

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

<b>DIN - 20260578NX000000ADAA</b>	<b>Date of Order: 08.05.2026</b>
<b>F. No. S/10-26/2025-26/COMMR/GR.VB/NS-V/CAC/JNCH</b>	<b>Date of Issue: 08.05.2026</b>
<b>SCN No.: 119/2025-26/COMMR/Gr. VB/CAC/JNCH</b>	
<b>SCN Date: 09.05.2025</b>	
<b>Passed by: Sh. Anil Ramteke</b>	
<b>Commissioner of Customs, NS-V, JNCH</b>	
<b>Order No: 31/2026-27/COMMR/GR-VB/NS-V/CAC/JNCH</b>	
<b>Name of Noticee: Shri Rehman Iqbal Ahmed Shaikh and others.</b>	

**ORDER-IN-ORIGINAL**

**मूल - आदेश**

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

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

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

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

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

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

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

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

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

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

**Fee - फीस-**

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

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

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

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

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

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

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

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

**Subject: - Adjudication of Show Cause Notice No. 119/2025-26/COMMR/Gr. VB/CAC/JNCH dated 09 .05.2025 issued to Mr. Ghassan Abdel Khalek & Othrs. - reg.**

### **BRIEF FACT OF THE CASE**

**1.1** It is stated in the Show Cause Notice (SCN) No. 119/2025-26/COMMR/Gr. VB/CAC/JNCH dated 09.05.2025 that intelligence developed by the Directorate of Revenue Intelligence, Mumbai Zonal Unit (hereinafter referred to as 'DRI MZU') indicated that a syndicate led by one Shri Rehman Iqbal Ahmed Shaikh (hereinafter also referred to as 'Rehman Shaikh') and others were involved in smuggling of a large number of Luxury Cars, by organizing imports in the name of diplomats posted in India at 'NIL' rate of duty, by availing the benefit of the Customs Exemption Notification No. 03/1957 dated 08.01.1957. After said importation, the members of the syndicate were fraudulently making forged Indian invoices/Bills of Entry pertaining to the imported cars. Thereafter, the syndicate members registered the cars in RTOs across India in the names of non-privileged persons and identified prospective buyers for selling the imported cars to those buyers in India.

**1.2** On 14.07.2021, six (06) vehicles smuggled into India by the syndicate led by Shri Rehman Iqbal Ahmed Shaikh, by adopting the above-mentioned modus operandi, were seized by DRI from various places in India. During the investigation, which ensued after the seizure of vehicles on 14.07.2021, statements of relevant persons connected to the operation of the said modus operandi were recorded. It was revealed that there were many such vehicles that had been smuggled into India by the syndicate led by Shri Rehman Shaikh. The '**Range Rover Vogue Car - 2014 Model** (description taken from the Bill of Entry) bearing **Chassis No. SALGA2JEXEA146188**' is one such car, which has been imported illegally by members of the syndicate. who had active participation in earlier such illicit imports. The said 'Range Rover Vogue – 2014 Model' is the subject matter of the current SCN. The relevant statements of concerned syndicate members recorded during the earlier investigations have been relied upon and incorporated in this Investigation Report also.

### **1.3. PROCESS FOR AVAILING EXEMPTION CERTIFICATE UNDER CUSTOMS NOTIFICATION NO. 03/1957 DATED 08.01.1957:**

The Customs Notification No. 03/1957 dated 08.01.1957 allows diplomats of foreign missions (privileged persons) posted in India to import goods, including motor vehicles at 'NIL' duty (duty free). The said benefit can be availed by the diplomats by obtaining an Exemption Certificate from the Ministry of External Affairs (MEA), of the Government of India. The diplomat initially makes a request to MEA through his/her Embassy for the grant of Prior Approval in cases where the value of import consignments is more than Rs. 20 Lakhs

or US \$33,000 whichever is more and in every case of Motor Vehicle irrespective of the value. Except for the senior most diplomats, the diplomats posted to India can import one motor vehicle for their personal use within two years from the date of their arrival in India by availing the exemption from payment of customs duty with Prior Approval from the MEA, as provided in the Protocol Handbook of MEA. Such a request normally includes the invoice of the car along with other details such as make, model etc. and specifies that it is for personal use. Thereafter, the application of the prior approval for the import of the car in the name of the diplomat is processed at the MEA and the Prior Approval is conveyed to the foreign embassy of the diplomat. Once Prior Approval for the duty-free import is granted, through his/her Embassy the diplomat requests the MEA for an Exemption Certificate in respect of customs duty declaring specific particulars like Make, Model, Engine No., Chassis No. & date of Bill of Lading etc. The request of the diplomat is then processed at the MEA and the MEA issues an Exemption Certificate in respect of Customs Notification No. 03/1957-Cus dated 08.01.1957, with an explicit condition that the vehicle will not be sold or otherwise disposed to a person who is not entitled to import a vehicle free of duty without the concurrence of CBIC (through MEA) and without payment of the Customs duty to the Commissioner of Customs. The vehicle is then imported at NIL duty (duty-free) after filing the Bill of Entry by availing the benefit of the Customs Notification No. 03/1957 dated 08.01.1957 using the Exemption Certificate issued by MEA. Once the car is cleared from Customs, the imported car is required to be registered within one month from the date of its clearance from Customs with special registration for diplomats at MEA and a copy of the vehicle registration is sent to the MEA, as specified in the Prior Approval.

2. Intelligence developed by DRI MZU suggested that the syndicate led by Rehman Shaikh and others, using the modus operandi explained above, had imported a 'Range Rover Vogue Car – 2014 Model' in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi vide Bill of Entry No. 94 dated 31.05.2016 filed at JNCH, Nhava Sheva in Container No. MSKU7471800. The syndicate had then registered the said vehicle in the name of a non-privileged person by forging the documents and subsequently, the said car had been made available in the open market for sale purposes and sold to a buyer in India. The details of the vehicle and the said import as per the abovementioned Bill of Entry are tabulated as under: -

**Table No-1**

<b>Bill of Entry No. &amp; Date</b>	94 dated 31.05.2016
<b>Bill of Lading No. &amp; Date</b>	956465886 DATED 04.05.2016
<b>Invoice No. &amp; Date</b>	409/1299 – DATED 20.04.2016
<b>Description of goods</b>	'Range Rover Vogue - Model 2014'
<b>Chassis No.</b>	SALGA2JEXEA146188
<b>Assessable Value (in Rs.)</b>	Rs. 35,39,621/- (USD 51500)
<b>Duty</b>	'NIL' as cleared by availing Exemption Notification No. 03/1957 dated 08.01.1957
<b>Customs Station</b>	INNSA1

<b>Customs Broker Name</b>	M/s Babaji Khimji & Co.
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**2.1** Acting on the intelligence, preliminary enquiry in respect of the said vehicle bearing Chassis No. SALGA2JEXEA146188 indicated that the vehicle, which had been imported vide Bill of Entry No. 94 dated 31.05.2016 in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi without payment of duty by availing the benefit of the Customs duty Exemption Notification No. 03/1957-Cus. dated 08.01.1957, was registered in the name of Ashtamkar Noel Yona @ Neil Barrow, a non-privileged person. The intelligence received confirmed that the car had been registered in the name of a non-privileged person in violation of the conditions of Customs Notification No. 03/1957-Cus. dated 08.01.1957. During the investigation, it was ascertained that the Bill of Entry No. 94 dated 31.05.2016 in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi was filed at Jawaharlal Nehru Custom House (JNCH), Nhava Sheva by the Customs Broker, M/s Babaji Khimji & Co.

**2.2** Further enquiry revealed that the said 'Range Rover Vougue - Model 2014' was never registered in the name of the privileged person Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, through the MEA, as per records of the MEA provided vide their letter dated 15.06.2022. The said vehicle was rather found registered in the name of a non-privileged person, Shri Ashtamkar Noel Yona @ Neil Barrow under registration No. PB65 AE 0999 dated 09.05.2017 at the Registration Transport Authority, Mohali-DTO, Punjab.

