its duties under the Customs Brokers Licensing Regulations (CBLR), 2013, and seeks to penalize them under the Customs Act, 1962. This means the notice is asking one party to defend another, which is legally improper. The law requires that any notice regarding allegations and penalties be directed to the specific entity accused of the wrongdoing.

(iii) Therefore, a separate and distinct SCN should have been addressed and issued to the Noticee to allow them to defend their actions. The current notice's attempt to compel M/s Suhani International to respond on behalf of a separate legal entity is legally untenable.

(iv) In support of its contentions the noticee place reliance on following:

- (i) RAFIK ALIBHAI MAKVANA Versus STATE OF GUJARAT-2022 (59) G.S.T.L. 3 (Guj.)

- (ii) SHUBHAM ELECTRICALS Versus COMMISSIONER OF C. EX. & S.T., ROHTAK, - 2015 (40) S.T.R. 1034 (Tri. - Del.) confirmed by High Court of Delhi in, [Principal Commissioner v. Shubham Electricals - 2016 (42) S.T.R. J312 (Del.)]
- (iii) BHARAT HEAVY ELECTRICALS LTD. Versus COMMISSIONER OF C. EX., BHOPAL-2009 (245) E.L.T. 201 (Tri. Del.)
- (iv) UNIVERSAL RADIATORS LTD. Versus COMMISSIONER OF C. EX., COIMBATORE-2017 (347) E.L.T. 516 (Tri. - Chennai)

2.2.3. Reply to Specific Allegations

(i) The SCN alleges that the Noticee was involved in misdeclaration, undervaluation, and misclassification of goods, and failed to discharge its obligations as a Customs Broker under Regulation 10, 11(d), 11(e), and 17 of CBLR, 2013.

(ii) They submitted that the SCN assumes that the alleged failure of the noticee to follow the CBLR regulations led to confiscation of the goods and therefore they are liable for penal action. However, a careful reading of Section 112 of the Customs Act makes it clear that to be penalized under this section, a person must have committed an act or omission that would make the goods liable for confiscation under Section 111. A violation of the provisions of the Customs Brokers Licensing Regulations (CBALR) cannot, by itself, make goods liable for confiscation under Section 111. The CBLRs are framed by the Central Board of Excise & Customs in exercise of powers under Section 146 of Customs Act, 1962. The enabling provision in the statute also empowers the notifying authority to incorporate penal measures and procedure to be followed for imposition of penalties. When a statutory instrument specifically provides for a code of conduct and penalty for breach thereof, it is not legal and proper to bring such breach within the ambit of another statutory provision which is intended to penalise smuggling of goods, or attempt thereof, unless that latter provision specifically intends such coverage. There can be no doubt that a 'customs house agent' can be penalised under Section 112 of Customs Act, 1962 but that penalty must follow a finding that an act of omission or commission on the part of 'customs house agent' rendered the goods liable for confiscation. If enforcement were so ludicrously simple, the immense manpower resource appointed under the Customs Act, 1962 can be done away with. If deviations from the code of conduct enumerated in the Regulations were to be dealt with as abetting of smuggling, such provisions in the Regulations are redundant and a mere reference to Section 112 of Customs Act would have sufficed instead of the elaborate procedure laid down in the Regulations. They placed their reliance upon decisions of 2017 (358) E.L.T. 542 (Tri. - Mumbai) SAROSH NAGARWALA Versus COMMR. OF CUSTOMS (EXPORT), NHAVA SHEVA; 2018 (363) E.L.T. 1027 (Tri. - Del.), TRIWAYS TRANSPORTATION PVT. LTD. Versus COMMISSIONER OF CUS., NEW DELHI

(iii) They submitted that the role of the Noticee is characterized as that of a mere intermediary or "go-between," with the primary responsibility being the filing of documentation as provided by the client. It is maintained that all actions were undertaken in good faith and without any malafide intent to assist in duty evasion. Responsibility for the declared values is attributed solely to the importer, supported by the statement of an employee, Charlie Nagda, who denied the preparation of invoices by the Customs Broker firm. A lack of knowledge regarding the specific technical specifications of the goods prior to the Customs examination is categorically submitted.

(iv) The noticee further submitted that allegation of violation of CBLR is denied. Any violation of Regulation 10 is denied, as it is stated that the license was neither sold nor transferred. It is asserted that the department has failed to provide conclusive evidence of active connivance or a failure to advise the client under Regulation 11(d). The accusations regarding Regulation 17 are challenged as being too vague to permit a detailed response, given the failure of the authorities to identify which of the nine specific sub-regulations were allegedly breached.

(v) The role of Noticee was limited to filing the documents provided by the importer. There is no conclusive evidence to suggest active and willful participation in the fraudulent activities of the importer. Therefore, we pray that the SCN against M/s Xpress Interlink Logistics, be dropped and that no penalty be imposed on us. They requested an opportunity for a personal hearing to present their case in detail.

3. RECORD OF PERSONAL HEARINGS

There are four Noticees in the subject SCN viz. (i) **M/s Suhani International**, (ii) **M/s Xpress interlink Logistics**, (iii) **Mr. Rajesh Bhanushali** and (iv) **Mr. Shahid**. In compliance of provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, the Noticees were granted opportunity of Personal Hearing (PH). A date-wise record of personal hearings is as under:

3.1 An opportunity for PH was granted to the Noticees (i) M/s Suhani International, (ii) M/s Xpress interlink Logistics, (iii) Mr. Rajesh Bhanushali on 15.04.2025, 12.12.2025, 15.12.2025, 24.12.2025.

3.1.1 Availing the said opportunity of PH, Sh. G. B. Yadav, Advocate, attended the personal hearing before the Adjudicating Authority on 24.12.2025 on behalf of Noticee viz. **M/s Suhani International** and reiterated the facts of written submission dated 22.12.2025.

- (i) He provided copies of 3 bills of entry showing contemporaneous import of similar goods at similar value as declared by the noticee.
- (ii) He submitted that self-incriminating statements recorded by SIIB in February 2020 were all under duress and coercion which were later retraced in the statement recorded on 02.1.2024.
- (iii) SCN alleges under-valuation of goods on the basis of Alert Circular issued on 25.08.2020, the same is impermissible in absence of a notification issued under Section 14(2) of the Customs Act, 1962 and further submitted that despite repeated requests the department has not provided any evidence of contemporary imports like NIDB data and the Bills of Entries of other importers of similar goods and other documents to support its SCN for misdeclaration of value by the Noticee.

3.1.1.1 The record of the above mentioned was forwarded to Sh. G.B. Yadav vide e-mail dated 24.12.2025, 06.01.2026 and 12.01.2026 for verification of the contents of the record and signature and despite repeated telephonic conversation also no reply from Sh. G.B. Yadav was received in this office.

3.1.2 Availing the said opportunity of PH, Sh. Rajkumar Maji, Advocate, attended the personal hearing before the Adjudicating Authority on 24.12.2025 on behalf of Noticee M/s Xpress Interlink Logistics and Mr. Rajesh Bhanushali and reiterated the facts of written submission dated 14.08.2025 and further submitted that

3.1.2.1 SCN has alleged that the Noticee No. 2 & 3 have violated the provisions of the Customs Broker Licensing Regulations (CBLR) and hence, Noticee No. 2 & 3 are liable for penalty under Section 112 of the Customs Act, 1962. Section 112 of the CA, 1962 provides for penalty against a person who has committed an act or omission that would make the goods liable for confiscation under Section 111. Hence, in the absence of such action, penalty cannot be imposed on Noticee No. 2 & 3 for violation of CBLR regulations.

3.2 An opportunity for PH was granted to the Noticee, Mr. Shahid on 15.04.2025, 12.12.2025, 15.12.2025, 24.12.2025 and 27.01.2026. However, the Noticee did not attend the PH.

4. DISCUSSION AND FINDINGS

4.1 I have carefully gone through the subject Show Cause Notice (SCN) and its enclosures, material on record and facts of the case, as well as oral and written submissions made by the Noticees.

