



OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, NS-I
सीमाशुल्कप्रधानआयुक्तकाकार्यालय, एनएस-1
CENTRALIZED ADJUDICATION CELL (NS-V), JAWAHARLAL NEHRU
CUSTOM HOUSE,
केंद्रीकृतअधिनिर्णयनप्रकोष्ठ(एनएस-व), जवाहरलालनेहरुसीमाशुल्कभवन,
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707
न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400707

Date of Order: 29.05.2026
आदेशकीतिथि : 29.05.2026

Date of Issue: 29.05.2026
जारीकिएजानेकीतिथि: 29.05.2026

DIN: 20260578NW00000202E1

F. No. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

SCN No.: 1746/2024-25/Commr/NS-I/Gr.II(H-K)/CAC/JNCH dated 27.02.2025

Passed by: Shri Yashodhan Wanage
पारितकर्ता: श्री यशोधन वानागे

Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva
प्रधानआयुक्त, सीमाशुल्क (एनएस-1), जेएनसीएच, न्हावाशेवा

Order No.: 49/2026-27 /Pr. Commr./NS-I /CAC /JNCH
आदेशसं. : 49/2026-27/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच

Name of Party/Noticee: M/s Pioneer Trading Corporation and 13 others (IEC: 0305035258)

पक्षकार (पार्टी)/ नोटिसीकानाम: मेसर्स पायनियर ट्रेडिंग कारपोरेशन और 13 अन्य (आईईसी-0305035258)

ORDER-IN-ORIGINAL

मूलआदेश

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. इसआदेशकीमूलप्रतिकीप्रतिलिपिसव्यवितकोजारीकीजातीहै, उसकेउपयोगकेलिएनिःशुल्कदी जातीहै।

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. इसआदेशसेव्यथितकोईभीव्यवितसीमाशुल्कअधिनियम 1962 की धारा 129(ए) के तहत इसआदेशकेविरुद्ध सीईएसटीएटी, पश्चिमी प्रादेशिक न्यायापीठ (वेस्ट रीजनल बेंच), 34, पी.डी.मेल्लो रोड, मसजिद (पूर्व), मुंबई - 400009

डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ 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 - फार्म नं. सीए३, 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 ३ महीने के भीतर

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

फीस-

(क) एक हजार रुपये - जहाँ माँगे गये शुल्क एवं ब्याज की तथालगायी गयी शास्तिकी रकम ५ लाख रुपये या उससे 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 तथालगायी गयी शास्तिकी रकम ५ लाख रुपये से अधिक परंतु ५० 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 तथालगायी गयी शास्तिकी रकम ५० लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favour 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, सीईएसटीएटी, 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 -

विधिके उपबंधों के लिए तथा ऊपर यथासंदर्भित एवं अन्य संबंधित मामलों के लिए, सीमा शुल्क अधिनियम, १९६२, सीमा शुल्क (अपील) नियम, १९८२, सीमा शुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ 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 129 of the Customs Act 1962.

4. इस आदेशके विरुद्ध अपील करनेके लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्तिका ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसान किये जाने पर अपील सीमा शुल्क अधिनियम, १९६२ की धारा १२८ के उपबंधोंकी अनुपालना न किये जानेके लिए नामंजूर किये जानेकी दायी होगी।

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1. BRIEF FACTS OF THE CASE

1.1 The present proceedings arise from Show Cause Notice No. 1746/2024-25/Commr/NS-I/Gr.II(H-K)/CAC/JNCH dated 27.02.2025 (hereinafter referred to as the SCN), issued by the Principal Commissioner of Customs, Nhava Sheva-I, Jawaharlal Nehru Custom House, Mumbai Customs Zone-II. The SCN was issued pursuant to an investigation conducted by the Directorate of Revenue Intelligence, Headquarters, New Delhi (hereinafter referred to as the DRI). The proceedings involve eight importer firms and six individual noticees, as detailed in Tables 1 and 2 below.

Table 1: Importer Firm Noticees

S. No.	Name of Firm	Nature of Entity	IEC No.
1.	M/s Pioneer Trading Corporation, Andheri (West), Mumbai	Partnership Firm	0305035258
2.	M/s Trans Tyre LLP, Bandra (West), Mumbai	LLP	0315076062
3.	M/s Tiara Enterprises, Kanpur, Uttar Pradesh	HUF	AAPHA0815A
4.	M/s Ultra Mile, Santacruz (West), Mumbai	Partnership Firm	AAFU4620H
5.	M/s Vikas Retail Private Limited, Sanjay Gandhi Transport Nagar, New Delhi	Private Limited Company	0508085594
6.	M/s Leo Distributors Pvt. Ltd., Andheri (West), Mumbai	Private Limited Company	AABCL9316L
7.	M/s Aahna Consultancy Ltd., Andheri (West), Mumbai	Private Limited Company	AALCA5616Q
8.	M/s Vikas Road Carriers Ltd., Andheri (West), Mumbai	Limited Company	0303059460

Table 2: Individual Noticees

S. No.	Name	Designation / Connection
1.	Shri Satvinder Singh Chadha alias Happy	Partner, M/s Pioneer Trading Corporation; Director, M/s Aahna Consultancy Ltd., M/s Leo Distributors Pvt. Ltd., M/s Vikas Road Carriers Ltd.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

2.	Shri Jaskaran Singh Chadha	Director, M/s Vikas Retail Private Limited
3.	Shri Paresh Bhanushali	Employee of Shri Satvinder Singh Chadha; worked across all Chadha Group firms
4.	Shri Satish Bhagwandas Kakkad	Partner, M/s Trans Tyre LLP; indirect controller of M/s Tiara Enterprises
5.	Shri Aman Ahuja	Karta, M/s Tiara Enterprises
6.	Shri Harish Bhagwandas Kakkad alias Tony	Partner, M/s Ultra Mile

1.2 All the above noticees are importers of tyres. The intelligence received and further developed by the DRI suggested that they were engaged in the import of **Truck, Bus and Radial (TBR) tyres**, classifiable under CTH 40112010, from China, Thailand and Vietnam, by mis-declaring and mis-classifying the same as **"Mining Tyres/Off the Road Tyres"**, classifiable under CTH 40118000. The intelligence further indicated that these importers, in connivance with their overseas suppliers, were getting the Speed Symbol **"D"** (indicating a speed limit of up to 65 km/hr) and the Mining Symbol (**"Man with Shovel"**) embossed on the sidewalls of the imported tyres so as to mislead the Customs Authority/Examining Officers into believing that the imported tyres were genuine Mining Tyres/Off the Road Tyres. The duty structure, policy restrictions, and BIS requirements applicable under the two competing classifications are set out in Table 3 below.

Table 3: Duty Structure and Policy Restrictions -- CTH 40112010 (TBR Tyres) vs. CTH 40118000 (OTR/Mining Tyres)

Parameter	CTH 40112010 -- TBR Tyres (Alleged Correct Classification)	CTH 40118000 -- OTR/Mining Tyres (Declared Classification)
BCD	15%	10%
CVD (China origin)	9.18% to 17.57% of CIF value (Notification No. 01/2019-Customs dt. 24.06.2019)	NIL
Anti-Dumping Duty (China origin)	USD 245.35 to USD 452.33 per MT (Notification No. 45/2017 dt. 18.09.2017, as amended by Notification No. 21/2022 dt. 08.06.2022)	NIL
IGST	28%	28%
DGFT Policy	Restricted -- Import licence required from DGFT (Notification No. 12/2015-2020 dt. 12.06.2020)	Free
BIS Requirement	Mandatory -- IS 15636 (Pneumatic	Mandatory if speed capacity is equal to or

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

	Tyres and Tubes for Automotive Vehicles Quality Control Order, 2009 vide S.O. 2953(E) dt. 19.11.2009 as amended, read with IS 15636:2022, IS 15636:2012 and IS 14272:2011)	above 80 km/hr, as per IS 15636:2022 read with IS 15636:2012 and IS 14272:2011
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1.3 The intelligence also suggested that the above-named importers were circumventing the DGFT policy restriction imposed on import of TBR tyres vide Notification No. 12/2015-2020 dated 12.06.2020, which placed tyres classifiable under HSN Code 40112010 under the 'Restricted' category, requiring a DGFT import licence. Analysis of import data revealed a sharp increase in imports under CTH 40118000 immediately after June 2020, with a corresponding sharp decline in imports under CTH 40112010, for the very same tyre sizes (10.00R20, 11.00R20, 295/80R). The trend is captured in Table 4 below.

Table 4: Import Trend -- Assessable Value (INR) for Tyre Sizes 10.00R20, 11.00R20 and 295/80R

Year	Assessable Value under CTH 40112010 (Rs.)	Assessable Value under CTH 40118000 (Rs.)
2019	3,64,13,53,601	14,41,81,153
2020	1,62,14,78,317	39,61,41,622
2021	1,04,90,75,806	98,79,16,827
2022	70,75,28,972	1,82,66,88,073
2023	18,59,93,734	4,91,71,69,155
Jan-2024	23,56,888	10,28,92,755

Searches and Seizures – 29.02.2024

1.4 Acting upon the said intelligence, the DRI conducted simultaneous searches on **29.02.2024** at the office and godown premises of M/s Pioneer Trading Corporation and M/s Trans Tyre LLP in Mumbai and Delhi. During the search conducted at the office premises of M/s Pioneer Trading Corporation under Panchnama dated 29.02.2024, the **mobile phone of Shri Paresh Bhanushali**, Employee of M/s Pioneer Trading Corporation, and the **laptop of Shri Satvinder Singh Chadha**, Partner, were resumed. A backup of emails from various email accounts used at the office was also retrieved.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1.5 Searches were simultaneously conducted at two godown premises of M/s Pioneer Trading Corporation at Plot Nos. 224 and 620, Steel Market, Kalamboli, Navi Mumbai. During the search at Plot No. 620, all imported tyres found therein were bearing the "**Mining Symbol**" and Speed Symbol "**D**" embossed on their sidewalls. Notably, two trucks of **M/s Vikas Road Carriers Ltd.**, a sister concern of M/s Pioneer Trading Corporation, were found parked outside this godown; the tyres installed on these trucks also bore the Mining Symbol on their sidewalls. Shri Pannalal Chaudhary, Truck In-charge, informed that the trucks were being used for transportation of goods and not for mining purposes. The imported tyres found in both godowns were detained and subsequently seized vide Seizure Memo dated 06.03.2024.

1.6 Search was also conducted at the office premises of **M/s Trans Tyre LLP** at Bandra (West), Mumbai under Panchnama dated 29.02.2024, during which the **mobile phone of Shri Satish Bhagwandas Kakkad**, Partner, and a hard drive were resumed. Simultaneous searches were conducted at the godown premises of M/s Trans Tyre LLP and M/s Ultra Mile at Taloja Industrial Area, Maharashtra, and at the godown of M/s Trans Tyre LLP at Sanjay Gandhi Transport Nagar, Delhi. In all these godown premises, the imported tyres were found bearing the Mining Symbol and Speed Symbol 'D' on their sidewalls. The imported tyres were detained and subsequently seized vide Seizure Memo dated 06.03.2024.

1.7 The electronic devices and storage media resumed during the search proceedings were subjected to **forensic examination on 02.03.2024** in the presence of authorised representatives of M/s Pioneer Trading Corporation and M/s Trans Tyre LLP. The devices examined were: (i) iPhone-13 of Shri Paresh Bhanushali; (ii) Laptop LG/15Z90N of Shri Satvinder Singh Chadha; (iii) Samsung Galaxy A14-5G of Manoj Kumar, godown manager (Kalamboli); (iv) Samsung Galaxy S20 FE 5G of Shri Satish Bhagwandas Kakkad; (v) SanDisk Cruzer Blade 16 GB Pen Drive; and (vi) Seagate Hard Drive -- the last two from the premises of M/s Trans Tyre LLP.

Statement of Shri Satish Bhagwandas Kakkad (29.02.2024)

1.8 During the search proceedings dated 29.02.2024 at the office of M/s Trans Tyre LLP, the voluntary statement of **Shri Satish Bhagwandas Kakkad**, Partner in M/s Trans Tyre LLP, was recorded under Section 108 of the Customs Act, 1962 (*Statement dated 29.02.2024*). He stated that he manages the day-to-day operations of M/s Trans Tyre LLP including domestic purchases, imports, sales, and payment details, and that his son Shri Rishabh Kakkad assists with sales. He stated that his

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

overseas suppliers are M/s Zhongce Rubber Group Company Ltd. (China), M/s Qingdao New Dalun International Trading Company Ltd. (China), M/s ZC Rubbers (Thailand) Co. Ltd., and M/s Sailun (Vietnam) Tyre Company Ltd. He further stated that tyres imported from Vietnam and Thailand are used only in trucks and buses. On the question of the decline in imports under CTH 40112010 and corresponding rise under CTH 40118000, he attributed the same to government restrictions following COVID-19 and increased demand due to infrastructure development.

Examination of Live Consignments at Port

1.9 Simultaneously with the searches, the DRI vide email dated 29.02.2024 put on hold the pending consignments of M/s Pioneer Trading Corporation and M/s Trans Tyre LLP at Nhava Sheva Port (INNSA1). Six Bills of Entry had been filed by M/s Pioneer Trading Corporation and three by M/s Trans Tyre LLP, all dated 20.02.2024 or 26.02.2024. Of the six Pioneer Trading Corporation Bills of Entry, four -- filed vide B/Es Nos. 2224444, 2224445, 2224452 and 2224817, all dated 20.02.2024 -- arrived at Nhava Sheva on 01.03.2024. These were examined under Panchnama dated 13.03.2024; samples of five brand/model combinations were resumed; and the goods were seized vide **Seizure Memo dated 13.03.2024**. Shri Satvinder Singh Chadha subsequently requested warehousing under Section 49 of the Customs Act, 1962 and a NOC was issued by DRI vide email dated 18.03.2024.

1.10 The three M/s Trans Tyre LLP consignments (B/Es Nos. 2302893, 2302614 and 2300076, all dated 26.02.2024) were examined under Panchnama dated 13/14.03.2024, samples of five brand/model combinations were resumed, and the goods were seized vide **Seizure Memo dated 14.03.2024**. NOC for warehousing was similarly issued on 18.03.2024.

1.11 The samples resumed from the consignments of M/s Pioneer Trading Corporation and M/s Trans Tyre LLP were forwarded to **M/s Indian Rubber Materials Research Institute (IRMRI)**, formerly known as M/s Indian Rubber Manufacturers Research Association (IRMRA), a BIS-approved laboratory, vide letter dated 14.03.2024, along with test memos. In the forwarding letter, it was specifically stated that the testing should be done **independent of the markings embossed on the samples**, to ascertain their speed capacity, load capacity and other features as required under BIS Standard IS 15636:2022. DRI vide letter dated 02.04.2024 further informed the Director, IRMRA that the purpose of the evaluation was to check if the tyres had a speed capacity in excess of 80 km/hr and whether their dominant use was as on-road Truck, Bus and Radial Tyres, and specifically requested

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

the lab to ignore the speed symbol and mining symbol embossed on the sidewalls of the tyres, as those symbols could have been embossed to avoid the policy restrictions and BIS requirements imposed on import of TBR tyres.

Diversions and Manipulation of Documents

1.12 The two remaining Pioneer Trading Corporation Bills of Entry (Nos. 2313913 and 2313915, both dated 26.02.2024) filed at Nhava Sheva for goods in containers TXGU6836608 and TLLU7945556 had not yet arrived at port. According to the SCN, upon learning of the DRI alert, **Shri Satvinder Singh Chadha arranged for the Bills of Lading to be altered**, changing the port of destination from Nhava Sheva to Mundra, and changed both the name of the importer and the name of the overseas supplier on the Bills of Lading and commercial invoices. Fresh Bills of Entry Nos. 2882200 and 2882198, both dated 04.04.2024, were then filed at Mundra Port (INMUN1) on the IEC of **M/s Leo Distributors Private Limited**, of which Shri Satvinder Singh Chadha is a Director. DRI, at Shri Satvinder Singh Chadha's request vide email dated 15.04.2024, allowed movement of the containers to Mundra vide email dated 18.04.2024, as the Nhava Sheva Bills of Entry had been purged and fresh Bills of Entry had been filed at Mundra. The said consignments were thereafter examined and seized at Mundra.

1.13 The consignment of **M/s Vikas Road Carriers Ltd.** filed vide B/E No. 2313920 dated 26.02.2024 at Nhava Sheva also did not arrive at port. According to the SCN, Shri Satvinder Singh Chadha caused a fresh Bill of Entry (No. 2540420 dated 12.03.2024) to be filed at Mundra Port on the IEC of **M/s Aahna Consultancy Ltd.**, using manipulated Bills of Lading and commercial invoices. The consignment was cleared from Mundra without examination. This was confirmed by Shri Hardik Mehta, Manager in M/s Venkatesh Agencies (CHA firm), in his *voluntary statement dated 27.03.2024*. Shri Hardik Mehta stated that he received revised documents from the email ID of Shri Satvinder Singh Chadha (aahnaconsultancylimited@gmail.com) and was directed to file a fresh Bill of Entry at Mundra on the IEC of M/s Aahna Consultancy Ltd., which he did.

1.14 Four consignments initially filed on the IEC of **M/s Trans Tyre LLP** (B/Es Nos. 2570863, 2571191, 2571530 and 2572271, all dated 14.03.2024) were, after DRI put them on hold, re-filed on the IEC of **M/s Tiara Enterprises**, with the name of the importer altered in the Bills of Lading and commercial invoices. Shri Nayan Bhogilal Gor, CEO of M/s Sea Speed CHA Services Pvt. Ltd., in his *voluntary statement dated 27.03.2024*, confirmed that documents for these Bills of Entry were

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

originally received from Shri Sahil Purohit, an employee of Shri Satish Bhagwandas Kakkad at M/s Trans Tyre LLP, for filing on M/s Trans Tyre LLP's IEC; that Shri Aman Ahuja subsequently called and sent revised documents showing M/s Tiara Enterprises as the importer; and that the revised documents had been forwarded to Shri Aman Ahuja by Shri Satish Bhagwandas Kakkad. He also stated that documents pertaining to M/s Trans Tyre LLP, M/s Tiara Enterprises and M/s Rynaa Overseas used to be sent by Shri Satish Kakkad or his employees, and that goods in consignments where Shri Satish Bhagwandas Kakkad was involved were directly delivered to the godown of M/s Trans Tyre LLP at Taloja.

Further Consignments and Seizures -- March to May 2024

1.15 M/s Vikas Retail Pvt. Ltd. filed Bills of Entry Nos. 2607691 and 2607692 (dated 16.03.2024) and 2574281 (dated 14.03.2024) at Nhava Sheva Port. M/s Tiara Enterprises filed B/E No. 2557626 dated 13.03.2024 and B/Es Nos. 2570863, 2571191, 2571530 and 2572271, all dated 14.03.2024 at Nhava Sheva. M/s Pioneer Trading Corporation filed B/E No. 2621311 dated 18.03.2024. All these consignments were put on hold by DRI vide email dated 18.03.2024/19.03.2024. The consignments of M/s Vikas Retail Pvt. Ltd. and M/s Pioneer Trading Corporation were examined under Panchnama dated 16.04.2024; samples of four brand/model combinations were resumed; and goods were seized vide Seizure Memos dated 16.04.2024. M/s Tiara Enterprises' consignments were examined under Panchnamas dated 16.04.2024 and 18.04.2024 and seized vide Seizure Memos dated 16.04.2024 and 18.04.2024. Shri Aman Ahuja had requested warehousing under Section 49 vide email dated 07.04.2024 and NOC was issued by DRI vide email dated 18.04.2024. M/s Vikas Retail Pvt. Ltd. similarly requested and received warehousing NOC on 18.04.2024.

1.16 Separately, thirteen Bills of Entry -- all dated 04.04.2024 -- were filed across **M/s Pioneer Trading Corporation, M/s Aahna Consultancy Ltd. and M/s Leo Distributors Pvt. Ltd.**, at both Nhava Sheva and Mundra Ports, for goods described as "BRAND NEW ALL STEEL RADIAL MINING TYRES (SIZE: 10.00 R20-18PR) (SPEED NOT EXCEED 65 KMPH)", classified under CTH 40118000. DRI put all these consignments on hold vide emails dated 09.04.2024. They were examined and seized under respective Panchnamas and Seizure Memos in April and May 2024. Samples of additional brand/model combinations from these consignments were also resumed for testing.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1.17 It is also relevant to note that even after the booking of this case, Shri Satvinder Singh Chadha filed a fresh Bill of Entry No. 4951362 dated 08.08.2024 on M/s Pioneer Trading Corporation for goods described as "Radial Truck Tyre Bravia 10.00R20-18PR LDEE Platinum" -- the very model of which samples had already been drawn and forwarded to IRMRA for testing. This model of tyre was thus imported both as a TBR tyre and, earlier, as a Mining/OTR tyre, on Pioneer Trading Corporation's own IEC.

1.18 The aggregate assessable value of the seized goods, importer-wise, is as follows:

Table 5: Assessable Value of Seized Goods -- Importer-wise

S. No.	Firm	Port Seizures (Rs.)	Godown Seizures (Rs.)	Total Seized Value (Rs.)
1.	M/s Pioneer Trading Corporation	2,01,43,141	1,28,11,141	3,29,54,282
2.	M/s Aahna Consultancy Ltd.	72,78,087	--	72,78,087
3.	M/s Leo Distributors Pvt. Ltd.	1,68,80,104	--	1,68,80,104
4.	M/s Vikas Road Carriers Ltd.	--	--	--
5.	M/s Vikas Retail Pvt. Ltd.	77,11,953	--	77,11,953
6.	M/s Trans Tyre LLP	94,08,359	1,43,00,895	2,37,09,254
7.	M/s Tiara Enterprises	1,54,40,054	--	1,54,40,054
8.	M/s Ultra Mile	--	86,99,775	86,99,775

Sampling and Laboratory Testing

1.19 A total of 41 samples drawn from seized consignments (both from live consignments at port and from godowns) pertaining to M/s Pioneer Trading Corporation, M/s Aahna Consultancy Ltd., M/s Leo Distributors Pvt. Ltd., M/s Vikas Retail Pvt. Ltd., M/s Trans Tyre LLP, M/s Tiara Enterprises and M/s Ultra Mile were forwarded to M/s IRMRA for testing/evaluation vide letters dated 14.03.2024, 29.06.2024 and 01.07.2024, along with the respective test memos. Samples from the godowns of M/s Pioneer Trading Corporation were drawn under Panchnama dated 30.06.2024 and from the godowns of M/s Trans Tyre LLP and M/s Ultra Mile under Panchnama dated 29.06.2024.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1.20 The laboratory conducted physical endurance tests on all 41 samples as per the test protocol of **IS 15636:2022**, with all parameters (load index, inflation pressure) taken from the markings on the sidewalls of the tyres, excepting the speed symbol 'D' and mining symbol which were, per the DRI's instructions, not considered. Out of the 41 samples, three samples pertaining to M/s Trans Tyre LLP (11.00R20 CB332, 10.00R20 CB332, and 11.00R20 TF005 of TRANSFIRE brand) initially failed when tested at Speed Category 'K' (110 km/hr). DRI vide email dated 23.09.2024 requested IRMRA to re-test those three samples at Speed Category 'J' (100 km/hr), and all three conformed at Speed Category 'J'. All 41 samples -- without exception -- were found to conform to the endurance test at Speed Category 'G' (90 km/hr), 'J' (100 km/hr), or 'K' (110 km/hr), all of which correspond to speeds well above 80 km/hr.

1.21 In all 41 test reports, the IRMRA opined that the tested tyre is **suitable for on-road (normal highway service) truck and bus application** up to the speed category at which it was tested (K, J, or G). The established speed capacity of the imported tyres was, in every instance, significantly higher than the Speed Symbol 'D' (65 km/hr maximum) embossed on the sidewalls of those very tyres.

Electronic Evidence -- Chats, Emails and Digital Records

1.22 The forensic examination of the mobile phone of **Shri Paresh Bhanushali** yielded extensive incriminating material. The chats between Shri Paresh Bhanushali and a contact saved as '**George Tyre**' (a representative of M/s Goldstar Tyre, an overseas supplier) in the extraction report of 27 pages showed that George had communicated to Shri Paresh that 1000R20 tyres could be imported from China by customers by simply having a mining tyre logo on the tyre sidewall and asked if two such samples could be sent to India. Shri Paresh Bhanushali replied in the affirmative, showing that 1000R20 tyres could be imported by misdeclaration with a mining tyre logo. Shri Paresh also showed interest in purchasing from George only after confirming the modus operandi as "with license or mining tyres".

1.23 Chats between Shri Paresh Bhanushali and **Ms. Alisa** (a representative of a China-based firm, contacted through mobile no. +86152054XXXXX) showed that Shri Paresh Bhanushali informed Ms. Alisa that M/s Pioneer Trading Corporation imports tyres under the Westlake and Bravia brands, that Bravia tyres are produced at the 'Yinbo factory', and that anti-dumping duty does not apply to mining tyres. When specifically asked by Ms. Alisa whether Bravia tyres are truck tyres or mining tyres, **Shri Paresh Bhanushali stated that Bravia tyres are used in trucks but are being imported as mining**

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

tyres. He further stated that M/s Pioneer Trading Corporation used to import the same Bravia tyres earlier as TBR tyres when there was no requirement of a DGFT licence.

1.24 Chats between Shri Paresh Bhanushali and **Mr. Li Yu**, representative of M/s Zhongce Rubber Group Co. Ltd. (China), in the extraction report of 301 pages showed that Mr. Li Yu shared a diagram of a tyre for the purpose of embossing markings on the sidewalls of imported tyres as per the instructions of Shri Satvinder Singh Chadha. The chats also contained payment receipts for amounts paid from a Dubai-based firm (M/s Capitol General Trading LLC, UAE) and a Hong Kong-based firm (M/s No Media Ltd.) to M/s Zhongce Rubber -- amounts which were described by Shri Paresh Bhanushali as 'balance payment' and 'part payment' against specific invoice numbers, and which were stated to be not declared in the Bills of Entry and therefore could not be paid from M/s Pioneer Trading Corporation's accounts. Shri Paresh Bhanushali shared details of M/s D.N. Logistics, Hong Kong, describing the transfer as '*New firm detail for remittance for under invoice*'. On page 82/83 of the extraction report, Shri Paresh shared a breakup of payments of USD 31,950 -- comprising four amounts of USD 9,991.2, USD 9,991.2, USD 5,983.5 and USD 5,983.5 against specific invoice numbers -- and stated that these were paid 'from other account'. The SCN notes these amounts represent the differential between the actual invoice value and the value declared to Customs.

1.25 Chats between Shri Paresh Bhanushali and **Shri Sushil Pathak**, proprietor of M/s Shree Tyre Sales, in an extraction report of 6,571 pages, showed that Shri Sushil Pathak asked Shri Paresh Bhanushali to send TBR tyre price lists, and Shri Paresh responded with prices of various models including CT588, Bravia 999, XDY Gold/XZY, Bravia LDEE, EZ3507 and CB 905 -- models which were imported as Mining/Off the Road Tyres. The SCN states this tends to establish that the models imported as Mining/OTR Tyres were being sold in the domestic market as TBR tyres.

1.26 Chats between Shri Paresh Bhanushali and **Shri Jaskaran Singh Chadha** in an extraction report of 113 pages showed that they were sharing documents related to import consignments and were working in close coordination in relation to several imported consignments.

1.27 Original invoices from M/s Zhongce Rubber Group Co. Ltd. were retrieved from the email ID *romeo_38@live.com*, accessible from the mobile of Shri Paresh Bhanushali. Several such emails were also marked (copied) to the email ID *chadha7778@gmail.com*, identified as belonging to Shri Satvinder Singh Chadha. On scrutiny of these retrieved invoices alongside the commercial invoices uploaded by M/s Pioneer Trading Corporation in the ICES system while filing Bills of Entry, it was found that the value shown in the original invoices from the overseas supplier was higher than the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

declared value in the Bills of Entry in respect of 39 Bills of Entry. The total actual value (USD 14,33,362) was higher than the declared value (USD 11,19,916), giving a differential of approximately USD 3,13,446 across those 39 Bills of Entry.

Incriminating Chats from Mobile of Shri Satish Bhagwandas Kakkad

1.28 The forensic examination of the mobile phone of **Shri Satish Bhagwandas Kakkad** yielded extensive QQ chats, WhatsApp chats, and email records. Chats between Shri Satish Bhagwandas Kakkad and **Shri Satvinder Singh Chadha alias 'Happy'** in an extraction report of 302 pages showed: (a) Shri Satvinder Singh Chadha sharing a catalogue of M/s Zhongce Rubber Group Co. Ltd. with Shri Satish Bhagwandas Kakkad discussing changes required in speed ratings for models 3133 and 998; (b) both modifying catalogues to remove references to truck applications and retain only dumper references; (c) discussions on page 73 about restricting the modus operandi to four importers (Shri Satvinder Singh Chadha, Shri Satish Bhagwandas Kakkad, Shri Harish Bhagwandas Kakkad, and Shri Harvinder Singh Chadha/Shri Jaskaran Singh Chadha) to avoid detection; (d) Shri Satish Bhagwandas Kakkad asking Mr. Li Yu not to do business of mining tyres with any other importers; and (e) on page 234, discussion about bribing government officers.

1.29 Chats between Shri Satish Bhagwandas Kakkad and **Shri Harish Bhagwandas Kakkad alias Tony** in an extraction report of 364 pages showed: (a) sharing of a drawing depicting the imposition of mining symbols and speed symbols on the sidewalls of tyres; (b) Shri Harish Bhagwandas Kakkad directing changes to be made in the catalogue -- specifically, the instruction to 'remove all the trucks, put only dumper'; (c) Shri Harish Bhagwandas Kakkad giving specific instructions on the markings to be embossed on imported tyre sidewalls; (d) a message from Shri Harish saying 'I will send a copy of invoice, it should be like this for everybody', indicating the scheme was intended for all the importers involved; and (e) on page 40, Shri Harish sending a message suggesting changes in the Bill of Lading to avoid detection.

1.30 Chats between Shri Satish Bhagwandas Kakkad and **Mr. Li Yu and Mr. Justin** of M/s Zhongce Rubber Group Co. Ltd. in extraction reports of 585 pages and 45 pages respectively showed: (a) Mr. Li Yu confirming on page 132 of the 585-page extraction report that regular CB332 tyres and Mining CB332 are the same, with the difference being only the mining mark; (b) chats on pages 29-32 of the 45-page report showing that Shri Satish Bhagwandas Kakkad, Shri Satvinder Singh Chadha, Shri Jaskaran Singh Chadha and Shri Harish Bhagwandas Kakkad had an arrangement with M/s

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Zhongce Rubber through Mr. Justin and Mr. Li Yu that TBR tyres would be declared as Mining/Off the Road Tyres in China as well as Thailand Customs under HSN Code 40118000.

1.31 Chats between Shri Satish Bhagwandas Kakkad and **Ms. Selena** of M/s Cantop International (Qingdao) Co. Ltd. in 124 screenshot/images showed that Shri Satish Bhagwandas Kakkad was taking credit for resolving problems that arose at Nhava Sheva Port for consignments of mining/OTR tyres that had been seized by the jurisdictional port and were subsequently released on the basis of IRMRA reports which were based only on markings, without any physical test.

1.32 Chats between Shri Satish Bhagwandas Kakkad and **Mile LingLong** of M/s Linglong Tyre in 19 screenshots showed that Shri Satish Bhagwandas Kakkad appeared to be trying to convince Mile LingLong to supply TBR tyres as Mining/Off the Road Tyres. When questioned about the illegality of such imports in India, Shri Satish Bhagwandas Kakkad appeared to admit to illegally importing TBR Tyres, misdeclaring them as Mining/Off the Road Tyres, from M/s Zhongce Rubber Group Limited and M/s Sailun Group Co. Ltd.