### **3. SEIZURE AND THE SCOPE OF THIS INVESTIGATION REPORT**

**3.1** Acting on the above intelligence, various efforts were made to trace the Range Rover Vougue Car, and a visit was made to Bengaluru by the officers of DRI, MZU and a search was carried out at the premises of Sh. Neeraj Maurya located at Embassy Lake Terrace, Kempapura, Hebbal, Bengaluru – 560 024. The said search proceedings were recorded under Panchnama dated 20.11.2024. During the said search proceedings, a Range Rover Vougue car bearing Registration No. PB65AE0999 and Chassis No. SALGA2JEXEA146188 was found at the said premises and the same was parked at parking lot No. 188 of Tower-5 at parking level B-2. The said Range Rover Vougue car bearing registration No. PB65AE0999 and Chassis No. SALGA2JEXEA146188 was imported in the name of foreign diplomat Mr. Ghasan Abdelkhalek, Charge D Affairs, Embassy of Lebanon, New Delhi by availing the benefit of the exemption Notification No. 03/1957-Cus dated 08.01.1957 and was registered in the name of a non-privileged person, Shri Ashtamkar Noel Yona @ Neil Barrow. As the Range Rover Vougue Car had been registered in violation of the conditions of the Notification No. 03/1957-Cus dated 08.01.1957 and was found in the possession of Sh. Neeraj Maurya, it appeared to be liable for confiscation under the provisions of the Customs Act, 1962. Accordingly, the said vehicle was resumed under Panchnama dated 20.11.2024. A Seizure memo dated 20.11.2024 seizing the said Range Rover Vougue Car bearing Registration No. PB65AE0999 and Chassis No.

SALGA2JEXEA146188 was issued by the office of DRI, MZU. The representative photos of the said seized Range Rover Vogue Car are as below:



#### **4. PROVISIONAL RELEASE OF THE VEHICLE**

Subsequent to the seizure of the subject vehicle from the possession of Shri Neeraj P. Maurya, repeated requests were made by him, both directly and through his legal representatives, seeking provisional release of the said vehicle. These requests, made vide letters dated 27.11.2024, 19.12.2024, 20.12.2024 and 08.02.2025, clearly indicate that the Noticee was desirous of obtaining custody of the vehicle pending adjudication and had expressed willingness to comply with the conditions that may be imposed by the department. I further observe that, upon due consideration of the said requests, the competent authority passed an order dated 13.03.2026 allowing provisional release of the seized vehicle under Section 110A of the Customs Act, 1962. The said order stipulated specific conditions, including execution of a bond equivalent to the assessable value of the goods, payment of the entire customs duty forgone amounting to Rs. 74,40,496/-, and furnishing of a bank guarantee of Rs. 1,00,00,000/- to secure potential penalties and redemption fine. Additionally, a condition restraining alienation or encumbrance of the vehicle was also imposed. These conditions were clearly communicated to the Noticee and were in accordance with the provisions of law as well as the guidelines prescribed under CBIC Circular No. 35/2017-Cus dated 16.08.2017. The conditions were neither arbitrary nor excessive but were imposed to safeguard the interest of revenue while permitting provisional release. However, it is a matter of

record that despite the grant of provisional release and the opportunity extended, the Noticee neither executed the requisite bond nor furnished the prescribed bank guarantee.

## **5. ENQUIRY MADE WITH THE MEA**

**5.1** In the instant case, the import of the above-mentioned 'Range Rover Vogue - Model 2014' was made after getting the customs duty Exemption Certificate from MEA. Accordingly, the relevant documents pertaining to the Prior Approval and Exemption Certificate issued to Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, for the import of 'Range Rover Vogue - Model 2014' bearing Chassis No. SALGA2JEXEA146188 were obtained from MEA.

**5.2** It was found that Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, vide Note Verbale No. 70/2016 dated 28.04.2016 requested to the Ministry of External Affairs, New Delhi to grant 'Prior Approval' for the import of the vehicle 'Range Rover Vogue - Model 2014'. The MEA, vide letter no. D.VI/451/2(40)/2016 dated 29.04.2016, conveyed 'Prior Approval' to Mr. Ghassan Abdelkhalek, for the import of said 'Range Rover Vogue - Model 2014' for personal use along with the instructions that the said vehicle was to be registered within one month from the date of its import and a copy of the vehicle registration certificate was to be sent to the Ministry.

**5.3** Thereafter, Mr. Ghassan Abdelkhalek vide letter No. 71/2016 dated 26.05.2016 requested MEA for an Exemption Certificate for availing exemption from payment of customs duty on the said vehicle and declaring particulars like Make, Model, Engine No., Chassis No. & Bill of Lading number with date etc. Based on the said Exemption Certificate, the 'Range Rover Vogue - Model 2014', having Chassis No. SALGA2JEXEA146188, was imported into India vide Bill of Entry No. 94 dated 31.05.2016 without payment of duty by availing the benefit of the Customs duty exemption Notification No. 03/1957-Cus. dated 08.01.1957. Further, as per the records obtained from MEA vide letter dated 15.06.2022, it was confirmed that the said vehicle had not been registered with the R.T.O. by Mr. Ghassan Abdelkhalek through MEA after its import rather the registration of the vehicle was done in the name of a non-privileged person.

**5.4** Considering the facts of the case and to ascertain involvement in the eventual disposal of the vehicle to a non-privileged person, a Summons dated 26.07.2022 was issued to Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi through Ministry of External Affairs [MEA] to appear on 11.08.2022.

**5.5** In respect of the said Summons issued under Section 108 of the Customs Act, 1962 against Mr. Ghassan Abdelkhalek Charge D Affairs Lebanon, New Delhi, no response was received from the diplomat as well as the Embassy of Lebanon, New Delhi. This fact was informed to MEA vide their emails dated 27.10.2023, 16.11.2023 and 30.11.2023.

**5.6** Since the vehicle was not registered in the name of Mr. Ghassan Abdelkhalek Charge D Affairs, Lebanon, New Delhi and the same was found to be registered in the name of a non-privileged person, Mr. Ghassan Abdelkhalek Charge D Affairs in the Embassy of Lebanon, New

Delhi was informed vide letter dated 10.01.2024 through MEA to pay the requisite Customs Duty by citing the provisions of Rule 4A and Rule 5 of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with Customs Act, 1962. The said letter was also forwarded through email dated 16.01.2024, however, no reply was received in this regard.

## 6. ENQUIRY WITH RTO

6.1 During the investigation, it was ascertained that the members of the smuggling syndicate had succeeded in getting the said car registered in the name of a non-privileged person, with Registration Certificate No. PB 65 AE 0999 at RTO Mohali DTO. Necessary enquiries were made in this regard with the Mohali DTO. The Regional Transport Authority, Mohali DTO, Punjab vide its letter dated 05.08.2022 furnished the documents submitted at the time of registration such as Form-20, Form-21, Form-22, Retail Invoice number AMPJJV00364944 dated 13.03.2017 issued by M/s AMP Motors Pvt. Ltd., Delhi, Insurance Copy issued by HDFC Ergo General Insurance Company Ltd. etc.

6.2 It was noticed that the said 'Range Rover Vogue Model 2014' was registered under registration No. PB65 AE 0999 using Invoice No. AMPJJV00364944 dated 13.03.2017 (issued by M/s AMP Motors Pvt. Ltd., Delhi), Sale Certificate (issued by M/s AMP Motors Pvt. Ltd., Delhi) and Form 22 (issued by M/s Jaguar Land Rover India Ltd.).

6.3 In order to confirm the veracity of the said Invoices, the DRI office sent a letter dated 27.10.2023 to M/s AMP Motors Pvt. Ltd., Delhi. In response to the said letter, the office of M/s AMP Motors Pvt. Ltd., Delhi vide their email dated 27.10.2023, informed that "*We have never sold any vehicle to Mr. Ashtamkar Noel Yona, House No. 367, Village Sohna, Mohali, Punjab - 140308 as per documents attached by your goodself alongwith your notice. The attached invoice doesn't belong to our company. It is purely forged Invoice made by someone others and we are not aware about the same. In future, if any further details will require, we will provide the same*". Consequently, the investigation revealed that the documents submitted before the RTO authorities at Mohali, DTO, Punjab were forged documents and thus, the said Registration No. PB 65 AE 0999 had been obtained fraudulently.

## 7. STATEMENTS RECORDED UNDER THE PROVISIONS OF SECTION 108 OF THE CUSTOMS ACT, 1962:

During the course of the investigation, statements of various persons were recorded under the provisions of Section 108 of the Customs Act, 1962, from which the modus operandi of this syndicate became clear and the same can be understood from the following paragraphs: -

7.1 **Shri Rajeev Sood, a commission agent in embassies** in his statement recorded on 14.07.2021 inter *alia*, stated that;

- i. He started working as a Commission Agent for diplomats of various embassies since 2019 and sourced things like furniture, household items, rental houses etc. for these diplomats

and also assisted diplomats (who were willing to sell their personal cars imported by them through the diplomatic channel) in finding customers;

- ii. He was acquainted with Rehman Shaikh, based in Mumbai, who sourced goods from abroad and he, in turn, introduced Rehman Shaikh to the Diplomats of several embassies;
- iii. Rehman Shaikh would negotiate the price and complete the documentation required for importing those goods through the diplomatic channel;
- iv. Rehman Shaikh used to give him the commission for the same and he used to get Rs 40,000/- to 50,000/- for the consignment of goods having values USD 7000 to USD 8000;
- v. He used to provide him contact details, email id, visiting cards etc. of new diplomats for business purpose i.e. sourcing of required goods such as furniture, household items, second-hand cars etc;
- vi. On being asked about the mode of information from the Ministry of External Affairs, he stated that he used to get information from one person named Manjeet Maurya who was working as a clerical staff in the Ministry of External Affairs. After getting this information, he used to give details of those eligible Diplomats to Rahman Sheikh for business purpose and also provided details of Rehman Shaikh to those diplomats for the required import of goods;
- vii. Whenever he got an enquiry or demand for high-end cars from customers, he used to contact Nipun Miglani.