4.2 The Chief Commissioner of Customs, Mumbai Zone-II has granted extension of time limit to adjudicate the SCN up to 28.04.2026 as provided under Section 28(9) of the Customs Act, 1962, therefore, the case has been taken up for adjudication proceedings within the time limit as per Section 28(9) of the Customs Act, 1962.

4.3 In compliance to provisions of Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunity for Personal Hearing (PH) on 15.04.2025, 12.12.2025, 15.12.2025, 24.12.2025 was granted to the Noticees (i) **M/s Suhani International**, (ii) **M/s Xpress Interlink Logistics**, (iii) **Mr. Rajesh Bhanushali**, and (iv) **Mr. Shahid**. Availing the said opportunity, the Noticees attended the PH on 24.07.2025. Further, opportunity for Personal Hearing was granted to the Noticee No. 4 viz. *Mr. Shahid* on 15.04.2025, 12.12.2025, 15.12.2025, 24.12.2025 and 27.01.2026. However, the Noticee neither attended any of the three personal hearings granted to him nor submitted any reply. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the submission / contention made by the Noticees.

4.3.1 Section 122A of the Customs Act, 1962, stipulates that the Adjudicating Authority shall give an opportunity of being heard to a party in a proceeding, if the party so desires. The adjudicating authority may, if sufficient cause is shown, at any stage of proceeding, grant time, from time to time, to the parties or any of them and adjourn the hearing, provided that no such adjournment shall be granted more than three times to a party during the proceeding.

4.3.2 I find that in the instant case, in compliance of provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, multiple Personal Hearings opportunities were granted by the Adjudicating Authority to the Noticee No. 4. It is observed that PH letters were sent on the address given in the SCN via speedpost. However, the Noticee neither appeared before the Adjudicating Authority in the Personal Hearings granted to them nor submitted any letter or email in response to the Personal Hearing intimation letters.

4.3.3 The Noticee No. 4 did not participate in the adjudication proceedings inspite of the fact of service of letters for personal hearings in terms of Section 153 of Customs Act, 1962. Section 153 of the Customs Act, 1962 reads as under:

SECTION 153. Modes for service of notice, order, etc. - (1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely: -

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that PH letters were duly served to the Noticee, but he did not respond. From the aforesaid facts, it is observed that sufficient opportunities have been given to the Noticee but they chose not to join the adjudication proceedings. As the matter pertains to recovery of government dues, so even in

absence of the Noticee No. 4 from adjudication proceedings, I am compelled to decide the matter in the interest of revenue in time bound and logical manner.

4.3.4 In this regard, it is pertinent to refer to the case of *Sumit Wool Processors Vs. CC, Nhava Sheva [2014 (312) E.L.T. 401 (Tri. - Mumbai)]* wherein Hon'ble CESTAT, Mumbai has observed that natural justice not violated when opportunity of being heard given and notices sent to addresses given by the Noticee. If appellants fail to avail such opportunity, mistake lies on them - Principles of natural justice not violated.

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus, the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard." 2014 (312) E.L.T. 401 (Tri. - Mumbai)"

4.3.5 Considering the aforesaid scenario, I take up this SCN for discussion on the merit of the case. With regard to proceeding to decide the case following the principle of natural justice, reliance is placed on the decision of the Hon'ble High Court of Allahabad in the case of *Modipon Ltd. vs CCE, Meerut [reported in 2002 (144) ELT 267 (All.)]* effectively dealing with the issue of natural justice and personal hearing. The extract of the observations of Hon'ble Court is reproduced herein below for reference:

"Natural justice - Hearing - Adjudication - Principle of audi alteram partem does not make it imperative for the authorities to compel physical presence of the party for hearing and go on adjourning proceedings so long as party does not appear before them - What is imperative for the authorities to afford the opportunity- If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice."

Natural justice - Hearing - Adjudication - Requirement of natural justice complied with if person concerned afforded an opportunity to present his case before the authority - Any order passed after taking into consideration points raised in such application not invalid merely on ground that no personal hearing had been afforded, all the more important in context of taxation and revenue matters. [1996 (2) SCC 98 relied on][para 22]"

4.4 The fact of the matter is that a Show Cause Notice No. 152/2024-25/COMMR/NS-V/CAC/ JNCH dated 29.04.2024 was issued to 4 Noticees viz. M/s Suhani International, M/s Xpress Interlink Logistics, Mr. Rajesh Bhanushali and Mr. Shahid, on the basis of investigation conducted by SIIB(I), JNCH regarding undervaluation of 'Spectacle Lens and other goods' imported by them. It is alleged in the SCN that, M/s Suhani International had imported the impugned goods grossly undervaluing them to evade legitimately payable Customs duty. Thus, the SCN proposes rejection of the declared Assessable Value of the imported goods and re-determination of the same to Rs. 32,02,65,400/-; demand of differential duty to the tune of Rs. 6,73,47,786/- (Rupees Six Crore Seventy Three Lakh Forty Seven Thousand Seven Hundred Eighty Six Only) in terms of Section 28(4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA *ibid*; confiscation of the impugned imported goods having re-determined assessable value of Rs. 32,02,65,400/- under Section 111(m), *ibid*, and imposition of penalty on the Noticee, M/s Suhani International under Section 112(a)(ii)/114A & 114AA, *ibid*,

M/s Xpress Interlink Logistics, Mr. Rajesh Bhanushali and Mr. Shahid under Section 112(a) of the Customs Act, 1962.

4.5 After having decided the aforesaid issues, I now proceed to take up the substantive issues raised in the SCN. On a careful perusal of the Show Cause Notice and case records, I find that following main issues are involved in this case which are required to be decided:

- (i) Whether the declared assessable value of **Rs. 70,26,655/-** for the goods imported under provisionally released 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN and **Rs. 3,66,47,568/-** for the goods imported **under past 37 Bills of Entry** as detailed in **Annexure III & Table XII** of the SCN, should be rejected in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined as **Rs. 6,89,24,920/-** for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI and **Rs. 25,13,40,480/-** for the goods imported **under past 37 Bills of Entry** as detailed in **Annexure III & Table XII** of the SCN as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (ii) Whether the differential duty of customs amounting to **Rs. 1,50,84,201/- (Rupees One Crore Fifty Lakhs Eighty Four Thousand Two Hundred One Only)** for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN and **Rs. 5,22,63,585/- (Rupees Five Crores Twenty Two Lakhs Sixty Three Thousand Five Hundred Eighty Five Only)** for the goods imported **under past 37 Bills of Entry** as detailed in **Annexure III & Table XII** of the SCN, should be demanded in terms of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- (iii) Whether the goods imported by M/s Suhani International, having re-determined value of **Rs. 6,89,24,920/-** for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI should be held liable for confiscation under the provisions of Section 111(m) and 111(l) of the Customs Act, 1962 and the goods having re-determined value of **Rs. 25,13,40,480/- for the goods imported under past 37 Bills of Entry as detailed in Annexure III & Table XII**, should be held liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.
- (iv) Whether penalty should be imposed upon M/s Suhani International in terms of Sections 112(a)(ii)/114A and 114AA of the Customs Act, 1962.
- (v) Whether penalty should be imposed upon M/s Xpress Interlink Logistics, Mr. Rajesh Bhanushali and Mr. Shahid in terms of Sections 112(a) of the Customs Act, 1962.

4.6 After having identified and framed the main issues to be decided, I now proceed to examine each of the issues individually based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962; nuances of various judicial pronouncements, as well as Noticee's oral and written submissions and documents / evidences available on record.