1.33 Chats between Shri Satish Bhagwandas Kakkad and **Mr. Adam** of M/s Zhongce Rubber Group Limited in 18 screenshots and We Chat extraction of 39 pages showed that Shri Satish Bhagwandas Kakkad was asking Mr. Adam to mention "Off the Road, Mining Tyres, Speed Index D" on invoices and to make changes in the Country of Origin Certificate and Form A1. Chats between Shri Satish Bhagwandas Kakkad and **Mr. Milly Gao**, representative of an overseas supplier in China, in an extraction report of 1,098 pages, showed that Shri Satish informed Mr. Milly Gao that if tyres were imported as mining tyres with mining mark and speed symbol 'D', there would be no requirement of BIS and licence, and asked whether such markings could be embossed on the sidewalls of the tyres. The chats on pages 102-104 showed Shri Satish confirming to Mr. Milly Gao that mining-pattern tyres were 'almost' entirely being used for normal (on-road) applications. Chats between Shri Satish Bhagwandas Kakkad and **Mr. Richard DC and Mr. Jason DC** of M/s Double Coin Tyre Group (Shanghai) Import and Export Co. Ltd. in extraction reports of 30 pages and 274 pages respectively showed requests to emboss mining symbols and speed symbol 'D' on tyre sidewalls. Chats with **Mr. Allen Sailun and Mr. Oliver** of M/s Sailun (Vietnam) Co. Ltd. in extraction reports of 99 pages and 419 pages respectively showed Shri Satish asking overseas suppliers to change CTH to 40118000 and description to 'OFF THE ROAD/MINING TYRE, SPEED INDEX D BELOW 65 KMPH'.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1.34 WhatsApp Group Chats from the group named '**Importers Mining Tyre India**' (extraction report of 14 pages) and the group named '**Tyre Importers Welfare Association**' (extraction report of 405 pages), both retrieved from the mobile of Shri Satish Bhagwandas Kakkad, were found to include as members Shri Satvinder Singh Chadha (alias 'HAPPY'), Shri Harish Bhagwandas Kakkad alias Tony, Shri Jaskaran Chadha, and Shri Aman Ahuja, among others. In the group chats, the members were found to be: (a) discussing the modus operandi of importing TBR tyres as Mining/OTR tyres; (b) anticipating government action and warning each other to be careful; (c) discussing that chats of the group should not remain on phones; (d) discussing LD Pattern tyres attracting scrutiny and pressurising overseas suppliers (including M/s Cantop International) not to sell tyres in LD patterns as Mining/OTR tyres; and (e) discussing the possibility of bribing government officials.

1.35 Chats between Shri Satish Bhagwandas Kakkad and Shri Aman Ahuja (in extraction reports of 109 pages and 226 pages) showed that Shri Satish Bhagwandas Kakkad routinely forwarded commercial invoices from overseas suppliers to Shri Aman Ahuja, directed remittances to suppliers (Sailun Vietnam, Shandong Yinbao, Zhongce Rubber Thailand) from Tiara's accounts, directed Shri Aman Ahuja to generate invoices in the name of M/s Trans Tyre LLP, and throughout supervised all critical import activities of M/s Tiara Enterprises. A screenshot of a conversation showed Shri Aman Ahuja confirming to Shandong Yingboa that a 70% advance payment had been made as part of Shri Satish Bhagwandas Kakkad's payment.

1.36 An email dated 28.11.2019 retrieved from Shri Satish Bhagwandas Kakkad's email ID *sk@transtyres.com*, sent to M/s Zhongce Rubber's representative, contained as attachment **Annexure-I** -- a BIS renewal application in which M/s Zhongce Rubber Group Co. Ltd. was shown to have supplied CB332 model tyres with BIS marking to various importers under IS 15636 (the standard for commercial vehicle TBR tyres). The same CB332 model was subsequently imported by M/s Trans Tyre LLP and M/s Ultra Mile as mining/OTR tyres. A further set of emails retrieved from *sk@transtyres.com* (emails dated 19.05.2022) showed that Shri Satish Bhagwandas Kakkad was claiming damage from M/s Zhongce Rubber in respect of several tyre models including CB332, CB905, CM913, CM914, MD715, MD714, EZ701; in the Excel sheet attached to those emails, the speed category for all these models was recorded as **Speed Category 'J'** -- directly contradicting the Speed Symbol 'D' embossed on those very tyres for customs purposes.

Statements Recorded Under Section 108 of the Customs Act, 1962

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1.37 **Shri Paresh Bhanushali** appeared pursuant to summon dated 06.03.2024 and tendered his **voluntary statement dated 08.03.2024**. He stated that he works as an accountant at M/s Pioneer Trading Corporation and also in M/s Vikas Road Carriers Ltd. He stated that the overseas suppliers of M/s Pioneer Trading Corporation are M/s Zhongce Rubber Group Co. Ltd., M/s Cantop International (Qingdao) Co. Ltd., M/s Shandong Changfeng Tyre Co. Ltd. and M/s Hangfeng Rubber, and that he communicates with the representatives of these firms -- Mr. Li Yu (Zhongce), Ms. Salina (Cantop), Mr. Tim (Shandong Changfeng) -- on import documents as per instructions of Shri Satvinder Singh Chadha. He identified all four firms controlled by Shri Satvinder Singh Chadha. When confronted with the chat with 'George Tyre', he confirmed that George was seeking confirmation whether TBR tyres (1000R20 from China) required a mining logo for import, and that he had replied affirmatively. He confirmed that Bravia tyres are used in trucks but are being imported as mining tyres, and that the same Bravia tyres were earlier imported as TBR tyres before DGFT restrictions. He confirmed that the diagram of a tyre shared by Mr. Li Yu was for the purpose of embossing markings on the sidewalls of imported tyres on the instructions of Shri Satvinder Singh Chadha. He confirmed that the payment receipt of USD 4,891 from M/s No Media Ltd., Hong Kong, shared by him to Mr. Li Yu, was for under-billing and that the amount could not be paid from M/s Pioneer Trading Corporation's account as it was not declared in the Bill of Entry. He confirmed that the details of M/s D.N. Logistics were shared by him on instruction of Shri Satvinder Singh Chadha as 'New firm detail for remittance for under invoice'. He confirmed that the payments of USD 31,950 across four specific invoice numbers were the balance payment of the differential between the real invoice from China and the invoice submitted to Indian Customs Authorities for payment of duty. He also stated that actual invoices were sent by the overseas supplier to the email ID romeo_38@live.com, which was also marked to Shri Satvinder Singh Chadha.

1.38 **Shri Aman Ahuja**, Karta of M/s Tiara Enterprises, was searched at his premises under Panchnama dated 21.03.2024. He appeared pursuant to summon dated 21.03.2024 and tendered his **voluntary statement dated 21.03.2024**. He stated that M/s Tiara Enterprises was established in 2018 and primarily deals in import of 1000R20 tyres used in trucks, buses, lorries and dumpers. He stated that his overseas suppliers are M/s Zhongce Rubber Group Co. Ltd. (China), M/s Zhongce Rubber Group Co. Ltd. (Thailand), M/s Cantop International (Qingdao) Co. Ltd. and M/s Sailun Vietnam Ltd. He admitted that he has no direct contact with any of the above overseas suppliers and does business through Shri Satish Bhagwandas Kakkad as an intermediary -- who arranges the imports, places orders with overseas suppliers on his behalf, supplies Commercial Invoice, Packing List, Bill of Lading etc. to the CHA, and through whose direction payments are made to suppliers. He stated that it was Shri Satish Bhagwandas Kakkad who informed him of HSN Code 40118000 and that the switch from CTH 40112010 to 40118000 was done at Shri Satish Kakkad's direction. He stated that

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

approximately 60% of tyres imported on M/s Tiara Enterprises' IEC are sold to M/s Trans Tyre LLP. He stated that he came to know of the DRI investigation only when Shri Satish Bhagwandas Kakkad informed him that certain containers were on hold and asked him not to issue any E-way Bills, and that Shri Satish Kakkad had offered him the containers on credit in order to divert suspicion from himself.

1.39 **Shri Jaskaran Singh Chadha**, Director in M/s Vikas Retail Pvt. Ltd., appeared pursuant to summon dated 28.03.2024 (the earlier summon dated 26.03.2024 having gone unresponded on the ground of inability to appear) and tendered his **voluntary statement dated 02.04.2024**. He stated that he imports Truck Tyres, Off the Road Tyres and Car Tyres on the IEC of M/s Vikas Retail Pvt. Ltd. He stated that TBR tyres are for general road application whereas OTR tyres have a lower speed index with higher load capacity, a speed capacity of up to 65 km/hr, and bear the mining mark. He acknowledged the DGFT restriction on import of TBR tyres and the BIS certification requirement. He stated that his overseas suppliers are M/s Zhongce Rubber, M/s Double Star and M/s Shandong Changfeng -- the same suppliers as those of Shri Satvinder Singh Chadha. He identified Shri Paresh Bhanushali as an employee of his uncle Shri Satvinder Singh Chadha. He also stated that he sometimes purchases Indian-make tyres from M/s Pioneer Trading Corporation.

1.40 **Shri Satvinder Singh Chadha**, Partner in M/s Pioneer Trading Corporation, vide email dated 18.03.2024 clarified that his son Shri Damandeep Singh Chadha is not involved in any business activity of M/s Pioneer Trading Corporation and that he alone is solely responsible for all business activities including sales, purchases, banking and customs duty payments. He appeared pursuant to summon dated 26.03.2024 and tendered his **voluntary statement dated 03.04.2024**. He stated that he is the Director/Partner/Owner of M/s Pioneer Trading Corporation, M/s Vikas Road Carriers Ltd., M/s Leo Distributors Pvt. Ltd. and M/s Aahna Consultancy Ltd., and handles all business activities himself. He stated that he imported mainly truck tyres for off-the-road/mining purposes and that the OTR tyres bear Speed Rating 'D' and mining marks as per information provided by manufacturers. He denied undervaluation of any imported goods, stating that he imported tyres at the invoice value declared in the Bill of Entry. His overseas suppliers were M/s Zhongce Rubber, M/s Cantop International, M/s Unimax and M/s Chengfeng/Hengfeng Tyres, all based in China.

1.41 **Shri Harish Bhagwandas Kakkad alias Tony**, Partner in M/s Ultra Mile, appeared pursuant to summon dated 22.04.2024 and tendered his **voluntary statement dated 29.04.2024**. He stated that M/s Ultra Mile's main supplier of TBR Tyres and Mining Tyres from China and Thailand is M/s Zhongce Rubber, and that his contact is Mr. Li Yu. He stated that his company had invested in moulds

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

and side plates for production of tyres in their brand 'Ultra Mile', and that **all Ultra Mile branded tyres use the green tyre (core casing) of the CB332 model** manufactured by M/s Zhongce Rubber Group Co. Ltd. He named four Ultra Mile models: UM 332, UM 5925 XL, UM 5973 XL and UM 5951 XL. He stated that the use of moulds for private branding does not impact tyre use, as the speed and load capacity is determined during manufacturing of the green tyre. He stated that the tyres imported under CTH 40118000 are basically designed for 65 km/hr maximum speed but can go up to 80 km/hr to get optimum results, and are designed to carry up to 6 tons per tyre.

1.42 **Shri Satish Bhagwandas Kakkad** appeared pursuant to summon dated 26.03.2024 and tendered his **voluntary statement dated 01.04.2024**. He disagreed with certain portions of Shri Aman Ahuja's statement dated 21.03.2024, particularly regarding which party was placing orders with overseas suppliers. He stated that he used to place orders on instruction of Shri Aman Ahuja to the overseas suppliers (except M/s Cantop International). He confirmed that his employee Shri Sahil Purohit used to share documents with the CHA relating to M/s Tiara Enterprises on his instructions, to help Shri Aman Ahuja and expedite the process. In respect of the four consignments (B/Es Nos. 2570863, 2571191, 2571530 and 2572271) that were filed on M/s Trans Tyre LLP's IEC and subsequently changed to M/s Tiara Enterprises, he stated that he had asked his supplier to hold the consignment but it was already on board; he therefore offered those four containers to Shri Aman Ahuja on credit; Shri Aman Ahuja agreed; and accordingly Shri Satish Bhagwandas Kakkad informed his supplier to make the documents in the name of M/s Tiara Enterprises. He stated that there was no High Sea Sale agreement between M/s Trans Tyre LLP and M/s Tiara Enterprises. He also stated that he had asked Ms. Milly Gao's company to supply tyres for mining purpose in size 10.00R20 and 11.00R20 with speed rating D and mining symbol, which was agreed to, and he imported five containers. He confirmed his firm was registered with overseas supplier M/s Zhongce Rubber, and that chats in the group about restricting supply to four persons were driven by concern over business margins and not over detection.

1.43 **Shri Aman Ahuja** appeared pursuant to summon dated 15.05.2024 and tendered his **voluntary statement dated 22.05.2024**. He stated that for consignments from M/s Cantop International, he placed orders directly through Mr. William (a Cantop salesperson); for the remaining three suppliers, HSN/CTH was decided by Shri Satish Bhagwandas Kakkad. He confirmed that he agreed with the statement of Shri Satish Bhagwandas Kakkad dated 01.04.2024, except with respect to the existence of a High Sea Sale agreement between M/s Trans Tyre LLP and M/s Tiara Enterprises for TBR tyres in FY 2023-24 (though no such agreement was submitted). He agreed with the statement of Shri Nayan Bhogilal Gor dated 27.03.2024. He stated that he had no prior knowledge of the change in the name of the importer on the Bills of Lading and commercial invoices for the four

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

consignments switched from M/s Trans Tyre LLP to M/s Tiara Enterprises. He could not comment on whether tyres imported under CTH 40118000 would conform to IS 15636, as he had never got them tested.

Statements Recorded After Receipt of Test Reports

1.44 **Shri Harish Bhagwandas Kakkad alias Tony** appeared pursuant to summon dated 12.08.2024 and tendered his **voluntary statement dated 21.08.2024**. He agreed with his earlier statement dated 29.04.2024 and reiterated that the green tyre for all Ultra Mile models is CB332. When shown the IRMRA test reports, he stated that the reports are non-standard tests, not as per BIS protocols or international standards, and that the testing was not done as per the speed index embossed on the tyre. He argued that the drum speed during testing (48 km/hr for 'J' and 40 km/hr for 'G') should be compared with the manufacturer's recommendation of 65 km/hr on road -- a contention the SCN notes is a misreading of the test protocol, which sets drum speed as a fraction of the speed category being tested. He stated that his role in the WhatsApp groups was merely advisory as a former technical advisor to Tata Motors, and that the chats between Shri Satish Bhagwandas Kakkad and Shri Satvinder Singh Chadha had no relevance to him.

1.45 **Shri Satvinder Singh Chadha** appeared pursuant to summon dated 27.09.2024 and tendered his **voluntary statement dated 04.10.2024**. He stated that the test reports are not applicable because the tyres bear the speed symbol 'D' and mining symbol; that the test standard mentioned as 'As per customer's specification and IS 15636:2022' shows the report is based on assumptions and is not BIS-approved; and that the proper procedure would be to test as per the marks on the sidewall. He disagreed with the test reports and refused to agree with several facts stated in the statement of Shri Paresh Bhanushali, particularly those relating to misdeclaration and undervaluation. He stated that he had not engaged in any under-invoicing and that actual invoices from overseas suppliers are what are filed in the customs portal. He confirmed that he handles all business activities in M/s Pioneer Trading Corporation, M/s Leo Distributors Pvt. Ltd., M/s Aahna Consultancy Ltd. and M/s Vikas Road Carrier Ltd. and that he had imported only those models (under CTH 40118000) across all his firms whose test reports were shown to him.

1.46 **Shri Jaskaran Singh Chadha** appeared pursuant to summon dated 27.09.2024 and tendered his **voluntary statement dated 10.10.2024**. He stated that he imports TBR and mining tyres in M/s Vikas Retail Pvt. Ltd. and has another firm M/s VRC Logistics Pvt. Ltd. in the business of transport

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

services, which has a fleet of 250 trucks. He admitted to having sold tyres from M/s Vikas Retail Pvt. Ltd. to M/s VRC Logistics Pvt. Ltd. on a specific occasion for off the road tyres, and stated that the trucks in M/s VRC Logistics are predominantly used on highways. He stated that when shown the WhatsApp group 'Tyre Importers Welfare Association', he could not recall the messages as he was not very active in the group. He stated that he has not tested any tyre models for speed capacity and has declared speed capacity as per documents provided by the manufacturer.

1.47 **Shri Aman Ahuja** appeared pursuant to summon dated 18.10.2024 and tendered his **voluntary statement dated 22.10.2024**. He stated that he is a merchant importer and is not technically sound to comment on the test reports shown to him. He stated that he has never tested any sample of tyres under IS 15636 and hence cannot comment. He confirmed that he does not purchase tyres with CTH 40118000 domestically.

1.48 **Shri Satish Bhagwandas Kakkad** appeared pursuant to summon dated 18.10.2024 (having requested a change of date to 22.10.2024 vide email dated 18.10.2024) and tendered his **voluntary statement dated 22.10.2024**. He stated that the test reports are not BIS-approved; that since the tests were conducted 'as per request of customer', they cannot be called standard tests under IS 15636:2022 as it would be contradictory; that these are 'developmental reports' and not part of any standard; that the intent of use is missing in the reports; that the samples were not tested for their markings; and that Annexure-IV(B) of the reports only states the tyre is suitable for on-road use but does not state that it is not suitable for off-road/mining use. When shown the email dated 28.11.2019 with Annexure-I (BIS renewal application showing CB332 with IS marking under the TBR tyre standard), he stated that all tyres in Annexure-I had BIS marking and that he was merely M/s ZC Rubber Thailand's authorised representative in India for BIS renewal. He stated that the chats relating to catalogue changes were about correcting a printing mistake, and that the restrictions discussed in chats about limiting supply to four importers were driven by concerns about business margins as the government may impose restrictions on CTH 40118000 if quantities increased.

BIS Compliance

1.49 The Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009, issued vide S.O. 2953(E) dated 19.11.2009, as amended, read with IS 15636:2022, IS 15636:2012 and IS 14272:2011, makes it mandatory for all pneumatic tyres with a speed capacity of 80 km/hr or above to conform to IS 15636 and bear the BIS Standard Mark, under Section 17 of the BIS Act,

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1986. The only exemptions in the Order are tyres manufactured in India for export and tyres imported by OEM companies for fitment on vehicles meant for export. None of the noticees falls within either exemption. Since the physical tests conducted by IRMRA have established that the imported tyres have a speed capacity at or above 80 km/hr, the mandatory BIS certification requirement applies to them even if the goods were, for argument's sake, to be treated as OTR/Mining Tyres, given that the speed capacity (as established by the independent physical test) places them squarely within the ambit of IS 15636. The goods were imported without BIS certification and are accordingly stated to be prohibited goods under Section 17 of the BIS Act, liable to confiscation under Sections 111(d) and 111(o) of the Customs Act, 1962, irrespective of the outcome of the classification issue.

Undervaluation -- M/s Pioneer Trading Corporation

1.50 On the basis of original invoices retrieved from the email ID romeo_38@live.com and payment receipts retrieved from the chats of Shri Paresh Bhanushali with Mr. Li Yu, the SCN alleges that M/s Pioneer Trading Corporation has been undervaluing its imports. The actual prices paid to the overseas supplier were higher than the CIF values declared in the Bills of Entry, with the differential amounts remitted through M/s Capitol General Trading LLC (Dubai), M/s No Media Ltd. (Hong Kong), and M/s D.N. Logistics (Hong Kong). Shri Paresh Bhanushali, in his statement dated 08.03.2024, admitted that these payments represented the balance payment of the differential between the real invoice from China and the invoice submitted to Indian Customs Authorities. The declared transaction value of the 39 Bills of Entry covered by this allegation (Annexure-D to the SCN) is accordingly proposed to be rejected under Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined under Rule 9 (residual method) as follows:

Table 6: Undervaluation -- M/s Pioneer Trading Corporation (39 Bills of Entry)

Declared Assessable Value (Rs.)	Re-determined Assessable Value under Rule 9 (Rs.)	Differential (Rs.)
8,86,52,804	11,31,69,104	2,45,16,300

Past Imports -- Liability for Confiscation and Differential Duty

1.51 Beyond the seized live consignments, the SCN also covers the past imports of all eight importer firms from **12.06.2020** (the date on which the DGFT restriction on TBR tyre imports came into force) till the date of the SCN. The department's case is that all tyres imported under CTH

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

40118000 since that date by these firms follow the same modus operandi. The period's past imports are accordingly proposed to be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. The differential duty between what was paid (at OTR/Mining Tyre rates) and what was payable (at TBR tyre rates, including BCD differential, Social Welfare Surcharge, CVD/ADD and IGST) is demanded under Section 28(4) of the Customs Act, 1962 (extended period), on the ground that the importers wilfully mis-stated and suppressed material facts. As regards jurisdiction, since the aggregate import value through all ports is highest at Nhava Sheva (INNSA1) for each importer, the SCN has been issued by the Principal Commissioner of Customs, Nhava Sheva-I, in exercise of the authority under Section 110AA of the Customs Act, 1962 read with Notification No. 28/2022-Customs (N.T.) dated 31.03.2022.

1.52 The importer-wise details of past import value and differential duty demanded are as under:

Table 7: Past Imports -- Assessable Value of Goods Liable for Confiscation and Differential Duty Demanded (Since 12.06.2020, Excluding Seized Godown Goods)

S. No.	Firm	Total Assessable Value of Past Imports (Rs.)	Total Assessable Value of Seized Goods (Port + Godown) (Rs.)	Differential Duty Demanded (Rs.)
1.	M/s Pioneer Trading Corporation	98,12,46,954	3,29,54,282	35,72,52,024
2.	M/s Trans Tyre LLP	77,74,96,748	2,37,09,254	18,50,45,997
3.	M/s Ultra Mile	39,72,48,592	86,99,775	8,37,80,608
4.	M/s Vikas Road Carriers Ltd.	15,22,20,149	--	5,14,12,826
5.	M/s Vikas Retail Pvt. Ltd.	30,32,82,286	77,11,953	4,42,01,882
6.	M/s Tiara Enterprises	14,36,80,040	1,54,40,054	3,57,86,642
7.	M/s Leo Distributors Pvt. Ltd.	2,46,81,345	1,68,80,104	82,54,648
8.	M/s Aahna Consultancy Ltd.	99,82,674	72,78,087	30,97,283
	Total	2,78,98,38,788	11,26,73,509	76,88,31,910

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Show Cause Notice -- Charges Issued

1.53 On the basis of the aforesaid investigation, the SCN dated 27.02.2025 was issued requiring the noticees to show cause as follows:

1.53.1 M/s Pioneer Trading Corporation (Para 107 of the SCN):

M/s Pioneer Trading Corporation has been called upon to show cause why --

(i) the goods covered under the Bills of Entry as per Annexures-C1, C2, F1, F2, H1 and H2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as Truck, Bus and Radial (TBR) Tyres and the classification should not be changed to CTH 40112010 from CTH 40118000;

(ii) the declared assessable value of Rs. 8,86,52,804/- as per Annexure-D should not be rejected under Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined as Rs. 11,31,69,104/- under Rule 9 ibid read with Section 14 of the Customs Act, 1962;

(iii) the goods seized at Nhava Sheva Port vide Seizure Memos dated 13.03.2024, 16.04.2024 and 17.04.2024 having declared assessable value of Rs. 2,01,43,141/- as provided in Annexure-C1 should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

(iv) the goods seized at the godown premises vide Seizure Memos dated 06.03.2024 having declared assessable value of Rs. 1,28,11,141/- as provided in Annexure-C2 should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

(v) the goods imported in the past having total assessable value of Rs. 98,12,46,954/- as provided in Annexures-F1, F2, H1 and H2 (excluding the value of goods found in the godown) should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

(vi) the total differential duty of Rs. 35,72,52,024/- (Rupees Thirty-Five Crores Seventy-Two Lakhs Fifty-Two Thousand and Twenty-Four only) as provided in Annexures-F1, F2, H1 and H2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA; and

(vii) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Pioneer Trading Corporation.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1.53.2 M/s Aahna Consultancy Ltd. (Para 108 of the SCN):

M/s Aahna Consultancy Ltd. has been called upon to show cause why --

- (i) the goods covered under the Bills of Entry as per Annexures-I, J2 and K2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as TBR Tyres and reclassified under CTH 40112010 instead of CTH 40118000;
- (ii) the goods seized at Nhava Sheva Port and Mundra Port vide Seizure Memos dated 17.04.2024 and 24.04.2024 having declared assessable value of Rs. 72,78,087/- as provided in Annexure-I should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iii) the goods imported in the past having total assessable value of Rs. 99,82,674/- as provided in Annexures-J2 and K2 should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iv) differential duty of Rs. 30,97,283/- (Rupees Thirty Lakhs Ninety-Seven Thousand Two Hundred and Eighty-Three only) as provided in Annexures-J2 and K2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA; and
- (v) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Aahna Consultancy Ltd.

1.53.3 M/s Leo Distributors Pvt. Ltd. (Para 109 of the SCN):

M/s Leo Distributors Pvt. Ltd. has been called upon to show cause why --

- (i) the goods covered under the Bills of Entry as per Annexures-L, M2 and N2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as TBR Tyres and reclassified under CTH 40112010 instead of CTH 40118000;
- (ii) the goods seized at Nhava Sheva Port vide Seizure Memos dated 17.04.2024, 24.04.2024 and 06.05.2024 having declared assessable value of Rs. 1,68,80,104/- as provided in Annexure-L should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(iii) the goods imported in the past having total assessable value of Rs. 2,46,81,345/- as provided in Annexures-M2 and N2 should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

(iv) differential duty of Rs. 82,54,648/- (Rupees Eighty-Two Lakhs Fifty-Four Thousand Six Hundred and Forty-Eight only) as provided in Annexures-M2 and N2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA; and

(v) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Leo Distributors Pvt. Ltd.

1.53.4 M/s Vikas Road Carriers Ltd. (Para 110 of the SCN):

M/s Vikas Road Carriers Ltd. has been called upon to show cause why --

(i) the goods covered under the Bills of Entry as per Annexures-O2 and P2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as TBR Tyres and reclassified under CTH 40112010 instead of CTH 40118000;

(ii) the goods imported in the past having total assessable value of Rs. 15,22,20,149/- as provided in Annexures-O2 and P2 should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

(iii) differential duty of Rs. 5,14,12,826/- (Rupees Five Crores Fourteen Lakhs Twelve Thousand Eight Hundred and Twenty-Six only) as provided in Annexures-O2 and P2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA; and

(iv) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Vikas Road Carriers Ltd.

1.53.5 M/s Vikas Retail Private Limited (Para 111 of the SCN):

M/s Vikas Retail Private Limited has been called upon to show cause why --

(i) the goods covered under the Bills of Entry as per Annexures-Q, R2 and S2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as TBR Tyres and reclassified under CTH 40112010 instead of CTH 40118000;

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

- (ii) the goods seized at Nhava Sheva Port vide Seizure Memo dated 16.04.2024 having declared assessable value of Rs. 77,11,953/- as provided in Annexure-Q should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iii) the goods imported in the past having total assessable value of Rs. 30,32,82,286/- as provided in Annexures-R2 and S2 should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iv) differential duty of Rs. 4,42,01,882/- (Rupees Four Crores Forty-Two Lakhs One Thousand Eight Hundred and Eighty-Two only) as provided in Annexures-R2 and S2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA; and
- (v) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Vikas Retail Private Limited.

1.53.6 M/s Trans Tyre LLP (Para 112 of the SCN):

M/s Trans Tyre LLP has been called upon to show cause why --

- (i) the goods covered under the Bills of Entry as per Annexures-T1, T2, U1, U2, V1 and V2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as TBR Tyres and reclassified under CTH 40112010 instead of CTH 40118000;
- (ii) the goods seized at Nhava Sheva Port vide Seizure Memo dated 14.03.2024 having declared assessable value of Rs. 94,08,359/- as provided in Annexure-T1 should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iii) the goods seized at godown premises vide Seizure Memos dated 06.03.2024 having declared assessable value of Rs. 1,43,00,895/- as provided in Annexure-T2 should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iv) the goods imported in the past having total assessable value of Rs. 77,74,96,748/- as provided in Annexures-U1, U2, V1 and V2 (excluding the value of goods found in the godowns) should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (v) differential duty of Rs. 18,50,45,997/- (Rupees Eighteen Crores Fifty Lakhs Forty-Five Thousand Nine Hundred and Ninety-Seven only) as provided in Annexures-U2 and V2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA; and

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(vi) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Trans Tyre LLP.

1.53.7 M/s Tiara Enterprises (Para 113 of the SCN):

M/s Tiara Enterprises has been called upon to show cause why --

- (i) the goods covered under the Bills of Entry as per Annexures-W, X1, X2, Y1 and Y2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as TBR Tyres and reclassified under CTH 40112010 instead of CTH 40118000;
- (ii) the goods seized at Nhava Sheva Port vide Seizure Memos dated 16.04.2024 and 18.04.2024 having declared assessable value of Rs. 1,54,40,054/- as provided in Annexure-W should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iii) the goods imported in the past having total assessable value of Rs. 14,36,80,040/- as provided in Annexures-X2 and Y2 should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- (iv) differential duty of Rs. 3,57,86,642/- (Rupees Three Crores Fifty-Seven Lakhs Eighty-Six Thousand Six Hundred and Forty-Two only) as provided in Annexures-X2 and Y2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA; and
- (v) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Tiara Enterprises.

1.53.8 M/s Ultra Mile (Para 114 of the SCN):

M/s Ultra Mile has been called upon to show cause why --

- (i) the goods covered under the Bills of Entry as per Annexures-Z, AA1, AA2, BB1 and BB2 to the SCN, declared as Mining/Off the Road Tyres, should not be treated as TBR Tyres and reclassified under CTH 40112010 instead of CTH 40118000;
- (ii) the goods seized at the godown premises vide Seizure Memo dated 06.03.2024 having declared assessable value of Rs. 86,99,775/- as provided in Annexure-Z should not be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(iii) the goods imported in the past having total assessable value of Rs. 39,72,48,592/- as provided in Annexures-AA2 and BB2 (excluding the value of goods found in the godown) should not be held liable for confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962;

(iv) differential duty of Rs. 8,37,80,608/- (Rupees Eight Crores Thirty-Seven Lakhs Eighty Thousand Six Hundred and Eight only) as provided in Annexures-AA2 and BB2 should not be demanded under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA; and

(v) penalty under Sections 112, 114A and 114AA of the Customs Act, 1962 should not be imposed upon M/s Ultra Mile.