**7.2 Shri Mohammed Wasim Abdul Gani Siddique** (hereinafter also referred to as Wasim), in his statement recorded on 14.07.2021 inter alia, stated that;

- i. Liyakat Bachu Khan had given him the work of editing documents which he did;
- ii. He was having coral software on his computer on the basis of which he used to edit all the documents given by Liyakat Bachu Khan;
- iii. The Invoices, some letters of Ministries, etc. have been forwarded to him by Liyakat Khan and he (Liyakat) used to give the direction to edit which he edited;
- iv. Liyakat Khan gave him Rs. 500 to Rs. 1000 as per the quantum of editing;
- v. Sometimes Liyakat Khan gave him the Bills of Entry to edit the name of the importer or the value of the goods and he did the same as per his directions.

**7.3 Shri Nipun Miglani, CEO of Big Boy Toys and dealer of high-end cars** (hereinafter also referred to as Nipun), in his statement recorded on 15.07.2021 inter alia, stated that:

- (i) He joined Big Boy Toys (BBT) owned by S. L. Ahuja (Chairman) & Jatin Ahuja (Managing Director & promoter) in the year 2012 as Director (Sales) and was at that time working as Chief Executive Officer (CEO) and his responsibilities as CEO were to source cars for BBT from all over India through his dealer's network and to later sell them to interested customers after refurbishing;
- (ii) He also worked as a freelance broker arranging imported cars for clients who were unable to get their cars from a trusted source in the country;
- (iii) The names of his dealers were Rehman Shaikh, Jun Bahadur Singh, Charan Jeet Singh, Heera Singh, Haji Bhai and others from Mumbai;

- (iv) The car pictures and documents were shared with him on WhatsApp from the dealers which were then forwarded to the prospective clients;
- (v) He was introduced to Rehman Iqbal Shaikh in the year 2010 by another dealer;
- (vi) Rehman Iqbal Shaikh contacted him and asked Nipun if he could help him (Rehman) to sell imported cars;
- (vii) He agreed to Rehman Shaikh's proposal and then Rehman introduced him to Liyaqat Bachu Khan who used to take care of handing over all the documents of imported cars;
- (viii) He used to communicate with Liyaqat Bachu Khan mostly through WhatsApp calls on his mobile number 9833996955;
- (ix) He used to get details of cars such as Make, Model, Year of Manufacture, Engine Cubic Capacity, Fuel variant and expected price from Rehman Iqbal Shaikh and, based on these details, he looked for probable customers requiring such specifications. After getting the customer he used to finalize the deal with Rehman Shaikh;
- (x) The registration paper of all the imported car was arranged by Liyaqat Bachu Khan.

**7.4 Shri Liyakat Bachu Khan, driver and associate of Sh. Rehman Shaikh** (hereinafter also referred to as Liyakat) in his statement recorded on 15.07.2021 inter alia, stated that;

- i. He was working as a Driver for Rehman Iqbal Shaikh on a monthly salary of Rs. 30,000/- ;
- ii. Rehman Shaikh was involved in the imports of high-end luxury cars for foreign diplomats posted in India, he was aware that while importing high-end luxury cars for the diplomats, they were exempted from duty;
- iii. On being asked about the import-related work; he stated that whenever a consignment, which is usually a high-end luxury car, is about to be imported into India, he received a copy of the Bill of Lading and invoice in respect of that consignment via WhatsApp from Rehman Shaikh mostly a week before the import and forward the same to Aubrey D'souza who is clearing staff in CHA firm namely Babaji Khimji;
- iv. He used to take the help of Mohammed Wasim Siddiqui for creating forged Bills of Entry in the same format and style as that of the original Bills of Entry. For example, once high-end luxury car was imported in the name of a diplomat with duty free exemption, then, after import, he used to approach Mohammed Wasim Siddiqui for creating the new version of the same Bill of Entry with all the details almost the same except assessable value, showing duty payment instead of original duty exemption, change in name of the consignee. In the same way, a forged version of related invoices and duty challans were also created by him with the help of Mohammed Wasim Abdul Gani Siddique;
- v. Rehman Shaikh identified the consignee i.e. foreign diplomat based in India through Rajeev Sood and after the consignment arrived in India, he and Rehman Shaikh cleared the consignment through a Customs Broker. Rajeev Sood managed all the embassy-related work/documents in respect of the imports of this high-end luxury imported cars such as Range Rover, Land Cruiser etc.;

- vi. On being asked about the reason for forging Bills of Entry, he stated that such Bills of Entry related to the import of high-end luxury imported cars were forged for the purpose of showing it to the customers of Rehman Shaikh for sale on high value. The high-end luxury cars were imported with duty free exemption available to diplomats and then diverted to the local market for sale, post registration of vehicles, by way of forging the original Bill of Entry by changing importer name and details, invoice details, duty paid details;
- vii. He accepted that this re-creation/forging/changing of the original Bill of Entry amounts to forgery. Further, he admitted that Duty exempted Bill of Entry is changed to dutiable Bill of Entry, on the basis of which they get the imported luxury car, imported in the name of diplomat, registered and then sold in the local market at a substantial high value.

**7.5 Shri Suriya Arjunan, an associate of Sh. Rehman Shaikh** (hereinafter also referred to as Suriya), one of the key members of this syndicate involved in sale of the luxury cars imported in the name of diplomats, in his statement recorded on 15.07.2021 inter alia, stated that;

- i. He was acquainted with Nipun Miglani since 2005;
- ii. Whenever Nipun Miglani needed funding, he (Nipun) requested him (Suriya) and he then transferred him the same via RTGS and in return Nipun sent him (Suriya) high-end imported vehicles.
- iii. When Nipun returned the money, he returned his vehicle.
- iv. He received 6 high-end imported vehicles from Nipun Miglani during last three years.

**7.6** In his further statement recorded on 17.07.2021, **Shri Nipun Miglani** on being specifically asked about his association with Shri Rajeev Sood, inter-*alia*, said that he had known Shri Rajeev Sood since 2007 or 2008, as he was a car dealer but so far, he had not done any business with Shri Rajeev Sood. Later, he saw Shri Rajeev Sood once with Shri Rehman when he came to Delhi and then he came to know that Shri Rajeev Sood was also working for Shri Rehman. On being asked about the role of Shri Rajeev Sood, he said that Shri Rajeev Sood might be doing the import documentation work with Shri Manjeet for Shri Rehman.

**7.7** In his further statement recorded on 18.07.2021, **Shri Rajeev Sood** inter alia, stated that;

- i. In 2017, Rehman offered him a business proposal that Rehman Shaikh wanted to import duty free goods viz. furniture, cars etc. in the name of foreign diplomats and asked for his help in that business as he (Rajeev Sood) had sources in various embassies due to his car workshop business and he agreed for the same;
- ii. For duty free import Rehman required two things: - a. Name of the foreign diplomats, who were ready to give his/her consent for duty free import of goods like cars, furniture etc. b. Information and other approval from MEA;
- iii. He had contact in both foreign embassies and MEA;
- iv. When Rehman asked him the details of any foreign diplomat for duty free import, he used to visit any foreign embassy and met there with diplomats regarding the business and asked them whether they were interested in any type of business;