4.7 **Whether the declared assessable value of Rs. 70,26,655/- for the goods imported under provisionally released 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN and Rs. 3,66,47,568/- for the goods imported under Past 37 Bills of Entry as detailed in Annexure III & Table XII of the SCN, should be rejected in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined as Rs. 6,89,24,920/- for the goods imported under provisionally released 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI and Rs. 25,13,40,480/- for the goods imported under past 37 Bills of Entry as detailed in Annexure III & Table XII of the SCN as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.**

4.7.1 I note that on the basis of specific intelligence about imports of Spectacle Lens being undervalued, above consignments of Spectacle Lens along with Mix Trading commodities like Imitation Jewellery, various types of Hair Accessories etc. imported by M/s Suhani International were put on hold by SIIB(I). The Goods covered under Bills of Entry mentioned above in Table-I & Table-IV of the SCN were examined by SIIB(I), JNCH under panchnama. After Examination of the subject Goods covered under above mentioned Bills of Entry, discrepancies were noticed in terms of quantity, weight, classification and declared values. Discrepancies noticed during the examination of the bills of entry have been detailed in TABLE-II for Bill of entry no. 6739775 dated 03.02.2020, Table-III for Bill of Entry no. 6747464 dated 04.02.2020, Table-V for Bill of Entry no. 7665082 dated 15.05.2020, Table VI for Bill of Entry No.7665083, Table VII for Bill of Entry no. 7665084 dated 15.05.2020 and Table VIII dated 15.05.2020 above, the same have not been reproduced here for the sake of brevity.

4.7.2 From the statements taken during the investigation under Section 108 of the Customs Act, 1962 and relevant retrieved data found during search/ from seized goods, I find that:

- Shri Dipesh Kashinath More used to check the cashbook details in the mail received from coolmoonlight2014@gmail.com- (email id of Sandeep More) which has entries as “Cash paid against excess RTGS entry”. From the statements of Importer and others, it appears that this excess RTGS entry was paid to the supplier in form of Cash by Sandeep More.
- Further, there were chats between Sandeep More and Shahid (Custom Broker Employee) related to payment in Cash to Custom Broker by Sandeep More.
- Password of Sandeep More’s email coolmoonlight2014@gmail.com- was given to Custom Broker Shahid & Rajabhai.
- Sandeep More has ordered the goods from only one supplier i.e. M/s JAYOUNG TRADING CO. LTD.
- The supplier sent him (Sandeep More) the original invoice and packing list to his mail id coolmoonlight2014@gmail.com. After that he used to forward original invoice and packing list and loading list to Custom Broker who used to prepare invoice and packing list of lower value on signed letter head of supplier which they submitted in the Customs House. In the invoice, there was misdeclaration with respect to quantity, value, description so that custom duty can be evaded. He paid Rs. 73000/- per container to Custom Broker for under invoicing, misdeclaration, misclassification since 2017.
- The price of the goods was fixed as per the plan previously settled between Sandeep More and Custom Broker, Raja Bhai (Rajesh Bhanushali).
- Sandeep More prepared Bills of imported value of the goods and sent it to those parties who kept the goods in his supplier’s godown & then parties sent money through RTGS and cash. In turn, Sh. Sandeep More, Vishal Salvi and Yashwant used to hand over this cash amount to Saifu on the directions of Sandeep More in Mumbai and through Hawala, Saifu was sending this money to David in China who was Chinese supplier’s employee/man.
- Importer/Sandeep More was paying Customs declared value to supplier through bank transactions (RTGS) & balance amount through Hawala & the same procedure was being followed in India when he sold the goods to his Indian Buyers.
- Data printout which was obtained from his phone had commercial invoices of higher values from other supplier, M/s Jiangsu Junshi Optics Co. Ltd. Real/actual value range of Imported Spectacle Lens 0.30-1.5 USD per Pair. But to evade duty from Customs, they declared their value @ 0.05 USD/Pair. Sandeep More asked Shahid to declare the value of the lens from 0.02 to 0.15 USD in different Bills of Entry. Further, chat between Sandeep and Shahid on May 2, 2019 at 4:08 PM clearly proves that it is Sandeep More who was giving directions to Shahid to declare the lens price “@ \$0.05 per pair”.
- Sandeep More, Proprietor of M/s Suhani International has thus evaded duty of approximately Rs. 5 crore by under invoicing and misdeclaration.

- Sandeep used to give information to Shahid about Bill of Lading, Loading List, Packing List, Item Wise Quantity, number of PCS, quantity in Kgs of goods and value of the items to be declared through WhatsApp.
- The value of some items assessed as per group practice was told to him and values of some items were suggested by Sandeep More. Based on that, they used to prepare Import Invoice and based on this invoice, packing list etc.; checklist of Bill of entry was forwarded to him for approval and after that CB filed the Bill of Entry.
- For clearance of each consignment, Sandeep More was paying Rs.73,000/- in cash and Rs. 7000 through banking channel to the Custom Broker.
- Rajesh Bhanushali (Custom Broker) accepted that he has violated the CBLR Rules.
- Sandeep More knew about the specifications of the Lens. There were chats wherein there is a mention of 1.56 Progressive HC Shipment, 1.56 Progressive HMC ready Shipment, Blue Cut RT Lens shipment. Further, these chats/data were obtained/retrieved from the seized Mobile (Google Pixle Phone) of Sandeep More, Proprietor of M/s Suhani International by Cyber Forensic Lab under Panchnama.
- The above conversation between Importer and Custom Broker/Buyers suggests that they know about the specification/types of imported Lens and despite knowing specification/type of Lens, they were declaring these goods with generic name only i.e. "Spectacle Lens" and declared these goods at very low prices.
- In his statement dated 02.01.2024, importer stated that declared value of the goods by him was fair and as per market practice. However, this retraction appeared to be an afterthought as this retraction was made about 4 years after initial recording of his statements. Moreover, he has already accepted in his earlier statement dated 05/06.02.2020 that they have mis-declared the goods (spectacle Lens and other items) in terms of undervaluation, description and quantity. He was involved in undervaluation of the spectacle Lens and other goods which is also proved from the chats between him and Custom Broker employee, Mr. Shahid.
- Sandeep More, proprietor of M/s Suhani International & Rajabhai @ Rajesh Bhanushali, Custom Broker admitted their guilt and knowledge about the undervaluation of Lens. M/s Suhani International submitted letter dated 12.02.2020, wherein it is submitted that he evaded Customs Duty of about Rs. 5 Crore and promised that he will pay the same as early as possible.

4.7.3 The declared price of the imported goods was analysed *viz-a-viz* similar goods that were imported about the same time, using contemporaneous import data as detailed in RUD-2 of the SCN. It was noticed that the similar goods were being imported at higher value. Thus, it was revealed from the statements of Noticees during investigation, forensic data analysis of the electronic devices seized during search and the contemporaneous import that the impugned goods imported by M/s Suhani International vide aforementioned Bills of Entry, were grossly mis-declared in terms of value and hence, the same had been imported into India in contravention of provisions of the Customs Act, 1962. Therefore, as per Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007), the declared transaction value of the goods covered under aforesaid Bills of Entry cannot be considered as transaction value and the same has to be rejected in terms of Rule 12 of the CVR, 2007 read with Section 14(1) of the Customs Act, 1962. The transaction value needs to be re-determined by following Rules 4 to 9 of CVR, 2007 sequentially, as it was not correctly declared while filing B/Es.

4.7.4 I find that as the goods appeared undervalued, values at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were analyzed, and it was noticed that the similar/identical goods were being imported at higher values. Rule 4 and Rule 5 of the CVR, 2007 stipulates valuation based on the contemporaneous import data of identical and similar goods, respectively. As the contemporaneous import data of identical goods was not available, hence, the value of the

imported goods has been arrived at using the contemporaneous import data of similar goods as per Rule 5 of CVR, 2007. The values so arrived are tabulated and annexed as Annexure-I & II to the SCN and accordingly duty calculation sheet for six provisionally released Bills of Entry has been prepared and summarized below:

S. No.	BE No. & Date	AV declared	Duty declared	AV redetermined	Duty redetermined	Differential Duty
1	6739775/03.02.2020	1100113	273801.6	10534283	2574450	2300648
2	6747464/04.02.2020	1039906	254571.8	14408330	3505844	3251272
3	7665082/15.05.2020	1296790	339295	13474752	3311524	2972229
4	7665083/15.05.2020	1261569	307005	12800548	3113324	2806319
5	7665084/15.05.2020	1631500	460853	12389469	3082172	2621319
6	7665085/15.05.2020	696777	177359	5317538	1309773	1132414
	Total	7026655	1812885.4	68924920	16897087	15084201

4.7.5 Further, investigation revealed that the importer has cleared 37 Bills of Entry in the Past (other than six bills of entry mentioned in Table-XI above) having similar description of goods viz. "Spectacle Lens" of various types. The details of the past Bills of Entry are detailed in Table XII above.