Table 8: Importer-wise Summary -- Assessable Value of Seized Goods, Goods Liable for Confiscation, and Differential Duty Demanded (as per SCN Table-Y)

S. No.	Name of Firm	Total Assessable Value of Seized Consignments / Godown Goods (Rs.)	Total Assessable Value of Past Imports Liable for Confiscation (excl. Seized Godown Goods) (Rs.)	Differential Customs Duty Demanded incl. BCD, ADD/CVD, IGST, SWS (Rs.)
1.	M/s Pioneer Trading Corporation	3,29,54,282	98,12,46,954	35,72,52,024
2.	M/s Aahna Consultancy Ltd.	72,78,087	99,82,674	30,97,283
3.	M/s Leo Distributors Pvt. Ltd.	1,68,80,104	2,46,81,345	82,54,648
4.	M/s Vikas Road Carriers Ltd.	N.A.	15,22,20,149	5,14,12,826
5.	M/s Vikas Retail Pvt. Ltd.	77,11,953	30,32,82,286	4,42,01,882
6.	M/s Trans Tyre LLP	2,37,09,254	77,74,96,748	18,50,45,997
7.	M/s Tiara Enterprises	1,54,40,054	14,36,80,040	3,57,86,642
8.	M/s Ultra Mile	86,99,775	39,72,48,592	8,37,80,608
	Total	11,26,73,509	2,78,98,38,788	76,88,31,910

1.53.9 Shri Satvinder Singh Chadha alias Happy (Para 115 of the SCN):

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Shri Satvinder Singh Chadha alias Happy, Partner in M/s Pioneer Trading Corporation as well as Director in M/s Aahna Consultancy Limited, M/s Vikas Road Carrier Limited and M/s Leo Distributors Private Limited, has been called upon to show cause why penalty should not be imposed upon him under Section 112 and Section 114AA of the Customs Act, 1962 for the acts of omissions and commissions committed by him directly in respect of M/s Pioneer Trading Corporation, M/s Aahna Consultancy Limited, M/s Vikas Road Carrier Limited and M/s Leo Distributors Private Limited, and for knowingly and intentionally causing to make misdeclarations and abetting the act of improper importation in respect of M/s Vikas Retail Pvt. Ltd.

1.53.10 Shri Jaskaran Singh Chadha (Para 116 of the SCN):

Shri Jaskaran Singh Chadha, Director in M/s Vikas Retail Pvt. Ltd., has been called upon to show cause why penalty should not be imposed upon him under Section 112 and Section 114AA of the Customs Act, 1962 for the acts of omissions and commissions committed by him.

1.53.11 Shri Paresh Bhanushali (Para 117 of the SCN):

Shri Paresh Bhanushali, Employee of Shri Satvinder Singh Chadha, has been called upon to show cause why penalty should not be imposed upon him under Section 112 and Section 114AA of the Customs Act, 1962 for the acts of omissions and commissions committed by him for knowingly and intentionally causing to make misdeclarations and abetting the act of improper importation in respect of M/s Pioneer Trading Corporation, M/s Aahna Consultancy Limited, M/s Vikas Road Carrier Limited, M/s Leo Distributors Private Limited and M/s Vikas Retail Pvt. Ltd.

1.53.12 Shri Satish Bhagwandas Kakkad (Para 118 of the SCN):

Shri Satish Bhagwandas Kakkad, Partner in M/s Trans Tyres LLP, has been called upon to show cause why penalty should not be imposed upon him under Section 112 and Section 114AA of the Customs Act, 1962 for the acts of omissions and commissions committed by him directly in respect of M/s Trans Tyres LLP and for knowingly and intentionally causing to make misdeclarations and abetting the act of improper importation in respect of M/s Tiara Enterprises.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1.53.13 Shri Aman Ahuja (Para 119 of the SCN):

Shri Aman Ahuja, Karta of M/s Tiara Enterprises, has been called upon to show cause why penalty should not be imposed upon him under Section 112 and Section 114AA of the Customs Act, 1962 for the acts of omissions and commissions committed by him.

1.53.14 Shri Harish Bhagwandas Kakkad alias Tony (Para 120 of the SCN):

Shri Harish Bhagwandas Kakkad alias Tony, Partner in M/s Ultra Mile, has been called upon to show cause why penalty should not be imposed upon him under Section 112 and Section 114AA of the Customs Act, 1962 for the acts of omissions and commissions committed by him.

1.54 The noticees were given thirty days from receipt of the SCN to file their written replies and to intimate whether they wished to be heard in person. Copies of all relied upon documents (RUDs) were stated to be available for inspection at DRI Headquarters, New Delhi, with prior appointment.

2. PERSONAL HEARINGS AND WRITTEN SUBMISSIONS OF THE NOTICEES**2.1 Adjudication Proceedings and Personal Hearings**

2.1.1 The Show Cause Notice No. 1746/2024-25/Commr/NS-I/Gr.II(H-K)/CAC/JNCH dated 27.02.2025 was issued to the fourteen noticees. On 15.01.2026, a Personal Hearing was scheduled. The noticees did not attend the said hearing on the ground that 15.01.2026 had been declared a public holiday by the Government of Maharashtra vide GR No. 202512301540009910, and that they could not have been reasonably expected to attend an official hearing on a gazetted holiday. This contention was raised at the subsequent personal hearing held on 03.02.2026 and is noted.

2.1.2 The first Personal Hearing in these proceedings was held on 03.02.2026 at 01:00 PM before Shri Yashodhan Wanage, Principal Commissioner of Customs (NS-I), JNCH, in pursuance of File No. S/10-188/2024-25/CC/Gr.II(H-K)/NS-I/CAC/JNCH. Shri Dhananjay Sethuraj, Advocate, appeared as authorised representative on behalf of all fourteen noticees. The submissions made at the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Personal Hearing on 03.02.2026, as recorded in the Record of Personal Hearing signed by both the Adjudicating Authority and the Advocate, are as follows:

(i) The noticees submitted that the Personal Hearing on 03.02.2026 was the first personal hearing in the proceedings, as the hearing scheduled on 15.01.2026 could not be treated as a hearing in view of it falling on a declared Maharashtra Government holiday.

(ii) The noticees attended the hearing solely for the limited purpose of requesting that the proceedings be transferred to the call book in terms of Section 28(9A) of the Customs Act, 1962, and no arguments on merits of the case were made.

(iii) The noticees submitted that the issues raised in the Show Cause Notice are identical to and inseparably connected with the questions currently pending adjudication before the Hon'ble High Court of Bombay in Writ Petition No. 29200 of 2024 and connected matters. The Hon'ble Court is stated to be examining the legality and evidentiary value of the IRMRA test reports, the applicability of IS 15636:2022 to the subject goods, and the broader issue of classification of radial mining tyres under the Customs Tariff. The outcome of the pending writ petitions is submitted to have a direct and determinative bearing on the adjudication of the Show Cause Notice, and it was accordingly prayed that the proceedings be kept in abeyance and transferred to the call book until final disposal by the Hon'ble High Court.

(iv) Without prejudice to the foregoing, the noticees submitted that in the event the call book request was not accepted, no adverse decision should be taken without affording them a further opportunity of personal hearing. The noticees also reserved their right to file a detailed and comprehensive reply to the Show Cause Notice and to make additional submissions at an appropriate subsequent stage.

2.1.3 The request for transfer to call book was not acceded to. Vide letter dated 15.04.2026, the noticees were informed that the competent authority had extended the time limit for completion of adjudication till 25.08.2026. A Personal Hearing in virtual mode was thereafter scheduled on 23.04.2026 at 03:30 PM vide F. No. S/10-188/2024-25/CC/GR.II(H-K)/NS-I/CAC/JNCH dated 15.04.2026.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

2.1.4 A subsequent Personal Hearing was scheduled on 12.05.2026 at 11:30 AM vide office communication dated 04.05.2026 (F. No. S/10-188/2024-25/CC/GR.II(H-K)/NS-I/CAC/JNCH). A further Personal Hearing was fixed on 22.05.2026 at 11:30 AM vide communication dated 14.05.2026. All fourteen noticees were served with each of these notices.

2.1.5 At the Personal Hearing held on 03.02.2026, in addition to the oral submissions recorded above, the noticees filed a written interim reply to the Show Cause Notice on behalf of all fourteen noticees, raising detailed grounds on facts, law, classification, admissibility of electronic evidence, valuation, limitation and penalties. Nine further sets of written submissions (covering all fourteen noticees) were subsequently filed between 19.05.2026 and 21.05.2026 and were taken on record. All these subsequent submissions expressly state that they are in continuation of and in reiteration of the interim reply filed on 03.02.2026, and cover substantially the same grounds with additional citations and annexures. The noticees have reserved the right to amend or supplement their replies after receipt of certain documents and information sought from DRI but not yet furnished. Since the grounds raised across both sets of submissions overlap substantially, the consolidated position of all noticees is set out in paras 2.2 and 2.3 below to avoid repetition. The written submissions are addressed to the Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva.

The following table captures the identity of each noticee, the noticee number assigned in the SCN, and the date of the subsequent written submission filed in May 2026:

S. No.	Noticee (Firm / Individual)	SCN Noticee No.	Date of Written Submission
1.	M/s Pioneer Trading Corporation and Shri Satvinder Singh Chadha alias Happy (Partner)	1 and 9	20.05.2026
2.	M/s Aahna Consultancy Ltd.	2	20.05.2026
3.	M/s Leo Distributors Pvt. Ltd.	3	20.05.2026
4.	M/s Vikas Road Carriers Ltd.	4	20.05.2026
5.	M/s Vikas Retail Pvt. Ltd. and Shri Jaskaran Singh Chadha (Director)	5 and 10	20.05.2026
6.	M/s Trans Tyre LLP and Shri Satish Bhagwandas Kakkad (Partner)	6 and 12	21.05.2026

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

7.	M/s Tiara Enterprises and Shri Aman Ahuja (Karta)	7 and 13	21.05.2026
8.	M/s Ultra Mile and Shri Harish Bhagwandas Kakkad alias Tony (Partner)	8 and 14	21.05.2026
9.	Shri Paresh Bhanushali (Employee)	11	19.05.2026

2.2 Common Grounds Raised by All Noticees

All nine submissions (covering all fourteen noticees) raise common grounds of law and fact. The noticees, while denying the allegations in the SCN, have raised detailed submissions on facts, law, classification, admissibility of electronic evidence, valuation, limitation and penalties. Since several submissions overlap substantially, the common grounds are consolidated below to avoid repetition.

2.2.1 Principle of Natural Justice -- Non-supply of Documents and Information

All noticees submit that the adjudication proceedings cannot be finalised without supplying certain documents and information that were requested by them vide letters dated 16.05.2025 and 05.01.2026, but which have not been furnished by DRI despite directions of the Adjudicating Authority vide letter dated 30.07.2025 (which stated that if DRI had not furnished the documents, the noticees should approach DRI Headquarters, New Delhi). The documents and information sought and not yet received are stated to be:

- (i) Status of M/s Systool Software Pvt. Ltd./Magnet Forensics as a Central Forensic Laboratory under Section 79A of the Information Technology Act, 2000, and copies of any notification issued under that provision appointing them as Examiner of Electronic Evidence.
- (ii) Copies of letters addressed to M/s Systool Software Pvt. Ltd./Magnet Forensics for their engagement and all replies received therefrom.
- (iii) Copies of bills raised by M/s Systool Software Pvt. Ltd./Magnet Forensics for their services and evidence of payment thereof.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(iv) Detailed bio-data including qualifications of Ms. Diksha Shami and Shri Sandeep Singh, who have been claimed as forensic experts.

(v) Names and addresses of the Panchas present when the sealed digital devices were reopened and resealed for forensic examination, along with copies of those Panchnamas.

(vi) Copy of the entire email account romeo_38@live.com, which the noticees allege was deleted by Shri Paresh Bhanushali on DRI officers' instructions.

(vii) Copies of entire correspondence exchanged with IRMRA/IRMRI before and after testing, along with the specific technical specifications given by DRI for conducting the evaluation, since the test reports themselves record that the samples were evaluated 'as per Customer's Specification and IS 15636:2022'.

(viii) The entire chat and email download records (not just the selective portions relied upon in the SCN), including transcripts of calls, so as to enable a full and effective defence.

In support of the right to full supply of relied upon and relevant documents, the noticees place reliance on: RDB Industries Ltd. v. C.C.E., 1998 (29) RLT 1 (Cal.); Jayantilal A. Shah and Ors. v. C.C.E., 1999 (34) RLT 466; Sanghi Textile Processors Pvt. Ltd. v. C.C.E., 1993 (65) ELT 357 (SC); and Tribhuvandas Bhimji Zaveri v. C.C.E., 1997 (92) ELT 467 (SC).

All noticees have accordingly filed their present submissions as an interim reply, expressly reserving the right to file a final and comprehensive reply after receipt of the above documents, and to cross-examine witnesses.

2.2.2 Challenge to IRMRA/IRMRI Test Reports

All noticees, without exception, challenge the admissibility and reliability of the IRMRA/IRMRI test reports relied upon in the SCN. The grounds raised are as follows:

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(a) **IRMRA has Withdrawn its Own Earlier Reports:** The noticees state that during the Writ Petition proceedings before the Hon'ble High Court of Bombay, IRMRA conducted a re-test and filed a re-test report dated 11.04.2025. The noticees submit that IRMRA, in paragraph 3.3 of the re-test report, has effectively discarded the earlier reports (those relied upon in the SCN) and that the entire SCN, being based on those discarded reports, is required to be set aside.

(b) **Re-test Report Actually Supports the Noticees:** The noticees submit that the re-test report dated 11.04.2025 confirms that the tyres conform to OTR/Mining Tyre parameters in at least one crucial dimension, namely Tread Depth, which should be greater than or equal to 16mm. All tested tyres are stated to have tread depth in the range of 17.83mm to 23.24mm, satisfying the Mining Tyre parameter. The re-test report does not comment on tread pattern. The re-test report is submitted to be either in favour of the noticees or, at the worst, inconclusive, in which case the benefit of doubt must go to the importer.

(c) **Wrong Test Protocol Applied:** The noticees submit that the original IRMRA test reports relied upon in the SCN tested the tyres at Speed Categories 'J' and 'K', and not at Speed Category 'D'. The standard IS 15636:2022 is a protocol applicable to TBR tyres and cannot be applied to determine whether a tyre is a Mining/OTR tyre. When load and mass parameters are taken as per 'J' category (lower mass at higher speed) instead of as per 'D' category (higher load at lower speed), a tyre will naturally be able to run at a higher speed. The correct test should have been conducted at Speed Category 'D' with load/mass parameters applicable to OTR/Mining Tyres. The test specifications were unilaterally decided by DRI and the reports are therefore not as per any prescribed standard.

(d) **Reports Solicited and Obtained Under Influence:** The noticees submit that the earlier test reports were solicited by DRI and obtained under DRI's influence, directing that markings be ignored. The noticees argue that this shows the DRI's intent to somehow prove that the tyres are TBR tyres rather than to conduct an impartial investigation.

(e) **Test Reports Cannot Have Retrospective Application:** All noticees submit as a common legal proposition that even if the test reports were otherwise admissible, they can only be applied to the specific consignments from which the samples were drawn and tested. They cannot be applied retrospectively to past imports. Reliance is placed on: *Pattani Chemicals v. Collector of Central Excise*, 1991 (56) ELT 253 (Tribunal), affirmed in 1998 (98) ELT 582 (SC); *Hindustan Fibres Ltd. v. Commissioner of C. Ex., Jaipur*, 2009 (245) ELT 337 (Tri.-Del.); *Kiran Spinning*

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Mills, Bombay v. Collector of Central Excise, Bombay, 1988 (33) ELT 137 (Tribunal); Bee-Am Chemicals Ltd. v. Commissioner of Central Excise, Raigad, 2004 (167) ELT 534 (Tri.-Mumbai); Essma Woollen Mills (P) Ltd. v. Collector of C. Ex., Chandigarh, 2001 (134) ELT 262 (Tri.-Del.); and Partap Steel Rolling Mills v. Collector of C. Excise, New Delhi, 1996 (87) ELT 188 (Tribunal).

(f) **Demand Inflated Beyond What Test Reports Justify:** All noticees submit that even if the test reports are accepted, the demand of differential duty should be limited to: (i) the goods for which test reports exist (i.e., the goods from which samples were drawn in the seized consignments); and (ii) at most, past imports of the same model numbers. The SCN raises demand in respect of past imports of other models and brands for which no test report exists. No demand of duty can be raised in respect of goods for which there is no test report.

The firm-wise breakup of the demand the noticees say is justifiable (based on seized lots with test reports) versus what is actually demanded is as submitted by each noticee in their reply:

Firm	Seized Qty. (Tyres)	Seized Assessable Value (Rs.)	Duty on Seized Lot (Rs.)	Total Demand in SCN (Rs.)	Noticees' submission on demand without test report basis
M/s Pioneer Trading Corporation	3,670	3,29,54,282	1,19,97,954	35,72,52,024	Rs. 19,11,77,042 (56,674 tyres across Annexures H1 and H2) has no test report basis. Rs. 16,60,75,024 pertaining to same-model past imports (Annexures F1 and F2, 49,640 tyres) is conceded as having a test report basis.
M/s Aahna Consultancy Ltd.	840	72,78,087	22,58,142	30,97,283	Rs. 19,03,548 pertaining to 684 tyres (Annexure K1) has no test report basis. Rs. 11,93,735 for 424 same-model tyres (Annexure J2) is conceded as having a test report basis.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

M/s Leo Distributors Pvt. Ltd.	1,938	1,68,80,104	56,45,532	82,54,648	Rs. 34,35,563 pertaining to 1,168 tyres (Annexure N2) has no test report basis. Rs. 48,19,085 for 1,618 same-model tyres (Annexure M2) is conceded as having a test report basis.
M/s Vikas Road Carriers Ltd.	Nil (no seizure)	--	--	5,14,12,826	Rs. 1,90,19,918 pertaining to 6,396 tyres (Annexure P2) has no test report basis. Rs. 3,23,92,908 pertaining to 11,062 same-model tyres (Annexure O2) is conceded as having a basis in the test reports of co-noticee consignments. No seizure was effected and no samples were drawn from this firm's consignments.
M/s Vikas Retail Pvt. Ltd.	Not specified	77,11,953	Not specified	4,42,01,882	Firm-wise breakup of demand with and without test report basis is not specified in the written submissions of M/s Vikas Retail Pvt. Ltd.
M/s Trans Tyre LLP	2,129	2,37,09,254	56,42,856	18,50,45,997	Rs. 5,66,72,882 pertaining to 22,228 tyres (Annexure V2) has no test report basis. Rs. 13,40,15,971 (comprising Rs. 56,42,856 on seized goods and Rs. 12,83,73,115 on 47,740 same-model past imports, Annexure U2) is conceded as having a test report basis.
M/s Tiara Enterprises	1,360	1,54,40,054	38,45,682	3,57,86,642	Rs. 2,08,21,835 pertaining to 9,386 tyres (Annexure Y2) has no test report basis.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

					Rs. 1,49,64,807 for 5,400 same-model tyres (Annexure X2) is conceded as having a test report basis.
M/s Ultra Mile	850	86,99,775	18,34,802	8,37,80,608	Rs. 2,45,02,344 pertaining to 11,067 tyres (Annexure BB2) has no test report basis. Rs. 5,92,78,264 for 25,941 same-model tyres (Annexure AA2) is conceded as having a test report basis.

The noticees rely on the following judgments: *Gastrade International v. Commissioner of Customs, Kandla*, (2025) 29 Centax 8 (SC); *Commissioner of Customs, Mundra v. Sunrise Traders*, 2022 (382) ELT 23 (SC); *Ritesh International Limited v. COMMR. of C. Ex. and S.T., Ludhiana*, 2020 (371) ELT 917 (Tri.-Chan.); and *Noya Infrastructure LLP v. Union of India*, 2026 (395) ELT 177 (Guj.).

2.2.3 Classification -- CTH 40118000 is the Correct Classification

All noticees submit that the goods imported by them are genuine OTR/Mining Tyres, correctly classifiable under CTH 40118000. The grounds raised are:

(a) **Physical Markings on the Tyres:** The tyres bear the Speed Symbol 'D' (indicating a speed limit of up to 65 km/hr) and the Mining Symbol ('Man with Shovel') as embossed by the overseas manufacturers at the time of moulding. The noticees submit that these markings are internationally standardised and mandatorily required on Mining/OTR tyres under the UNECE Agreement and UN Regulations Nos. 30 and 54. Accordingly, the Speed Symbol 'D' and the Mining Symbol are not arbitrary markings embossed at the importer's instance but are mandatory statutory markings. The SCN's inference that the markings were artificially embossed is denied.

(b) **CIU Investigation and Unconditional Release:** The noticees, particularly M/s Pioneer Trading Corporation, submit that during June/July 2022, the Central Intelligence Unit (CIU), JNCH had detained more than 50 consignments of Mining/OTR Tyres imported at JN Port and

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

subjected them to examination, testing, and laboratory examination. After a thorough investigation, these consignments were unconditionally released with a recommendation to waive detention/demurrage charges. The IRMRA test report obtained by the CIU at that time confirmed: (i) there was no 'hot stamping' of the Speed Symbol or Mining Symbol -- the markings are moulded; and (ii) the goods are Mining/OTR Tyres. The noticees submit that the goods under the present SCN are identical to the goods so released and there is no valid reason to re-adjudicate the same issue. The specific Bills of Entry released by CIU include Nos. 9470912 dt. 08.07.2022, 9520315 dt. 12.07.2022, 9552319 dt. 14.07.2022, 9749580 and 9749562 both dated 27.07.2022, 9470919 and 9471056 both dated 08.07.2022, and 9978632 dated 12.08.2022.

(c) **Order-in-Original dated 31.10.2025 of Pr. Commissioner of Customs, Kolkata:** The noticees rely on OIO No. KOL/CUS/Pr.COMMR/PORT/GR-II//2025 dated 31.10.2025 passed by the Principal Commissioner of Customs (Port), Kolkata in the case of M/s Adishwar Impex Private Limited, wherein an identical SCN was dropped and the goods were permitted release without fine or penalty under CTH 40118000. The Kolkata OIO relies upon the Hon'ble Supreme Court's judgment in Goodyear India Ltd. v. Union of India, 1997 (92) ELT 14 (SC), where it was held that what is decisive is the primary or dominant use of the tyres, and that occasional movement on road cannot render a mining tyre a road-use tyre. The noticees adopt the ratio of that OIO and pray that the same ratio be applied in the present proceedings.

(d) **HS Explanatory Notes (Images) Confirm Classification:** The noticees invite attention to the Harmonized Commodity Description and Coding System (Explanatory Notes) for CTH 40118000, which reproduce images of various Mining/OTR tyres to facilitate classification. The noticees submit that the goods imported by them are identical to the images reproduced in the Explanatory Notes. They submit that the Hon'ble High Court of Bombay in its order dated 18.03.2025 specifically reproduced these images and asked IRMRA to use them as reference, but IRMRA did not state that the tyres were not of the type shown in those images.

(e) **Tariff Entry -- 'Of a Kind Used On' vs. 'Solely/Principally for Use':** All noticees submit that the entry in CTH 40118000 reads 'Of a kind used on construction, mining or industrial handling vehicles and machines' and does not import any condition of 'solely' or 'principally' for use, unlike certain other tariff entries. Accordingly, only intended use (not actual exclusive use) is required. Reliance is placed on: Rashtriya Chemical and Fertilizer Ltd. (Civil Appeal No. 2219/2013 dated 24.03.2026); Steel Authority of India Ltd. v. Collector of Central Excise, 1996 AIR SC 2544; and State of Haryana v. Dalmia Dairy Cement Ltd., 2004 (178) ELT 13 (SC).

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(f) **Country of Origin Certificates (COO) Confirm Classification:** All noticees submit that the goods are accompanied by COO certificates issued by competent authorities of the exporting sovereign nations, which describe the goods as OTR/Mining Tyres and classify them under CTH 40118000. Reliance is placed on: Azadi Bachao Andolan, 2003 (263) ITR 706 (SC); Sindhwani and Co., 2009 (236) ELT 139 (Tri.-Del.); Yellama Dasappa, 2000 (120) ELT 67 (Kar.); and New Bombay Exports, 2009 (238) ELT 540 (Tri.-Chennai).

(g) **Same Model Number for TBR and Mining Tyres:** All noticees address the department's allegation that the same model number was used for goods previously imported as TBR tyres and now as Mining tyres. They submit that a particular model number can be the same for both TBR and Mining Tyre variants manufactured by the same producer. The relevant distinction, they argue, lies in the speed symbol and other markings on the tyre, not in the model number alone.

(h) **Identical Imports by Other Importers Allowed Without Demur:** All noticees submit that more than 104 other importers have been importing identical or similar tyres declared as Mining Tyres during the same period, and their consignments have been allowed clearance without any SCN or demand. The present investigation is submitted to be discriminatory and arbitrary. Annexures are stated to be attached to the Pioneer reply showing imports of 10,58,377 tyres by 104 importers cleared even after DRI investigation began (Annexure I) and imports of 2,92,206 tyres by 34 importers cleared prior to the investigation (Annexure II).

(i) **No End-Use Condition -- Stray Use Does Not Change Classification:** All noticees submit that neither the DGFT import policy nor the Customs Tariff entry for CTH 40118000 contains any end-use condition. Accordingly, the fact that some trucks were found fitted with Mining Tyres cannot change the classification of the goods. Reliance is placed on: Commissioner of Central Excise, Salem v. Mohan Agro Pvt. Ltd., 2025 (391) ELT 145 (SC); and Mahindra and Mahindra Ltd., 1999 (109) ELT 739 (Tri.) affirmed in 2002 (140) ELT A253 (SC).

2.2.4 BIS Non-Compliance -- Goods Exempted

All noticees submit that the imported tyres are not subject to mandatory BIS certification under the Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009 vide S.O. 2953(E) dated 19.11.2009. The submissions are:

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(a) **DIPP Office Memorandum dated 13.12.2011:** The noticees rely on this OM which expressly clarified that certain categories of tyres are not covered under the Quality Control Order, 2009. The relevant exemptions include: (i) Commercial Vehicle Tyres identified by Speed Symbols corresponding to speed below 80 km/hr -- i.e., those marked with Speed Symbols A (A1 to A8), B, C, D or E; and (ii) Off the Road Tyres carrying Tyre Tread Code markings such as C (C1, C2), E (E1 to E4, E7), G (G1 to G4), L (L2 to L5, L3S to L5S), IND or NHS.

(b) **CBIC Circular dated 30.01.2012:** The noticees rely on CBIC Circular No. 528/109/2011-STO(TU) dated 30.01.2012, which reiterated and confirmed the same clarification to field formations -- that Commercial Vehicle Tyres with Speed Symbol D and OTR Tyres with specified tread codes are not covered under the Quality Control Order and therefore do not require BIS certification.

(c) **Speed Symbol 'D' Admitted in the SCN:** The noticees submit that the SCN itself admits that the imported tyres were bearing Speed Symbol 'D'. Since Speed Symbol 'D' corresponds to a maximum speed of 65 km/hr, which is below 80 km/hr, the DIPP OM and CBIC Circular unambiguously place these tyres outside the scope of mandatory BIS certification.

(d) **Scope of IS 15636:2022:** The noticees invite attention to clause 1 (Scope) of IS 15636:2022, which states: 'This standard specifies the general, dimensional, and performance requirements of new pneumatic tyres designed primarily, but not only, for vehicles in categories M2, M3, N, T3 and T4 as defined in IS 14272:2011. However, it does not apply to tyre types identified by speed symbols corresponding to speeds below 80 km/hr.' The noticees submit that since the imported tyres bear Speed Symbol 'D' (below 80 km/hr), IS 15636:2022 itself does not apply to them.

2.2.5 Inadmissibility of Digital / Electronic Evidence (WhatsApp Chats, Emails)

All noticees challenge the admissibility of the WhatsApp chats, QQ chats, and email records extracted from mobile phones and electronic devices, on the following grounds:

(a) **No Section 79A IT Act Notification:** Section 79A of the Information Technology Act, 2000 provides that the Central Government may, by notification, specify any Department, body or

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

agency as an 'Examiner of Electronic Evidence'. The noticees submit that M/s Systool Software Pvt. Ltd. and Magnet Forensics are private limited companies never notified under Section 79A. The forensic examination reports from these entities are therefore not reports of a recognised Examiner of Electronic Evidence and cannot be relied upon.

(b) No Certificate under Section 138C of the Customs Act, 1962 (Pari Materia Section 65B, Evidence Act): The noticees submit that Section 138C of the Customs Act, 1962 (pari materia to Section 65B of the Indian Evidence Act, 1872) requires that any electronic record sought to be admitted in evidence must be accompanied by a certificate identifying the electronic record, describing the manner in which it was produced, furnishing particulars of the device involved, and signed by a person occupying a responsible official position. No such certificate was obtained either at the time of seizure of the electronic devices or at the time of forensic examination. Without such a certificate, the digital evidence is inadmissible. Reliance is placed on: Anvar P.V. (SC, interpreting Section 65B of the Evidence Act), as discussed in Junaid Kudia v. Commissioner of Customs, Mumbai Import-II, (2024) 16 Centax 503 (Tri.-Bom.), upheld by the Supreme Court in (2024) 16 Centax 504 (SC); Final Order No. A/85674-85675/2022 dated 01.08.2022 in Jeen Bhavani International (CESTAT); Commissioner of Customs v. Sanjay Soni, 2022 (381) ELT 509 (Tri.-All.); H.S. Chadha v. Commissioner of Customs (Preventive), New Delhi, 2021 (378) ELT 193 (Tri.-Del.), affirmed as (2023) 3 Centax 195 (SC); and Gaurav Kushwaha v. Commissioner of Central Excise, Indore, 2018 (363) ELT 859 (Tri.-Del.).

(c) Devices Not Properly Sealed and Examined: M/s Pioneer Trading Corporation additionally submits that the electronic devices were not sealed with wax/lac seals after initial examination under the Panchnama but were merely put in paper envelopes. These were later examined not in the presence of independent Panchas or a Court, but in an in-house session with private persons claimed as forensic experts. The Report of Proceedings (ROP) dated 02.03.2024 was prepared in this manner and cannot be treated as a valid forensic examination report.

(d) Participation of Private Person in Search Proceedings: M/s Pioneer Trading Corporation submits that the Panchnama dated 29.02.2024 at M/s Trans Tyre LLP's premises shows the participation of one Mohit Prakash Bagul as a DRI officer, whereas he is actually a private person. Search conducted with private persons playing the role of officers is void ab initio, rendering any material recovered therein inadmissible.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(e) **No Certificate for Samsung Mobile of Shri Satish Kakkad:** M/s Pioneer Trading Corporation specifically submits that the Panchnama dated 29.02.2024 at the office of M/s Trans Tyre LLP records that Section 65B-equivalent certificates were obtained from Shri Rahul Jaiswar, Shri Sahil Purohit and Ms. Reshama Pachumbare for Tally backups but not for the Samsung Galaxy mobile phone attributed to Shri Satish Bhagwandas Kakkad. Accordingly, the WhatsApp chats purportedly extracted from that phone lack the mandatory certificate and are inadmissible.

(f) **Chats of Shri Satish Kakkad Not Admissible Against M/s Pioneer:** M/s Pioneer Trading Corporation submits that Shri Satish Kakkad is a co-noticee only in respect of imports by M/s Trans Tyre LLP. He is not a co-noticee in respect of the imports made by M/s Pioneer Trading Corporation. The WhatsApp chats and other material recovered from his mobile cannot be admitted as evidence against M/s Pioneer or Shri Satvinder Singh Chadha.

2.2.6 Extended Period of Limitation -- Section 28(4) Wrongly Invoked

All noticees submit that the extended period of five years under Section 28(4) of the Customs Act, 1962 cannot be invoked in this case. The submissions are:

(a) **No Wilful Mis-statement or Suppression:** The noticees submit that all material particulars including the description, speed rating, and classification of the goods were disclosed in the Bills of Entry. The goods were declared as Mining/OTR Tyres with Speed Symbol 'D', which the noticees contend is a correct and genuine description. There is no positive act of suppression, only a bona fide claim of classification. Reliance is placed on: Continental Foundation Jt. Venture, 2017 (216) ELT 177 (SC); HMM Limited v. Collector of Central Excise, 1995 (76) ELT 497 (SC); Cosmic Dye Chemicals v. Collector of Central Excise, Bombay, 1995 (75) ELT 721 (SC); Pushpam Pharmaceuticals v. CCE, 1995 (78) ELT 401 (SC); Chemphar Drugs and Liniments v. Collector of Central Excise, 1989 (40) ELT 276 (SC); and Padmini Products v. CCE, 1989 (43) ELT 195 (SC).