- v. On being asked about the meaning of the term business referred to above, he stated that business meant whether the Diplomats were interested in giving their permission for duty free import of goods like cars and furniture in their names and, if they agreed, then their contact information like name, contact number, email id, passport and diplomatic identity card was shared with Rehman;
  - vi. Then Rehman and the foreign diplomat negotiated the terms and conditions of their arrangement and, once both agreed on the business, then through his contact Manjeet Maurya, working as clerical staff in the Ministry of External Affairs on a contract basis; he used to verify details about eligibility for duty free imports by concerned diplomats;
  - vii. After getting this information, he used to give details of Diplomats to Rehman Shaikh for business purposes and also details of Rehman Shaikh to diplomats for the required import of goods;
  - viii. On being asked about the documentation of duty free import, he stated that he was in contact with one of the employees of Rehman, Liyakat Bachu Khan of Mumbai and Liyaqat used to send him all the required documents through courier and asked him to take signature on those documents from the foreign diplomat;
  - ix. He used to receive draft letters that were to be printed on the embassy's letterhead and he simply forwarded those draft letters to the concerned diplomat for printing those draft letters on their letterhead;
  - x. He had provided contact information of embassies like Kenya, Laos, Lebanon, Senegal, Cambodia, Libya, Ethiopia etc. to Rehman Shaikh.
- 7.8 In his further statement recorded on 20.07.2021, **Shri Rajeev Sood** inter alia, stated that;
- i. Once a diplomat agreed to lend the documents for the import of cars, furniture etc. he used to procure a photocopy of his diplomatic identity card which the Diplomat used to provide willingly;
  - ii. He used to forward a photograph of the said documents to Rehman on WhatsApp and based on these documents Rehman Shaikh used to get the invoice prepared and the same was then forwarded to him on WhatsApp which he then used to forward to Manjeet Maurya;
  - iii. Manjeet then used to prepare the Application for Prior Approval to be submitted in the Ministry of External Affairs (MEA) and then Manjeet used to send back the same to him (Rajeev Sood) over WhatsApp, which he used to forward to the diplomat who was lending his/her documents;
  - iv. The diplomats used to submit the same application to the MEA for granting duty exemption for the import of cars and the MEA used to process the application and accord sanction and the same was conveyed to the diplomat by the MEA through email;
  - v. Manjeet used to keep him informed about the status of the application and would also inform him after the approval was granted;
  - vi. He was paying Rs. 12,000/- in cash to Manjeet for each document pertaining to one consignment;

- vii. He used to visit the concerned diplomat at his office and collect the hard copy of the sanction documents and send the photograph of the sanction document over WhatsApp to Rehman Iqbal Shaikh;
- viii. After that, Rehman Iqbal Shaikh used to ship the consignment and send him the bill of lading and Liyakat used to send him all import documents such as bill of lading, invoice, packing list etc through courier;
- ix. The diplomat used to make a final application for duty free imports (Exemption Certificate) and the said application was made by the diplomat himself through the online process after which the MEA conveyed to him the grant of duty exemption through email;
- x. Once final approval was granted the same was conveyed to him by Manjeet, after which he used to visit the concerned diplomat's office and collect the hard copies of the exemption documents and forward the same to Liyakat through courier;
- xi. On being asked about the payment to diplomats he stated that an advance money of 50% of the decided amount would to be paid during the process of Prior Approval and a balance 50% was made at the stage of making the final application to the MEA and, in most cases, payments were made in cash i.e., Indian Rupees, however, on few occasions money was also deposited in the bank accounts given by the diplomats;
- xii. Rehman Iqbal Shaikh used to send cash payments to him through one Mumbai based hawala agent by name of Afzal and he (Afzal) had been sending money to him for the last 03 years;
- xiii. He had received around Rs.60 Lakhs in cash from Afzal in last the 3 years on behalf of the Diplomats;
- xiv. On some occasions Rehman Iqbal Shaikh used to deposit money in the accounts of the diplomats as instructed by them directly as well;
- xv. He received cash in the range of 1 to 1.5 lakh from Iqbal Shaikh through Afzal depending upon the deal;
- xvi. The diplomats received amounts ranging from 8 Lakh to 10 Lakh based on the deal.

**7.9** The impugned Range Rover Vogue car bearing Chassis No. SALGA2JEXEA146188 had been imported into India vide Bill of Entry No. 94 dated 31.05.2016 in the name of Mr. Ghassan Abdelkhalek, which was filed at Jawaharlal Nehru Customs House (JNCH) by Babaji Khimji & Co., Customs Broker. The said Bill of Entry was filed by Mr. Aubrey Elias D'souza, representative of the customs broker firm namely Babaji Khimji and Co. (CHA Code: AAafb6900GCH001) and Shri Aubrey Elias D'souza had dealt with the entire process of clearance of the said Range Rover Vogue car.

**7.10** Shri Aubrey Elias D'souza in his statement recorded on 22.07.2021 inter alia, stated that –

- i. His Kardex no. was D-555 of Babaji Khimji & Co., his e-mail ID was [jpintl@rediffmail.com](mailto:jpintl@rediffmail.com). He was in the Customs Broking and Clearing & Freight Forwarding profession for the last 32 years. There is no staff working in his office at JP International and he handled all the work of Customs clearing by himself;
- ii. He knew Rehman for 18 years and he (Rehman Shaikh) knew that he was in the line of clearing the unaccompanied baggage, so he (Rehman Shaikh) contacted him 8 years ago

- for the job of clearance of imported cars from Customs in the name of diplomats/consulates/embassies;
- iii. He told him (Rehman Shaikh) that documents should come from the official e-mail id of the embassy/consulate/diplomat and all the documents should be signed and stamped by the embassy/consulate/diplomats;
  - iv. Sometimes Rehman Shaikh used to send Bill of Lading on his WhatsApp number for the concerned diplomatic import. Rehman told him about Liyakat and he (Liyakat) used to get documents for import without stamp and sign to which he told him that for the proper import, he needed documents on email from embassy/ consulate/diplomats with stamp and signature;
  - v. On receiving the documents on e-mail, he used to upload the documents on the ICEGATE site for generation of Bill of Entry;
  - vi. Further, he stated that generally Liyakat used to get delivery of imported cars from the CFS;
  - vii. Then he prepared a bill for his clearance charges and delivery challan of the imported cars and told Liyakat to provide the copy of the delivery challan duly signed by the recipient diplomats which he (Liyakat) used to provide him within 10 to 15 days;
  - viii. The following documents from the concerned embassy/consulate/ diplomats were required for the import of cars in the name of diplomats:
    - Bill of Lading
    - Proforma Invoice/Invoice
    - Custom Duty Exemption Certificate with schedule having details of cars signed by diplomats
    - Ministry of External Affairs letter of prior approval for imports of cars in the name of embassy/consulate/diplomats
    - Diplomatic Identity Card
    - Letter of Authorisation for CHA for import of cars signed and stamped by embassy/consulate/diplomats
  - ix. He was fully aware of the duty exemption notification no. 03/1957-Cus. dated 08.01.1957;
  - x. He had cleared a total of 13 imported cars from the year 2017 out of which 7 cars were imported on his CHA license, AAAPB6900GCH001 (Babaji Khimji & Company), and 6 cars were imported on CHA license, AABPB1892JCH001 (Navalson Logistics, License No. 11/1987);
  - xi. Out of the 13 cars imported & cleared by him using the benefit of notification no. 03/1957-Cus., the details of one Nissan Patrol car were as under:
    - Bill of Entry No./Date: 5492665 dated 30.10.2019.
    - Item Description: Nissan Patrol; Chassis No. – JN1TANY62Z0110613; Engine No. VK56385379A; COLOR – White; Model 2019.
    - CHA Firm Name: Babaji Khimji & Company, AAAPB6900GCH001.

- Importer Name: Embassy of the LAO Peoples' Democratic Republic, S-420, Greater Kailash, Part – II, New Delhi – 110048.
- xii. He charged Rs. 25,000/- per job (for every import). All the bills were raised from J P International to the diplomats which were paid to him by Liyakat Khan, in cash, on behalf of the diplomats.

7.11 In his further statement recorded on 27.07.2021 of **Shri Liyakat Bachu Khan**, inter alia, stated that;

- i. He used Wasim to forge various documents viz. Bills of Entry, Invoices, E-receipts etc. as per the instructions of Rehman Shaikh and paid Wasim amounts ranging from Rs. 500 to Rs. 2000 for the work;
- ii. All the editing and forgery were done by him as per the instructions of Rehman Iqbal Shaikh and he used to ask Mohammed Wasim Abdul Gani Siddique to create duplicate documents in return for some monetary consideration;
- iii. Such vehicles imported in the name of various embassies and diplomats were imported duty free as there were exemptions available to them and since these vehicles could not be sold in the open market, hence the documents had to be forged so that they could be registered in the name of private individuals;
- iv. About 25 to 30 luxury cars were imported in the above manner by availing Customs duty exemptions in the name of diplomats as per his knowledge;
- v. The documents pertaining to the above-mentioned imported cars viz. Bill of Entry, Invoice and duty challans were forged by Wasim as per his directions based on instructions given by Rehman Iqbal Shaikh;
- vi. On being asked as to how the details of the diplomats were obtained, he stated that Rajeev Sood, based in Delhi, had very good links and contacts in foreign embassies and Rajeev Sood used to approach and obtain all the documents and signatures required from the foreign diplomats that were required for the duty-free imports on their behalf.