4.7.6 I find that during examination of the goods, various types of Spectacle Lens were found as Lens 1.56 HC Plano CYL Bifocal/ HC (Hard Coated)/HMC (Hard Multi Coated)/Single Vision/Round Top/Progressive/Blue Cut etc. However, importer has not declared detailed description in past Bills of Entry which affect the prices of the Lens and simply declared general description of the goods as Spectacle Lens. There are chats between Sandeep More (Proprietor of M/s Suhani International) and Custom Broker/his buyers where there is mention of detailed description of Lens viz. 1.56 Progressive HC Shipment, 1.56 Progressive HMC ready Shipment, Blue Cut RT Lens etc.

4.7.7 Importer in his statement dated 02.01.2024 stated that they bought the goods in stock lot and as a general practice they have been declaring these goods as "spectacle Lens" in Bills of Entry. However, in his statement dated 02.01.2024, importer/proprietor of M/s Suhani International accepted that all these goods (Spectacle Lens) were similar to goods imported vide above mentioned six Bills of Entry. Hence, I find that the past imports of Spectacle Lens also had description of Round Top/Single Vision/Bifocal/Progressive, HC/HMC/Blue Cut, Photogrey etc.

4.7.8 Importer in his statement dated 05/06.02.2020 has accepted that the real/actual value range of imported Spectacle Lens is 0.30-1.5 USD per Pair. But to evade duty from Customs, they declared their value @ 0.05 USD/Pair. Further, chat between Sandeep and Custom Broker Employee, Shahid on May 2, 2019 at 4:08 PM clearly proves that it was Sandeep More who had asked Shahid (Custom Broker Employee) to declare the lens price "@ \$0.05 per pair". Importer in his statement has accepted that there is misdeclaration in invoices with respect to quantity, value, description, so that custom duty can be evaded and they are doing under invoicing, misdeclaration, misclassification since 2017.

4.7.9 Further, regarding past Bills of Entry, as the physical goods are not available, therefore, based on generic description, it cannot be ascertained what type of Lens have been imported in past in guise of generic name i.e. Spectacle Lens declared by the Importer in above mentioned past Bills of Entry. Importer in his statement has stated that the goods are part of Stock lot. Further, the conversation between Importer and Custom Broker/Buyers/his Employees suggests that they knew about the specification/types of imported Lens and despite knowing specification/type of Lens, they were declaring these goods with generic name only i.e. "Spectacle Lens" and declared these goods at very low prices, Hence, I find that the imported

Lens had assorted quantity of various types of Lens (HC, HMC, Blue Ray Cut/ SV, RT, KT, Progressive etc.), as found during examination of six provisionally released Bills of Entry mentioned above.

4.7.10 Since, the impugned goods are mis-declared in terms of their value & description, the transaction value as declared by the importer is rejected under Rule 12 of the Customs Valuation Rule (CVR), 2007. Now, the value of the goods as mandated by the CVR, 2007 needs to be re-determined following rules 4 to 9 sequentially as it was not correctly declared. Further, the value of goods cannot be re-determined in terms of Rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Rule 3 of the Customs Valuation Rules 2007 as data for identical goods was not available for impugned goods. Further, import data for the similar goods at comparable level was available in NIDB, the value of the said goods is re-determined in terms of Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Rule 3 of the CVR 2007, after rejecting the declared value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

4.7.11 As per contemporaneous import of the similar goods, the minimum import price for Spectacle Lens was found to be 0.34 USD per pair. Considering exchange rates in 2019, the approx. minimum value of a pair of Spectacle lens comes out to @ Rs. 24 per pair. Accordingly, value of the past Bills of Entry has been calculated. The re-determined value of the impugned goods covered under Bills of Entry as detailed in Annexure-III to the SCN (Past 37 Bills of Entry) comes to Rs. 25,13,40,480/- against declared Assessable Value of Rs. 3,66,47,568/-.

4.7.12 In view of the above, value declared by the importer for the clearance of the impugned imported goods imported at Nhava Sheva port could not be considered as true transaction value and the same is liable to be rejected in terms of Rule 12 of the Customs Valuation. Therefore, I hold that the declared assessable value of the goods, should be rejected in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined as **Rs. 6,89,24,920/-** for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN and **Rs. 25,13,40,480/-** for the goods imported under Past 37 Bills of Entry as detailed in Annexure III & Table XII of the SCN as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

4.8 **Whether the differential duty of customs amounting to Rs. 1,50,84,201/- (Rupees One Crore Fifty Lakhs Eighty Four Thousand Two Hundred One Only) for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN and Rs. 5,22,63,585/- (Rupees Five Crores Twenty Two Lakhs Sixty Three Thousand Five Hundred Eighty Five Only) for the goods imported under Past 37 Bills of Entry as detailed in Annexure III & Table XII of the SCN, should be demanded in terms of Section 28(4) of the Customs Act, 1962 alongwith applicable interest under Section 28AA of the Customs Act, 1962.**

4.8.1 After having determined the correct valuation of the impugned imported goods, it is imperative to determine whether the demand of differential Customs duty as per the provisions of Section 28(4) of the Customs Act, 1962, alongwith applicable interest under Section 28AA ibid, in the subject SCN is sustainable or otherwise. The relevant legal provision is as under:

SECTION 28(4) of the Customs Act, 1962.

Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. –

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

- (a) collusion; or
 - (b) any wilful mis-statement; or
 - (c) suppression of facts,
- by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

4.8.2 Consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in Customs clearance. **Under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods while presenting the Bill of Entry.** Thus, with the introduction of self-assessment by amendments to Section 17, it is the added and enhanced responsibility of the importer, to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In the instant case, as explained in paras supra, the Noticee/importer has undervalued the goods and thus, willfully evaded payment of applicable duty resulting in a loss of Government revenue and in turn accruing monetary benefit. Since the Noticee/importer has willfully mis-declared and suppressed the facts with an intention to evade applicable duty by undervaluation, hence, provisions of Section 28(4) are invocable in this case and the duty, so evaded, is recoverable under Section 28(4) of the Customs Act, 1962.

4.8.3 The scheme of RMS wherein the importers are given so many facilitations, also comes with responsibility of onus for truthful declaration. The Tariff classification, value and Description of the item, are the first parameters that decides the rate of duty for the goods, which is the basis on which Customs duty is payable by any importer. However, if the importer does not declare the complete details and evades payment of correctly payable duty, it definitely amounts to mis-leading the Customs authorities, with an intent to evade payment of legitimate Customs duty leviable on the said imported goods.

4.8.4 In terms of Section 46(4) of the Customs Act, 1962, the importer is required to make a true and correct declaration in the Bill of Entry submitted for assessment of Customs duty. However, in the instant case, I find that the Noticee had evaded payment of applicable duty on the goods imported by them by undervaluation. I find that the Noticee evaded correctly payable duty by intentionally suppressing the correct value of the imported product by not declaring the same at the time of filing of the Bills of Entry. By resorting to this deliberate and willful evasion of duty, the Noticee has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. Thus, I find that this willful and deliberate act was done with the clear intention to evade payment of due duty. As the importer has wrongfully assessed the impugned goods and evaded the payment of the applicable duty thereon on the date of importation, the Noticee can only come clean of its liability by way of payment of duty not paid.