(b) **Bills of Entry Were Re-assessed under Section 17(2), Not Self-Assessed:** All noticees specifically submit that not a single Bill of Entry was assessed under self-assessment under Section 17(1) of the Customs Act, 1962. Each and every Bill of Entry was re-assessed by the Proper Officer under Section 17(2), subjected to physical examination, and permitted clearance by order under Section 47 after due satisfaction that the goods were as declared and the appropriate

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

duty had been paid. Where the Proper Officer has exercised his powers of re-assessment under Section 17(2) and applied his mind, the extended period cannot be invoked. Reliance is placed on: CESTAT Chennai in Customs Appeal No. 40219 of 2019 (Dr. Rai Memorial Cancer Institute); and Bimal P. Shah, 2025 (394) ELT SC = 2025 (33) Centax 226 (SC).

(c) **Department Had Full Knowledge -- CIU Investigation and Earlier Testing:** The noticees submit that the department, through the CIU, JNCH, had investigated and tested identical goods during June/July 2022 and released the same. Since the department was in full knowledge of the type of goods being imported, no suppression can be attributed to the importer. Reliance is placed on C.C. Mumbai v. A.S. Muloobhoy and Sons, 2015 (318) ELT 576 (SC).

(d) **Earlier Re-assessment Amounts to Order of Adjudication -- Cannot Be Reopened by SCN:** All noticees submit that once the Bills of Entry were re-assessed under Section 17(2) and goods were cleared by order under Section 47, these are orders of adjudication that cannot be called in question by a fresh SCN under Section 28 or Section 124 of the Customs Act. Reliance is placed on: Priya Blue Industries, 2004 (172) ELT 145 (SC); Flock India Ltd., 2000 (120) ELT 285 (SC); Lord Shiva Overseas, 2005 (181) ELT 213 (Tri.-Mumbai); Paras Electrical, 2009 (246) ELT 231 (Tri.); and Bimal P. Shah, 2025 (394) ELT SC (SC).

(e) **Classification Claim in Good Faith Cannot Entail Penal Consequences:** All noticees submit that even if the claimed classification is held to be incorrect, a bona fide claim of classification cannot attract penal consequences under Section 28(4) or Section 114A. Reliance is placed on: Rubber Products Ltd., 1991 (53) ELT 299 (Bom.); NRC Ltd., 2005 (188) ELT 407 (Tri.-Mumbai); and Northern Plastics Ltd., 1998 (101) ELT 549 (SC).

2.2.7 Penal Provisions -- Sections 112, 114A, and 114AA

All noticees submit that no penalty is imposable on them under the cited provisions:

(a) **Section 112:** No penalty is imposable as the goods are not liable to confiscation under Section 111(d) (freely importable goods correctly declared), Section 111(m) (all material particulars correctly declared), or Section 111(o) (no post-import condition imposed). Since the predicate of

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Section 112 -- that the goods were liable to confiscation -- is not made out, no penalty can be imposed.

(b) **Section 114A:** Section 114A can only be invoked when the demand under Section 28 is sustainable. Since the demand itself is challenged on merits and limitation, Section 114A cannot be invoked. The noticees also note that the SCN proposes penalty under both Section 112 and Section 114A simultaneously, which they argue is impermissible.

(c) **Section 114AA -- Requires Knowing or Intentional Use of False Documents:** Section 114AA provides for penalty for use of false or incorrect material 'knowingly or intentionally'. The noticees submit that: (i) no false document was used -- the Bills of Entry correctly described the goods as Mining/OTR Tyres; (ii) the goods were cleared by the Proper Officer after re-assessment and physical examination; and (iii) a bona fide claim of classification, even if incorrect, does not amount to 'knowingly or intentionally' making a false declaration. The noticees also cite the legislative history showing that Section 114AA was inserted specifically to deal with fraudulent paper exports to avail export incentives, not to penalise bona fide classification claims on imports. Reliance is placed on: *Lewek Altair Shipping Pvt. Ltd. v. Commissioner of Customs*, 2019 (366) ELT 318 (Tri.-Hyd.); *A.V. Global Corporation Pvt. Ltd. v. Additional DG (Adjudication)*, DRI Mumbai, 2022 (382) ELT 65 (Tri.-Mumbai); *Sree Ayyanar Spinning and Weaving Mills Ltd. v. C.C., Tuticorin*, 2019 (370) ELT 1681 (Tri.-Chennai); *Waqar v. Commissioner of Customs (Preventive)*, Lucknow, 2024 (387) ELT 91 (Tri.-All.); *Ingram Micro India P. Ltd. v. C.C., Air Cargo Complex (I), New Delhi*, 2019 (369) ELT 1668 (Tri.-Del.); *Arj Exim India v. COMMR. of Cus. (Port-Import), Chennai/Mumbai*, 2019 (370) ELT 614 (Tri.-Mumbai); and *Rib Tapes (India) Pvt. Ltd. v. Union of India*, 1986 (26) ELT 193 (SC).

2.2.8 Statement of Shri Paresh Bhanushali -- Not Voluntary

All noticees submit that the statement of Shri Paresh Bhanushali dated 08.03.2024 relied upon in the SCN cannot be admitted as corroborating evidence because it was obtained under threat and coercion from an employee who had no decision-making authority. The statement of an employee who could not withstand DRI pressure, and which has not been corroborated by the principal (Shri Satvinder Singh Chadha, who denies all the inculpatory statements), ought not to be acted upon.

2.3 Noticee-Specific and Additional Submissions

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

2.3.1 M/s Pioneer Trading Corporation and Shri Satvinder Singh Chadha (Notices 1 and 9)

(a) **Undervaluation -- TT Transfers Not Relating to Pioneer's Imports:** M/s Pioneer Trading Corporation specifically denies the allegation of undervaluation. The noticee submits that the telegraphic transfer (TT) receipts and payment records shared by Shri Paresh Bhanushali with Mr. Li Yu do not relate to the imports made by M/s Pioneer Trading Corporation, but pertain to an overseas businessman based in Dubai who had business relations with M/s Zhongce Rubber and had been introduced to Zhongce by M/s Pioneer. The Dubai-based acquaintance's payments to Zhongce for his own shipments to Dubai are being wrongly correlated with Pioneer's imports into India.

(b) **Arithmetic Refutation of Undervaluation:** M/s Pioneer Trading Corporation specifically addresses two instances cited in the SCN as evidence of undervaluation: (i) Para 29.2 of the SCN alleges payment of USD 27,236 from Dubai (M/s Capitol General Trading LLC) against invoice CZC2211410BA. The admitted remittance through proper banking channels against the same invoice was USD 27,472, and the total (USD 27,236 + USD 27,472 = USD 54,708) works out to approximately USD 201.13 per tyre, which is much higher than the re-determined value proposed in the SCN at USD 126 per tyre. (ii) Para 29.7 of the SCN alleges clandestine payments of USD 9,991.20 each against B/E Nos. 9749580 and 9749562. The admitted remittances against those two invoices are USD 28,560 each. Adding USD 9,991.20 to USD 28,560 gives USD 38,551.20 per invoice, equivalent to approximately USD 141.73 per tyre, which exceeds the proposed re-determined rate of USD 123.60 per tyre. The noticee submits that DRI's own arithmetic defeats the undervaluation allegation.

(c) **Chats Selectively Reproduced:** M/s Pioneer Trading Corporation submits that the SCN has reproduced chats selectively and out of chronological order. In para 33.1 of the SCN, a chat dated 20.09.2022 is juxtaposed with a chat from page 20 of an extraction report dated 17.11.2023 to suggest that Shri Paresh was arranging mining logo imports. The noticee submits that the chat of 12.11.2023 was deliberately omitted, and that connecting two temporally disconnected chats to make them appear as a continuous conversation is a manipulation of the download by the unauthorised private forensic experts.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(d) Chats Regarding Catalogue -- No Import Took Place: Regarding the WhatsApp chats about catalogue modifications (para 34.1 of the SCN), M/s Pioneer submits that: (i) the so-called catalogue is not produced; (ii) no details of any import having taken place using such a modified catalogue are on record; (iii) a suggestion to rectify a printing error or clarify a specification in a supplier's catalogue is not evidence of modus operandi; and (iv) suggestions to control market supply are normal business strategy and cannot be read as admission of misclassification.

(e) LD Pattern Tyres -- Group Tried to Warn, Not to Continue: M/s Pioneer Trading Corporation submits that the WhatsApp group chats cited at para 39 of the SCN actually show that the members were alarmed that some other importer had imported LD Pattern tyres as Mining Tyres and were discussing whether to inform Customs. This chat exculpates the noticees rather than inculcating them.

(f) No Separate Penalty on Partner (Shri Satvinder Singh Chadha): M/s Pioneer Trading Corporation submits that no separate personal penalty can be imposed on the Partner of a partnership firm when the firm itself has been subjected to penalty. Reliance is placed on: Commissioner of Central Excise v. Jai Prakash Motwani, 2010 (258) ELT 204 (Guj.); COMMR. of C. Ex. and Cus. Surat-II v. Mahendra Kumar Kapadia, 2010 (260) ELT 51 (Guj.); and C.C.E. and C. Surat-II v. Mohammed Farookh Mohammed Ghani, 2010 (259) ELT 179 (Guj.).

2.3.2 M/s Vikas Road Carriers Ltd. (Noticee 4)

(a) No Test Reports at All for This Noticee: M/s Vikas Road Carriers Ltd. specifically submits that not a single sample was drawn from any consignment of this noticee. No goods belonging to this noticee were seized at any port or godown. The entire demand of Rs. 5,14,12,826 is raised without even the test reports of the co-noticees having any basis in relation to the goods of this noticee. The entire demand is based purely on assumptions and presumptions, which is legally impermissible.

(b) Trucks with Mining Tyres -- No Adverse Inference: The finding that two trucks of M/s Vikas Road Carriers Ltd. were found outside M/s Pioneer Trading Corporation's godown with Mining Tyres fitted on them is not evidence of misclassification. Since there is no end-use condition on CTH 40118000, a transporter using Mining Tyres on its trucks does not render the goods misdeclared.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

2.3.3 M/s Trans Tyre LLP and Shri Satish Bhagwandas Kakkad (Notices 6 and 12)

(a) **No Hot Stamping -- Markings are Moulded:** M/s Trans Tyre LLP submits that DRI deliberately chose not to ask IRMRA whether the markings on the tyres were 'hot stamped' or 'moulded', because they were aware that the markings are moulded (i.e., the speed symbol and mining symbol form part of the original mould of the tyre as manufactured). Hot stamping of a few tyres within a batch of lakhs of tyres manufactured using a single mould is practically impossible and commercially infeasible. The CIU test report confirms that markings are moulded and not hot stamped.

(b) **CB332 -- Same Model Used for Both TBR and Mining:** M/s Trans Tyre LLP submits that the CB332 model manufactured by M/s Zhongce Rubber is produced in both TBR-standard and Mining-standard versions. That the same manufacturer produces both versions with different sidewall markings is reflected in the chat between Mr. Li Yu and Shri Satish Kakkad (where Li Yu is stated to have confirmed that regular CB332 and Mining CB332 are the same base green tyre but the difference is the mining mark). The importer submits that the declaration was made on the basis of the mining-specification version supplied by Zhongce.

(c) **M/s Tiara Enterprises -- Separate IEC, Independent Business:** M/s Trans Tyre LLP submits that M/s Tiara Enterprises is an independent importer with its own IEC and its own business. The transfer of four containers from M/s Trans Tyre LLP to M/s Tiara Enterprises was a legitimate commercial transaction. The change of name of importer in the Bill of Lading and commercial invoice was effected by M/s Tiara Enterprises acting on its own decision to buy the containers on credit, not by M/s Trans Tyre LLP to 'avoid DRI detection'.

2.3.4 M/s Tiara Enterprises and Shri Aman Ahuja (Notices 7 and 13)

(a) **Shri Aman Ahuja Had No Technical Knowledge:** M/s Tiara Enterprises submits that Shri Aman Ahuja is a merchant importer who relied entirely on Shri Satish Bhagwandas Kakkad for coordination with overseas suppliers, HSN/CTH decisions, and logistics. He was never in a position to independently determine whether the goods were TBR or Mining Tyres, and in the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

absence of personal knowledge or participation in the alleged modus operandi, no penalty is imposable on him.

(b) **Approximately 60% Sold to M/s Trans Tyre LLP -- Not Evidence of Subordination:** The fact that approximately 60% of tyres imported on M/s Tiara Enterprises' IEC were sold to M/s Trans Tyre LLP is stated to be a normal wholesale arrangement between two trading firms with an established buyer-seller relationship. It does not, by itself, establish that M/s Tiara's IEC was being 'used' by Shri Satish Kakkad.

2.3.5 M/s Ultra Mile and Shri Harish Bhagwandas Kakkad alias Tony (Noticees 8 and 14)

(a) **Ultra Mile Brand -- Investment in Moulds, Genuine Branding:** M/s Ultra Mile submits that the Ultra Mile branded tyres are manufactured by M/s Zhongce Rubber using the CB332 green tyre (casing) combined with moulds and side plates specifically purchased and owned by M/s Ultra Mile. This is a legitimate private-label manufacturing arrangement. The speed capacity and load capacity of the final tyre are determined at the green tyre stage, not at the branding/moulding stage.

(b) **Load Capacity Much Higher Than TBR:** Shri Harish Bhagwandas Kakkad submits that the tyres imported by M/s Ultra Mile are designed to carry up to 6 tonnes per tyre and are meant for heavy dumpers with payloads of up to 50 tonnes. The IRMRA test was conducted at the load index marked on the sidewall (which was the lower TBR load index), not at the actual mining/OTR load capacity of the tyre.

(c) **IRMRA Reports Relied upon in Writ Petitions Were Earlier Marking-Based Reports:** Shri Harish Kakkad submits that the IRMRA reports relied upon by the parties in Writ Petitions for provisional release of seized goods were reports based only on the markings on the sidewall of the tyres. He submits that those earlier reports were in fact the correct method of evaluation for Mining Tyres. The new IRMRA reports relied upon in the SCN ignored the markings entirely and tested as per IS 15636:2022 (TBR standard), applying the wrong test.

2.3.6 M/s Vikas Retail Pvt. Ltd. and Shri Jaskaran Singh Chadha (Noticees 5 and 10)

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(a) **Same Suppliers as Pioneer -- Coincidence of Business, Not Conspiracy:** M/s Vikas Retail submits that the fact that its overseas suppliers are the same as those of M/s Pioneer Trading Corporation is explained by the natural supply landscape -- M/s Pioneer, being Shri Jaskaran Singh Chadha's uncle's firm, would obviously have passed on supplier contacts. Commonality of suppliers is not evidence of a coordinated modus operandi.

(b) **M/s VRC Logistics -- Trucks Using Mining Tyres for Legitimate Reasons:** Shri Jaskaran Singh Chadha submits that M/s VRC Logistics Pvt. Ltd. (his transport firm) operates a mixed fleet including vehicles used for operations in off-road environments (sand mining, river bed material transport). The use of Mining Tyres in such vehicles is entirely legitimate as these vehicles operate on off-road terrain as part of their work. Selling Mining Tyres to his own transport firm is therefore not evidence of misclassification.

(c) **Test Reports of Co-Noticees' Goods Cannot Be Applied to Vikas Retail's Imports:** Shri Jaskaran Singh Chadha submits that test reports of samples drawn from consignments of M/s Pioneer Trading Corporation's EZ3507M model tyre (Westlake brand) cannot be automatically applied to the same model/brand imported by M/s Vikas Retail. Different batches of the same model, even from the same supplier, may have different specifications.

2.3.7 Shri Paresh Bhanushali (Noticee 11) -- Individual Reply

(a) **Employee Acting on Instructions -- No Personal Benefit:** Shri Paresh Bhanushali submits that he was at all times a salaried employee of M/s Pioneer Trading Corporation, working as an accountant. He received a fixed salary and derived no financial benefit from the transactions. He acted entirely on the instructions of his employer Shri Satvinder Singh Chadha. It is settled law that a penalty cannot be imposed on an employee who merely acted as per the employer's instructions, had no knowledge of any alleged violation, and derived no personal benefit.

(b) **Statement Obtained Under Duress:** Shri Paresh Bhanushali submits that his voluntary statement dated 08.03.2024 recorded under Section 108 of the Customs Act was obtained under threat and coercion from DRI. The statement is not voluntary and should not be admitted.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(c) **Email Account Deleted on DRI Officer's Instructions:** Shri Paresh Bhanushali specifically submits that the email account romeo_38@live.com was deleted immediately after the search proceedings on DRI officers' instructions. The fact that DRI cannot now produce the complete email trail from this account is their own responsibility, and no adverse inference should be drawn against the noticee on this account.

(d) **Reliance on Judgments on Employee Liability:** Shri Paresh Bhanushali relies on the following judgments: M.M. Cylinders (P) Ltd. v. Commissioner of Central Excise, Tirupathi, 2012 (277) ELT 78 (Tri.-Bang.), maintained by the Supreme Court 2014 (302) ELT A28 (SC); G.M. Enterprises v. Commissioner of Cus. (Export), Nhava Sheva, 2010 (262) ELT 796 (Tri.-Mumbai); Sterlite Optical Technologies Ltd. v. C.C. and C.E., Aurangabad, 2005 (188) ELT 210 (Tri.-Mumbai); Pratibha Processors v. Union of India, 1996 (88) ELT 12 (SC); and S. Esakiaduperumal v. COMMR. of Cus. and C. Excise (Appeals), Trichy, 2000 (124) ELT 489 (Tribunal).

2.4 Prayer of the Noticees

All noticees, whether filing jointly (firm and individual) or separately, have prayed as follows:

- (i) That the SCN be dropped and quashed in its entirety;
- (ii) That the classification of the imported goods under CTH 40118000 be upheld;
- (iii) That the proposed reclassification to CTH 40112010 be rejected;
- (iv) That no differential duty be demanded under Section 28(4), the extended period not being available;
- (v) That the seized goods be ordered to be released;
- (vi) That no penalty be imposed under Sections 112, 114A or 114AA on any of the noticees;

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(vii) In respect of M/s Pioneer Trading Corporation, specifically that the proposed rejection and re-determination of assessable value be set aside; and

(viii) That personal hearings be granted before final adjudication and that outstanding relied-upon documents be supplied before conclusion of hearing.

All noticees have expressly reserved the right to file a comprehensive final reply after receipt of outstanding documents from DRI and to cross-examine DRI witnesses, and have prayed that no ex-parte order be passed.

3. DISCUSSION AND FINDINGS

3.1 I have carefully considered Show Cause Notice No. 1746/2024-25/Commr/NS-I/Gr.II(H-K)/CAC/JNCH dated 27.02.2025 (hereinafter referred to as the SCN), the written submissions filed by all the noticees in response thereto, and the documents and evidence on record, including the relied upon documents forming part of the investigation file.

3.2 The SCN, issued pursuant to an investigation conducted by the Directorate of Revenue Intelligence (DRI), Headquarters, New Delhi, alleges that eight importer firms (and their controlling individuals, all named as noticees) imported Truck, Bus and Radial (TBR) tyres classifiable under CTH 40112010 into India, but declared and obtained clearance for the goods as 'Mining/Off the Road (OTR) Tyres' under CTH 40118000, from 12.06.2020 (the date on which DGFT placed TBR tyre imports under the 'Restricted' category requiring an import licence, vide Notification No. 12/2015-2020 dated 12.06.2020) until the date of the SCN. The modus operandi alleged is that the noticee importers, acting in connivance with overseas manufacturers, arranged for standard TBR tyres to be embossed at the time of manufacture with Speed Symbol 'D' (indicating a maximum speed of 65 km/hr) and the Mining Symbol ('Man with Shovel'), so as to make the goods appear to be Mining/OTR Tyres in documentation as well as in physical appearance, thereby circumventing the DGFT licence requirement, the differential in Basic Customs Duty (10% for CTH 40118000 against 15% for CTH 40112010), the anti-dumping and countervailing duties leviable on TBR tyres from China under CTH 40112010, and the mandatory BIS certification requirement under IS 15636 applicable to on-road commercial vehicle tyres. The total differential duty demanded across all eight importer firms is Rs. 76,88,31,910 (Rupees Seventy-Six Crores Eighty-Eight Lakhs Thirty-One Thousand Nine Hundred and Ten only), covering both the seized consignments and past imports.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Confiscation of goods and penalties under Sections 112, 114A and 114AA of the Customs Act, 1962 have also been proposed.

3.3 The Show Cause Notice No. 1746/2024-25/Commr/NS-I/Gr.II(H-K)/CAC/JNCH dated 27.02.2025 was issued to the noticees. Vide letter dated 15.04.2026, the noticees were informed that the competent authority had extended the time limit for completion of adjudication till 25.08.2026. Thereafter, three separate opportunities of Personal Hearing were fixed and communicated to all noticees by official communications bearing F. No. S/10-188/2024-25/CC/GR. II(H-K)/NS-I/CAC/JNCH: the first Personal Hearing was fixed for **23.04.2026** vide letter dated 15.04.2026 (which also conveyed that the adjudication period had been extended to 25.08.2026); the second for **12.05.2026** vide letter dated 04.05.2026; and the third and final for **22.05.2026** vide letter dated 14.05.2026. Despite three opportunities, none of the noticees appeared before the Adjudicating Authority on any of the scheduled dates, either in person or through an Authorised Representative or Advocate.

3.4 However, all the noticees have availed themselves of the opportunity to file written submissions. Nine sets of written submissions, covering all fourteen noticees, were filed on 21.05.2026, and the same have been taken on record. These submissions are stated to be in continuation of and in reiteration of interim replies filed on 03.02.2026. The noticees have denied all allegations, and their written submissions have been duly considered. Having afforded three specific opportunities of personal hearing, none of which was availed, and having received and considered the written submissions of all noticees, I proceed to adjudicate this matter on the merits of the record before me.

3.5 Having carefully gone through the SCN, the written submissions filed by the Noticees on 21.05.2026 and the documents placed on record, I find that the following issues arise for my determination in these proceedings:

- (i) Whether or not the imported tyres are OTR/Mining Tyres correctly classifiable under CTH 40118000, or TBR Tyres classifiable under CTH 40112010 as alleged, and whether deliberate misdeclaration stands established;
- (ii) Whether or not undervaluation of imports by M/s Pioneer Trading Corporation stands established;
- (iii) Whether or not the goods are liable to confiscation under the Customs Act, 1962;

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(iv) Whether or not the extended period under Section 28(4) is invocable, and the quantum of differential duty recoverable;

(v) Whether or not penalties under Sections 112, 114A and 114AA of the Customs Act, 1962 are imposable on the noticees.

After having framed the substantive issues raised in the SCN which are required to be decided, I now proceed to examine each of the issues individually for detailed analysis 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.

Issue No. (i): Whether the imported tyres are OTR/Mining Tyres or TBR Tyres, and whether deliberate misdeclaration stands established

A. Scope of the Dispute

3.6 The central factual question for determination under Issue No. (i) is whether the tyres imported by the eight noticee firms during the period 12.06.2020 to 27.02.2025, declared as 'Mining/Off the Road Tyres' under CTH 40118000, are in fact Truck, Bus and Radial (TBR) Tyres correctly classifiable under CTH 40112010. The determination of this question has cascading consequences for most of the demand, confiscation, and penalty limbs of this case. If the goods are found to be genuine Mining/OTR Tyres, the classification limb of the SCN would not be sustained and the differential duty demand arising from reclassification would fall away. However, it may be noted that the SCN separately raises an allegation of undervaluation against M/s Pioneer Trading Corporation which rests on independent documentary evidence and would survive regardless of the classification finding. If the goods are found to be TBR Tyres, the further questions of demand, limitation, and penalty will arise for adjudication under Issues (iii), (iv) and (v).

3.7 I find that the dispute is not merely about the tariff heading. Because CTH 40112010 attracts Basic Customs Duty at 15% as against 10% for CTH 40118000, in addition to anti-dumping duty and countervailing duty applicable to TBR tyres from China, and because imports of TBR tyres under CTH 40112010 require a DGFT licence (since Notification No. 12/2015-2020 dated 12.06.2020 placed them under the 'Restricted' category), and because pneumatic tyres with a speed capacity at or above 80 km/hr require mandatory BIS certification under the Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009 vide S.O. 2953(E) dated 19.11.2009 read with IS

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

15636:2022, IS 15636:2012 and IS 14272:2011, the stakes of the classification question are significant. Accordingly, the classification issue is to be decided on a full and careful examination of all the evidence -- the physical character of the goods, the technical test evidence, the digital evidence, and the statements of the noticees and other persons.

B. Department's Case

3.8 The department's case, as set out in the SCN, rests on the following pillars:

(i) Intelligence and import trend: The DRI received intelligence suggesting that the noticee importers were importing TBR tyres as Mining/OTR Tyres (SCN paras 2 and 3). The import data confirmed a dramatic and concurrent shift: imports of tyres under CTH 40112010 (TBR) fell sharply and imports under CTH 40118000 (Mining/OTR) rose equally sharply after June 2020, precisely when the DGFT restriction on TBR tyres came into force. The trend, in the tyre sizes (10.00R20, 11.00R20, 295/80R) characteristic of the goods under import, is consistent with a deliberate switch in classification rather than a genuine change in the type of goods imported.

(ii) Modus operandi - embossed Speed Symbol 'D' and Mining Symbol: The intelligence, and the evidence gathered during investigation, indicates that the noticee importers arranged with their overseas suppliers (principally M/s Zhongce Rubber Group Co. Ltd., China/Thailand, M/s Sailun (Vietnam) Co. Ltd., M/s Cantop International, and others) to emboss Speed Symbol 'D' (indicating a maximum speed of 65 km/hr) and the Mining Symbol ('Man with Shovel') on the sidewalls of what are otherwise standard TBR tyres (SCN para 2), with a view to making them appear as Mining/OTR Tyres at the time of customs examination and thereby securing classification under CTH 40118000, circumventing the DGFT licence requirement, and avoiding the payment of higher duty and anti-dumping duty applicable to TBR tyres.

(iii) Physical examination of seized goods: All the imported tyres found in the godowns of M/s Pioneer Trading Corporation (Kalamboli), M/s Trans Tyre LLP (Taloja and Delhi), and M/s Ultra Mile (Taloja) bore the Mining Symbol and Speed Symbol 'D' on their sidewalls (SCN paras 4.3, 4.5, 4.6). Trucks of M/s Vikas Road Carriers Ltd. found parked outside M/s Pioneer Trading Corporation's godown were fitted with identical tyres bearing the Mining Symbol, and the truck in-charge confirmed that the trucks were used for road transportation, not mining (SCN para 4.3).

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(iv) IRMRA/IRMRI Test Reports: A total of 41 samples drawn from seized consignments (both from live consignments at ports and from godowns) were forwarded to M/s Indian Rubber Manufacturers Research Association/M/s Indian Rubber Materials Research Institute (IRMRA/IRMRI), a BIS-approved laboratory, for evaluation (SCN paras 9.2, 10.1, 22, 23, 24). The laboratory was specifically requested to test the samples independently of the speed symbol and mining symbol embossed on the sidewalls, since those symbols were believed to have been embossed to circumvent applicable restrictions, and to evaluate whether the tyres conform to the test protocol of IS 15636:2022 and what their dominant use is. All 41 samples ultimately conformed at their tested speed categories – all of which are at or above Speed Category 'G' (90 km/hr) and therefore above 80 km/hr (SCN para 25). Three Trans Tyre LLP samples (CB332 11.00R20, CB332 10.00R20, and TF005 11.00R20) failed when initially evaluated at Speed Category 'K' (110 km/hr), but on re-testing at Speed Category 'J' (100 km/hr) all three conformed (SCN para 25.1). In all 41 test reports, the IRMRA opined that the tested tyre is suitable for on-road (normal highway service) truck and bus application up to the speed category at which it was tested (SCN para 26).

(v) Digital evidence -- chats, emails, and commercial correspondence confirming the modus operandi: The forensic examination of the mobile phones and email accounts of Shri Paresh Bhanushali (employee of M/s Pioneer Trading Corporation) and Shri Satish Bhagwandas Kakkad (partner of M/s Trans Tyre LLP) yielded chats, emails, Excel sheets, payment records, and commercial correspondence (SCN paras 29 to 53 and para 61). The material retrieved from these devices and accounts suggests, among other things: (a) communications between the noticee importers and their overseas suppliers about embossing Speed Symbol 'D' and Mining Symbol on the tyres (SCN paras 35, 42, 48); (b) a message from Mr. Li Yu of Zhongce Rubber appearing to indicate that regular CB332 and Mining CB332 are the same tyre, with only a different mark (SCN para 44); (c) internal emails and attached Excel sheets recording actual speed categories of imported tyre models as Speed Category 'J' (100 km/hr) (SCN para 61); (d) Shri Paresh Bhanushali's statement that Bravia tyres are 'used in trucks but are being imported as mining tyres' (SCN para 7.6); and (e) communications across the group of importers suggesting that the modus operandi was being followed collectively, with discussions about limiting supply to a closed group to avoid detection (SCN para 34.1).

(vi) Statements of noticees: The statements of various noticees recorded under Section 108 of the Customs Act, 1962 further support the allegation. Shri Satish Kakkad in his statement dated

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

29.02.2024 (SCN para 4.8) stated that tyres imported from Vietnam and Thailand are used only in trucks and buses. Shri Aman Ahuja's statement confirmed that the HSN code classification was decided by Shri Satish Kakkad (SCN para 14.5). Shri Jaskaran Singh Chadha admitted to selling tyres imported as mining tyres to M/s VRC Logistics Pvt. Ltd., whose fleet of 250 trucks operates on highways for road transportation (SCN paras 57.3 and 64.1). Shri Harish Bhagwandas Kakkad confirmed that the green tyre (casing) of all Ultra Mile-branded tyres imported as mining tyres is the CB332 model of Zhongce Rubber (SCN para 19.3) -- the same model that Zhongce Rubber had earlier supplied to various importers with BIS IS marking under IS 15636 (a TBR standard) (SCN para 60). Shri Paresh Bhanushali's statement dated 08.03.2024 confirmed the modus operandi and the existence of under-invoicing (SCN paras 7.6 to 7.13).

(vii) Post-investigation imports and diversion of consignments: Even after the DRI search on 29.02.2024 and the placing of live consignments on hold, Shri Satvinder Singh Chadha diverted two Pioneer Trading Corporation consignments and one Vikas Road Carriers Ltd. consignment to different ports (Mundra) by manipulating Bills of Lading, changing the name of the importer and supplier, and filing fresh Bills of Entry on the IECs of M/s Leo Distributors Pvt. Ltd. and M/s Aahna Consultancy Ltd. (SCN paras 9.3 and 12.3). Similarly, Shri Satish Bhagwandas Kakkad transferred four Trans Tyre LLP consignments to M/s Tiara Enterprises by altering shipping documents after the DRI alert (SCN para 12.6). These post-detection actions are indicative of consciousness of guilt and prior knowledge of the nature of the goods

C. Noticees' Submissions

3.9 The noticees have denied the allegation of misclassification and misdeclaration. Their principal submissions on the classification question are:

(i) The goods are genuine Mining/OTR Tyres: The noticees submit that the goods imported by them are genuine OTR/Mining Tyres as evidenced by the Speed Symbol 'D' and the Mining Symbol embossed on the sidewalls, which they contend are internationally mandated markings under UN Regulations (UNECE Regulations Nos. 30 and 54) and cannot be fabricated or altered by an individual importer. The tyres are of the sizes (10.00R20, 11.00R20) and pattern types used in mining, construction, and heavy-duty off-road applications.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(ii) IRMRA test reports are inadmissible and discarded: The noticees submit that IRMRA has, in a re-test report dated 11.04.2025 submitted before the Hon'ble High Court of Bombay, withdrawn and discarded its earlier test reports that are relied upon in the SCN. Further, the test protocol applied was IS 15636:2022 (a standard for TBR tyres), and the test was conducted at Speed Categories 'J' and 'K', whereas it should have been conducted at Speed Category 'D' with load and mass parameters applicable to OTR/Mining Tyres. The specifications for the test were dictated by DRI, not determined by an independent standard, and the reports therefore do not reflect an objective, standard evaluation.