7.12 **Shri Manjeet Maurya, temporary employee in the Ministry of External Affairs** in his statement recorded on 29.07.2021 inter alia, stated that;

- i. He joined the Ministry of External Affairs in July 2006 as a stenographer on a temporary basis and, was still working on the same post; he reported to the Section Officer (Protocol), MEA;
- ii. His job profile was to pursue and process the application of registration and sale of the vehicles received from diplomats through different embassies, these were both imported and locally procured vehicles;
- iii. As per his knowledge the diplomats got full Custom/GST duty exemption on imported vehicles/locally procured vehicles (as per their entitlement) when they registered their vehicle through MEA;
- iv. For claiming the Customs duty exemption on a vehicle, a diplomat had to take Prior Approval from the Ministry of External Affairs before importing the vehicle for which

- the diplomat has to submit a letter requesting to provide Prior Permission to import their personal/official vehicle; along with letter the diplomat has to submit a proforma invoice, copy of passport and MEA identity card for getting Prior Approval;
- v. After getting prior approval, the diplomat had to submit Form 9 along-with following documents at the time of importing the vehicle for claiming duty exemption on the imported vehicle:
- Prior approval
  - Invoice
  - Bill of Lading
  - Identity card
  - Passport
- vi. After submission of the above said documents, the officer/employee of the Ministry of External Affairs scrutinizes the documents and issues an exemption letter, addressed to the Customs authority in the name of the diplomat for providing the exemption on import duty of the goods imported by the diplomat;
- vii. After importing duty free vehicle by availing exemption, the diplomat had to apply for registration of the said vehicle through MEA only within 03 months of importing the vehicle;
- viii. Diplomats have a lock-in period for selling their duty-free vehicle in the local market. This lock-in period is of 3 years, 4 years or may be more depending upon the country the diplomat belonged;
- ix. If the importer diplomat wanted to sell his duty-free imported vehicle within the lock-in period, he/she needs to pay the full amount of duty as per Customs provision;
- x. A diplomat of the rank of the second secretary and below has an entitlement to one duty free vehicle within two years of posting in the country; a diplomat of the rank first secretary and above have an entitlement to two duty free vehicles within two years of posting in the country;
- xi. On being asked about his role during the clearance of duty-free vehicles by using exemption notification provided to the diplomats, he stated that he used to put up a file to his Section Officer for registration of vehicle after import or selling of vehicle if a diplomat was eligible to sale his vehicle and applied for the same;
- xii. He met Rajeev Sood in the year 2015 for the first time along with one diplomat and enquired about the documents required for the sale of vehicles on which GST/excise exemption was taken by the Diplomat;
- xiii. Rajeev Sood also enquired about the eligibility of one Diplomat for importing vehicles in his name. After that Rajeev Sood met him after 3-4 months for the second time and enquired about the documents required for duty free import of furniture by using the exemption which is entitled to diplomat only; He again enquired about one diplomat's eligibility for duty free import by using exemption notification entitled to diplomats;
- xiv. After that Rajeev Sood used to meet him every 2-3 months and used to enquire about the documents required for duty free import of vehicles/furniture by using the exemption

which is entitled to diplomat; every time he used to enquire about a new diplomat's eligibility for duty free import by using exemption notification entitled to diplomats and he (Manjeet) used to provide him (Rajeev Sood) the information regarding the necessary documents for duty free import by using exemption notification entitled to diplomats;

- xv. He used to provide him (Rajeev Sood) information about the eligibility of diplomats for duty free import by using exemption notification entitled to diplomats; He used to provide the required information to Rajeev Sood in lieu of monetary benefits;
- xvi. On being asked as to whether Rajeev Sood used to get the registration of vehicles (imported duty free), done in the name of a diplomat, he stated that in most of the cases, registration was not done through MEA and instead the vehicles might have been sold directly into the local market by brokers like Rajeev Sood.

7.13 In his further statement recorded on 02.08.2021 **Shri Nipun Miglani**, inter alia, stated that:

- i. He used to deposit/ receive the money from the accounts of the said people as per the details provided by Afzal on the instructions of Rehman Shaikh. On being asked as to how it was decided from which person the transaction would be made, he informed that Rehman Shaikh used to instruct him to speak to Afzal Memon in whose account financial transactions for imported cars would be made;
- ii. He used to instruct and advise Liyakat for editing/modifying various documents required for the registration of the car so that they appear to be genuine, and the cars could be easily registered without any legal hurdles and, that, they were forged for the sole purpose of obtaining registration of the said cars so that they could easily be sold in the open market thereafter;
- iii. In general, in all the documents, he used to instruct Liyakat about corrections/modifications for registration purposes and his chats in WhatsApp with Liyakat and attachments clearly show and infer the same.

7.14 In his further statement recorded on 02.08.2021 of Shri Suriya Arjunan, wherein he, inter alia, stated that;

- i. On being asked about the WhatsApp conversations between him and Nipun Miglani, he stated that they generally discussed about high-end vehicles;
- ii. Nipun sent him model no. and rates of the vehicles and he passed it on in his circle;
- iii. If any of his known or friends took interest in the purchase of the said vehicle, he conveyed the same to Nipun;
- iv. On being specifically asked about his role in the registration of these vehicles, he stated that he used to get the details of the imported vehicles from Nipun for registration purposes. He knew one person by the name Khateeb who was based in Mumbai who did registration facilitation at various RTOs in India.

7.15 Shri Neeraj P. Maurya, the person who was in possession of the vehicle, in his statement recorded on 23.06.2022 inter alia, stated that;

- i. He was in search of a second-hand Range Rover vehicle & with a reference of his friend Dr. Chandru, he met Shri Chetan Shetty, who used to deal with the sale and purchase of second-hand luxury cars;
- ii. He showed him the vehicle bearing registration No. PB65AE0999 in the month of December 2020 & he took the possession of the said vehicle in the same month to check the performance and the condition of the vehicle;
- iii. Thereafter, he used to take the said vehicle frequently from Chetan Shetty who had a lot of cars at his disposal and he (Chetan Shetty) believed that he was going to purchase this vehicle;
- iv. The last time he had the possession of the said vehicle was in April 2022;
- v. the reason for not taking the vehicle thereafter was that the NOC for the above said vehicle was not provided by Chetan Shetty despite asking for the same on a regular basis;
- vi. He did not want to get into any complication with regard to the said vehicle as the documents like NOC was not provided to him despite asking multiple times;
- vii. At any given point of time, the said vehicle was not in his possession for more than a month;
- viii. Since he could not furnish the NOC from Punjab RTO office, he decided not to purchase the vehicle. He hasn't paid any advance amount to Chetan Shetty as he was always promising to give NOC but never provided the same and was never in possession of original documents pertaining to registration number PB65AE0999 Range Rover 4.4 TDVS Vogue SE;
- ix. He only had the copies of all statutory documents required as per RTO requirement to produce in case of requirement by regulatory authorities & presently, he doesn't have any documents pertaining to above said vehicle, as the same were always available inside the car.

7.16 In his further statement recorded on 12.07.2022 **Shri Aubrey Elias D'souza**, interalia, stated that –

- i. On being asked about the details of the cars imported in the name of embassy/consulate/ diplomats prior to the year 2017, he stated that he cleared 4 imported cars in the year 2016 on his CHA License AAAFB6900GCH001 (M/s. Babaji Khimji & Company) that were cleared as diplomatic cargo;
- ii. The Bills of Entry in respect of the above cars were filed manually. The details of the above said 4 manual Bills of Entry are as follows:

Sr. No.	B/E and Date	Item Description	Importer/Embassy
1	62 dated 16.09.2016	Toyota Lexus	Kye Chun Yong, Ambassador, E/o DPR Korea
2	64 dated 11.11.2016	Range Rover Vogue	Yasser AH Dahaln, First Secretary, E/o State of Palestine
3	66 dated 29.03.2016	Toyota Vellfire	Han Jae Song, Counsellor, E/o DPR Korea

4	94 dated 31.05.2016	Range Rover Vogue	Ghassan Abdul Khaleek, Charge D Affairs, E/o Lebanon
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- iii. He submitted self-certified copies of documents in respect of the above mentioned 4 Bills of Entry that were filed as diplomatic cargo by him;
- iv. He received the job of clearance of the above mentioned 4 consignments under Customs Notification No. 03/1957 from Liyakat Bachu Khan;
- v. He used to get the all the requisite documents for filing of Bill of Entry viz. Bill of Lading, Invoice, Exemption Certificate, Prior Approval, Diplomatic identity card, Letter of Authorisation for CHA for import of cars etc. from the concerned embassy by courier, on the basis of which he used to file the Bill of Entry;
- vi. Once the consignment was out of charge, Liyakat used to come to receive the said
- vii. consignment on behalf of the concerned Embassy/consulate/diplomats;
- viii. Thereafter, he (Liyakat) used to send him (Aubrey) the endorsed copy of the delivery challan once the car was delivered to the concerned diplomat;
- ix. He never asked Liyakat for any sort of authorization to collect the vehicle on behalf of the embassy/consulate/diplomat since all the job was received through the reference of Liyakat and he (Liyakat) used to coordinate with him for examination and delivery on behalf of the concerned embassy;
- x. Liyakat used to pay his clearance charges through cash which was Rs. 25000/- per job of import;
- xi. Since EDI filing of the Bill of Entry attracted 1% NCCD by default and the said cars were diplomatic cargo exempted from duty, the Manual Bill of Entry was filed after seeking permission from EDI, Deputy Commissioner. On being asked he stated that Ship stores, Transshipment, ATA Carnet, Diplomatic cargo etc. were allowed for manual filing of Bill of Entry after permission from DC, EDI.