4.8.5 I have determined in the preceding paras that M/s Suhani International, had evaded correctly payable Customs duty by intentionally suppressing the actual value of the imported goods by not declaring the same at the time of filing of the Bills of Entry. They deliberately suppressed the actual value of the goods before Customs and undervalued the same on the basis of forged invoices and packing list. By resorting to this deliberate suppression of value, the importer has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. Thus, it is evident that the importer deliberately mis-declared the goods with an intention to evade Customs duty by declaring the lower value in order to get financial benefits. Therefore, the matter falls under the purview of Section 28(4) of the Customs Act, 1962.

4.8.6 I find that the Noticee was well aware of the correct value of the goods and leviability of duty thereon. However, in the instant case, the Noticee undervalued the goods and did not declare the correct value of the imported goods in the Bills of Entry. Had the department not raised the issue and initiated investigation under the Customs Act, 1962 in this case, the duty so evaded might have gone unnoticed & unpaid. The Noticee has paid less duty by non-payment of applicable duty on the subject goods, which tantamount to suppression of material facts and willful mis-statement. The Noticee undervalued the goods and suppressed the correct value and leviability of correct duty on the goods to evade duty. This shows willful suppression, mis-statement and malafide intention of the Noticee to evade payment of legitimately payable duty. Hence, I find that duty is correctly demanded under Section 28(4) of the Customs Act, 1962, by invoking extended period.

4.8.7 I find that in the instant case, it is evident that with malafide intention the importer had been evading Customs Duty causing loss to Government Revenue which the importer had been doing knowingly and wilfully so as to maximize monetary gains by evading customs duty. The investigation carried out by the SIIB (Import), JNCH, brought such violations to the notice of the Customs authorities. Therefore, it is apparent that M/s Suhani International has been deliberately contravening the provisions of the Customs Act, 1962. In the instant case, the Noticee deliberately chose to undervalue the imported goods to evade duty, being fully aware of the correct value of the imported goods. This wilful and deliberate act clearly brings out their 'mens rea' in this case. Once the 'mens rea' is established on the part of the Noticee, the extended period of limitation, automatically get attracted.

4.8.8 In view of the foregoing, I find that, due to deliberate suppression and wilful mis-statement, duty demand against the Importer has been correctly proposed under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the following court decisions:

- (a) 2013(294)E.L.T.222(Tri.-LB): Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos.M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]

In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified

- (b) 2013(290)E.L.T.322 (Guj.): Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I; Tax Appeal No. 132 of 2011, decided on 27.01.2012.

Demand - Limitation - Fraud, collusion, wilful misstatement, etc. - Extended period can be invoked up to five years anterior to date of service of notice - Assessee's plea that in such case, only one year was available for service of notice, which should be reckoned from date of knowledge of department about fraud, collusion, wilful misstatement, etc., rejected as it would lead to strange and anomalous results;

4.8.9 I find that for the six provisionally released bills of entry, section 28 of the Customs Act, 1962 cannot be invoked as the subject goods were seized vide seizure memo dated 06.02.2020, 23.03.2020 and 12.06.2020 and subsequently released provisionally in terms of Section 110A of the Customs Act, 1962. As I have already hold in the previous paras that the value declared by the importer for the clearance of the impugned imported goods imported at Nhava Sheva port could not be considered as true transaction value and the same is liable to be rejected in terms of Rule 12 of the Customs Valuation and re-assessed in terms of Rule 5 of the Customs Valuation Rules and hence, I hold that Importer is liable to pay the differential duty amounting to **Rs. 1,50,84,201/- (Rupees One Crore Fifty Lakhs Eighty Four Thousand Two Hundred One Only)** along with applicable interest subsequent to the re-assessment of the

provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN.

4.8.10 Further, I hold that the differential duty of customs amounting to **Rs. 5,22,63,585/- (Rupees Five Crores Twenty Two Lakhs Sixty Three Thousand Five Hundred Eighty Five Only)** for the goods imported under Past 37 Bills of Entry as detailed in Annexure III & Table XII to the subject SCN, should be demanded from M/s Suhani International in terms of Section 28(4) of the Customs Act, 1962.

4.8.11 Further, as per Section 28AA of the Customs Act, 1962, 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) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions, it is evident that regarding demand of interest, Section 28AA of the Customs Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. Interest is always accessory to the demand of duty as held in case of *Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)]*. In *Directorate of Revenue Intelligence, Mumbai Vs. Valecha Engineering Limited*, Hon'ble Bombay High Court observed that, in view of Section 28AA, interest is automatically payable on failure by the assessee to pay duty as assessed within the time as set out therein.

4.8.12 I have already held in the above paras that the differential duty amounting to **Rs. 5,22,63,585/- (Rupees Five Crores Twenty Two Lakhs Sixty Three Thousand Five Hundred Eighty Five Only)** should be demanded and recovered from the Noticee, M/s Suhani International, under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period. Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential duty is also liable to be recovered from the Noticee.

4.8.13 I find that the following payments were made by the Noticee M/s. Suhani International during the investigation-

- Differential duty of Rs. 73,98,000/- for BE No. 6739775/03.02.2020 & 6747464/04.02.2020 vide challan No. HC 27 dated 08.06.2020.
- Differential duty of Rs. 36,40,601/- for BE No. 7665082/15.05.2020 vide challan No. HC 139 dated 18.08.2020.
- Differential duty of Rs. 32,44,044/- for BE No. 7665084/15.05.2020 vide challan No. HC 02 dated 01.09.2020.
- Differential duty of Rs. 35,07,456/- for BE No. 7665085/15.05.2020 vide challan No. HC 80 dated 08.09.2020,
- Differential duty of Rs. 35,07,899/- for BE No. 7665083/15.05.2020 vide challan No. HC 237 dated 26.08.2020.
- Rs. 50,00,000/- Vide Challan No. HC 199 dated 12.02.2020 having DD No. 58274/10.02.2020

4.8.13 I find that the above mentioned challans were verified by the team of SIIB(I) from Cash Section, JNCH and the Chief Accounts Officer vide their letter dated 22.04.2024 vide F. No. S/10-Gen-03/2017-18/CASH/JNCH has verified that M/s Suhani International has made the above mentioned payments. In view of my upholding the demand of differential / short paid duty along with interest from the Noticee, I hold that the said differential / short paid duty along with

applicable interest thereon recoverable from the Noticee, should be appropriated from the aforesaid deposited amounts paid by the Noticee.

4.9 Whether the goods imported by M/s Suhani International, having re-determined value of Rs. 6,89,24,920/- for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI should be held liable for confiscation under the provisions of Section 111(m) and 111(l) of the Customs Act, 1962 and the goods having re-determined value of Rs. 25,13,40,480/- for the goods imported under Past 37 Bills of Entry as detailed in Annexure III & Table XII, should be held liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

4.9.1 The SCN proposes confiscation of goods, having re-determined assessable value of **Rs. 6,89,24,920/-** for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN under the provisions of Section 111(m) & 111(l) of the Customs Act, 1962 and **Rs. 25,13,40,480/-** for the goods imported under past 37 Bills of Entry as detailed in Annexure III & Table XII of the SCN under the provisions of Section 111(m) of the Customs Act, 1962.

4.9.2 Section 111(l) and 111(m) of the Customs Act, 1962 states that the following goods brought from a place outside India shall be liable to confiscation:

- (l) *any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*
- (m) *Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77, in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of Section 54;*

4.9.3 From the discussions above, I find that the importer had failed to assess and discharge the customs duty correctly by way of undervaluation of goods, imported by them vide provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI to the SCN and **past 37 Bills of Entry** as detailed in **Annexure III & Table XII** to the subject SCN, by willful mis-declaration of facts and suppressing the true transaction value of goods and thereby contravened the provisions of Section 46 the Customs Act, 1962. Thus, I find that the subject goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. Further, I find that Section 111(m) deals with any and all types of mis-declaration regarding any particular of Bill of Entry. Therefore, the gross undervaluation of the imported goods resorted to by the importer amounts to mis-declaration and shall make the goods liable to confiscation in terms of Section 111(m) of the Customs Act, 1962.