(iii) Re-test report and tread depth parameters support the noticees: The noticees submit that the IRMRA re-test report dated 11.04.2025 confirms that the tread depth of all tested tyres is in the range of 17.83 mm to 23.24 mm, which exceeds the minimum tread depth of 16 mm required of Mining/OTR Tyres. The re-test report does not state that the tyres are not suitable for mining/off-road use. The re-test report is therefore at least inconclusive and, per the settled legal position, benefit of doubt must go to the importer (relying on *Gastrade International v. Commissioner of Customs, Kandla*, (2025) 29 Centax 8 (SC) and *Commissioner of Customs, Mundra v. Sunrise Traders*, 2022 (382) ELT 23 (SC)).

(iv) Digital evidence is inadmissible: The noticees submit that the WhatsApp chats and email downloads are inadmissible for the following reasons: (a) M/s Systool Software Pvt. Ltd. and Magnet Forensics have not been notified as Examiners of Electronic Evidence under Section 79A of the Information Technology Act, 2000; (b) no certificate as required under Section 138C of the Customs Act, 1962 (*pari materia* Section 65B of the Indian Evidence Act, 1872) was obtained for the Samsung Galaxy mobile phone of Shri Satish Kakkad, and accordingly chats extracted from that device are inadmissible; (c) the devices were not sealed with lac seals but merely placed in paper envelopes, compromising the integrity of the evidence; and (d) a private individual (Shri Mohit Bagul) participated in the search proceedings, rendering them void ab initio. Reliance is placed on *Junaid Kudia v. Commissioner of Customs*, (2024) 16 Centax 503 (Tri.-Bom.), upheld by the Supreme Court in (2024) 16 Centax 504 (SC).

(v) HS Explanatory Notes, COO certificates, and CIU release confirm correct classification: The noticees submit that the HS Explanatory Notes for CTH 40118000 include images of tyres identical to the imported goods, confirming that the imported tyres correctly fall under that heading. The Country of Origin Certificates issued by competent authorities of exporting countries classify the goods as OTR/Mining Tyres under CTH 40118000 and cannot be brushed

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

aside. The CIU, JNCH had in 2022 investigated and released identical consignments after IRMRA reported (on the basis of sidewall markings) that the goods were Mining/OTR Tyres with moulded (not hot-stamped) markings.

(vi) Tariff entry 'of a kind used on' -- intended use is sufficient: The noticees submit that CTH 40118000 covers tyres 'of a kind used on construction, mining or industrial handling vehicles and machines', and this language does not require that the goods be used solely or principally for such purposes. Intended use is sufficient, and there is no end-use condition in the tariff entry or in the DGFT policy for CTH 40118000. Relying on the Supreme Court's judgment in *Goodyear India Ltd. v. Union of India*, 1997 (92) ELT 14 (SC), they argue that occasional on-road movement of mining vehicles does not make mining tyres into TBR tyres, and the dominant/principal use governs.

(vii) Same model number -- both TBR and Mining variants exist: The noticees submit that certain tyre models (such as CB332) are manufactured in both TBR-standard and Mining-standard variants by the same manufacturer, with different sidewall moulds and different speed symbols. The fact that the same model number was once imported as a TBR tyre and is now imported as a Mining tyre does not mean the goods are identical -- just as the same vehicle model number covers Diesel, Petrol, and Electric variants.

(viii) Kolkata OIO and 104 other importers allowed: The noticees rely on OIO No. KOL/CUS/Pr. COMMR/PORT/GR-II//2025 dated 31.10.2025 passed by the Pr. Commissioner, Kolkata, dropping an identical SCN and permitting release of goods under CTH 40118000 without fine or penalty. They also submit that 104 other importers have been importing identical goods and obtaining clearance without any SCN, rendering the present action discriminatory and arbitrary.

D. Technical Evidence and IRMRA/IRMRI Test Reports

3.10 I have carefully examined the IRMRA/IRMRI test reports and the challenge thereto. My analysis is as follows.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.11 Regarding the claim that IRMRA discarded its earlier test reports in the re-test report dated 11.04.2025: I note that the noticees have placed reliance on paragraph 3.3 of the said re-test report. However, what is on record before me is the text as quoted in the written submissions. The noticees' submission is that IRMRA 'discarded' the earlier reports. I observe that even accepting this characterisation of paragraph 3.3, the re-test report dated 11.04.2025 itself exists and has been placed before the court. The re-test report, as described by the noticees in their written submissions, confirms that all tested tyres have tread depth in the range of 17.83 mm to 23.24 mm. The noticees argue this supports their case as Mining Tyres require tread depth of 16 mm or more. However, I find that tread depth alone is not the determinative parameter for classifying a tyre as TBR or OTR. The critical question is the speed capacity of the tyre, which is directly addressed by the endurance test conducted as per IS 15636:2022.

3.12 I find the noticees' argument on the test protocol to be unpersuasive. The test was conducted on the following basis: the load index and inflation pressure as marked on the sidewall of the tyre were taken as inputs; only the speed symbol 'D' and mining symbol were disregarded, for the specific and reasoned purpose that the investigation had generated credible evidence that those two markings were embossed to circumvent regulations. All other markings were used. The endurance test was then conducted at Speed Category 'J' (100 km/hr) or 'K' (110 km/hr) or 'G' (90 km/hr), all of which correspond to speeds above 80 km/hr. All 41 samples conformed at their respective tested speed categories. This is a significant finding: at the load index and inflation pressure marked on the sidewalls of the very tyres the noticees declare as 'Mining Tyres meant for 65 km/hr', the tyres were found capable of sustaining a speed well above 80 km/hr. On a preponderance of probability, this finding is difficult to reconcile with the Speed Symbol 'D' (65 km/hr) embossed on those very sidewalls.

3.13 The noticees argue that the test should have been conducted at Speed Category 'D', with load and mass applicable to Mining/OTR Tyres, and that if so tested, the tyre would not have conformed at higher speeds. This submission misses the essential point. The test was not designed to test whether these are 'good mining tyres' -- it was designed to determine whether the speed capacity of these tyres genuinely corresponds to Speed Symbol 'D'. The finding that the tyres conformed at Speed Category 'J' or 'K', using the load index and inflation pressure declared by the manufacturer on the sidewall, indicates that the actual speed capacity of these tyres is at least 90 to 110 km/hr. A tyre whose true speed capacity is in the range of 90 to 110 km/hr would not ordinarily bear Speed Symbol 'D' (65 km/hr). The marking of Speed Symbol 'D' on these tyres is therefore inconsistent with their actual speed capacity as determined by objective testing.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.14 The submission of Shri Harish Bhagwandas Kakkad that the drum speed used in testing (48 km/hr for 'J' and 40 km/hr for 'G') should be compared with the manufacturer's recommended use of 65 km/hr on road with a loaded truck is, as the SCN rightly notes, a confusion between drum speed (which is a fraction of the road speed being simulated) and the speed category being tested. This is a standard testing protocol under IS 15636:2022 and is not a deviation from accepted method. I find this objection to be technically unsound and without merit.

3.15 An important corroboration of the test findings comes from the emails dated 19.05.2022 retrieved from Shri Satish Bhagwandas Kakkad's email ID sk@transtyres.com (SCN para 61, RUD-177), in which he was claiming damage from M/s Zhongce Rubber for various tyre models. The Excel sheet attached to those emails records the actual speed category for models CB332, CB905, CM913, CM914, MD715, MD714, and EZ701 as Speed Category 'J' (100 km/hr maximum), which is above 80 km/hr. This private commercial communication of Shri Satish Kakkad, made in the ordinary course of business without any knowledge that it would be seen by investigators, indicates that the actual speed capacity of the very models he imported as 'Mining Tyres' was Speed Category 'J' (above 80 km/hr) -- not Speed Symbol 'D' (65 km/hr) as declared in the Bills of Entry and embossed on the sidewalls of those tyres.

3.16 The notices further submit that the test report does not state that the goods are 'not suitable for mining/off-road use'. I find this submission to be untenable. The test report is not required to state what the goods are not suitable for -- it states that they are 'suitable for on road (normal highway service) truck and bus application' up to Speed Category 'J' or 'K' or 'G'. The classification of a tyre does not depend on whether it could theoretically be used in some application, but on its physical characteristics and dominant use. A tyre that conforms to endurance tests at speeds of 90 to 110 km/hr and is found suitable for normal highway truck and bus application possesses technical characteristics more consistent with TBR usage than with the declared Speed Symbol 'D' mining classification.

3.17 Regarding the retrospective application of test reports to past imports: I accept the legal proposition, supported by a long line of judicial precedents including Pattani Chemicals v. Collector of Central Excise, 1998 (98) ELT 582 (SC), that test results of samples drawn from a specific consignment cannot automatically be applied to entirely different past consignments of different models from different lots. However, this proposition must be understood in context. In the present case, the test reports are not being mechanically applied as the sole basis for demand in respect of all past imports. Three distinct strands of evidence, taken together, sustain the demand:

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

First, the IRMRA/IRMRI test reports establish the classification of the specific models tested -- CB332, EZ3507M, TF005, and others -- as TBR tyres. The noticees themselves, in their written submissions, concede that the demand in respect of past imports of the same models (i.e., models identical to those from which tested samples were drawn) has a test report basis. Specifically, M/s Pioneer Trading Corporation concedes Rs. 16,60,75,024 (Annexures F1 and F2); M/s Trans Tyre LLP concedes Rs. 12,83,73,115 (Annexure U2) in addition to the duty on seized goods; M/s Tiara Enterprises concedes Rs. 1,49,64,807 (Annexure X2); and M/s Ultra Mile concedes Rs. 5,92,78,264 (Annexure AA2) -- as having a test report basis. This concession by the noticees themselves significantly narrows the scope of the Pattani Chemicals objection, since the noticees accept the extension of test report findings to same-model past imports.

Second, for past imports of models other than those directly tested, the basis for the demand is not the test reports alone but the systemic and uniform modus operandi established through: the digital evidence showing explicit instructions to emboss Speed Symbol 'D' and Mining Symbol on all the goods imported across all periods; the statements of the noticees (particularly Shri Paresh Bhanushali and Shri Satish Kakkad) that the same scheme applied throughout; and the import trend data showing a uniform wholesale switch from CTH 40112010 to CTH 40118000 across all suppliers and models simultaneously upon the DGFT restriction coming into force in June 2020. This body of evidence establishes that the same modus operandi was applied consistently to all imports across the relevant period, irrespective of the specific model.

Third, in the specific case of M/s Vikas Road Carriers Ltd. -- where no samples were drawn at all -- the demand is sustained not on test reports but entirely on the common modus operandi evidence, the identity of controlling person, and the specific act of document forgery and consignment diversion established at para 3.53 below.

Accordingly, while I accept the Pattani Chemicals proposition as a principle, I find that it does not operate as a bar to the demand in the present case. For same-model imports, the test reports directly apply and the noticees themselves concede this. For other-model imports, the modus operandi evidence independently establishes the TBR classification without reliance on test reports. The question of the extent to which the demand is confirmed in quantum will be addressed under Issue No. (iv).

E. Electronic Evidence and Statements

3.18 I have carefully considered the challenge to the admissibility of the digital evidence. The noticees' principal submissions on this point are: (a) M/s Systool Software Pvt. Ltd. and Magnet Forensics are not notified under Section 79A of the IT Act, 2000; (b) no Section 138C certificate

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

exists for Shri Satish Kakkad's Samsung Galaxy mobile; (c) devices were not lac-sealed; and (d) a private person participated in the search.

3.19 I note that the admissibility of electronic evidence in customs proceedings under Section 138C of the Customs Act, 1962 is an important procedural safeguard. The Hon'ble CESTAT Mumbai in *Junaid Kudia v. Commissioner of Customs*, (2024) 16 Centax 503 (Tri.-Bom.), upheld by the Supreme Court, has held that in the absence of a certificate under Section 138C(2), electronic documents obtained from seized devices cannot be relied upon by the Revenue. This principle must be borne in mind.

3.20 However, I find that even if I were to entirely exclude the digital evidence obtained from the mobile phone of Shri Satish Bhagwandas Kakkad (as the noticees have challenged specifically that device), the following evidence remains available and independently establishes the classification finding:

(i) The 41 IRMRA/IRMRI test reports, which are the most direct and objective evidence of the physical character of the goods, and which I have found to be admissible and reliable for the reasons set out in Section D above.

(ii) The voluntary statements of the noticees themselves recorded under Section 108 of the Customs Act, 1962, which are admissible under that provision irrespective of the question of digital evidence admissibility. I note the following from these statements: (a) Shri Satish Kakkad stated on 29.02.2024 that tyres imported from Vietnam and Thailand are 'used only in trucks and buses' (SCN para 4.8); (b) Shri Aman Ahuja confirmed that the HSN code classification (switching from 40112010 to 40118000 post-June 2020) was done at the direction of Shri Satish Kakkad (SCN para 14.5); (c) Shri Jaskaran Singh Chadha admitted selling tyres imported as mining tyres to M/s VRC Logistics Pvt. Ltd. for use in a fleet of 250 highway-going commercial vehicles (SCN paras 57.3 and 64.1); (d) Shri Harish Bhagwandas Kakkad confirmed that all Ultra Mile-branded tyres are built on the CB332 green tyre of Zhongce Rubber -- the same model that Zhongce had earlier supplied to Indian importers under BIS IS marking for IS 15636 (the TBR tyre standard) (SCN paras 19.3 and 60); and (e) Shri Paresh Bhanushali stated clearly that Bravia tyres 'are used in trucks but are being imported as mining tyres', and that the same Bravia tyres were earlier imported as TBR tyres when there was no DGFT licence requirement (SCN para 7.6).

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(iii) The email evidence retrieved from romeo_38@live.com (admitted by Shri Paresh Bhanushali in his own statement dated 08.03.2024, where he confirmed the email account and provided a backup during the investigation) and from sk@transtyres.com (Shri Satish Kakkad's email ID, from which the damage-claim emails with Speed Category 'J' were retrieved). These emails were retrieved under Panchnama proceedings and their contents have been admitted to varying degrees by the persons concerned in their statements.

(iv) The statement of Shri Nayan Bhogilal Gor (CEO of the CHA firm M/s Sea Speed CHA Services Pvt. Ltd.) dated 27.03.2024 (SCN para 13), which corroborates the diversion of consignments from Trans Tyre LLP to Tiara Enterprises through manipulation of Bills of Lading and commercial invoices, and the statement of Shri Hardik Mehta (Manager, M/s Venkatesh Agencies, CHA) dated 27.03.2024 (SCN para 12.4), which corroborates the diversion of the Vikas Road Carriers Ltd. consignment to Mundra on Aahna Consultancy Ltd.'s IEC on Shri Satvinder Singh Chadha's instructions.

3.21 As regards the claim that a private person (Shri Mohit Bagul) participated in the search proceedings at M/s Trans Tyre LLP's premises on 29.02.2024, I note that the noticees have made this assertion in their written submissions. No supporting material has been brought to my attention that conclusively establishes Shri Mohit Bagul's status as a private individual rather than a DRI officer. Moreover, even if this were accepted, the legal consequence would be to render the specific Panchnama (and evidence seized under it) procedurally defective -- it would not automatically render the test reports (which were based on samples drawn under separate Panchnamas dated 13.03.2024 and later) or the Section 108 statements inadmissible. I find that this submission, even if accepted, does not go to the root of the department's case.

3.22 I also note that the noticees' own conduct in the post-search period is material. After the DRI search on 29.02.2024 and the placing of live consignments on hold, Shri Satvinder Singh Chadha did not wait for adjudication but immediately arranged for the diversion of two Pioneer Trading Corporation Bills of Entry (for goods in containers TXGU6836608 and TLLU7945556) to Mundra Port by manipulating Bills of Lading, changing the supplier name, changing the importer name to M/s Leo Distributors Pvt. Ltd., and filing fresh Bills of Entry there (SCN para 9.3). Similarly, Shri Satish Kakkad transferred four Trans Tyre LLP consignments to Tiara Enterprises by altering shipping documents, without any agreement or invoice, after learning of the DRI alert (SCN para 12.6). The

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

deliberate concealment and diversion of consignments upon learning of DRI action is strong circumstantial evidence of consciousness of guilt and prior knowledge of the nature of the goods.

F. Analysis of Cumulative Evidence

3.23 I have carefully weighed all the evidence, including the test reports, the Section 108 statements, the CHA statements, the email evidence, the post-detection conduct, the import trend data, and the noticees' written submissions. I find that the cumulative weight of the evidence, considered on a preponderance of probability, supports the department's case. I address each of the noticees' principal defences below:

3.23.1 On the argument that the markings are internationally mandated and cannot be fabricated: I find this submission to be directly contradicted by the statements of the noticees themselves and their own chat exchanges. Shri Satish Kakkad's chats with representatives of Zhongce Rubber, Double Coin, Sailun Vietnam, and others show him explicitly instructing suppliers to 'put mining symbol and speed symbol D', to 'change the speed index', and to 'change the CTH to 40118000' (SCN paras 35, 42, 48, 49). Shri Harish Kakkad's chats with Shri Satish Kakkad include the explicit instruction to 'remove all the trucks, put only dumper' in the catalogue, and a drawing of the tyre sidewall with mining symbols to be embossed (SCN para 35.1 to 35.3). Mr. Li Yu of Zhongce Rubber himself confirmed to Shri Satish Kakkad that 'regular CB332 tyres and Mining CB332 are the same' -- the difference being only the mining mark (SCN para 44). It is accordingly apparent from the evidence on record that the speed symbol and mining symbol on these tyres were not independently and organically embossed pursuant to any international standard governing the classification of the tyre as a Mining Tyre, but were arranged at the direction of the Indian importers to make TBR tyres appear as Mining Tyres for customs purposes.

3.23.2 On the argument from the HS Explanatory Notes images: I note that the HS Explanatory Notes for CTH 40118000 do include illustrative images of Mining/OTR Tyres. The noticees submit that their goods are identical to those images. However, the mere visual appearance of a tyre (including its size and pattern) is not determinative of its classification if the tyre's physical technical characteristics (speed capacity as established by objective testing) place it in a different category. The classification under CTH 40118000 depends on the tyre being 'of a kind used on construction, mining or industrial handling vehicles and machines' -- which refers to the dominant use and technical design of the tyre, not merely its physical appearance or the embossed markings. A tyre that conforms to TBR standard

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

endurance tests at 90 to 110 km/hr is, technically, a TBR tyre even if it has a mining symbol embossed on it.

3.23.3 On the argument from Country of Origin Certificates: I note that the COO certificates classify the goods under CTH 40118000 and describe them as OTR/Mining Tyres. However, these COO certificates were themselves prepared in accordance with the instructions given by the Indian importers to their overseas suppliers. The chats between Shri Satish Kakkad and the overseas suppliers show him specifically asking the suppliers to 'change the CTH to 40118000' in the COO and customs documents. A COO certificate whose contents were directed by the importing party cannot be given the evidential value that an independently prepared certificate would carry. The SCN does not dispute that COO certificates were filed; rather, the case is that those certificates reflected the fraudulent classification arranged by the importers themselves. The COO merely reflects what was declared to the exporting country's customs -- itself based on the importer's directions to the supplier. I find that the COO certificates, in these circumstances, do not assist the noticees.

3.23.4 On the CIU release in 2022 and the IRMRA reports relied upon therein: I note that the CIU investigation in 2022 resulted in release of goods after IRMRA reported that the goods were Mining/OTR Tyres based on the markings on the sidewalls of the tyres, without conducting any physical endurance test. The IRMRA itself has, in the current test reports, tested the tyres independently of the markings and found that they pass TBR tyre standard tests at speeds above 80 km/hr. The earlier IRMRA reports relied upon by the noticees and in the 2022 CIU release were marking-based -- they accepted the embossed speed symbol 'D' and mining symbol at face value. The present investigation has, for the first time, tested whether those markings reflect the true technical capacity of the tyre, and the test results indicate that they do not. The 2022 CIU release, based on a marking-only evaluation, does not estop the department from conducting a fresh, technically rigorous investigation.

3.23.5 On the Kolkata OIO dated 31.10.2025: I have taken note of this order in respect of M/s Adishwar Impex Pvt. Ltd. An order of another adjudicating authority is persuasive but not binding on this authority, and each case must be decided on its own facts. I am not aware of the quality and extent of evidence available to the Kolkata adjudicating authority. In the present case, the totality of evidence -- including the test reports, the voluminous digital evidence, the statements of the noticees themselves, and the post-detection conduct -- is of a materially different character and quality than what may have been before the Kolkata authority. I do not find the Kolkata OIO to be determinative of the present proceedings.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.23.6 On the argument that 104 other importers have been allowed clearance: The fact that other importers may have cleared similar goods under CTH 40118000, without investigation, does not by itself mean that the present noticees have imported genuine Mining Tyres or that the present SCN is bad in law. The department is entitled to investigate and proceed against importers against whom credible and specific evidence has been gathered. An allegation of discriminatory enforcement must, to succeed, show that the department has deliberately excluded similarly situated persons from investigation in a mala fide manner. No such material is before me. The submission is accordingly rejected.

3.23.7 On the 'of a kind used on' interpretation: I accept the legal proposition that the tariff entry for CTH 40118000 uses the phrase 'of a kind used on construction, mining or industrial handling vehicles and machines' and that actual exclusive use is not required -- intended use and the design/kind of the tyre are the relevant criteria. However, the question is whether these tyres are 'of a kind' that is designed and intended for mining/construction/industrial handling vehicles. The test reports establish that these tyres are, in their technical design and physical characteristics, of the kind used on trucks and buses on normal highways. They are not of the kind designed for Mining/OTR use in any technical sense -- their actual speed capacity is 90 to 110 km/hr, which corresponds to highway truck use, not the Speed 'D' (65 km/hr) which would be appropriate for mining vehicles. The 'of a kind' analysis must be based on the technical characteristics of the goods, not on the embossed markings which have been found to be unreliable for the reasons set out above.

G. Findings and Conclusion on Issue No. (i)

3.24 Having considered all the evidence on record and the submissions of the noticees, I find that the Speed Symbol 'D' and the Mining Symbol embossed on the sidewalls of the imported tyres did not reliably reflect the true technical characteristics of the tyres but were arranged by the noticee importers in connivance with their overseas suppliers for the purpose of securing clearance under CTH 40118000 and circumventing the DGFT licence requirement and applicable duty obligations. This finding is based on the cumulative weight of: (a) all 41 IRMRA/IRMRI test reports (SCN paras 25 and 26) showing that the tested samples conformed to TBR tyre standard endurance tests at their respective speed categories (G, J, or K, all above 80 km/hr), at the load index and inflation pressure marked on their own sidewalls -- which sits uneasily with the Speed Symbol 'D' (65 km/hr) embossed on those very tyres; (b) the damage-claim emails of 19.05.2022 retrieved from sk@transtyres.com (SCN para 61), made in the ordinary course of business, recording the actual speed category for

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

CB332, CB905, CM913 and other imported models as Speed Category 'J' (above 80 km/hr); (c) the statement of Shri Paresh Bhanushali dated 08.03.2024 (SCN para 7) that Bravia tyres are 'used in trucks but are being imported as mining tyres', and that the same models were imported as TBR tyres before the DGFT restriction; (d) a message from Mr. Li Yu of M/s Zhongce Rubber (SCN para 44) appearing to indicate that regular CB332 and Mining CB332 are the same tyre, with only a different mark; (e) communications in which the noticee importers appear to have directed overseas suppliers to emboss Speed Symbol 'D' and Mining Symbol and to change the CTH to 40118000 in COO certificates and customs declarations; and (f) the post-detection diversion and manipulation of Bills of Lading by Shri Satvinder Singh Chadha and Shri Satish Bhagwandas Kakkad (SCN paras 9.3 and 12.6), which is indicative of consciousness of guilt. On this basis, I hold that the imported goods, across all eight importer firms and the period covered by the SCN, are TBR tyres correctly classifiable under CTH 40112010, for the reasons set out in this discussion. The declared classification under CTH 40118000 is not sustained, and the reclassification to CTH 40112010 proposed in the SCN is upheld. I further find that the misdeclaration was not a bona fide classification dispute -- the evidence on record, including the noticees' own communications with overseas suppliers, does not support the contention that the noticees genuinely believed they were importing Mining/OTR Tyres. Issue No. (i) is accordingly decided against the noticees. As a consequence of the finding on classification, since the test reports indicate that the imported tyres have a speed capacity at or above 80 km/hr, the benefit of the BIS exemption available to tyres bearing Speed Symbol 'D' under the Department of Industrial Policy and Promotion Office Memorandum dated 13.12.2011 read with the CBIC Circular dated 30.01.2012 would not apply to these goods, given that the speed symbol embossed on them does not appear to reflect the true speed capacity of the tyre. The consequences of this finding in terms of confiscation will be considered under Issue No. (iii).

Issue No. (ii): Whether undervaluation of imports by M/s Pioneer Trading Corporation stands established

A. Scope

3.29 The allegation of undervaluation is confined to M/s Pioneer Trading Corporation and its controlling partner, Shri Satvinder Singh Chadha. The SCN alleges that M/s Pioneer Trading Corporation declared a lower CIF value in its Bills of Entry than the price actually paid or payable to its overseas supplier, M/s Zhongce Rubber Group Co. Ltd., and that the balance of the price was remitted through UAE-based and Hong Kong-based third-party entities -- M/s Capitol General Trading LLC (Dubai), M/s No Media Ltd. (Hong Kong), and M/s D.N. Logistics (Hong Kong) --

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

outside the normal banking channel. The SCN accordingly proposes to reject the declared transaction value in respect of 39 Bills of Entry (Annexure-D) under Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and to re-determine the assessable value under Rule 9 (the residual method) on the basis of actual invoices retrieved from the email ID romeo_38@live.com. The total declared assessable value for these 39 Bills of Entry is Rs. 8,86,52,804 and the re-determined value is Rs. 11,31,69,104 (SCN para 83.4 read with Annexure-D).

B. Evidence on Record

3.30 The evidence on which the undervaluation allegation rests, as set out in the SCN, is the following:

(i) Chats between Shri Paresh Bhanushali and Mr. Li Yu (Zhongce Rubber): The extraction report of 301 pages (RUD-144) of chats between Shri Paresh Bhanushali and Mr. Li Yu, representative of M/s Zhongce Rubber Group Co. Ltd., contains several messages that the SCN says relate to payment of amounts over and above the invoice value declared in the Bills of Entry (SCN paras 29.1 to 29.10). Specifically: (a) on page 14 of the extraction report, Shri Paresh Bhanushali shared a payment receipt of USD 27,236 from M/s Capitol General Trading LLC (UAE) to M/s Zhongce Rubber and described it as 'balance payment for 410ba' (SCN para 29.2); (b) on page 35, Shri Paresh sent invoice numbers (CZC2212737/38 and XZC221897BA) in the context of a TT made for three China shipments, which the SCN corroborates against Pioneer Trading Corporation's import data (SCN para 29.4); (c) on page 44, Shri Paresh appears to be arranging for remittances from Dubai, to which Mr. Li Yu reportedly told him not to send money from another country. In the same exchange, Mr. Li Yu appears to have mentioned speaking with Shri Paresh's boss (identified as Shri Satvinder Singh Chadha), suggesting the latter's awareness of the arrangement (SCN para 29.5); (d) on page 62, Shri Paresh shared a payment receipt of USD 4,891 from M/s No Media Ltd. (Hong Kong) to M/s Zhongce Rubber and described it as 'part payment' for invoice no. CZC2219936BA (SCN para 29.6); and (e) on page 83, Shri Paresh shared a breakup of payments of USD 31,950 across four invoices -- CZC2220891BA (USD 9,991.20), CZC2220892BA (USD 9,991.20), CZC2224778BA (USD 5,983.50) and CZC2225132BA (USD 5,983.50) -- described as amounts 'paid from other account'. The declared values of these four invoices in Pioneer Trading Corporation's import data ranged between USD 28,350 and USD 28,560 per invoice (SCN para 29.7). Additionally, pages 184 and 191 show payments of USD 20,000 each from Bank of China (Thai) Public Company Ltd. and M/s Yuexuan Trade Limited (Hong Kong) respectively to M/s Zhongce Rubber (Thailand) Co. Ltd., which are also attributed to Pioneer's imports (SCN paras 29.9 and 29.10).

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(ii) Actual invoices retrieved from romeo_38@live.com: During the search proceedings on 29.02.2024, Shri Paresh Bhanushali provided a backup of his email ID romeo_38@live.com. On analysis, it appeared that M/s Zhongce Rubber was sending actual invoices to this email ID. On comparing these invoices with the commercial invoices uploaded by M/s Pioneer Trading Corporation in the ICES system at the time of filing Bills of Entry, the values in the actual invoices were found to be higher than the declared values in the Bills of Entry. Across 39 Bills of Entry listed in Annexure-A to the SCN (RUD-145), the total actual value appears to be USD 14,33,362 as against the declared value of USD 11,19,916 -- a differential of approximately USD 3,13,446 (SCN para 30). These same Bills of Entry are covered in Annexure-D, on which the proposed rejection of transaction value and Rule 9 re-determination is based.

(iii) Details shared with D.N. Logistics: On page 43 of the Li Yu extraction report, Shri Paresh Bhanushali shared the details of M/s D.N. Logistics, Hong Kong, with the description 'New firm detail for remittance for under invoice'. In his statement dated 08.03.2024 (SCN para 7.9), Shri Paresh Bhanushali acknowledged sharing these details on Shri Satvinder Singh Chadha's instruction and stated that it was clear from the message that under-invoicing was being done for goods imported on Pioneer Trading Corporation's IEC.

(iv) Statement of Shri Paresh Bhanushali: In his voluntary statement dated 08.03.2024 (SCN para 7), Shri Paresh Bhanushali admitted the following: (a) the payment receipt of USD 4,891 from M/s No Media Ltd. was 'for under billing' and the amount could not be paid from Pioneer Trading Corporation's account as it was not declared in the Bill of Entry (SCN para 7.11); (b) the details of M/s D.N. Logistics were shared 'on instruction of Shri Satvinder Singh Chadha' as 'New firm detail for remittance for under invoice' (SCN para 7.9); and (c) the payments totalling USD 31,950 across four invoices (noted at para 29.7 above) were 'the balance payment of the differential amount between the real invoice from China and the Invoice that we submitted to the Indian Customs Authorities for the purpose of payment of duty' (SCN para 7.13). He further stated that actual invoices from M/s Zhongce Rubber were sent to romeo_38@live.com and were also marked to Shri Satvinder Singh Chadha's email ID (SCN para 7.14).

(v) Emails marked to Shri Satvinder Singh Chadha: Emails retrieved from romeo_38@live.com were found to have been marked (copied) to chadha7778@gmail.com, identified as the email ID of Shri Satvinder Singh Chadha. The SCN relies on this to suggest that Shri Satvinder

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Singh Chadha was aware of the actual invoice values being sent by the overseas supplier (SCN para 83.1).

C. Noticees' Submissions

3.31 M/s Pioneer Trading Corporation and Shri Satvinder Singh Chadha deny the undervaluation allegation. Their submissions, as set out in their written reply, are as follows:

(i) The TT receipts and payment records shared by Shri Paresh Bhanushali with Mr. Li Yu do not relate to the imports made by M/s Pioneer Trading Corporation into India. They pertain to an overseas businessman based in Dubai who had an independent business relationship with M/s Zhongce Rubber and who had been introduced to Zhongce by M/s Pioneer. The Dubai entity's payments to Zhongce for its own shipments to Dubai are being wrongly attributed to Pioneer's imports into India.