7.17 In his further statement recorded on 11.08.2022 **Shri Liyakat Bachu Khan**, inter alia, stated that;

- i. He was shown the statement of Shri Aubrey Elias D'Souza dated 12.07.2022. He perused the statement and put his dated signature on the same having agreed to its contents;
- ii. On being asked about the circumstances in which the manual Bills of Entry (B/E No. 94 dated 31.05.2016) was filed prior to 2017 as tendered in his (Aubrey) statement, he stated that the Bill of Entry pertaining to the car imported in the name of embassy/consulate/diplomats was filed on the instructions of Shri Rehman Iqbal Ahmed Shaikh;
- iii. The necessary documents viz. invoice and Bill of Lading were provided by Rehman to him which he forwarded to Rajeev Sood for coordination at MEA;
- iv. The payments in respect of the Customs Clearance were arranged and provided by Rehman;
- v. He went to receive the imported cars after Customs Clearance at the docks on the instructions of Rehman Iqbal Ahmed Shaikh;

- vi. On being asked about the delivery of the imported cars, he stated that the said cars were delivered to the addresses given by Rehman Iqbal Ahmed Shaikh.

7.18 In his further statement recorded on 27.09.2023 **Shri Aubrey Elias D'souza**, *inter alia*, stated that –

- i. In Bill of Entry No. 94 dated 31.05.2016, consignment of car was cleared on his CHA License AAAFB6900GCH001 (M/s. Babaji Khimji & Company) as diplomatic cargo;
- ii. He had received the job of clearance of the above-mentioned consignment under Customs Notification 03/1957- Cus dated 08.01.1957;
- iii. He got all the requisite documents for filing of Bill of Entry viz. Bill of Lading, Invoice, Exemption Certificate, Prior Approval, Letter of Authorisation for CHA for import of car etc. from the concerned embassy/diplomat by courier, on the basis of which he used to file the Bill of Entry;
- iv. He did not have the courier details as the documents were received a long time back;
- v. After the vehicle was made out of charge by the customs department, Liyakat Bachu Khan received the vehicle on behalf of the concerned Embassy/diplomat;
- vi. Liyakat Bachu Khan used to pay his clearance charges through cash of Rs. 25000/- per import job.

7.19 In his further statement recorded on 05.10.2023 **Shri Liyakat Bachu Khan**, *inter alia*, stated that;

- i. He was shown and asked about the Bill of Entry No. 94 dated 31.05.2016 wherein, the consignment of the car was cleared on the CHA License AAAFB6900GCH001 (M/s. Babaji Khimji & Company) and it was cleared as diplomatic cargo;
- ii. That as to whom the said car imported vide Bill of Entry No. 94 dated 31.05.2016 was further handed over, he stated that he has already stated all the facts in his previous statements recorded in the DRI office and has no comments to offer on this at this point of time;
- iii. That his job was to hand over the documents as given to him by Rehman Shaikh and on his instruction, the same were handed over to the CHAs and thereafter, on customs clearance, he had to take the delivery of the vehicles and load the same on the Flat Bed provided or instructed by Rehman Shaikh;
- iv. That he was not aware as to whom the vehicles were subsequently handed over or given by Rehman Shaikh.

7.20 **Shri Neil Barrow (Ashtamkar Noel Yona)**, the person in whose name the car had been registered, in his statement recorded on 26.10.2023 *inter alia*, stated that –

- i. He had converted himself to a Jew and taken the name 'Ashtamkar Noel Yona' as he wanted to go to Israel;
- ii. He has later re-changed his name to Neil Barrow;
- iii. He had known Shri Rehman Shaikh from his childhood who had used his documents to register the said vehicle;

- iv. His election card has been forged by Rehman as he (Neil) had never visited Punjab;
- v. He does not know anything about Shri Chetan Shetty as well as the imported Range Rover Car.

**7.21 Shri Chetan Jagdish Shetty, an associate of Shri Suriya Arjunan** in his statement recorded on 07.11.2023 inter alia, stated that;

- i. The Range Rover Vogue Car bearing registration no. PB65AE0999 was initially in the possession of Sh. Suriya and he (Suriya) wanted to sell the vehicle and asked him to look for some good clients;
- ii. While he was searching for a client he came in contact with Sh. Neeraj Maurya through one of his friends, Dr. Chandru;
- iii. The said vehicle was registered in Mohali, Punjab in the name of a person viz. Shri Ashtamtak Noel Yona as per the documents shown to him by Shri Suriya;
- iv. He perused the statement of Shri Neeraj Maurya dated 23.06.2022;
- v. He had sold the said vehicle to Shri Neeraj Maurya through Shri Suriya and he (Neeraj) had paid an amount of Rs. 1 Crore to Shri Suriya in cash and he (Chetan) was supposed to get an amount of Rs. 2 Lakh for the same; however, he had not received the said amount till date;
- vi. The vehicle was handed over to Shri Neeraj Maurya in the month of December 2020 who is still in possession of the said vehicle;
- vii. Shri Neeraj Maurya had been telling lies that he had handed over the vehicle to him (Chetan);
- viii. Shri Suriya had informed him that the said car had been purchased from M/s AMP Motors Pvt. Ltd.;
- ix. Shri Suriya had handed him over the FORM 29 & 30 for transfer of the said vehicle. Since, NOC wasn't received from Mohali – DTO, Punjab, the vehicle remains to be registered in the fresh name;
- x. He had never met Shri Ashtamkar Noel Yona;
- xi. Shri Suriya had told him that the vehicle was sold to him by Shri Nipun Miglani;
- xii. Shri Suriya also deals in luxury vehicles; he knows Shri Nipun Miglani as he was earlier in Bangalore working as a freelancer dealing in luxury cars.

#### **8. EFFORTS TO TRACE THE VEHICLE: -**

Several efforts were made by the DRI to trace out the impugned vehicle in the subject case but, the vehicle remained to be located. Thereafter, intelligence was gathered which indicated that the insurance of the impugned vehicle had been renewed through ICICI Lombard-G.I.C. Accordingly, the insurance company was contacted to get the details of the insurance agent through whom the renewal of the insurance had been made. The details of Shri Rahul B.H., the insurance agent, were provided by the ICICI Lombard G.I.C., who was summoned on 06.06.2024 to appear on 12.06.2024 for recording his evidence/statement under Section 108 of the Customs Act, 1962, but failed to appear on the stipulated date as he was hospitalized. However, he forwarded the documents and agreed to appear on 18.06.2024. He further informed that the insurance was done

on the instructions and directions of Shri Neeraj Maurya, who had paid the amount for insurance. Accordingly, on the basis of the said intelligence, a summons dated 12.06.2024 was issued to Sh. Neeraj Maurya to appear on 19.06.2024. However, he failed to appear before this office on the said date.