4.9.4 The Noticee was very well aware of the actual nature of the imported goods and their correct value. However, they deliberately suppressed this correct value of the imported goods, and declared lower value to evade payment of legitimate duty. This deliberate suppression of facts and willful mis-declaration resorted by the Noticee, therefore, renders the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, I find that acts of omission and commission on part of the Noticee has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

4.9.5 As per Section 46 of the Customs Act, 1962, the importer of any goods, while making entry on the Customs automated system to the Proper Officer, shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating

to the imported goods as may be prescribed. He shall ensure the accuracy and completeness of the information given therein and the authenticity and validity of any document supporting it.

4.9.6 I find that the Importer while filing the Bills of Entry for the clearance of the subject product had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2011 in all their import declarations. Section 17 of the Act, w.e.f. 08.04.2011, provides for self-assessment of duty on imported goods by the importer themselves by filing a Bill of Entry, in the electronic form. Section 46 of the Act makes it mandatory for the importer to make an entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulation, 2011 (issued under Section 157 read with Section 46 of the Act), the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic integrated declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it is the importer who has to diligently ensure that he declares all the particulars of the imported goods correctly e.g., the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods when presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April, 2011, the complete onus and responsibility is on the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and claim correct exemption notification and pay the applicable duty in respect of the imported goods.

4.9.7 Prior to 08.04.2011, sub-section (2) of Section 2 of the Customs Act, 1962 read as under:

(2) "assessment" includes provisional assessment, reassessment and any order of assessment in which the duty assessed is nil;

Finance Act, 2011 introduced provision for self-assessment by the importer. Subsequent to substitution by the Finance Act, 2011 (Act 8 of 2011), (w.e.f. 08.04.2011) sub-section (2) of Section 2 *ibid* read as under:

Section 2 - Definitions, Sub-section (2) – assessment:

*(2) "assessment" includes provisional assessment, **self-assessment**, re-assessment and any assessment in which the duty assessed is nil;*

With effect from 29.03.2018, the term 'assessment' in sub-section (2) of Section 2 *ibid* means as follows:

(2) "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-

- a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;*
- b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;*
- c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;*

- d) *the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;*
 - e) *the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods,*
 - f) *any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,*
- and includes provisional assessment self-assessment, re-assessment and any assessment in which the duty assessed is nil;*

4.9.8 From a plain reading of the above provisions related to assessment, it is very clear that w.e.f. 08.04.2011, the importer must self-assess the duty under Section 17 read with Section 2(2) of the Customs Act, and since 2018 the scope of assessment was widened. Under the self-assessment regime, it was statutorily incumbent upon the importer to correctly self-assess the goods in respect of classification, valuation, claimed exemption notification and other particulars. With effect from 29.03.2018, the term 'assessment', which includes provisional assessment also, the importer is obligated to not only establish the correct classification but also to ascertain the correct value and eligibility of the imported goods for any duty exemptions. From the facts of the case as detailed above, it is evident that M/s Suhani International has deliberately failed to discharge this statutory responsibility cast upon them.

4.9.9 Besides, as indicated above, in terms of the provisions of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018, the importer while presenting a Bill of Entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such Bill of Entry. In terms of the provisions of Section 47 of the Customs Act, 1962, the importer shall pay the appropriate duty payable on imported goods and then clear the same for home consumption. However, in the subject case, the importer while filing the Bill of Entry has resorted to deliberate suppression of correct value of the goods and wilful mis-declaration of value of the goods. Further, the above said under-valuation and mis-declaration was done with the sole intention to fraudulently evade the correctly payable duty. Thus, the Importer has failed to correctly assess and pay the appropriate duty payable on the imported goods before clearing the same for home consumption.

4.9.10 I find that the Importer has undervalued the imported goods, therefore, it is apparent that the Importer has not made the true and correct disclosure with regard to the actual valuation of the goods in respective Bills of Entry leading to willful mis-statement and suppression of facts. From the above discussions and findings, I find that the Importer has done deliberate suppression of value and wilful mis-declaration of the goods and has submitted misleading declaration under Section 46(4) of the Customs Act, 1962 with an intent to evade duty. Due to this deliberate suppression of facts and wilful statement, the Importer has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. In view of the above, I find that the impugned goods having total re-determined Assessable Value of **Rs. 6,89,24,920/-**, for the goods imported under provisionally released vide 6 Bills of Entry mentioned as detailed in Annexure I & II & Table XI of the SCN and **Rs. 25,13,40,480/-** for the goods imported under Past 37 Bills of Entry as detailed in Annexure III & Table XII to the SCN, should be confiscated under Section 111(m) of the Customs Act, 1962.

4.9.11 Further, it is also evident from the findings of examination of the Six provisionally released Bills of Entry viz. 6739775 dated 03.02.2020, 6747464 dated 04.02.2020, 7665082 dated 15.05.2020, 7665083 dated 15.05.2020, 7665084 dated 15.05.2020 and 7665085 dated 15.05.2020 that more quantity of goods was found than the declared quantity in the Bill of entry. In view of the same, I find that the subject goods imported vide the subject six bills of entry should be confiscated under Section 111(l) of the Customs Act, 1962.

4.9.12 As regards applicability of actual confiscation and redemption fine in terms of Section 125 of the Customs Act, 1962 for the past 37 Bill of Entry, I find that it is a settled position in law that redemption fine under Section 125 of the Customs Act, 1962 can only be imposed where goods are physically available for confiscation and subsequent redemption. This principle has been categorically affirmed by the Bombay High Court in *Commissioner of Customs (Import), Mumbai v. Finesse Creation Inc.*, 2009 (248) E.L.T. 122 (Bom.), wherein the Court held that the concept of redemption fine arises only if the goods are available and can be redeemed. In the absence of the goods, no redemption fine can be imposed. The Bombay High Court distinguished the Supreme Court judgment in *Weston Components Ltd. v. Commissioner of Customs*, 2000 (115) E.L.T. 278 (S.C.), noting that in *Weston*, the goods had been released on bond and were therefore constructively within the control of the Customs authorities. However, in *Finesse Creation Inc.*, the goods had already been cleared and were not available for seizure, nor had they been released on any bond or undertaking. The Bombay High Court further endorsed the reasoning of the Punjab and Haryana High Court in *Commissioner of Customs, Amritsar v. Raja Impex (P) Ltd.*, 2008 (229) E.L.T. 185 (P&H), which held that where goods are neither available nor covered by any bond, no redemption fine can be levied. This order of the High Court in *Finesse Creation Inc.*, stands accepted by the department, as Special Leave Petition (SLP) filed in the Supreme Court (C.A. No. 66/2009) was dismissed by order dated 12.05.2010. [2010 (255) E.L.T. A120 (S.C.)]

4.9.13 Accordingly, I am of the considered view that, since the goods of the past 37 bills of entry in the present case have already been cleared and are no longer available for confiscation, the invocation of Section 125 of the Customs Act, 1962, lacks jurisdictional basis and is legally unsustainable.

4.9.14 Further, for the six provisionally released bills of entry, thereby meaning constructively within the control of the Customs, I observe that the present case merits imposition of Redemption Fine having held that the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, since the impugned goods are not prohibited goods, the said goods are required to be allowed for redemption by the owner on payment of fine in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

4.10 Whether penalty should be imposed upon M/s Suhani International in terms of Sections 112(a)(ii)/114A and 114AA of the Customs Act, 1962.

4.10.1 I find that in the era of self-assessment, the Noticee had wrongly self-assessed the Bills of Entry and evaded the payment of legitimate duty in respect of the impugned imported goods covered under Bills of Entry mentioned in Table- XI & XII above. As the Noticee got monetary benefit due to their wilful mis-declaration and evasion of applicable duty on the aforesaid goods, I find that duty was correctly demanded under Section 28(4) of the Customs Act, 1962 by invoking extended period.