(ii) Regarding the specific invoice CZC2211410BA (SCN para 29.2 and SCN para 56.6): The admitted banking remittance from Pioneer Trading Corporation against this invoice was USD 27,472 through normal banking channels. The payment of USD 27,236 from M/s Capitol General Trading LLC (Dubai) was a separate transaction by the Dubai associate. Adding the two amounts (USD 27,236 + USD 27,472 = USD 54,708) produces a per-tyre value of approximately USD 201.13, which the noticee submits is well above the re-determined value proposed in the SCN of approximately USD 126 per tyre. The noticee argues that the department's own arithmetic defeats the undervaluation case on this invoice.

(iii) Regarding the four invoices in SCN para 29.7 (CZC2220891BA, CZC2220892BA, CZC2224778BA, CZC2225132BA): The admitted banking remittances against each of these invoices from Pioneer Trading Corporation's accounts were USD 28,560, USD 28,560, USD 28,350 and USD 28,350 respectively. The alleged off-shore payments were USD 9,991.20, USD 9,991.20, USD 5,983.50 and USD 5,983.50 respectively. Adding each pair gives totals that work out to approximately USD 141.73 per tyre, which the noticee submits exceeds the proposed re-determined rate of USD 123.60 per tyre under Rule 9. Again, the noticee argues that the arithmetic does not support the proposed re-determined value.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(iv) The statement of Shri Paresh Bhanushali was obtained under coercion and is unreliable. As an employee with no decision-making authority, his understanding of transactions he was not responsible for is limited, and his characterisation of payments as 'for under billing' should not be treated as a formal admission binding on M/s Pioneer Trading Corporation.

(v) Outstanding documents have not been supplied by DRI: the complete email backup of romeo_38@live.com (which Shri Paresh Bhanushali states was deleted on DRI's instructions), the full extraction report of 301 pages of Li Yu chats, and the original invoices forming Annexure-A. Without these, the noticees submit they cannot effectively rebut the undervaluation allegation and their reply is therefore only interim.

(vi) Shri Satvinder Singh Chadha in his statement dated 04.10.2024 denied any undervaluation and stated that he imported tyres at the invoice value as declared in the Bill of Entry, and that the actual invoices from overseas suppliers are what are filed in the customs portal.

D. Analysis and Finding on Issue No. (ii)

3.32 I have carefully considered the evidence on record and the submissions of M/s Pioneer Trading Corporation. I note at the outset that unlike the classification question -- which is supported by objective technical test reports and multiple categories of evidence -- the undervaluation allegation rests primarily on: (a) chat messages between Shri Paresh Bhanushali and Mr. Li Yu; (b) email invoices retrieved from romeo_38@live.com; and (c) the admission made by Shri Paresh Bhanushali in his statement dated 08.03.2024. These require careful examination.

3.33 On the question of admissibility of the digital evidence (chats and emails): I have already noted in the discussion under Issue No. (i) that the noticees have challenged the admissibility of electronic evidence on grounds including the absence of a certificate under Section 138C of the Customs Act, 1962. That challenge, however, goes primarily to the WhatsApp chats recovered from Shri Satish Kakkad's mobile phone. In the context of undervaluation, the relevant digital evidence comes from two sources: first, the chats between Shri Paresh Bhanushali and Mr. Li Yu extracted from Shri Paresh Bhanushali's own mobile phone; and second, the email backup of romeo_38@live.com which Shri Paresh Bhanushali himself provided during the course of his statement and which he confirmed in his statement as the account to which actual invoices were sent. Shri Paresh Bhanushali's own statement acknowledges the contents of these chats and emails; the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

admissions in his Section 108 statement are independently admissible regardless of the question of the forensic examination report. The finding on undervaluation is not founded solely upon isolated chat messages or offshore remittance receipts viewed in isolation, but upon the cumulative evidentiary value of the invoices, remittance communications, and statements recorded during investigation.

3.34 The admissions in Shri Paresh Bhanushali's statement dated 08.03.2024 are specific and material. He stated in terms that: (a) the payment of USD 4,891 from M/s No Media Ltd. was 'for under billing' and could not be paid from Pioneer's account as it was not declared in the Bill of Entry (SCN para 7.11); (b) the details of M/s D.N. Logistics were shared as 'New firm detail for remittance for under invoice' on instructions of Shri Satvinder Singh Chadha (SCN para 7.9); and (c) the USD 31,950 payments across four invoices were the 'balance payment of the differential amount between the real invoice from China and the Invoice that we submitted to the Indian Customs Authorities' (SCN para 7.13). These are not vague or equivocal statements -- they specifically identify under-invoicing in relation to identified invoices and named remitting entities.

3.35 The noticees' argument that the statement was obtained under coercion cannot be accepted without any supporting material. Shri Paresh Bhanushali appeared pursuant to a summons, and his statement was recorded under Section 108 of the Customs Act, 1962. The statement is detailed, specific, and internally consistent. No retraction of the statement has been filed. The written submission states that the statement was obtained under duress but provides no particulars -- no complaint to any authority, no retraction, no contrary statement at any subsequent date. The objection on this ground is therefore noted but cannot, on the present record, be given much weight.

3.36 On the noticees' arithmetic argument: The submissions regarding invoice CZC2211410BA (para 3.31(ii) above) and the four invoices in para 29.7 raise a factual contention that even adding the alleged offshore payment to the declared customs value gives a per-unit figure inconsistent with the proposed re-determined value under Rule 9. The arithmetic objections raised by the noticees have been carefully considered. The noticees' comparison proceeds on the basis of adding certain offshore remittances to the declared customs values and comparing the aggregate with the re-determined value proposed in the SCN. However, the re-determination in Annexure-D is based primarily on the actual invoice values retrieved from romeo_38@live.com and not merely on isolated offshore remittances viewed independently. Therefore, while the arithmetic objections indicate that the correlation of certain remittances may not be exact in every instance, they do not materially displace the broader evidentiary basis of the proposed re-determination. The re-determined value is the CIF value per the actual invoices, not the declared customs value plus the offshore payments. Accordingly, the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

comparison the noticees draw -- adding the offshore payment to the declared value and comparing the sum with the re-determined value -- may not be the correct methodology for testing the re-determination. The relevant question is whether the actual invoice value as per romeo_38@live.com is higher than the declared value, not whether the declared value plus an offshore payment equals or exceeds the re-determined value.

3.37 On the noticees' explanation that the UAE and Hong Kong payments pertained to a Dubai-based associate's shipments to Dubai and not to Pioneer's imports into India: I find this explanation to be difficult to reconcile with the specific manner in which the payments were communicated. Shri Paresh Bhanushali shared the USD 27,236 payment receipt with Mr. Li Yu and described it as 'balance payment for 410ba' -- an invoice number that corresponds to a Pioneer Trading Corporation import. He further described the USD 4,891 payment as 'part payment' for invoice no. CZC2219936BA. These invoice numbers are identified in Pioneer's own import data. The subsequent breakup of USD 31,950 across four identified invoice numbers, described as 'paid from other account', was also shared by Shri Paresh Bhanushali with Mr. Li Yu and confirms in Shri Paresh's own words that these amounts were paid outside the normal invoice channel. The explanation that these pertain to a Dubai associate's unrelated shipments is not corroborated by any document -- no alternative explanation for those specific invoice numbers is offered. I am not in a position to accept this explanation on the present record.

3.38 Shri Satvinder Singh Chadha's denial in his statement dated 04.10.2024 is noted. However, his denial is general -- he states that he imported at invoice value and that the actual invoices are those filed in the customs portal. He does not specifically address the invoices retrieved from romeo_38@live.com which show higher values, nor does he explain why emails from M/s Zhongce Rubber were being sent to romeo_38@live.com and being marked to his own email ID chadha7778@gmail.com if those invoices were not the actual transaction documents. His statement on this point is evasive, as the SCN notes (SCN para 83.1).

3.39 Having regard to the above, I find that the material available on record -- the admissions of Shri Paresh Bhanushali in his statement dated 08.03.2024, the email invoices from romeo_38@live.com showing values higher than those declared in the Bills of Entry, and the payment receipts shared in the Li Yu chats referencing Pioneer Trading Corporation's own invoice numbers -- cumulatively suggests, that the transaction value declared in the 39 Bills of Entry covered in Annexure-D does not represent the price actually paid or payable for the imported goods. The cumulative discrepancies arising from the higher invoice values retrieved from romeo_38@live.com,

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

the offshore remittance communications, and the admissions recorded under Section 108 created reasonable doubt regarding the truth and accuracy of the declared transaction values within the meaning of Rule 12(1) of the Valuation Rules. I find that the declared transaction value is liable to be rejected under Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, since it does not appear to represent the full consideration for the goods.

3.40 On the methodology of re-determination: The SCN has proceeded sequentially through Rules 4 to 9 of the Valuation Rules (SCN paras 83.3 and 83.4) and found that Rules 4 through 8 cannot be applied, primarily because no identical or similar goods are imported by unrelated parties in comparable commercial quantities from the same supplier, and because the necessary cost of production data is unavailable. I find this reasoning to be consistent with the facts on record. The residual method under Rule 9, using the actual invoice values from romeo_38@live.com as the best available reasonable means, is the appropriate methodology in these circumstances. These invoices bear corresponding invoice numbers, shipment particulars and quantities relatable to the imports covered in Annexure-D and therefore constitute the best available evidence of the values invoiced by the overseas supplier for the subject imports.

3.41 Accordingly, I hold that the allegation of undervaluation in respect of M/s Pioneer Trading Corporation stands established on the material available, and that the declared assessable value of Rs. 8,86,52,804 for the 39 Bills of Entry in Annexure-D is to be rejected under Rule 12(1) of the Valuation Rules. The declared values therefore cease to qualify as acceptable transaction values under Section 14 read with Rule 3 of the Valuation Rules. The assessable value is re-determined at Rs. 11,31,69,104 under Rule 9 of the Valuation Rules read with Section 14 of the Customs Act, 1962. The differential assessable value is Rs. 2,45,16,300. Issue No. (ii) is decided accordingly against M/s Pioneer Trading Corporation and Shri Satvinder Singh Chadha.

Issue No. (iii): Whether or not the goods are liable to confiscation under the Customs Act, 1962

A. Legal Framework

3.42 Section 111 of the Customs Act, 1962 provides for confiscation of goods improperly imported. The SCN invokes three clauses: Section 111(d), which covers goods imported contrary to any prohibition imposed by or under the Act or any other law for the time being in force; Section 111(m), which covers goods which are mis-stated in any document relating to importation in respect of value, description, or quantity; and Section 111(o), which covers goods in relation to which any

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

provision of the Act has been contravened. Where goods are available -- whether seized, or warehoused, or released under bond -- an order of confiscation can be passed and, in lieu thereof, a redemption fine under Section 125 may be imposed. For goods that have been cleared unconditionally for home consumption and are no longer available, the legal position is different, and is addressed separately below.

3.43 The SCN alleges that the imported goods are liable to confiscation under all three limbs. In particular: (a) the goods are alleged to be prohibited under Section 111(d) on two counts -- first, their import without a DGFT licence violates the 'Restricted' category condition under Notification No. 12/2015-2020 dated 12.06.2020, which requires a licence for import of TBR tyres; and second, the goods having a speed capacity of 80 km/hr and above were imported without mandatory BIS certification under the Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009 vide S.O. 2953(E) dated 19.11.2009 read with IS 15636:2022, IS 15636:2012 and IS 14272:2011; (b) the goods are liable to confiscation under Section 111(m) on account of misdeclaration of description (declaring TBR tyres as Mining/OTR Tyres) and value (in the case of M/s Pioneer Trading Corporation, undervaluation); and (c) the goods are liable to confiscation under Section 111(o) on account of contravention of applicable provisions of the Customs Act, 1962 and rules made thereunder (SCN paras 92 to 99.1 and 106.2 to 106.4).

B. Categories of Goods and Treatment in the SCN

3.44 The goods subject to the confiscation proposal fall into two distinct categories:

(i) Seized goods: Goods physically seized at ports (from live consignments) and from godown premises under the Seizure Memos referred to in Annexures C1, C2, I, L, Q, T1, T2, W and Z of the SCN. These goods are in the custody of the department or warehoused under Section 49 of the Customs Act, 1962. They are proposed to be outright confiscated under Section 111 of the Customs Act, 1962. The SCN notes (para 106.2) that differential duty is not being demanded on the seized goods in view of the confiscation proposal for those goods.

(ii) Past imports (cleared for home consumption): Goods imported from 12.06.2020 to the date of the SCN and cleared finally for home consumption upon self-assessment and payment of duty, without any provisional assessment, bond, or condition. These goods are no longer physically available. The SCN proposes that they be held liable for confiscation under Section 111 of the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Customs Act, 1962 as the legal predicate for: (a) imposition of penalty under Section 112 of the Customs Act, 1962 (which applies to a person who does any act rendering goods liable to confiscation); and (b) demand of differential duty under Section 28(4) of the Customs Act, 1962. The SCN expressly does not propose any redemption fine on these goods in view of their non-availability (SCN para 106.2). The value of godown-seized goods is excluded from the past-import figure to avoid double counting (SCN paras 83.7, 88.3, 90.3).

C. Noticees' Submissions

3.45 The noticees challenge the confiscation on multiple grounds, all of which flow from their primary position that the goods are genuine Mining/OTR Tyres correctly classifiable under CTH 40118000:

(i) If the goods are Mining/OTR Tyres, they are freely importable without a DGFT licence. The 'Restricted' policy condition applies only to TBR tyres under CTH 40112010. Therefore, there is no prohibition under Section 111(d) on the licence count.

(ii) On the BIS count: The goods bear Speed Symbol 'D' (below 80 km/hr) and are therefore exempt from BIS certification under the DIPP OM dated 13.12.2011 and CBIC Circular dated 30.01.2012. The mandatory BIS certification requirement under IS 15636 does not apply to tyres with a speed capacity below 80 km/hr. There is accordingly no BIS prohibition applicable to these goods.

(iii) On the misdeclaration count under Section 111(m): No misdeclaration was made. The goods were correctly described as Mining/OTR Tyres in the Bills of Entry, which is their correct description. The classification and description declared were based on the markings on the goods and the information provided by the overseas manufacturers.

(iv) In respect of past imports: The IRMRA test reports, even if taken at face value, relate only to specific samples from specific consignments. They cannot be applied to establish that all past imports of all models by all eight firms are TBR tyres. There is no basis for a blanket declaration that all past imports are liable for confiscation. In particular, M/s Vikas Road Carriers Ltd. notes that no samples were drawn from its consignments at all.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

D. Analysis

3.46 I have already held under Issue No. (i) that the imported goods are TBR tyres classifiable under CTH 40112010, and that the Speed Symbol 'D' and Mining Symbol embossed on the sidewalls do not reflect the true speed capacity of the goods. That finding is the basis for the confiscation analysis that follows.

3.47 On Section 111(d) -- DGFT licence prohibition: In view of my findings under Issue No. (i) that the imported goods are TBR tyres classifiable under CTH 40112010, they fall within the 'Restricted' category under Notification No. 12/2015-2020 dated 12.06.2020, which requires a DGFT import licence for goods under CTH 40112010. None of the noticees held or produced a DGFT import licence for TBR tyres at the time of import. The goods were accordingly imported contrary to the prohibition imposed under the Foreign Trade (Development and Regulation) Act, 1992, which is a law for the time being in force within the meaning of Section 111(d) of the Customs Act, 1962.

3.48 On Section 111(d) -- BIS prohibition: I now address the BIS non-compliance ground, which the SCN raises as an independent basis for confiscation under Section 111(d), applicable even on an argumentative assumption that the goods are Mining/OTR Tyres (SCN para 82.5).

3.48.1 The legal framework is as follows. Section 17 of the Bureau of Indian Standards Act, 1986 read with the applicable Quality Control Order prohibits any person from manufacturing, importing, distributing, selling, hiring, leasing, storing for sale, or exhibiting for sale any goods which are required to conform to an Indian Standard, without the Standard Mark. The Central Government, in exercise of powers under Section 16 of the BIS Act, issued the Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009 vide S.O. 2953(E) dated 19.11.2009, which came into force on 13.05.2011. The Order makes BIS certification mandatory for pneumatic tyres falling within the categories specified therein. The only exceptions carved out in the Order are: (a) pneumatic tyres manufactured in India for export; and (b) pneumatic tyres imported by OEM companies for fitment on vehicles meant for export. None of the noticees falls under either exception.

3.48.2 The noticees submit that their goods, bearing Speed Symbol 'D' (below 80 km/hr), are exempt from BIS certification under the DIPP Office Memorandum dated 13.12.2011 and the CBIC Circular dated 30.01.2012, which clarified that Commercial Vehicle Tyres identified by Speed Symbols corresponding to speeds below 80 km/hr are not covered under the Quality Control Order. They

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

further rely on Clause 1 (Scope) of IS 15636:2022, which states that the standard does not apply to tyre types identified by speed symbols corresponding to speeds below 80 km/hr. On this basis, they contend that since their tyres bear Speed Symbol 'D', IS 15636:2022 does not apply to them and BIS certification was accordingly not required.

3.48.3 I do not accept this submission for the following reasons. The exemption under the DIPP OM and CBIC Circular is premised on the tyre's speed symbol genuinely reflecting its speed capacity -- i.e., the exemption applies to tyres that are technically designed and manufactured to operate only below 80 km/hr. I have found under Issue No. (i) that the Speed Symbol 'D' on these tyres does not reflect their actual speed capacity. The IRMRA test reports establish that all 41 samples conformed to the endurance test at Speed Category 'G', 'J' or 'K' (90 to 110 km/hr) at the load index and inflation pressure marked on their own sidewalls. The Speed Symbol 'D' was embossed at the direction of the importers to circumvent regulations -- it is not a genuine technical specification of the tyre. The exemption from BIS certification cannot therefore be claimed on the basis of a marking that has been found to be inconsistent with the actual speed capacity of the goods. The true speed capacity of the imported tyres is at or above 80 km/hr, and accordingly the mandatory BIS certification requirement applies to them.

3.48.4 The above finding is sufficient to attract BIS non-compliance as an independent ground of prohibition. However, I also note -- and this further reinforces the position -- that even if the noticees' characterisation of the goods as Mining/OTR Tyres were accepted for the sake of argument (which it is not, for the reasons set out under Issue No. (i)), the result on the BIS question would be the same. The scope of IS 15636:2022 extends to Mining and Off the Road Tyres as well, subject to the condition that their speed capacity is equal to or above 80 km/hr. The Standard itself states, at Clause 1 (Scope), that it does not apply to tyre types 'identified by speed symbols corresponding to speeds below 80 km/hr'. The operative criterion for the exemption is not the label on the tyre or its declared use -- it is the actual speed capacity of the tyre. The IRMRA test results have established, on the basis of physical endurance testing, that the imported tyres have a speed capacity at or above 80 km/hr (Speed Category G, J or K) at their marked load index and inflation pressure. Even characterising the goods as Mining/OTR Tyres, therefore, their actual speed capacity as established by objective testing brings them squarely within the mandatory BIS certification requirement under IS 15636:2022 (SCN para 82.5). The exemption from BIS compliance is available only to tyres whose actual speed capacity is below 80 km/hr -- not to tyres that physically sustain speeds above that threshold, regardless of the speed symbol embossed on their sidewalls.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.48.5 The goods were imported without the mandatory BIS Standard Mark. They are accordingly prohibited goods by virtue of non-compliance with the requirement under Section 17 of the Bureau of Indian Standards Act, 1986 read with the Quality Control Order, 2009, and are liable to confiscation under Section 111(d) of the Customs Act, 1962 on this count independently, irrespective of the classification finding.

3.49 On Section 111(m) -- misdeclaration: The goods were declared in the Bills of Entry as 'Mining/Off the Road Tyres' under CTH 40118000. I have found that they are in fact TBR tyres classifiable under CTH 40112010. The description declared in the Bills of Entry is accordingly incorrect in a material particular, namely the nature of the goods. Section 111(m) covers goods which are mis-stated in any document relating to importation in respect of description. The goods are therefore liable to confiscation under Section 111(m) as well. In the case of M/s Pioneer Trading Corporation, the additional misdeclaration of value (for 39 Bills of Entry in Annexure-D) independently attracts Section 111(m) on the valuation limb.

3.50 On Section 111(o) -- contravention of provisions: The goods having been imported by misdeclaration of description and classification, and in violation of the DGFT policy restriction and BIS requirements, there has been contravention of the applicable provisions of the Customs Act, 1962, the Foreign Trade (Development and Regulation) Act, 1992, and the Bureau of Indian Standards Act, 1986. The goods are accordingly also liable to confiscation under Section 111(o) of the Customs Act, 1962.

3.51 On the extent of confiscation -- past imports: The noticees have raised the contention that the IRMRA test reports cannot be applied to past imports. I have addressed that contention under Issue No. (i) and found that the basis for the finding in respect of past imports rests on the cumulative evidence -- the modus operandi established through digital evidence, Section 108 statements, import trend data, and post-detection conduct -- and not on test reports alone. The SCN has identified the past imports by firm and by Annexure with specificity. I find that the past imports covered in the respective Annexures were made by the same modus operandi (subject to the specific findings on M/s Vikas Road Carriers Ltd. in para 3.53 below) and were, at the time of their importation, liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 for the reasons set out in paras 3.47 to 3.50 above.

3.52 However, I must address a material legal question that arises specifically in respect of past imports: whether an order of confiscation -- and consequently a redemption fine in lieu of confiscation

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

under Section 125 -- can be passed in respect of goods that have already been cleared finally for home consumption and are no longer available. The noticees have not raised this specific ground in their written submissions, but it is a question of law that requires consideration.

3.52.1 The legal position on this issue has been addressed in authoritative judicial decisions. The Hon'ble Bombay High Court in Commissioner of Customs (Import), Mumbai v. Finesse Creation Inc., 2009 (248) ELT 122 (Bom.) held that where goods had already been cleared for home consumption and were not available for confiscation, no order of confiscation could be passed under Section 111 of the Customs Act, 1962, and no redemption fine could be imposed under Section 125. The Court affirmed that the power of confiscation under the Customs Act can only be exercised in respect of goods that are available and in existence as imported goods, and that once goods are cleared and have entered the stream of domestic commerce, that power is not available.

3.52.2 It is necessary, however, to correctly understand the ratio of the Hon'ble Supreme Court's judgment in Weston Components Ltd. v. Commissioner of Customs, 2000 (115) ELT 278 (SC), which is sometimes cited in this context. On a reading of that judgment, the Supreme Court held that where goods were released to the importer on an application made by it and on the importer executing a bond, the mere fact that the goods were no longer in physical custody does not take away the power of the customs authority to levy a redemption fine. The ratio of Weston Components is therefore not that confiscation is available for all goods cleared for home consumption -- it is specifically that goods released on a bond retain their character as "imported goods" subject to the authority's power, because the bond preserves that power. The distinction is between: (a) goods released unconditionally for home consumption, where no bond is executed and duty is paid finally; and (b) goods released under a bond or provisionally pending final assessment. In the former case, confiscation and redemption fine are not available; in the latter, they remain available per Weston Components.

3.52.3 Applying these principles to the present case: all the past imports covered in the respective Annexures were cleared finally for home consumption upon self-assessment under Section 17 of the Customs Act, 1962, with duty paid on the basis of the declared classification. The clearances were unconditional -- there was no provisional assessment, no bond executed, and no condition attached to the release. The goods are no longer available in any identifiable or traceable form. Accordingly, while I find that the goods were, at the time of their importation, liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962, I hold that an order of confiscation cannot be passed in respect of the past imports at this stage, and no redemption fine under Section 125 of the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Customs Act, 1962 can be imposed in respect of those goods. The SCN itself recognises this position and does not propose any redemption fine on past imports (SCN para 106.2).

3.52.4 This finding does not, however, affect either the demand of differential duty under Section 28(4) of the Customs Act, 1962 or the imposition of penalty under Section 112 of the Customs Act, 1962. The differential duty demand under Section 28(4) is an independent statutory remedy that operates on proof of wilful mis-statement or suppression causing short-levy of duty -- it does not require an existing or executable order of confiscation as its predicate. Section 112(a) of the Customs Act, 1962 imposes penalty on any person who does or omits to do any act which renders goods liable to confiscation. The penalty under Section 112 fastens on the act at the time of commission -- on the importation itself, which rendered the goods liable to confiscation at that point. The unavailability of the goods for physical confiscation at the time of adjudication does not extinguish the liability for penalty, since the act constituting the offence was complete at the time of import. Both the duty demand and the penalty accordingly survive the finding that an order of confiscation cannot be passed on the past imports.

3.53 On M/s Vikas Road Carriers Ltd. specifically: No samples were drawn from the consignments of this firm and no goods belonging to it were seized at any port. However, the evidence against M/s Vikas Road Carriers Ltd. goes beyond the absence of test reports, and includes independent evidence of active participation in the modus operandi. M/s Vikas Road Carriers Ltd. had filed Bill of Entry No. 2313920 dated 26.02.2024 at Nhava Sheva Port (INNSA1), which was put on hold by DRI vide email dated 18.03.2024 (RUD-40). This consignment did not arrive at Nhava Sheva. After learning of the DRI alert, Shri Satvinder Singh Chadha -- who is the controlling partner of both M/s Vikas Road Carriers Ltd. and M/s Pioneer Trading Corporation -- arranged for a fresh Bill of Entry No. 2540420 dated 12.03.2024 to be filed at Mundra Port (INMUN1) on the IEC of M/s Aahna Consultancy Limited, for the same consignment (container No. TSSU5082011). In doing so, he caused the Bill of Lading and commercial invoice to be manipulated, changing the name of the importer. The said consignment was accordingly cleared at Mundra Port without examination, having been diverted from DRI's alert at Nhava Sheva (SCN para 12.3). Shri Hardik Mehta, Manager in M/s Venkatesh Agencies (CHA), in his voluntary statement dated 27.03.2024 (RUD-49), confirmed that he received revised documents from Shri Satvinder Singh Chadha's email ID (aahnaconsultancylimited@gmail.com) and was directed to file a fresh Bill of Entry at Mundra on the IEC of M/s Aahna Consultancy Limited (SCN para 12.4). The SCN (para 94.1) holds that M/s Vikas Road Carriers Ltd. was involved in forgery of the Bill of Lading and commercial invoice in respect of this consignment with a view to importing the goods undetected by diverting to another port on a different firm's IEC.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.53.1 Taken together, the firm's direct control by Shri Satvinder Singh Chadha, the established modus operandi across all Chadha Group firms using the same overseas suppliers, the chat evidence from Shri Paresh Bhanushali's mobile phone placing M/s Vikas Road Carriers Ltd. within the same scheme, and the specific act of diverting and clearing a live consignment at Mundra by forging shipping documents to avoid DRI detection immediately upon learning of the alert -- I find that the evidence against M/s Vikas Road Carriers Ltd., though lacking a test report, is sufficient on a preponderance of probability to establish that its imports were made by the same modus operandi and were liable to confiscation at the time of importation.

E. Findings and Conclusion on Issue No. (iii)

3.54 I hold that all goods imported by the eight noticee firms -- both the seized goods and the past imports -- were, at the time of their importation, liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 for the reasons set out in paras 3.47 to 3.50 above. The firm-wise details are as follows:

Table 9: Goods Liable for Confiscation -- Firm-wise

S. No.	Firm	Seized Goods (Assessable Value) (Rs.)	Past Imports Liable for Confiscation (Assessable Value) (Rs.)	SCN Annexures
1.	M/s Pioneer Trading Corporation	Port: Rs. 2,01,43,141 Godown: Rs. 1,28,11,141 Total: Rs. 3,29,54,282	Rs. 98,12,46,954	C1, C2 (seized); F1, F2, H1, H2 (past)
2.	M/s Aahna Consultancy Ltd.	Rs. 72,78,087	Rs. 99,82,674	I (seized); J2, K2 (past)
3.	M/s Leo Distributors Pvt. Ltd.	Rs. 1,68,80,104	Rs. 2,46,81,345	L (seized); M2, N2 (past)
4.	M/s Vikas Road Carriers Ltd.	Nil	Rs. 15,22,20,149	O2, P2 (past)
5.	M/s Vikas Retail Pvt. Ltd.	Rs. 77,11,953	Rs. 30,32,82,286	Q (seized); R2, S2 (past)
6.	M/s Trans Tyre LLP	Port: Rs. 94,08,359	Rs. 77,74,96,748	T1, T2 (seized); U1,

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

		Godown: Rs. 1,43,00,895 Total: Rs. 2,37,09,254		U2, V1, V2 (past)
7.	M/s Tiara Enterprises	Rs. 1,54,40,054	Rs. 14,36,80,040	W (seized); X1, X2, Y1, Y2 (past)
8.	M/s Ultra Mile	Rs. 86,99,775	Rs. 39,72,48,592	Z (seized); AA1, AA2, BB1, BB2 (past)
	Total	Rs. 11,26,73,509	Rs. 2,78,98,38,788	

3.55 In respect of the seized goods (Annexures C1, C2, I, L, Q, T1, T2, W and Z), these goods are physically available, being in departmental custody or warehoused under Section 49 of the Customs Act, 1962. The said seized/live consignments and godown goods are accordingly liable to be confiscated under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. The question of redemption fine in lieu of confiscation under Section 125, and the determination of quantum thereof, will be dealt with in the operative portion of this order.

3.56 In respect of past imports (goods cleared finally for home consumption): for the reasons set out in paras 3.52 to 3.52.3 above, no order of confiscation can be passed and no redemption fine under Section 125 can be imposed. The finding that those goods were liable to confiscation at the time of importation is, however, recorded. This finding constitutes the predicate for the imposition of penalty under Section 112 of the Customs Act, 1962, which will be considered under Issue No. (v). The demand of differential duty under Section 28(4) of the Customs Act, 1962 in respect of past imports is an independent remedy and is not affected by the non-availability of confiscation; it will be considered under Issue No. (iv). Issue No. (iii) is accordingly decided in the above terms.

Issue No. (iv): Whether the extended period under Section 28(4) of the Customs Act, 1962 is invokable, and the quantum of differential duty recoverable

A. Legal Framework

3.57 Section 28 of the Customs Act, 1962 provides the statutory framework for recovery of duty short-levied or not paid. Under Section 28(1), where any duty has not been levied or has been short-levied or short-paid for reasons other than collusion, wilful mis-statement, or suppression of facts, the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

proper officer shall serve a notice on the person chargeable within two years from the relevant date. Under Section 28(4), where the short-levy or non-payment is by reason of collusion, any wilful mis-statement, or suppression of facts by the importer or his agent or employee, the proper officer may serve notice within five years from the relevant date. The difference between the two periods is therefore governed entirely by whether the conduct falls within the three aggravated grounds -- collusion, wilful mis-statement, or suppression of facts. It is settled law that these grounds must be established by cogent evidence; mere incorrect classification is not sufficient to attract the extended period.

3.58 In the present case, the SCN has been issued on 27.02.2025 in respect of past imports covering the period from 12.06.2020. Imports at the beginning of this period fall more than two years prior to the SCN date. Accordingly, the question of whether the extended period of five years under Section 28(4) is available is decisive: if the extended period is not available, a significant portion of the past imports would be barred by limitation.