9. **Shri Rahul B. H., Insurance Agent, ICICI Lombard** in his statement recorded on 18.06.2024 under the provisions of Section 108 of the Customs Act, 1962, inter alia, stated that;

- i. He is holding IRDAI Licence No. ILG10862 dated 09.05.2008 issued by ICICI Lombard GIC Ltd.;
- ii. He had heard the name of a person by the name of Shri Ashtamkar Noel Yona. A Range Rover car bearing registration no. PB 65 AE 0999 is registered in his (Noel) name and he has been the insurance agent for the said vehicle since 2018, however, he had never met him (Noel), nor in touch with him;
- iii. In the year 2018, a person by the name of Shri Neeraj P. Maurya had contacted him and had told him that he (Neeraj) wanted to renew the insurance of a car. He (Shri Rahul) had asked him to forward the details of the car and Shri Neeraj had forwarded him the registration certificate of the car and bearing registration no. PB 65 AE 0999;
- iv. After perusal of the registration certificate, he had sent him (Shri Neeraj) a quote for the insurance and after some negotiations the price was fixed and he (Rahul) met him at a residential place and inspected the car;
- v. After the inspection and completion of formalities, he had sent Shri Neeraj Maurya a payment link and after the said amount was paid, he (Shri Rahul) forwarded him the insurance policy;
- vi. Till date, he had renewed the insurance of the said vehicle six times i.e. every year since 2018;
- vii. The payment in respect of the said insurance was made online from 2018 to 2021 and the payment was made through cash for the years 2022 and 2023;
- viii. The cash was collected by him for the year 2022 from the office of Shri Neeraj Maurya in the year 2022 and by his brother-in-law in the year 2023;
- ix. In 2022, after collecting the cash, he had deposited the said cash in his bank account and issued a cheque bearing no. 432274 dated 30.12.2022 in the name of ICICI Lombard GIC and in the year 2023, as he (Shri Rahul) was out of Bangalore, he had requested his brother-in-law to collect the said amount from Shri Neeraj Maurya and his brother-in-law had issued a cheque bearing no. 769818 dated 30.12.2023 in the name of ICICI Lombard GIC Ltd.;
- x. He had been in touch with him (Shri Neeraj) through Whatsapp and that too mostly through Whatsapp chat. He submitted screenshots of the said chats. In the whatsapp chat screenshot at Sr. No. 42 dated 26.12.2023, he had forwarded the latest policy taken on the vehicle No. PB 65 AE 0999. Similarly, at Sr. No. 31 & 32 dated 31.12.2022, he had again forwarded the insurance policy taken in the year 2022 for the said vehicle. Since 2018 onwards, he had been sending the vehicle insurance through whatsapp which had been mentioned at Sr. No. 3 dated 29.01.2019 for 2018 policy, Sr. No. 14 dated

27.12.2019 for 2019 policy, Sr. No. 18 dated 20.12.2020 for 2020 policy and Sr. No. 20 dated 28.12.2021 for 2021 policy;

xi. He identified Shri Neeraj P. Maurya from a photograph.

**10. RECOVERY AND POSSESSION OF THE VEHICLE:**

The statement of Sh. Rahul BH, insurance agent of ICICI G.I.C. Ltd. ascertained that the vehicle was in the possession of Sh. Neeraj Maurya. Subsequent to the statement of Sh. Rahul BH, two more summons dated 19.06.2024 and 26.06.2024 were issued to Shri Neeraj Maurya. However, he failed to appear for recording of his statement. A team of officers of DRI was deputed to Bengaluru to trace the vehicle and to examine and record the statement of Sh. Neeraj Maurya. After making strenuous efforts, the vehicle was traced at a location and appear to be in the possession of Sh. Neeraj Maurya. However, Sh. Neeraj Maurya was not available at the location and absconded. Efforts were made to trace him but he could not be found. The vehicle was seized and a Seizure Memorandum dated 20.11.2024 was issued. Thereafter, two summons dated 20.11.2024 and 22.11.2024 were issued to Sh. Neeraj Maurya. However, he failed to join the investigation on both occasions. Sh. Neeraj Maurya was again issued a summons dated 27.11.2024 for appearing before this office on 09.12.2024. He honoured the said summons, and his statement was recorded under Section 108 of the Customs Act, 1962.

11. In his statement recorded on 09.12.2024 under the provisions of Section 108 of the Customs Act, 1962 **Shri Neeraj P. Maurya**, inter alia, stated that;

- i. He had been self-employed in the field of Infrastructure development since the year 2002 and he established his own firm in Bangalore by the name of M/s The Maurya Infra in the year 2016;
- ii. He did not honour the summons dated 20.11.2024 served upon him by the officers of DRI, MZU in Bangalore as he had come to know that the Range Rover Car bearing registration No. PB65AE0999 has been recovered from his premises located at Embassy Lake Terrace, Bellary Main Road, Kempapura, Hebbal, Bangalore – 560024; he got afraid and did not visit the office of DRI, Bangalore Zonal Unit;
- iii. The fact regarding the possession of the Range Rover Car bearing registration No. PB65AE0999 stated by him in his earlier statement dated 23.06.2022 was wrong and he had purchased the said car from Sh. Chetan Shetty in the year 2018 through Sh. Suriya; He had also purchased another Range Rover Car bearing registration No. MH11F0001 without any involvement of Sh. Suriya; The car bearing registration No. PB65AE0999 was in his possession as he was having a dispute with Sh. Chetan Shetty, as he (Chetan) was not able to hand over the documents in respect of the said car to him (Neeraj);
- iv. He had made a payment of Rs. 10,00,000/-, as a token amount in respect of the Range Rover car bearing registration No. PB65AE0999 to a person who had collected it on behalf of Sh. Suriya; He had made the payment directly to Sh. Suriya as the deal was arranged by Sh. Chetan Shetty through Sh. Suriya;

- v. In his earlier statement dated 23.06.2022, he had given a false statement that he had not paid any advance for the purchase of the said vehicle;
- vi. He had seen the statement of Shri Rahul BH, Insurance Agent, ICICI Lombard and he informed that whatever is stated in his (Rahul's) statement regarding the insurance of the said vehicle is true and correct and that he had been renewing the insurance of the said vehicle from the past 6 years i.e. since 2018; He also stated that the insurance of the said vehicle is now due on 30.12.2024;
- vii. He submitted the documents in respect of the ownership of the premises located at Embassy Lake Terrace, Bellary Main Road, Kempapura, Hebbal, Bangalore – 560024 and the same is owned jointly by him and his wife;
- viii. He would produce the Range Rover car bearing registration No. PB65AE0999 to the office of DRI, Bangalore Zonal Unit and by 12.12.2024 along with one original key; He further informed that he only has one original key which is also a remote key and the manual key inside the said key is missing;
- ix. He is willing to take the provisional release of the said car, and he is also willing to pay the duty, execute bond, execute bank guarantee, etc. in respect of the vehicle bearing registration No. PB65AE0999.

12. Thereafter, Shri Neeraj Maurya vide letter dated 27.11.2024 through Advani Sachwani & Heera Advocates, requested for provisional release of the said vehicle. Reminder letters dated 19.12.2024, 20.12.2024 and Email dated 08.02.2025 were received in this regard from Sh. Neeraj Maurya. The said request was forwarded by the DRI to the Commissioner of Customs, NS-V, JNCH vide letter dated 13.12.2024 and through email 20.12.2024 and 12.02.2025 for taking necessary action.

13. It appears from the investigation that Shri Rehman Shaikh was the mastermind of the syndicate importing luxury cars in the name of diplomats that were sold in the open market, thereby evading Customs duty. Multiple summons were issued to him, to cooperate with the investigation. However, he never appeared before the DRI officer showing his scant respect towards the law of the land. The vehicle registered in the name of Shri Ashtamkar Noel Yona, a non-privileged person was found in the possession of Shri Neeraj Maurya, who had purchased the same from Sh. Chetan Shetty through Shri Suriya. Shri Neeraj Maurya was not cooperating with the investigation, but later, in his statement dated 09.12.2024, he had agreed to various facts regarding possession of the said vehicle.

#### **14 ANALYSIS OF EVIDENCE RECOVERED AND FACTS REVEALED DURING INVESTIGATION:**

**14.1** The case emanated from the receipt of intelligence that pointed towards the smuggling of high-end luxury cars by a syndicate led by Rehman Iqbal Shaikh. The subject 'Range Rover Vogue Model 2014' bearing chassis No. SALGA2JEXEA146188 was among the said smuggled cars. The said 'Range Rover Vogue Model 2014' was imported into India vide Bill of Entry No. 94 dated 31.05.2016 without payment of duty by availing the benefit of the Customs duty

exemption Notification No. 03/1957-Cus. dated 08.01.1957, in the name of the privileged person Mr. Ghassan Abdelkhalek, Charge D Affairs, in the Embassy of Lebanon, New Delhi who had submitted the required documents for obtaining the Exemption Certificate from MEA. The syndicate appears to have diverted the said imported 'Range Rover Vougue Model 2014' bearing Chassis No. SALGA2JEXEA146188 into the open market for sale to a non-privileged person, instead of delivering it to Mr. Ghassan Abdelkhalek Charge D Affairs in the Embassy of Lebanon, New Delhi. Since the said vehicle was not registered in the name of a privileged person, it appears that the said vehicle was disposed of in violation of the conditions of Notification No 03/1957 dated 08.01.1957 and the Exemption Certificate issued by the MEA.