4.10.2 In this regard, I observe that self-assessment has been introduced on 08.04.2011 vide Finance Act, 2011 wherein under Section 17(1) of the Customs Act, 1962, an importer is required to do self-assessment, thus, placing more reliance on the importers. Further, as per the provisions of Section 46(4) of the Customs Act, 1962, the importer of any goods is required to file a Bill of Entry before the proper officer mentioning therein the true and correct quality, quantity and value of the goods imported and subscribe to a declaration as to the truth and accuracy of the contents of such Bill of Entry. It is an admitted fact that the benefit of less duty on account of mis-declaring the value accrued to the importer.

4.10.3 As discussed above, I find that the subject Bills of Entry were self-assessed by the importer M/s Suhani International. They were having knowledge of correct value of the imported

goods. However, still they willfully suppressed the correct value and undervalued the same before Customs authorities. By resorting to the aforesaid undervaluation, they paid lower rate of duty and thereby evaded legitimately payable duty. Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct value of the goods to claim the undue duty benefit at the time of clearance of the said imported goods. Thus, the importer, by their various acts of omission and commission discussed above, have rendered the impugned goods liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962 and thereby made themselves liable for penalty under Section 112(a) *ibid*. Accordingly, I agree with the proposal made in the subject SCN and hold that penalty should be imposed on the Noticee, M/s Suhani International under Section 112(a) of the Customs Act, 1962.

4.10.4 Further, I find that as per Section 114A, imposition of penalty is mandatory once the elements for invocation of extended period is established. Hon'ble Supreme Court in *Grasim Industries Ltd. V. Collector of Customs, Bombay [(2002) 4 SCC 297=2002 (141) E.L.T.593 (S.C.)]* has followed the same principle and observed:

"Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for Court to take upon itself the task of amending or altering the statutory provisions." (para 10).

Hon'ble Supreme Court has again in *Union of India Vs. Ind-Swift Laboratories* has held: *"A taxing statute must be interpreted in the light of what is clearly expressed. It is not permissible to import provisions in a taxing statute so as to supply any assumed deficiency..."* [2011 (265) ELT 3 (SC)].

4.10.5 Thus, in view of the mandatory nature of penalty under Section 114A no other conclusion can be drawn in this regard. I also rely upon case reported in 2015 (328) E.L.T. 238 (Tri. - Mumbai) in the case of *SAMAY ELECTRONICS (P) LTD. Versus C.C. (IMPORT) (GENERAL), Mumbai*, in which it has been held:

*Penalty - Imposition of - Once demand confirmed under Section 28 of Customs Act, 1962 read with Section 9A of Customs Tariff Act, 1975 on account of fraud, penalty under Section 114A *ibid* mandatory and cannot be waived - Therefore imposition of penalty cannot be faulted - Section 114A *ibid*.*

4.10.6 As I have held above, that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for the demand of duty is rightly invoked in the present case. Therefore, penalty under Section 114A is rightly proposed on the Noticee, M/s Suhani International, in the impugned SCN. Accordingly, the Noticee is liable for a penalty under Section 114A of the Customs Act, 1962 for wilful mis-declaration and suppression of facts, with an intent to evade duty.

4.10.7 I have already held above that by their acts of omission and commission, the importer has rendered the goods liable for confiscation under Section 111(l) and 111(m) of the Customs Act, 1962, making them liable for a penalty under Section 112(a) *ibid*. However, I find that the penalty under Section 114A and Section 112 of the Customs Act, 1962 are mutually exclusive and both cannot be imposed simultaneously. Therefore, in view of fifth proviso to Section 114A, no penalty is imposed on the Noticee under Section 112(a) *ibid* for the **Past 37 Bills of Entry as detailed in Annexure III & Table XII.**

4.10.8 I find that M/s Suhani International had mis-declared the subject goods by way of gross undervaluation and, deliberately and knowingly given false declaration regarding value. I find that the importer has furnished documents such as Bills of Entry and its invoices containing false

or incorrect material particular with the purpose of clearance of the imported goods by undervaluing the goods. In the instant case, there is clear evidence of conspiracy, fraud and suppression of facts. I find that the importer was actively and knowingly involved in evading Customs duty by resorting to undervaluation and mis-declaration of imported goods before Customs authorities which rendered the goods liable for confiscation under Section 111(l) and 111(m) of Customs Act, 1962. The importer cleared the undervalued impugned imported goods by knowingly and intentionally resorting to use of false and incorrect declaration, statement and documents. In view of the above facts, I find that M/s Suhani International, has deliberately and intentionally committed the contraventions as discussed supra covered under the ambit and scope of Section 114AA of the Customs Act, 1962 and therefore, has rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962. Accordingly, I hold that M/s Suhani International is liable for a penalty under Section 114AA of the Customs Act, 1962.

4.11 Whether penalty should be imposed upon M/s Xpress interlink Logistics, Mr Rajesh Bhanushali and Mr. Shahid in terms of Sections 112(a) of the Customs Act, 1962.

4.11.1 I find that the SCN has proposed penalty under section 112(a) of the Customs Act, 1962 on M/s Xpress interlink Logistics, Mr. Rajesh Bhanushali and Mr. Shahid. M/s Xpress Interlink Logistics were the Customs Broker for M/s Suhani International in all the Bills of Entry covered by the SCN and Mr. Rajesh Bhanushali used the license of M/s Xpress Interlink Logistics on commission basis and Mr. Shahid was working for Mr. Rajesh Bhanushali. I find that, the Supplier was sending the original invoice and packing list to the importee on mail id coolmoonlight2014@gmail.com. After that he forwards original invoice and packing list and loading list to custom broker after that they prepare invoice and packing list of lower value on signed letter head of supplier and they print and submit it in the Customs House. In the invoice there is misdeclaration with respect to quantity, value, description so that custom duty can be evaded. The importer gives Rs. 73000/- per container to Custom Broker for doing all this. Further, price of the goods was fixed as per the plan previously settled between Importer and Custom Broker Raja Bhai (Rajesh Bhanushali). Further, the investigation further reveals that the importer used to give information to Mr. Shahid about Bill of Lading, Loading List, Packing List, Item Wise Quantity, number of PCS, quantity in Kgs of goods and value of the items to be declared through WhatsApp.

4.11.2 The submissions made by the Noticee have been carefully considered against the evidence gathered during the investigation. It is observed that the primary jurisdictional objection, wherein it is contended that the Show Cause Notice (SCN) is addressed only to the importer, is factually incorrect as Paragraph 38(j) explicitly calls upon Mr. Rajesh Bhanushali to show cause regarding the proposed penalty. The contention regarding the misapplication of **CBLR 2013** instead of **2018** is noted; however, it is held that a clerical error in the citation of the regulation year does not vitiate the proceedings. The substantive obligations of a Customs Broker to exercise due diligence and advise clients to comply with the Act remain consistent and mandatory under both versions of the law.

4.11.3 The argument that a penalty under **Section 112(a)** cannot be imposed for a violation of the CBLR is found to be incorrect. The penalty is not proposed for a mere administrative breach of the regulations, but for the **active abetment** of acts that rendered the goods liable for confiscation under **Section 111(m)**. The intention of co noticee is the core concept. If the co-noticee has any men-rea than its attract penal action under Section 112 of Customs Act. I find that Shri Rajesh Bhanushai and his firm was fully aware of the undervaluation of the goods. Section 112(a) applies to any person who "abets the doing or omission of such an act" which renders goods liable for confiscation. The SCN does not seek to penalize the Noticee for a technical breach of the CBLR (such as administrative negligence), but for his active role in facilitating undervaluation. Since the Noticee's actions provided the essential assistance for this misdeclaration, he is squarely covered under the definition of an "abettor" under Section 112(a).