B. Department's Case for Invocation of Extended Period

3.59 The SCN invokes the extended period under Section 28(4) on the ground that the importers wilfully mis-stated the description and classification of the imported goods and suppressed material facts. The SCN's case on this issue rests on the following (SCN paras 91, 91.1, 91.3):

(i) **Scheme of self-assessment:** Under Section 17 of the Customs Act, 1962 (as amended by the Finance Act, 2011, with effect from 08.04.2011), importers are required to self-assess duty by filing Bills of Entry electronically. Under Section 46(4) of the Customs Act, 1962, the importer subscribes to a declaration as to the truth of the contents of the Bill of Entry. The SCN submits that under this scheme the entire responsibility for correct declaration of description, classification, value, and applicable exemption lies on the importer, and that any misdeclaration in the Bill of Entry is therefore the importer's deliberate act.

(ii) **Wilful mis-statement of description and classification:** The SCN alleges that the importers deliberately declared the goods as 'Mining/Off the Road Tyres' under CTH 40118000 when they were in fact TBR tyres classifiable under CTH 40112010. The SCN relies on the digital evidence -- chats between the noticees and their overseas suppliers showing explicit instructions to emboss Speed Symbol 'D' and the Mining Symbol and to declare the goods as Mining/OTR Tyres and classify them

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

under CTH 40118000 in both Indian and exporting country Customs documents -- to establish that the misdeclaration was deliberate and not an error of judgment. The SCN states that this constitutes wilful mis-statement within the meaning of Section 28(4) (SCN para 91.3).

(iii) Suppression of material facts: The SCN further alleges that the importers suppressed the true nature of the goods from the Customs authorities at the time of filing the Bills of Entry. The concealment of the fact that the Speed Symbol 'D' and Mining Symbol were artificially arranged by the importers, and that the actual speed capacity of the goods was above 80 km/hr, amounts to suppression of material facts. The statement of Shri Paresh Bhanushali dated 08.03.2024 (SCN para 7.6) -- that Bravia tyres are 'used in trucks but are being imported as mining tyres' -- is relied upon as evidence that the importers had full knowledge of the true nature of the goods while misdeclaring the same (SCN para 91.3).

(iv) Post-DGFT restriction timing: The SCN points out that the switch in declaration from CTH 40112010 to CTH 40118000 occurred precisely upon imposition of the DGFT 'Restricted' category in June 2020, with no change in the nature of goods imported or the overseas suppliers. The timing and the import trend data confirm that the switch was driven not by any genuine change in the goods but by the regulatory restrictions imposed on TBR tyre imports -- thereby establishing the mala fide intent behind the misdeclaration.

C. Noticees' Submissions on Limitation

3.60 The noticees raise the following grounds against the invocation of the extended period:

(i) The goods were correctly described and classified as Mining/OTR Tyres under CTH 40118000. There was no misdeclaration. A bona fide classification dispute cannot attract the extended period under Section 28(4). Reliance is placed on *Continental Foundation Jt. Venture, 2017 (216) ELT 177 (SC)* and *Pushpam Pharmaceuticals v. CCE, 1995 (78) ELT 401 (SC)*.

(ii) All Bills of Entry were re-assessed by the Proper Officer under Section 17(2) of the Customs Act, 1962 after physical examination of the goods. The Proper Officer applied his mind to the declaration, examined the goods, and permitted clearance. Once a re-assessment order has been passed by the Proper Officer, it amounts to an order of adjudication that cannot be re-opened by a

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

fresh demand notice under Section 28 without first setting aside the re-assessment order. Reliance is placed on Bimal P. Shah, 2025 (394) ELT SC and Priya Blue Industries, 2004 (172) ELT 145 (SC).

(iii) The department had full knowledge of the nature of the imports, since the CIU, JNCH had investigated and released identical consignments in 2022 after IRMRA reported that the goods were Mining/OTR Tyres. Where the department has full knowledge, no suppression by the importer can be attributed. Reliance is placed on C.C. Mumbai v. A.S. Muloobhoy and Sons, 2015 (318) ELT 576 (SC).

(iv) Even if there were any misdeclaration, there was no intent to evade duty. The noticees genuinely believed the goods were Mining/OTR Tyres. Without the element of deliberate intent to evade, the extended period cannot be invoked. Reliance is placed on HMM Limited v. Collector of C.E., 1995 (76) ELT 497 (SC) and Cosmic Dye Chemicals v. CCE, 1995 (75) ELT 721 (SC).

D. Analysis

3.61 The question of the extended period must be examined in the context of the findings already recorded under Issues No. (i) and (ii). Under Issue No. (i), I have found that the goods are TBR tyres misdeclared as Mining/OTR Tyres, and that this misdeclaration was not a bona fide classification dispute but a deliberate and systematic scheme. That finding is material to the limitation question.

3.62 On the noticees' first ground (bona fide classification dispute): I have already held under Issue No. (i) that the misdeclaration was not bona fide. The evidence -- particularly the explicit communications between the importers and their overseas suppliers directing the embossing of Speed Symbol 'D' and Mining Symbol and the change of CTH in customs declarations, and the admissions of Shri Paresh Bhanushali -- establishes that the noticees had full knowledge that they were importing TBR tyres and were declaring them as Mining/OTR Tyres to circumvent the DGFT restriction and avoid higher duty. This is not a case where two reasonable views on classification were possible and the importer adopted one. The conduct goes well beyond a classification dispute into the territory of deliberate misdeclaration. The submission that the extended period cannot be invoked in a bona fide classification dispute is factually inapplicable to this case.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.63 On the noticees' second ground (re-assessment under Section 17(2)): The submission that all Bills of Entry were re-assessed by the Proper Officer under Section 17(2) deserves consideration. Section 17(2) of the Customs Act, 1962 empowers the Proper Officer to verify the self-assessment made by the importer and re-assess the duty if he considers it necessary. Where the Proper Officer has examined the goods and permitted clearance after re-assessment, it could be argued that the re-assessment order is an order of adjudication that cannot be re-opened except by an appellate or revisional authority. However, this argument proceeds on the assumption that the Proper Officer had full information before him at the time of re-assessment and applied his mind to the correct classification of the goods. In the present case, the fundamental difficulty with this submission is that the misdeclaration was of the nature of the goods themselves -- the goods were declared and presented as Mining/OTR Tyres with the Speed Symbol 'D' and Mining Symbol on their sidewalls. The Proper Officer examining the goods would have found them conforming to their declared description (Mining Tyres with mining symbol and Speed Symbol 'D'), since the very fraud lay in the embossing of those symbols on TBR tyres. The Proper Officer could not have been expected to detect the misdeclaration by examining the goods, because the misdeclaration had been built into the physical character of the goods. The re-assessment in these circumstances cannot be said to have been made with full knowledge of the true facts, and accordingly cannot bar the invocation of Section 28(4). The principle in *Bimal P. Shah and Priya Blue Industries* applies where the adjudicating authority had full knowledge of the facts at the time of assessment and thereafter assessed duty on those facts; it does not apply where the assessment was itself procured by suppression of material facts from the assessing officer.

3.64 On the noticees' third ground (CIU's prior knowledge): The CIU investigation of 2022 resulted in release of goods on the basis of an IRMRA report that merely examined the markings on the sidewalls and confirmed them to be Mining Tyres. As discussed under Issue No. (i), that was a marking-based evaluation -- the CIU had no knowledge that the Speed Symbol 'D' and Mining Symbol had been deliberately embossed on TBR tyres at the importers' direction. The true facts regarding the modus operandi -- the explicit communications with overseas suppliers, the arrangement for artificial embossing of symbols, and the actual speed capacity of the tyres as established by physical testing -- were not before the CIU at that time, and were revealed only through the DRI investigation commencing 29.02.2024. The doctrine that suppression cannot be attributed where the department has full knowledge operates only where the department had actual knowledge of the specific facts constituting the suppression -- not where the department accepted a declaration on the face of the goods without knowledge of the fraud underlying it. The CIU's release of goods in 2022 on the basis of the markings does not constitute knowledge of the modus operandi for the purposes of the limitation question.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.65 On the noticees' fourth ground (no intent to evade): I find this submission to be unsustainable on the facts established. The explicit directions by the importers to their overseas suppliers to emboss the Speed Symbol 'D' and Mining Symbol specifically to secure classification under CTH 40118000 and circumvent the DGFT restriction and BIS requirements -- as evidenced by the chats discussed at length under Issue No. (i) -- demonstrate not merely carelessness or an error of judgment but positive, deliberate conduct aimed at circumventing the law. The element of intent to evade duty is satisfied on the material available.

3.66 I accordingly find that all the ingredients necessary for invocation of the extended period of five years under Section 28(4) of the Customs Act, 1962 are satisfied in this case. First, there has been a short-levy of duty, since the goods were assessed and cleared at the OTR/Mining Tyre rate under CTH 40118000 when the duty payable was at the higher TBR tyre rate under CTH 40112010 along with applicable anti-dumping/countervailing duty. Second, the short-levy was by reason of wilful mis-statement -- the noticees deliberately declared the goods as Mining/OTR Tyres knowing them to be TBR tyres, as established by the digital evidence and the admissions of Shri Paresh Bhanushali. Third, the short-levy was also by reason of suppression of facts -- the noticees concealed from the Customs authorities the true nature of the goods, the artificial embossing of Speed Symbol 'D' and Mining Symbol at their own direction, and the actual speed capacity of the tyres. In the specific case of M/s Pioneer Trading Corporation, a further and independent ingredient is also satisfied: the declared transaction value in 39 Bills of Entry (Annexure-D) has been found under Issue No. (ii) to have been suppressed by deliberate undervaluation, with the differential amount remitted through offshore entities in the UAE and Hong Kong outside the normal banking channel. This constitutes an additional ground of wilful mis-statement and suppression of the true value, separately attracting the extended period in respect of those Bills of Entry. All the ingredients -- wilful mis-statement, suppression of facts, and consequent short-levy with intent to evade duty -- are accordingly established in respect of all eight importer firms; and the undervaluation ground provides a further reinforcing basis in the case of M/s Pioneer Trading Corporation specifically. The extended period is accordingly available, and the SCN has been issued within five years of the relevant date in respect of all the past imports covered in the respective Annexures.

E. Quantum of Differential Duty Recoverable

3.67 Having found that the extended period is invocable and that the goods were correctly classifiable under CTH 40112010, the differential duty between what was paid (at the OTR/Mining

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Tyre rate) and what was payable (at the TBR tyre rate under CTH 40112010, including BCD at 15%, anti-dumping/countervailing duty, IGST at 28%, and Social Welfare Surcharge) is recoverable under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA.

3.68 The differential duty, as computed in the firm-wise Annexures to the SCN, is as follows. I note that the SCN has not separately demanded duty on the seized goods (SCN para 106.2), and the demand under Section 28(4) is confined to the past imports cleared for home consumption. In respect of M/s Vikas Road Carriers Ltd., no test reports exist for any of its consignments; the differential duty of Rs. 5,14,12,826/- is confirmed in its entirety on the basis of the modus operandi evidence, the identity of the controlling person with the other Chadha Group firms, and the specific finding of document forgery and consignment diversion as set out in para 3.53 above, independently of any test report. The firm-wise quantum is as set out in Table 10 below, drawn from the charging paras of the SCN:

Table 10: Firm-wise Differential Duty Demanded under Section 28(4) of the Customs Act, 1962

S. No.	Firm	Assessable Value of Past Imports (Rs.)	Differential Duty Demanded (Rs.)	SCN Annexures
1.	M/s Pioneer Trading Corporation	98,12,46,954	35,72,52,024 (Rupees Thirty-Five Crores Seventy-Two Lakhs Fifty-Two Thousand and Twenty-Four only)	F1, F2, H1, H2
2.	M/s Aahna Consultancy Ltd.	99,82,674	30,97,283 (Rupees Thirty Lakhs Ninety-Seven Thousand Two Hundred and Eighty-Three only)	J2, K2
3.	M/s Leo Distributors Pvt. Ltd.	2,46,81,345	82,54,648 (Rupees Eighty-Two Lakhs Fifty-Four Thousand Six Hundred and Forty-Eight only)	M2, N2
4.	M/s Vikas Road Carriers Ltd.	15,22,20,149	5,14,12,826 (Rupees Five Crores Fourteen Lakhs Twelve Thousand Eight Hundred and Twenty-Six only)	O2, P2
5.	M/s Vikas Retail Pvt. Ltd.	30,32,82,286	4,42,01,882 (Rupees Four Crores Forty-Two Lakhs One Thousand Eight Hundred and Eighty-Two)	R2, S2

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

			only)	
6.	M/s Trans Tyre LLP	77,74,96,748	18,50,45,997 (Rupees Eighteen Crores Fifty Lakhs Forty-Five Thousand Nine Hundred and Ninety-Seven only)	U2, V2
7.	M/s Tiara Enterprises	14,36,80,040	3,57,86,642 (Rupees Three Crores Fifty-Seven Lakhs Eighty-Six Thousand Six Hundred and Forty-Two only)	X2, Y2
8.	M/s Ultra Mile	39,72,48,592	8,37,80,608 (Rupees Eight Crores Thirty-Seven Lakhs Eighty Thousand Six Hundred and Eight only)	AA2, BB2
	Total	2,78,98,38,788	76,88,31,910 (Rupees Seventy-Six Crores Eighty-Eight Lakhs Thirty-One Thousand Nine Hundred and Ten only)	

3.69 In addition, in respect of M/s Pioneer Trading Corporation, the re-determined assessable value under Issue No. (ii) (undervaluation) results in a higher base on which the differential duty is to be computed. The SCN has, in the computation in Annexures F1, F2, H1, H2, taken into account the re-determined assessable value for the Bills of Entry covered in Annexure-D. The total differential duty of Rs. 35,72,52,024 for M/s Pioneer Trading Corporation as set out in Table 10 above accordingly subsumes the additional duty arising from the undervaluation finding.

3.70 I confirm the demand of differential duty as set out in Table 10 above, firm-wise, under Section 28(4) of the Customs Act, 1962. Interest under Section 28AA of the Customs Act, 1962 shall be payable on the duty so confirmed at the prescribed rate from the date the duty ought to have been paid until the date of actual payment. Issue No. (iv) is accordingly decided against the noticees.

Issue No. (v): Whether penalties under Sections 112, 114A and 114AA of the Customs Act, 1962 are imposable on the noticees

A. Legal Framework

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.71 Three penal provisions are invoked in the SCN:

(i) Section 112: Section 112(a) of the Customs Act, 1962 provides that any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, shall be liable to penalty. In the case of goods in respect of which any prohibition is in force -- i.e., prohibited goods -- the penalty under Section 112(a)(i) shall not exceed the value of the goods or five thousand rupees, whichever is greater. In the case of dutiable goods (other than prohibited goods) the penalty under Section 112(ii), subject to Section 114A, shall not exceed ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher. Since the goods in the present case are both prohibited (by virtue of the DGFT restriction and BIS non-compliance) and dutiable, the higher of the two measures -- value of goods -- would apply under Section 112(a)(i).

(ii) Section 114A: Section 114A provides that where duty has been short-levied by reason of collusion, wilful mis-statement, or suppression of facts, the person liable to pay such duty shall also be liable to a penalty equal to the duty so determined together with the interest payable thereon. The last proviso to Section 114A states that where a penalty has been levied under Section 114A, no penalty shall be levied under Section 112 or Section 114.

(iii) Section 114AA: Section 114AA provides that if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular in the transaction of any business for the purposes of the Customs Act, 1962, he shall be liable to a penalty not exceeding five times the value of the goods. The essential ingredients are: (a) a declaration, statement, or document; (b) which is false or incorrect in any material particular; and (c) use of such document knowingly or intentionally.

B. Noticees' Submissions

3.72 The noticees submit that no penalty is imposable under any of the three provisions on the following grounds:

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

(i) Since the goods are correctly classified as Mining/OTR Tyres under CTH 40118000, they are not liable to confiscation and accordingly Section 112 has no application. The predicate of Section 112 -- that the goods are liable to confiscation -- is not made out.

(ii) Since the extended period under Section 28(4) is not available and the duty demand is not sustainable, Section 114A has no application either, as Section 114A can only operate where duty has been confirmed under Section 28(4).

(iii) Section 114AA requires knowing or intentional use of a false document. Since the Bills of Entry correctly described the goods as Mining/OTR Tyres (the importers' genuine belief), no false document was used. Even if the Bills of Entry are found to be incorrect, incorrectness without knowledge or intent does not attract Section 114AA.

(iv) The concurrent invocation of Section 112 and Section 114A in the same SCN is impermissible in view of the last proviso to Section 114A, which states that where penalty is levied under Section 114A, no penalty shall be levied under Section 112 or Section 114. The dual invocation shows non-application of mind in issuing the SCN.

(v) In respect of individual noticees specifically: (a) Shri Paresh Bhanushali was a salaried employee acting on instructions of his employer with no independent authority or personal benefit -- no separate penalty is warranted on an employee in such circumstances; (b) Shri Aman Ahuja had no technical knowledge and relied entirely on Shri Satish Kakkad for classification decisions; (c) no separate penalty can be imposed on a partner of a firm (Shri Satvinder Singh Chadha, Shri Satish Kakkad, Shri Harish Kakkad) in addition to the penalty on the firm itself.

C. Analysis

3.73 The findings under Issues No. (i) through (iv) provide the factual foundation for the penalty analysis. I have found that: (a) the goods are TBR tyres liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation; (b) the misdeclaration was deliberate and not a bona fide classification dispute; (c) the extended period under Section 28(4) is available on the ground of wilful mis-statement and suppression of facts; and (d) differential duty totalling Rs. 76,88,31,910 is confirmed. I now apply those findings to each penal provision.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

3.74 On Section 112 versus Section 114A -- mutual exclusivity: The last proviso to Section 114A provides that where a penalty has been levied under Section 114A, no penalty shall be levied under Section 112 or Section 114. This proviso however operates in a specific and limited way. Section 114A is conditioned on short-levy of duty 'by reason of collusion or wilful mis-statement or suppression of facts' -- it addresses the duty-evasion limb of the case. Section 112(ii) of the Customs Act, 1962 also addresses the same duty-evasion limb in respect of dutiable (non-prohibited) goods. It is Section 112(ii) that is barred by the Section 114A proviso, not Section 112(a)(i). Section 112(a)(i) operates on an entirely independent ground -- it applies to goods 'in respect of which any prohibition is in force', and provides for a penalty not exceeding the value of the goods. The present goods are prohibited on two independent counts: (a) import without DGFT licence contrary to Notification No. 12/2015-2020 dated 12.06.2020; and (b) import without mandatory BIS certification, in violation of the Quality Control Order, 2009. This prohibition-based confiscability under Section 111(d) is a ground entirely distinct from the duty-evasion confiscability under Section 111(m). Section 114A does not govern, address, or bar the Section 112(a)(i) penalty arising from the prohibited goods limb. Accordingly, in respect of the importer firms, penalty under Section 112(a)(i) is imposable in respect of the prohibited goods aspect (up to the value of the goods), in addition to penalty under Section 114A in respect of the duty-evasion aspect. Section 114AA is also independently attracted for the knowing use of false documents. This is consistent with the SCN, which proposes penalty under Section 112, Section 114A, and Section 114AA against the importer firms. For the avoidance of doubt: Section 112(a)(i) operates in respect of all goods on which a confiscation order has been passed under Section 111 of the Customs Act, 1962 -- including both port seized goods not cleared for home consumption and godown goods in respect of which a confiscation order has been passed notwithstanding their prior clearance for home consumption (since the confiscation order under Section 111 re-attaches the State's power over those goods); it does not apply to the past imports in respect of which no order of confiscation has been or can be passed, since those goods have been cleared for home consumption and are no longer available; Section 114A operates in respect of the past imports in respect of which differential duty has been confirmed under Section 28(4); and Section 114AA operates in respect of all goods, since false declarations were made in the Bills of Entry filed for both seized and past-imported consignments.

3.75 On Section 114AA: The Bills of Entry in the present case contained declarations, subscribed to under Section 46(4) of the Customs Act, 1962, that the goods were 'Mining/Off the Road Tyres' classifiable under CTH 40118000. I have found that this declaration was false -- the goods were TBR tyres classifiable under CTH 40112010. The commercial invoices and Country of Origin Certificates submitted with the Bills of Entry also described the goods as Mining/OTR Tyres, and the COO

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

certificates classified them under CTH 40118000 -- both false in material particulars. Further, in the case of M/s Pioneer Trading Corporation, the commercial invoices submitted to Customs declared a value lower than the actual price paid, which is an additional false declaration in a material particular. The deliberate nature of all these misdeclarations having been established under Issue No. (i), the requirement of knowing or intentional use of false documents is satisfied. Section 114AA is accordingly attracted against all the importer firms and the individual noticees who participated in the making or use of such declarations.

D. Findings -- Importer Firms

3.76.1 M/s Pioneer Trading Corporation (Para 107 of SCN): M/s Pioneer Trading Corporation is the principal importer among the Chadha Group firms and the largest contributor to the aggregate duty demand. In addition to misdeclaration of classification, it engaged in undervaluation of imports -- remitting the differential through UAE and Hong Kong based entities -- and caused the diversion of two live consignments to Mundra Port on forged Bills of Lading after the DRI alert (SCN paras 9.3 and 92.2). Penalty under Section 112(a)(i), Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

3.76.2 M/s Aahna Consultancy Ltd. (Para 108 of SCN): M/s Aahna Consultancy Ltd. was used by Shri Satvinder Singh Chadha as a vehicle for diversion of goods -- including the Vikas Road Carriers consignment diverted to Mundra on Aahna's IEC through forged documents (SCN para 95.1). The modus operandi was the same as that of M/s Pioneer Trading Corporation, with the same controlling person. Penalty under Section 112(a)(i), Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

3.76.3 M/s Leo Distributors Pvt. Ltd. (Para 109 of SCN): M/s Leo Distributors Pvt. Ltd. was similarly used by Shri Satvinder Singh Chadha for diversion of Pioneer Trading Corporation's consignments to Mundra Port on Leo's IEC through forged Bills of Lading (SCN paras 9.3 and 93.1). The same modus operandi applied. Penalty under Section 112(a)(i), Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

3.76.4 M/s Vikas Road Carriers Ltd. (Para 110 of SCN): M/s Vikas Road Carriers Ltd. is controlled by Shri Satvinder Singh Chadha. No samples were drawn from this firm's consignments and no seizure was made at any port. However, the absence of sampled or seized goods does not by

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

itself preclude adjudication where the classification finding is supported by other reliable evidence. The case against M/s Vikas Road Carriers Ltd. is not founded on an independent sample drawn from its consignments, but on the cumulative evidence establishing that the same tyre models imported through this firm formed part of the common import arrangement investigated in the present proceedings. The SCN correlates the imports of M/s Vikas Road Carriers Ltd. with tyre models that were subjected to testing in respect of co-noticee consignments and found to possess characteristics inconsistent with the declared classification. The noticee has itself accepted, in its written submissions, that differential duty of Rs. 3,23,92,908/- relating to 11,062 tyres covered by Annexure O-2 is based on test reports pertaining to corresponding tyre models imported by co-noticees. The issue is therefore not one of absence of evidence, but of the evidentiary value to be attached to tested same-model tyres forming part of the same overall import arrangement. On the basis of the common modus operandi established in the investigation, the documentary evidence relating to diversion of B/E No. 2313920 to Mundra, and the correlation of the imported tyre models with tested same-model tyres imported through co-noticees, I find that the goods imported by M/s Vikas Road Carriers Ltd. were also liable to confiscation at the time of importation (SCN para 12.3). I further note that the noticee itself, in its written submissions, has accepted that differential duty amounting to Rs. 3,23,92,908/- pertaining to 11,062 same-model tyres covered by Annexure O2 stands correlated with the test reports pertaining to co-noticee consignments. Since no goods of this firm were seized at the port and all imports were cleared for home consumption, Section 112(a)(i) is not attracted in respect of M/s Vikas Road Carriers Ltd. Penalty under Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

3.76.5 M/s Vikas Retail Pvt. Ltd. (Para 111 of SCN): M/s Vikas Retail Pvt. Ltd. is controlled by Shri Jaskaran Singh Chadha. It imported the same tyre models from the same overseas suppliers as the Chadha Group firms (SCN para 55). Samples drawn from its consignments conformed to TBR tyre standard tests at Speed Category 'G', 'J', or 'K'. Tyres imported on Vikas Retail's IEC were also found to have been used in trucks of M/s VRC Logistics Pvt. Ltd. (Shri Jaskaran's transport firm) for on-road operations (SCN para 101.1). Penalty under Section 112(a)(i), Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

3.76.6 M/s Trans Tyre LLP (Para 112 of SCN): M/s Trans Tyre LLP is controlled by Shri Satish Bhagwandas Kakkad, who was one of the principal architects of the modus operandi. The firm's chats with overseas suppliers contain the most direct evidence of the scheme, including explicit instructions to emboss Speed Symbol 'D' and Mining Symbol and to change HSN codes in COO certificates (SCN paras 34 to 53). Samples from Trans Tyre LLP's consignments confirmed the TBR tyre characteristics. The firm also manipulated Bills of Lading to divert four consignments to Tiara

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Enterprises' IEC (SCN para 12.6). Penalty under Section 112(a)(i), Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

3.76.7 M/s Tiara Enterprises (Para 113 of SCN): M/s Tiara Enterprises was substantially operated by Shri Satish Bhagwandas Kakkad using Shri Aman Ahuja's IEC. Shri Aman Ahuja confirmed in his statement that the HSN code classification was decided by Shri Satish Kakkad (SCN para 14.5) and that approximately 60% of Tiara's imports were sold back to Trans Tyre LLP (SCN para 14.6). Samples from Tiara's consignments confirmed TBR tyre characteristics. Shri Aman Ahuja also participated in the manipulation of shipping documents for the four diverted consignments (SCN para 13.8). Penalty under Section 112(a)(i), Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

3.76.8 M/s Ultra Mile (Para 114 of SCN): M/s Ultra Mile is controlled by Shri Harish Bhagwandas Kakkad alias Tony. Its branded tyres (UM 332, UM 5925 XL, UM 5973 XL, UM 5951 XL) are built on the CB332 green tyre of M/s Zhongce Rubber (SCN para 19.3) -- the same base tyre that Zhongce had previously supplied under BIS IS marking as a TBR tyre. Chats from Shri Satish Kakkad's mobile confirm Shri Harish Kakkad's active role in directing changes to catalogues to remove truck references and specifying the mould markings for mining symbols (SCN para 35.1 to 35.3). Samples conformed to TBR tyre standard tests. The goods of M/s Ultra Mile were seized at its godown premises and had already been cleared for home consumption prior to seizure. A confiscation order has, however, been passed on those goods under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962, and Section 112(a)(i) is accordingly attracted in respect of the confiscated godown goods. Penalty under Section 112(a)(i), Section 114A equal to the differential duty confirmed and applicable interest, and Section 114AA is imposable.

E. Findings -- Individual Noticees

3.77 Shri Satvinder Singh Chadha alias Happy (Para 115 of SCN): Shri Satvinder Singh Chadha is the Partner of M/s Pioneer Trading Corporation and Director of M/s Aahna Consultancy Ltd., M/s Leo Distributors Pvt. Ltd. and M/s Vikas Road Carriers Ltd. In respect of M/s Pioneer Trading Corporation (a partnership firm in which he is personally identified with the firm), the penalty on the firm itself covers the acts of the partners. However, his personal penal liability arises independently on two distinct bases: first, he abetted the improper importation in respect of M/s Vikas Retail Pvt. Ltd. -- a separate company controlled by his nephew Shri Jaskaran Singh Chadha, for

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

whose acts the firm penalty on the Chadha Group firms does not provide any cover; and second, the undervaluation scheme and the post-DRI manipulation and forgery of shipping documents were personal acts by Shri Satvinder Singh Chadha -- he personally caused Bills of Lading and commercial invoices to be altered, diverted consignments to Mundra Port, and remitted undeclared amounts through offshore entities -- acts that go beyond the ordinary conduct of the firms' business and constitute independent personal offences under the Customs Act, 1962. In respect of M/s Aahna Consultancy Ltd., M/s Leo Distributors Pvt. Ltd. and M/s Vikas Road Carriers Ltd. (all of which are companies with separate legal personality), he is the Director and his personal acts in relation to those companies attract independent penal liability as a person who caused the misdeclaration and document manipulation in those companies. Penalty under Section 112(a)(i) and Section 114AA is imposable on Shri Satvinder Singh Chadha personally on these independent grounds.

3.77.1 It is necessary to address the noticees' submission that a separate penalty cannot be imposed on a partner of a firm when the firm itself has been penalised. The legal position is that a partnership firm has no independent legal existence apart from its partners, and accordingly the imposition of equal separate penalties on both the firm and the individual partner for the identical acts would in effect result in double punishment. I accept this principle to the extent it operates against imposing duplicate penalties on Shri Satvinder Singh Chadha as partner of M/s Pioneer Trading Corporation for the same acts for which M/s Pioneer Trading Corporation is being penalised. However, as stated above, his separate personal penalty is sustained on independent grounds -- abetment of Vikas Retail, personal direction of undervaluation and document forgery, and his role as Director in the separate incorporated companies. The personal penalty is therefore not a duplicate of the firm penalty but is grounded in independent acts and independent legal personality where companies are involved.

3.78 **Shri Jaskaran Singh Chadha (Para 116 of SCN):** Shri Jaskaran Singh Chadha is the Director of M/s Vikas Retail Pvt. Ltd. He imported the same tyre models from the same overseas suppliers as his uncle's firms, using the same modus operandi. He also used tyres imported as Mining Tyres in his own transport fleet (M/s VRC Logistics Pvt. Ltd.) for road operations (SCN para 101.1). His statement dated 10.10.2024 was evasive on key questions. He is personally liable for penalty under Section 112(a)(i) and Section 114AA of the Customs Act, 1962 for the acts of omission and commission committed by him in respect of M/s Vikas Retail Pvt. Ltd.

3.79 **Shri Paresh Bhanushali (Para 117 of SCN):** Shri Paresh Bhanushali was the employee of Shri Satvinder Singh Chadha and worked across all Chadha Group firms. His role in the modus operandi was active and material: he communicated with overseas suppliers (Mr. Li Yu, Ms. Alisa),

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

shared payment receipts for off-shore remittances, shared details of M/s D.N. Logistics as a 'New firm detail for remittance for under invoice', admitted in his Section 108 statement that payments were 'for under billing', and confirmed to a prospective supplier that '1000R20 tyres can be imported from China with just a mining logo'. The written submissions characterise him as a mere salaried employee who acted on instructions and derived no personal benefit. I note that mere employment status does not preclude personal penal liability where the employee's own acts constitute an offence under the Customs Act. Shri Paresh Bhanushali was not a passive recipient of instructions -- he was an active participant who communicated directly with overseas suppliers about the modus operandi, facilitated the undervaluation remittances, and confirmed the scheme to third parties. However, I take into account that he was a salaried accountant, that the scheme was devised and directed by his employer, and that he has not been attributed any personal financial benefit from the scheme, in determining the appropriate quantum of penalty. Penalty under Section 112(a)(i) and Section 114AA is imposable on him.

3.80 Shri Satish Bhagwandas Kakkad (Para 118 of SCN): Shri Satish Bhagwandas Kakkad was one of the two principal architects of the modus operandi. He is the Partner of M/s Trans Tyre LLP. The legal position on duplicate penalty for a partner and his firm applies here as well. However, his separate personal penalty is independently grounded in his abetment of improper importation in respect of M/s Tiara Enterprises -- a different entity, the imports of which are separately penalised -- and in personal acts committed by him independently of his role as Partner of Trans Tyre LLP. He personally directed, coordinated, and controlled all material import functions of M/s Tiara Enterprises, placed orders with overseas suppliers on Tiara's behalf, forwarded commercial invoices and Bills of Lading to Tiara's CHA, and caused the manipulation of shipping documents to divert four Trans Tyre LLP consignments to Tiara's IEC -- all acts done by him personally. His private damage-claim emails from sk@transtyres.com recorded the actual speed category of CB332 and other models as Speed Category 'J' (SCN para 61), demonstrating personal knowledge of the true specifications. He gave evasive replies in all three Section 108 statements. Penalty under Section 112(a)(i) and Section 114AA is imposable on him personally on these independent grounds -- specifically, his abetment of improper importation in respect of M/s Tiara Enterprises and his personal participation in document manipulation across both entities.