4.11.4 The judicial precedents cited by the Noticee are distinguished from the present matter, as those cases involve brokers acting without knowledge of fraud, whereas the current evidence confirms prior knowledge and financial collusion.

4.11.5 The submissions that they have not violated any provisions of CBLR falls flat in light of the admissions made by the CB in their statements recorded under section 108 of Customs Act, 1962. The assertions of "good faith" and a limited role as a mere "go-between" are directly contradicted by the voluntary statement of the Noticee recorded under **Section 108** of the Customs Act.

4.11.6 It is evident from the statements and the documents found during the investigation, that M/s Xpress interlink Logistics and Mr. Rajesh Bhanushali were well aware that the subject goods were being undervalued resulting in loss to government exchequer. I find that M/s Xpress interlink Logistics and Mr. Rajesh Bhanushali, were the conspirators of this whole fraud involving under-valuation of the goods to evade payment of correct duty. Hence, their willful and deliberate acts have rendered the impugned goods liable to confiscation under the provision of Section 111(l) and 111(m) of the Customs Act, 1962. These actions of M/s Xpress interlink Logistics and Mr. Rajesh Bhanushali helping M/s Suhani International in willful and deliberate undervaluation of the goods have rendered them liable for penalty under the provision of 112(a) of the Customs Act, 1962.

4.11.7 Shri Shahid neither attended any of the three personal hearings granted to him nor submitted any reply. It has been brought on record that Shri Shahid facilitated the import of goods into India by way of undervaluation in conspiracy with the other notices by misrepresenting the nature of the consignment. His actions contributed directly to the attempted evasion of customs duty rendering the impugned goods liable to confiscation under the provision of Section 111(l) and 111(m) of the Customs Act, 1962. His conduct amounts to abetment of improper importation, thereby attracting the provisions of Section 112(a) of the Customs Act, 1962.

5. In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

- (i) I reject the declared Assessable Value of **Rs. 70,26,655/-** for the goods imported **under provisionally released 6 Bills of Entry** as detailed in **Annexure I, II & Table XI** of the SCN in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and order to re-determined the same as **Rs. 6,89,24,920/- (Rupees Six Crores Eighty Nine Lakh Twenty Four Thousand Nine Hundred Twenty Only)** as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (ii) I reject the declared Assessable Value of **Rs. 3,66,47,568/-** for the goods imported **under Past 37 Bills of Entry as detailed in Annexure III & Table XII** of the SCN in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and order to re-determined the same as **Rs. 25,13,40,480/- (Rupees Twenty Five Crore Thirteen Lakh Forty Thousand Four Hundred Eighty Only)** as per Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (iii) I confirm the demand of differential Customs duty subsequent to re-assessment of **provisionally released 6 Bills of Entry** as detailed in **Annexure I, II & Table XI** to the SCN, amounting to **Rs. 1,50,84,201/- (Rupees One Crore Fifty Lakh Eighty Four Thousand Two Hundred One Only)** and order to recover the same from **M/s Suhani**

International (IEC-0310049440), alongwith applicable interest under Section 28AA of the Customs Act,1962.

- (iv) I confirm the demand of differential Customs duty amounting to **Rs. 5,22,63,585/- (Rupees Five Crore Twenty Two Lakh Sixty Three Thousand Five Hundred Eighty Five Only)** for the goods imported **under Past 37 Bills of Entry as detailed in Annexure III & Table XII** to the SCN and order to recover the same from **M/s Suhani International (IEC-0310049440)** under Section 28(4) of the Customs Act, 1962 alongwith applicable interest under Section 28AA of the Customs Act,1962
- (v) I confiscate the goods imported **under provisionally released 6 Bills of Entry** as detailed in **Annexure I, II & Table XI** to the SCN having re-determined assessable value of **Rs. 6,89,24,920/- (Rupees Six Crore Eighty Nine Lakh Twenty Four Thousand Nine Hundred Twenty Only)** and seized vide seizure memos dated 06.02.2020, 23.03.2020 and 12.06.2020 under the provisions of Sections 111(l) and 111(m) of the Customs Act, 1962. However, I give **M/s Suhani International (IEC-0310049440)** an option to redeem these goods on payment of a fine of **Rs. 50,00,000/- (Rupees Fifty Lakh Only)** under Section 125 of the Customs Act, 1962.
- (vi) I impose a penalty of **Rs. 60,00,000/- (Rupees Sixty Lakh Only)** on **M/s Suhani International (IEC-0310049440)** under Section 112(a)(ii) of the Customs Act, 1962.
- (vii) I impose a penalty of **Rs. 5,22,63,585/- (Rupees Five Crore Twenty Two Lakh Sixty Three Thousand Five Hundred and Eighty Five Only) plus interest thereon**, on the importer **M/s Suhani International (IEC-0310049440)** under Section 114A of the Customs Act, 1962 in relation to the imported goods detailed in Annexure-A to the SCN.
- If such duty and interest is paid within thirty days from the date of the communication of this order, the amount of penalty liable to be paid shall be twenty-five per cent of the duty and interest, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.
- (viii) As penalty is imposed under Section 114A of the Customs Act, 1962, no penalty is imposed under Section 112 in terms of the fifth proviso to Section 114A ibid for the goods covered under **Past 37 Bills of Entry as detailed in Annexure III & Table XII**.
- (ix) I impose a penalty of **Rs. 20,00,000/- (Rupees Twenty Lakh Only)** on **M/s Suhani International (IEC-0310049440)** under Section 114AA of the Customs Act, 1962.
- (x) I appropriate the amount of **Rs. 2,62,98,000/- (Rupees Two Crore Sixty Two Lakh Ninety Eight Thousand Only)** paid by the Noticee, towards recovery of differential duty and interest, as confirmed above, from the Noticee.
- (xi) I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** on **M/s Xpress Interlink Logistics** under Section 112(a) of the Customs Act, 1962.
- (xii) I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** on **Mr. Rajesh Bhanushali** under Section 112(a) of the Customs Act, 1962.
- (xiii) I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on **Mr. Shahid** under Section 112(a) of the Customs Act, 1962.

6. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/firms concerned, covered or not covered by this show

cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

Anil Ramteke

(अनिल रामटेके / ANIL RAMTEKE)

सीमा शुल्क आयुक्त / Commissioner of Customs,
एनएस-V, जेएनसीएच / NS-V, JNCH

To,

1. **M/s Suhani International** (IEC: 0310049440)
Omshree Siddharameshwar CHS, Shop No. 1,
Plot No. 28, Sector-1, Sanpada, Navi Mumbai- 400705.
2. **M/s Xpress interlink Logistics,**
506-507, Sujir House, 74-76 Kazi Sayed St,
Masjid Bunder (W), Mumbai-Tel: 66372787
Mob : 9619171711 Tel: 66372787 Mob : 9619171711
E-Mail: padserlogistics2025@gmail.com
3. **Mr. Rajesh Bhanushali**
M/s. XPRESS INTERLINK LOGISTICS
506-507, Sujir House, 74-76 Kazi Sayed St,
Masjid Bunder (W), Mumbai-Tel: 66372787
Mob : 9619171711 Tel: 66372787 • Mob : 9619171711
E-Mail: padserlogistics2025@gmail.com
4. **Mr. Shahid**
M/s. XPRESS INTERLINK LOGISTICS
506-507, Sujir House, 74-76 Kazi Sayed St,
Masjid Bunder (W), Mumbai-Tel: 66372787
Mob : 9619171711 Tel: 66372787 • Mob : 9619171711
E-Mail: padserlogistics2025@gmail.com

Copy to:

1. The Addl. Commissioner of Customs, Group VB, JNCH
2. The Dy./Asstt. Commissioner, Chief Commissioner's Office, JNCH
3. The Dy./Asstt. Commissioner, Centralized Revenue Recovery Cell, JNCH
4. The Dy./Asstt. Commissioner, SIIB(I), JNCH.
5. The Dy./Asstt. Commissioner, EDI Section, JNCH.
6. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
7. Office copy.