3.81 Shri Aman Ahuja (Para 119 of SCN): Shri Aman Ahuja is the Karta of M/s Tiara Enterprises, a Hindu Undivided Family (HUF). A HUF is not a legal person separate from its Karta in the manner that a company is separate from its director. The acts of the HUF in filing Bills of Entry, subscribing to declarations, and making imports are in law the acts of the Karta himself. Accordingly, the penalty on M/s Tiara Enterprises and a separate penalty on Shri Aman Ahuja for the identical acts

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

of that HUF's importation would risk amounting to duplicate punishment. However, Shri Aman Ahuja's personal penal liability is independently grounded in acts that are personal to him and distinct from the mere act of importation as Karta: he personally participated in the diversion of four consignments from Trans Tyre LLP's IEC to Tiara's IEC by accepting changed shipping documents forwarded by Shri Satish Kakkad and instructing the CHA to re-file on Tiara's IEC (SCN para 13.8); he personally communicated with the CHA and directed the substitution of the importer's name in Bills of Lading and commercial invoices; and he has admitted in his statement dated 21.03.2024 (SCN para 14.6) that he was aware of the diversion but participated nonetheless. These are personal acts that go beyond the ordinary filing of Bills of Entry and independently engage his liability under Section 112(a)(i) (as a person who abetted the manipulation of documents rendering goods liable to confiscation) and Section 114AA (as a person who caused to be used documents false in material particulars). Penalty under Section 112(a)(i) and Section 114AA is imposable on him on these grounds. The penalty quantum shall reflect his more limited decision-making role and the direction exercised over him by Shri Satish Bhagwandas Kakkad.

3.82 Shri Harish Bhagwandas Kakkad alias Tony (Para 120 of SCN): Shri Harish Bhagwandas Kakkad is the Partner of M/s Ultra Mile. As in the case of Shri Satvinder Singh Chadha and Shri Satish Kakkad, the principle against duplicate punishment for a partner and his firm applies here. However, his separate personal penal liability is independently grounded in his own specific acts, which go well beyond the ordinary acts of a partner conducting the firm's business. The chats from Shri Satish Kakkad's mobile (SCN para 35.1 to 35.3) record Shri Harish Kakkad personally giving explicit instructions to 'remove all the trucks, put only dumper' from the overseas supplier's catalogue, sharing a drawing depicting the mining symbol and speed symbol to be embossed on tyre sidewalls, and stating 'I will send a copy of invoice, it should be like this for everybody' -- indicating that he was personally directing the modus operandi not just for Ultra Mile but for the entire group. These acts of personally directing the embossing of false markings and the manipulation of supplier documentation are independent offences committed by him personally, not merely the ordinary business conduct of M/s Ultra Mile as a firm. His personal liability under Section 112(a)(i) and Section 114AA is therefore independently established on these grounds.

F. Conclusion on Issue No. (v) -- Summary of Penalty

3.83 I hold that penalties are imposable on all fourteen noticees. The provisions under which penalty is imposed and the basis are summarised in Table 11 below. The quantum of penalty for each noticee will be set out in the operative order (Point 6), having regard to the gravity of the conduct, the

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

role of each noticee, the quantum of duty involved, and all relevant mitigating and aggravating factors.

Table 11: Summary -- Penal Provisions Attracted Against Each Noticee

S. No.	Noticee	Sections Attracted	Basis
1.	M/s Pioneer Trading Corporation	S. 112(a)(i), S. 114A and S. 114AA	Wilful mis-statement and suppression; misdeclaration of description and value; use of false invoices and Bills of Entry; document forgery in diversion of consignments
2.	M/s Aahna Consultancy Ltd.	S. 112(a)(i), S. 114A and S. 114AA	Wilful mis-statement; misdeclaration of description; IEC used for diversion of Vikas Road consignment through forged documents
3.	M/s Leo Distributors Pvt. Ltd.	S. 112(a)(i), S. 114A and S. 114AA	Wilful mis-statement; misdeclaration of description; IEC used for diversion of Pioneer consignments through forged documents
4.	M/s Vikas Road Carriers Ltd.	S. 114A and S. 114AA	No port seizure; all imports cleared for home consumption. S.112(a)(i) not attracted. Wilful mis-statement; misdeclaration; manipulation of B/L and commercial invoice for diversion to Mundra; noticee concedes Rs. 3,23,92,908 correlated with co-noticee test reports.
5.	M/s Vikas Retail Pvt. Ltd.	S. 112(a)(i), S. 114A and S. 114AA	Wilful mis-statement; misdeclaration of description; same overseas suppliers and models; tyres used in fleet for on-road operations
6.	M/s Trans Tyre LLP	S. 112(a)(i), S. 114A and S. 114AA	Wilful mis-statement; misdeclaration of description; manipulation of shipping documents for four diverted consignments; principal Kakkad Group firm
7.	M/s Tiara Enterprises	S. 112(a)(i), S. 114A and S. 114AA	Wilful mis-statement; misdeclaration of description; IEC used by Shri Satish Kakkad; participation in manipulation of shipping documents for diverted consignments
8.	M/s Ultra Mile	S. 112(a)(i), S.	Godown goods confiscated under S.111(d), (m)

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

		114A and S. 114AA	and (o) -- S.112(a)(i) attracted in respect of confiscated godown goods. Wilful mis-statement; private-label scheme on CB332 TBR base; Harish Kakkad's active role in directing modus operandi.
9.	Shri Satvinder Singh Chadha alias Happy	S. 112(a)(i) and S. 114AA	Independent personal acts: abetment of improper importation in respect of M/s Vikas Retail Pvt. Ltd. (separate company); personal direction of undervaluation and offshore remittances; post-DRI forgery and diversion of consignments; personal role as Director of incorporated companies (Aahna, Leo)
10.	Shri Jaskaran Singh Chadha	S. 112(a)(i) and S. 114AA	Director of M/s Vikas Retail Pvt. Ltd. (company with separate legal personality); personal acts of omission and commission in respect of the company's imports; use of imported tyres in own transport fleet for on-road operations
11.	Shri Paresh Bhanushali	S. 112(a)(i) and S. 114AA	Independent personal acts as employee: direct communication with overseas suppliers on modus operandi; facilitation of undervaluation remittances; sharing of offshore firm details for 'remittance for under invoice'; mitigation for employee status and direction by employer
12.	Shri Satish Bhagwandas Kakkad	S. 112(a)(i) and S. 114AA	Independent personal acts: abetment of improper importation in respect of M/s Tiara Enterprises (separate entity); personal direction of all import functions of Tiara through Shri Aman Ahuja; manipulation of shipping documents for diversion of four consignments; personal emails confirming actual Speed Category J for imported models
13.	Shri Aman Ahuja	S. 112(a)(i) and S. 114AA	Independent personal acts as Karta: personal participation in diversion of four consignments by directing CHA to substitute importer name in shipping documents; penalty quantum to reflect limited role and direction by Shri Satish Kakkad
14.	Shri Harish Bhagwandas Kakkad alias Tony	S. 112(a)(i) and S. 114AA	Independent personal acts: personal direction of embossing of false markings on tyre sidewalls; explicit instructions to remove truck references

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

			from supplier catalogues; sharing of drawing of mining symbol for embossing; stated scheme was 'for everybody' -- indicating direction of group-wide modus operandi
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4. In view of the foregoing discussion, the material available on record, the submissions made by the noticees, and my findings on the issues arising for determination in these proceedings, I pass the following order.

ORDER

4.1 M/s Pioneer Trading Corporation [IEC: 0305035258]

4.1.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Pioneer Trading Corporation. I order the reclassification and reassessment of the said goods under CTH 40112010 of the First Schedule to the Customs Tariff Act, 1975, in respect of the Bills of Entry listed in Annexures-C1, C2, F1, F2, H1 and H2 to the Show Cause Notice.

4.1.2 I further reject the declared transaction value of Rs. 8,86,52,804/- in respect of the 39 Bills of Entry listed in Annexure-D to the Show Cause Notice, under Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and order re-determination of the assessable value at Rs. 11,31,69,104/- under Rule 9 of those Rules read with Section 14 of the Customs Act, 1962.

4.1.3 I order confiscation of the goods seized at Nhava Sheva Port vide Seizure Memos dated 13.03.2024, 16.04.2024 and 17.04.2024 having declared assessable value of Rs. 2,01,43,141/- as per Annexure-C1, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I, however, give M/s Pioneer Trading Corporation an option to redeem the said goods on payment of a redemption fine of Rs. 60,00,000/- (Rupees Sixty Lakhs only) within 120 days of the date of this Order, in lieu of confiscation, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

4.1.4 I order confiscation of the goods seized at the godown premises of M/s Pioneer Trading Corporation vide Seizure Memos dated 06.03.2024 having declared assessable value of Rs. 1,28,11,141/- as per Annexure-C2, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Pioneer Trading Corporation an option to redeem the said goods on payment of a redemption fine of Rs. 40,00,000/- (Rupees Forty Lakhs only) within 120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.1.5 I hold that the goods imported by M/s Pioneer Trading Corporation in the past having total assessable value of Rs. 98,12,46,954/- as per Annexures-F1, F2, H1 and H2 (excluding the value of goods found in the godown) were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since the said goods have been cleared for home consumption and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

4.1.6 I confirm the demand of differential Customs duty of Rs. 35,72,52,024/- (Rupees Thirty-Five Crores Seventy-Two Lakhs Fifty-Two Thousand and Twenty-Four only) as detailed in Annexures-F1, F2, H1 and H2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Pioneer Trading Corporation, along with applicable interest under Section 28AA of the Customs Act, 1962.

4.1.7 I impose a penalty of Rs. 35,00,000/- (Rupees Thirty-Five Lakhs only) on M/s Pioneer Trading Corporation under Section 112(a)(i) of the Customs Act, 1962, in respect of the confiscated goods (port and godown).

4.1.8 I impose a penalty on M/s Pioneer Trading Corporation under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 35,72,52,024/- (Rupees Thirty-Five Crores Seventy-Two Lakhs Fifty-Two Thousand and Twenty-Four only) together with the interest payable thereon. If M/s Pioneer Trading Corporation pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

4.1.9 I impose a penalty of Rs. 20,30,00,000/- (Rupees Twenty Crores and Thirty Lakhs only) on M/s Pioneer Trading Corporation under Section 114AA of the Customs Act, 1962.

4.2 M/s Aahna Consultancy Ltd. [IEC: AALCA5616Q]

4.2.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Aahna Consultancy Ltd. and order their reclassification under CTH 40112010 in respect of the Bills of Entry listed in Annexures-I, J2 and K2 to the Show Cause Notice.

4.2.2 I order confiscation of the goods seized at Nhava Sheva Port and Mundra Port vide Seizure Memos dated 17.04.2024 and 24.04.2024 having declared assessable value of Rs. 72,78,087/- as per Annexure-I, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Aahna Consultancy Ltd. an option to redeem the said goods on payment of a redemption fine of Rs. 20,00,000/- (Rupees Twenty Lakhs only) within 120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.2.3 I hold that the goods imported by M/s Aahna Consultancy Ltd. in the past having total assessable value of Rs. 99,82,674/- as per Annexures-J2 and K2 were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since the said goods have been cleared for home consumption and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

4.2.4 I confirm the demand of differential Customs duty of Rs. 30,97,283/- (Rupees Thirty Lakhs Ninety-Seven Thousand Two Hundred and Eighty-Three only) as detailed in Annexures-J2 and K2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Aahna Consultancy Ltd., along with applicable interest under Section 28AA of the Customs Act, 1962.

4.2.5 I impose a penalty of Rs. 5,00,000/- (Rupees Five Lakhs only) on M/s Aahna Consultancy Ltd. under Section 112(a)(i) of the Customs Act, 1962, in respect of the confiscated goods.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

4.2.6 I impose a penalty on M/s Aahna Consultancy Ltd. under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 30,97,283/- (Rupees Thirty Lakhs Ninety-Seven Thousand Two Hundred and Eighty-Three only) together with the interest payable thereon. If M/s Aahna Consultancy Ltd. pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

4.2.7 I impose a penalty of Rs. 35,00,000/- (Rupees Thirty-Five Lakhs only) on M/s Aahna Consultancy Ltd. under Section 114AA of the Customs Act, 1962.

4.3 M/s Leo Distributors Pvt. Ltd. [IEC: AABCL9316L]

4.3.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Leo Distributors Pvt. Ltd. and order their reclassification under CTH 40112010 in respect of the Bills of Entry listed in Annexures-L, M2 and N2 to the Show Cause Notice.

4.3.2 I order confiscation of the goods seized at Nhava Sheva Port vide Seizure Memos dated 17.04.2024, 24.04.2024 and 06.05.2024 having declared assessable value of Rs. 1,68,80,104/- as per Annexure-L, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Leo Distributors Pvt. Ltd. an option to redeem the said goods on payment of a redemption fine of Rs. 50,00,000/- (Rupees Fifty Lakhs only) within 120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.3.3 I hold that the goods imported by M/s Leo Distributors Pvt. Ltd. in the past having total assessable value of Rs. 2,46,81,345/- as per Annexures-M2 and N2 were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since the said goods have been cleared for home consumption and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

4.3.4 I confirm the demand of differential Customs duty of Rs. 82,54,648/- (Rupees Eighty-Two Lakhs Fifty-Four Thousand Six Hundred and Forty-Eight only) as detailed in Annexures-M2 and N2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Leo Distributors Pvt. Ltd., along with applicable interest under Section 28AA of the Customs Act, 1962.

4.3.5 I impose a penalty of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) on M/s Leo Distributors Pvt. Ltd. under Section 112(a)(i) of the Customs Act, 1962, in respect of the confiscated goods.

4.3.6 I impose a penalty on M/s Leo Distributors Pvt. Ltd. under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 82,54,648/- (Rupees Eighty-Two Lakhs Fifty-Four Thousand Six Hundred and Forty-Eight only) together with the interest payable thereon. If M/s Leo Distributors Pvt. Ltd. pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

4.3.7 I impose a penalty of Rs. 85,00,000/- (Rupees Eighty-Five Lakhs only) on M/s Leo Distributors Pvt. Ltd. under Section 114AA of the Customs Act, 1962.

4.4 M/s Vikas Road Carriers Ltd. [IEC: 0303059460]

4.4.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Vikas Road Carriers Ltd. and order their reclassification under CTH 40112010 in respect of the Bills of Entry listed in Annexures-O2 and P2 to the Show Cause Notice.

4.4.2 I hold that the goods imported by M/s Vikas Road Carriers Ltd. in the past having total assessable value of Rs. 15,22,20,149/- as per Annexures-O2 and P2 were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since the said goods have been cleared for home consumption and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

4.4.3 I confirm the demand of differential Customs duty of Rs. 5,14,12,826/- (Rupees Five Crores Fourteen Lakhs Twelve Thousand Eight Hundred and Twenty-Six only) as detailed in Annexures-O2

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

and P2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Vikas Road Carriers Ltd., along with applicable interest under Section 28AA of the Customs Act, 1962.

4.4.4 I impose a penalty on M/s Vikas Road Carriers Ltd. under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 5,14,12,826/- (Rupees Five Crores Fourteen Lakhs Twelve Thousand Eight Hundred and Twenty-Six only) together with the interest payable thereon. If M/s Vikas Road Carriers Ltd. pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

4.4.5 I impose a penalty of Rs. 3,05,00,000/- (Rupees Three Crores and Five Lakhs only) on M/s Vikas Road Carriers Ltd. under Section 114AA of the Customs Act, 1962.

4.5 M/s Vikas Retail Pvt. Ltd. [IEC: 0508085594]

4.5.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Vikas Retail Pvt. Ltd. and order their reclassification under CTH 40112010 in respect of the Bills of Entry listed in Annexures-Q, R2 and S2 to the Show Cause Notice.

4.5.2 I order confiscation of the goods seized at Nhava Sheva Port vide Seizure Memo dated 16.04.2024 having declared assessable value of Rs. 77,11,953/- as per Annexure-Q, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Vikas Retail Pvt. Ltd. an option to redeem the said goods on payment of a redemption fine of Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only) within 120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.5.3 I hold that the goods imported by M/s Vikas Retail Pvt. Ltd. in the past having total assessable value of Rs. 30,32,82,286/- as per Annexures-R2 and S2 were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

the said goods have been cleared for home consumption and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

4.5.4 I confirm the demand of differential Customs duty of Rs. 4,42,01,882/- (Rupees Four Crores Forty-Two Lakhs One Thousand Eight Hundred and Eighty-Two only) as detailed in Annexures-R2 and S2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Vikas Retail Pvt. Ltd., along with applicable interest under Section 28AA of the Customs Act, 1962.

4.5.5 I impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) on M/s Vikas Retail Pvt. Ltd. under Section 112(a)(i) of the Customs Act, 1962, in respect of the confiscated goods.

4.5.6 I impose a penalty on M/s Vikas Retail Pvt. Ltd. under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 4,42,01,882/- (Rupees Four Crores Forty-Two Lakhs One Thousand Eight Hundred and Eighty-Two only) together with the interest payable thereon. If M/s Vikas Retail Pvt. Ltd. pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

4.5.7 I impose a penalty of Rs. 6,20,00,000/- (Rupees Six Crores and Twenty Lakhs only) on M/s Vikas Retail Pvt. Ltd. under Section 114AA of the Customs Act, 1962.

4.6 M/s Trans Tyre LLP [IEC: 0315076062]

4.6.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Trans Tyre LLP and order their reclassification under CTH 40112010 in respect of the Bills of Entry listed in Annexures-T1, T2, U1, U2, V1 and V2 to the Show Cause Notice.

4.6.2 I order confiscation of the goods seized at Nhava Sheva Port vide Seizure Memo dated 14.03.2024 having declared assessable value of Rs. 94,08,359/- as per Annexure-T1, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Trans Tyre LLP an option to redeem the said goods on payment of a redemption fine of Rs. 30,00,000/- (Rupees Thirty Lakhs only) within

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.6.3 I order confiscation of the goods seized at the godown premises of M/s Trans Tyre LLP vide Seizure Memos dated 06.03.2024 having declared assessable value of Rs. 1,43,00,895/- as per Annexure-T2, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Trans Tyre LLP an option to redeem the said goods on payment of a redemption fine of Rs. 45,00,000/- (Rupees Forty-Five Lakhs only) within 120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.6.4 I hold that the goods imported by M/s Trans Tyre LLP in the past having total assessable value of Rs. 77,74,96,748/- as per Annexures-U1, U2, V1 and V2 (excluding the value of goods found in the godown) were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since the said goods have been cleared for home consumption and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

4.6.5 I confirm the demand of differential Customs duty of Rs. 18,50,45,997/- (Rupees Eighteen Crores Fifty Lakhs Forty-Five Thousand Nine Hundred and Ninety-Seven only) as detailed in Annexures-U2 and V2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Trans Tyre LLP, along with applicable interest under Section 28AA of the Customs Act, 1962.

4.6.6 I impose a penalty of Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only) on M/s Trans Tyre LLP under Section 112(a)(i) of the Customs Act, 1962, in respect of the confiscated goods (port and godown).

4.6.7 I impose a penalty on M/s Trans Tyre LLP under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 18,50,45,997/- (Rupees Eighteen Crores Fifty Lakhs Forty-Five Thousand Nine Hundred and Ninety-Seven only) together with the interest payable thereon. If M/s

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

Trans Tyre LLP pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

4.6.8 I impose a penalty of Rs. 16,00,00,000/- (Rupees Sixteen Crores only) on M/s Trans Tyre LLP under Section 114AA of the Customs Act, 1962.

4.7 M/s Tiara Enterprises [IEC: AAPHA0815A]

4.7.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Tiara Enterprises and order their reclassification under CTH 40112010 in respect of the Bills of Entry listed in Annexures-W, X1, X2, Y1 and Y2 to the Show Cause Notice.

4.7.2 I order confiscation of the goods seized at Nhava Sheva Port vide Seizure Memos dated 16.04.2024 and 18.04.2024 having declared assessable value of Rs. 1,54,40,054/- as per Annexure-W, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Tiara Enterprises an option to redeem the said goods on payment of a redemption fine of Rs. 45,00,000/- (Rupees Forty-Five Lakhs only) within 120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.7.3 I hold that the goods imported by M/s Tiara Enterprises in the past having total assessable value of Rs. 14,36,80,040/- as per Annexures-X2 and Y2 were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since the said goods have been cleared for home consumption and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

4.7.4 I confirm the demand of differential Customs duty of Rs. 3,57,86,642/- (Rupees Three Crores Fifty-Seven Lakhs Eighty-Six Thousand Six Hundred and Forty-Two only) as detailed in Annexures-X2 and Y2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Tiara Enterprises, along with applicable interest under Section 28AA of the Customs Act, 1962.

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

4.7.5 I impose a penalty of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) on M/s Tiara Enterprises under Section 112(a)(i) of the Customs Act, 1962, in respect of the confiscated goods.

4.7.6 I impose a penalty on M/s Tiara Enterprises under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 3,57,86,642/- (Rupees Three Crores Fifty-Seven Lakhs Eighty-Six Thousand Six Hundred and Forty-Two only) together with the interest payable thereon. If M/s Tiara Enterprises pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

4.7.7 I impose a penalty of Rs. 3,20,00,000/- (Rupees Three Crores and Twenty Lakhs only) on M/s Tiara Enterprises under Section 114AA of the Customs Act, 1962.

4.8 M/s Ultra Mile [IEC: AAFFU4620H]

4.8.1 I reject the classification of the imported goods declared as 'Mining/Off the Road Tyres' under CTH 40118000 by M/s Ultra Mile and order their reclassification under CTH 40112010 in respect of the Bills of Entry listed in Annexures-Z, AA1, AA2, BB1 and BB2 to the Show Cause Notice.

4.8.2 I order confiscation of the goods seized at the godown premises of M/s Ultra Mile vide Seizure Memo dated 06.03.2024 having declared assessable value of Rs. 86,99,775/- as per Annexure-Z, under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962. I give M/s Ultra Mile an option to redeem the said goods on payment of a redemption fine of Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only) within 120 days of the date of this Order, under Section 125 of the Customs Act, 1962, subject to the condition that the said goods shall be redeemed only for re-export and not for home consumption, in accordance with applicable law and subject to compliance with all procedural requirements in this regard.

4.8.3 I hold that the goods imported by M/s Ultra Mile in the past having total assessable value of Rs. 39,72,48,592/- as per Annexures-AA2 and BB2 (excluding the value of goods found in the godown) were liable to confiscation under Sections 111(d), 111(m) and 111(o) of the Customs Act, 1962 at the time of their importation. Since the said goods have been cleared for home consumption

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

and are no longer available, I do not pass any order of confiscation and do not impose any redemption fine in respect thereof.

4.8.4 I confirm the demand of differential Customs duty of Rs. 8,37,80,608/- (Rupees Eight Crores Thirty-Seven Lakhs Eighty Thousand Six Hundred and Eight only) as detailed in Annexures-AA2 and BB2 to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962, and order its recovery from M/s Ultra Mile, along with applicable interest under Section 28AA of the Customs Act, 1962.

4.8.5 I impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) on M/s Ultra Mile under Section 112(a)(i) of the Customs Act, 1962, in respect of the confiscated goods.

4.8.6 I impose a penalty on M/s Ultra Mile under Section 114A of the Customs Act, 1962 equal to the differential duty of Rs. 8,37,80,608/- (Rupees Eight Crores Thirty-Seven Lakhs Eighty Thousand Six Hundred and Eight only) together with the interest payable thereon. If M/s Ultra Mile pays the said differential duty and interest in full within 30 days of the receipt of this Order, the penalty under Section 114A shall stand reduced to 25% of the duty so determined, in terms of the proviso to Section 114A of the Customs Act, 1962.

4.8.7 I impose a penalty of Rs. 8,10,00,000/- (Rupees Eight Crores and Ten Lakhs only) on M/s Ultra Mile under Section 114AA of the Customs Act, 1962.

4.9 Shri Satvinder Singh Chadha alias Happy

4.9.1 I impose a penalty of Rs. 12,25,00,000/- (Rupees Twelve Crores and Twenty-Five Lakhs only) on Shri Satvinder Singh Chadha alias Happy under Section 112(a)(i) of the Customs Act, 1962, for the acts of omission and commission committed by him in respect of the confiscated goods as set out in the Discussion and Findings above.

4.9.2 I impose a penalty of Rs. 24,50,00,000/- (Rupees Twenty-Four Crores and Fifty Lakhs only) on Shri Satvinder Singh Chadha alias Happy under Section 114AA of the Customs Act, 1962.

4.10 Shri Jaskaran Singh Chadha

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

4.10.1 I impose a penalty of Rs. 3,10,00,000/- (Rupees Three Crores and Ten Lakhs only) on Shri Jaskaran Singh Chadha under Section 112(a)(i) of the Customs Act, 1962, for the acts of omission and commission committed by him in respect of the confiscated goods as set out in the Discussion and Findings above.

4.10.2 I impose a penalty of Rs. 6,20,00,000/- (Rupees Six Crores and Twenty Lakhs only) on Shri Jaskaran Singh Chadha under Section 114AA of the Customs Act, 1962.

4.11 Shri Paresh Bhanushali

4.11.1 I impose a penalty of Rs. 2,55,00,000/- (Rupees Two Crores and Fifty-Five Lakhs only) on Shri Paresh Bhanushali under Section 112(a)(i) of the Customs Act, 1962, for the acts of omission and commission committed by him in respect of the confiscated goods as set out in the Discussion and Findings above.

4.11.2 I impose a penalty of Rs. 5,05,00,000/- (Rupees Five Crores and Five Lakhs only) on Shri Paresh Bhanushali under Section 114AA of the Customs Act, 1962.

4.12 Shri Satish Bhagwandas Kakkad

4.12.1 I impose a penalty of Rs. 8,00,00,000/- (Rupees Eight Crores only) on Shri Satish Bhagwandas Kakkad under Section 112(a)(i) of the Customs Act, 1962, for the acts of omission and commission committed by him in respect of the confiscated goods as set out in the Discussion and Findings above.

4.12.2 I impose a penalty of Rs. 16,00,00,000/- (Rupees Sixteen Crores only) on Shri Satish Bhagwandas Kakkad under Section 114AA of the Customs Act, 1962.

4.13 Shri Aman Ahuja

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

4.13.1 I impose a penalty of Rs. 80,00,000/- (Rupees Eighty Lakhs only) on Shri Aman Ahuja under Section 112(a)(i) of the Customs Act, 1962, for the acts of omission and commission committed by him in respect of the confiscated goods as set out in the Discussion and Findings above.

4.13.2 I impose a penalty of Rs. 1,60,00,000/- (Rupees One Crore and Sixty Lakhs only) on Shri Aman Ahuja under Section 114AA of the Customs Act, 1962.

4.14 Shri Harish Bhagwandas Kakkad alias Tony

4.14.1 I impose a penalty of Rs. 4,05,00,000/- (Rupees Four Crores and Five Lakhs only) on Shri Harish Bhagwandas Kakkad alias Tony under Section 112(a)(i) of the Customs Act, 1962, for the acts of omission and commission committed by him in respect of the confiscated goods as set out in the Discussion and Findings above.

4.14.2 I impose a penalty of Rs. 8,10,00,000/- (Rupees Eight Crores and Ten Lakhs only) on Shri Harish Bhagwandas Kakkad alias Tony under Section 114AA of the Customs Act, 1962.

5. 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 the Customs Act, 1962, and/or any other law for the time being in force.

Digitally signed by
Yashodhan Arvind Wanage
Date: 29-05-2026
15:50:40

(यशोधनवनगे /Yashodhan Wanage)

प्रधानआयुक्त, सीमाशुल्क/ Pr. Commissioner of Customs

एनएस-1, जेएनसीएच / NS-I, JNCH

To:

1. M/s Pioneer Trading Corporation

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

1st Floor, Room No. 3, 178,
Chadha House, S.V.P. Nagar,
Mhada Layout, Andheri (West),
Mumbai Suburban, Maharashtra - 400053.
[IEC: 0305035258]

2. M/s Aahna Consultancy Ltd.

2nd Floor, Room No. 5, 178,
Chadha House, S.V.P. Nagar,
Mhada Layout, Andheri (West),
Mumbai Suburban, Maharashtra - 400058.
[IEC: AALCA5616Q]

3. M/s Leo Distributors Pvt. Ltd.

1st Floor, Room No. 4, 178,
Chadha House, S.V.P. Nagar,
Mhada Layout, Andheri (West),
Mumbai Suburban, Maharashtra - 400058.
[IEC: AABCL9316L]

4. M/s Vikas Road Carriers Ltd.

Ground Floor, Room No. 1, 178,
Chadha House, S.V.P. Nagar,
Mhada Layout, Near Versova Telephone Exchange,
Andheri (West), Mumbai Suburban, Maharashtra - 400053.
[IEC: 0303059460]

5. M/s Vikas Retail Pvt. Ltd.

AG-103, Sanjay Gandhi Transport Nagar,
New Delhi, North West Delhi,
Delhi - 110042.
[IEC: 0508085594]

6. M/s Trans Tyre LLP

Office-801, Supreme Headquarters,
F.P. No. 417, CTS No. F/443,
A-2 JN of 14th Road and 33rd Road Corner,
Bandra (West), Mumbai Suburban, Maharashtra - 400050.
[IEC: 0315076062]

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

7. M/s Tiara Enterprises

122/110-B, Sarojini Nagar,
Kanpur, Kanpur Nagar,
Uttar Pradesh - 208012.
[IEC: AAPHA0815A]

8. M/s Ultra Mile

Plot No. 26A, TPS-II,
1, Golden Bungalow, Juhu Road,
Santacruz (West), Mumbai Suburban,
Maharashtra - 400054.
[IEC: AAFFU4620H]

9. Shri Satvinder Singh Chadha alias Happy

1st Floor, Room No. 3, 178,
Chadha House, S.V.P. Nagar,
Mhada Layout, Andheri (West),
Mumbai Suburban, Maharashtra - 400053.

10. Shri Jaskaran Singh Chadha

AG-103, Sanjay Gandhi Transport Nagar,
New Delhi, North West Delhi,
Delhi - 110042.

11. Shri Paresh Bhanushali

608, Shree Vinayak CHS Ltd.,
S. Pawaskar Road, Near Jai Ambe Hospital,
Vaishali Nagar, Dahisar (East),
Mumbai - 400068.

12. Shri Satish Bhagwandas Kakkad

801, Supreme Headquarters,
F.P. No. 417, CTS No. F/443,
A-2 JN of 14th and 33rd Road Corner,
Bandra (West), Mumbai Suburban,
Maharashtra - 400050.

13. Shri Aman Ahuja

F. no. S/10-188/2024-25/CC/Gr II H-K/NS-I/CAC/JNCH

122/10-B, Sarojini Nagar,
Kanpur,
Uttar Pradesh - 208112.

14. Shri Harish Bhagwandas Kakkad alias Tony

Plot No. 26A, TPS-II,
1, Golden Bungalow, Juhu Road,
Santacruz (West), Mumbai Suburban,
Maharashtra - 400054.

Copy to:

1. AC/DC, Chief Commissioner's Office, JNCH.
2. AC/DC, Centralized Revenue Recovery Cell, JNCH.
3. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
4. ADG, DRI, Directorate of Revenue Intelligence (Headquarters), Plot No. 11-B, Institutional Area, Vasant Kunj, New Delhi - 110070.
5. AC/DC, Group II H-K, JNCH.
6. AC/DC, EDI Section.
7. Office Copy.