**14.2** During the investigation, it was ascertained that the Bill of Entry No. 94 dated 31.05.2016, filed in the name of Mr. Ghassan Abdelkhalek, was presented at Jawaharlal Nehru Customs House (JNCH) by Customs Broker M/s Babaji Khimji & Co. It was further noticed from the documents submitted by Shri Aubrey Elias D'Souza, representative of Customs Broker M/s Babaji Khimji & Co. at the time of his statement dated 27.09.2023, that Mr. Ghassan Abdelkhalek had submitted a letter dated 24.05.2016 authorizing the said CHA firm for the subject consignment and a Customs Duty Exemption Certificate dated 25.05.2016 for import of "Range Rover Vougue Model 2014'. Further, he also admitted that after clearance from customs, the said car was handed over to Liyakat Bachu Khan.

**14.3** It was also ascertained from the documents and records obtained from the MEA that Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi had followed all the necessary prescribed procedures in obtaining the 'Prior Approval' and Exemption Certificate for the import of 'Range Rover Vougue Model 2014' bearing Chassis No. SALGA2JEXEA146188.

**14.4** From the above, it clearly indicates that all the necessary documents and permissions required for the purpose of duty-free import of the said 'Range Rover Vougue Model 2014' was arranged by Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi. Further, even though Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi had explicitly mentioned in his correspondences made with the MEA that the said consignment was for his personal use and not for sale in the open market, the said "Range Rover Vougue Model 2014' was found to be registered in the name of a non-privileged person, Shri Ashtamkar Noel Yona. Thus, it appears that, after import, the said 'Range Rover Vougue Model 2014' was diverted to the local market by the smuggling syndicate led by Shri Rehman Shaikh, which is a gross violation of the conditions of Notification No 03/1957 dated 08.01.1957 and the Exemption Certificate issued by the MEA.

**14.5** The said 'Range Rover Vougue Model 2014' bearing chassis No SALGA2JEXEA146188 was registered under Registration No. PB65 AE 0999 using the Invoice bearing No. AMPJJV00364944 dated 13.03.2017 issued by M/s AMP Motors Pvt. Ltd. However,

M/s AMP Motors Pvt. Ltd. vide their Email dated 27.10.2023 had informed that the Invoice was not issued by them and said vehicle was not sold by them, thus suggesting foul play by the syndicate.

## **15 ANALYSIS OF THE STATEMENTS:**

**15.1** The analysis of the statements of Shri Rajeev Sood tendered under Section 108 of the Customs Act,1962 revealed that in 2017 Shri Rehman Shaikh had offered him the business proposal of importing duty free goods viz. furniture, cars etc. in the name of foreign diplomats and asked him to help in that business as he had sources in various Embassies. Shri Rajeev Sood used his contacts in MEA and Embassies to reach the diplomats and offered them the business proposals mooted by Shri Rehman Shaikh for duty free import of goods like cars and furniture in their name. When the diplomats agreed, Shri Rajeev Sood shared their contact information with Shri Rehman Shaikh for further negotiation. Shri Rajeev Sood also took the help of Shri Manjeet Maurya who was working as a clerical staff in the Ministry of External Affairs on a contract basis, for obtaining necessary permission and information for the import of cars in the name of diplomats. Further, Shri Manjeet Maurya admitted that he provided the information and requisite documents of the diplomats to Shri Rajeev Sood for monetary consideration.

**15.2** Shri Rajeev Sood with the help of Shri Liyakat Bachu Khan who was also an accomplice of Shri Rehman Shaikh obtained the necessary permission for customs clearance of the imported vehicles and arranged the necessary funds for carrying out the said operation. He further paid the diplomats amounts ranging from Rs. 8 to Rs. 10 lakhs for providing their documents and permission to import the vehicles.

**15.3** The analysis of the statements of Shri Liyakat Bachu Khan and Shri Wasim Abdul Gani Siddique tendered under Section 108 of the Customs Act, 1962 revealed that Shri Liyakat used to arrange the forged invoices/ import documents with the help of Shri Wasim Siddiqui and based on the same, the imported cars were sold and/or registered in India. The said facts and admissions show that Shri Liyakat Bachu Khan and Shri Wasim Siddique purposely and for monetary consideration played an instrumental role in the said smuggling activity.

**15.4** The analysis of statements of Shri Suriya Arjunan and Shri Nipun Miglani revealed that they had been into the business of dealing with high-end luxury cars for a long time and they helped in arranging clients for the cars imported by way of claiming exemption under Notification No. 03/1957 dated 08.01.1957 and used to sell the said cars in the open market using their contacts.

**15.5** The analysis of the statement of Shri Neil Barrow revealed that Shri Rehman Iqbal Ahmed Shaikh has used his documents without his knowledge for the registration of the car bearing registration no. PB 65 AE 0999 in his name and he has no knowledge regarding the said vehicle.

**15.6** The analysis of statements of Shri Aubrey Elias D'Souza revealed that he had filed the Bill of Entry in respect of the said vehicle through the customs broker firm by the name of M/s Babaji Khimji and Company and the documents in respect of the said Bill of Entry were received by him from the concerned embassy through courier and he had charged an amount of Rs. 25,000/- for filing of the Bill of Entry. The said amount appears to be much higher as compared to the amount normally charged for filing a Bill of Entry.

**15.7** The analysis of Statements of Shri Neeraj Maurya revealed that he had lied in his earlier statement that the said vehicle purchased through Shri Chetan Shetty was later on, returned to Shri Chetan Shetty. In his statement dated 09.12.2024, he had agreed that the said vehicle had been in his possession since 2018 and he had also renewed the Insurance of the said vehicle for the past 6 years, i.e. since 2018. He also agreed that he had lied in his earlier statement that he had not paid any advance amount in respect of the said vehicle though in his statement dated 09.12.2024, he revealed that he had made a payment of Rs. 10,00,000/- as a token amount to Shri Suriya as the car was arranged by Shri Chetan Shetty through Shri Suriya.

**15.8** The statement of Shri Rahul BH, Insurance Agent revealed that the insurance of the said vehicle has been renewed by him for the past six years and the said insurance has been renewed by him on the instructions of Shri Neeraj Maurya.

**15.9** Shri Neeraj Maurya had lied in his earlier statement and tried to divert the investigation by stating that he had returned the car to Sh. Chetan Shetty. He had also tried to evade the investigation as he had not appeared before this office when he was issued summons dated 12.06.2024, 19.06.2024, 26.06.2024, 20.11.2024 and 22.11.2024. It was only when the officers of DRI, MZU visited Bangalore and the vehicle was recovered from his possession that he had joined the investigation and revealed true facts in his statement recorded on 09.12.2024.

## **16 THE MODUS-OPERANDI:**

**16.1** The syndicate led by one mastermind, Shri Rehman Shaikh, who appears to be currently based in Dubai, had adopted a novel modus operandi and identified foreign diplomats posted in India who were eligible to import a luxury car at Nil rate duty by availing the Customs exemption notification No. 03/1957 dated 08.01.1957. Thereafter, many high-end luxury cars were imported by the syndicate in the name of said foreign diplomats posted in India.

**16.2** Shri Rajeev Sood was one of the members of the syndicate, who was very well acquainted with the mastermind Shri Rehman Shaikh, as he was earlier working as a commission agent for diplomats of various Embassies and used to source things like furniture, household items, etc. for the diplomats. He used to introduce diplomats to the mastermind and facilitate their deal thereof. He used to visit Embassies at times to facilitate the deal on behalf of the Shri Rehman

Shaikh. He also collected money from Shri Rehman Shaikh through various hawala Agents and gave the decided commissions to the diplomats in many deals. He also used to get a commission for the imported consignments as well as got commission from the mastermind for providing information of foreign diplomats and their eligibility for duty-free imports. Shri Rajeev Sood also collected documents from various interested diplomats such as Id cards, passports, visa etc. and used to forward them to one Shri Liyakat Bachu Khan, driver and a close confidant of the mastermind Shri Rehman Shaikh. Thereafter, Shri Liyakat used to prepare all the necessary papers in prescribed formats for availing the exemption under notification No. 03/1957 and used to send them to Shri Rajeev Sood who then forwarded the same to the diplomats for onward submissions to the Protocol Section, Ministry of External Affairs, Government of India for the necessary Exemption Certificate through proper channel. Rajeev Sood then used to expedite the process at the MEA through one Shri Manjeet Maurya (a contract employee at MEA). Once the application of the Diplomats was processed at the MEA, Shri Rajeev Sood used to collect the Exemption Certificate along with various other necessary documents from the Diplomats and used to forward them to Shri Rehman Shaikh or Shri Liyakat for the import of the luxury vehicles.

**16.3** Shri Liyakat Bachu Khan, is a close confidant and the right-hand man of Shri Rehman Shaikh and had been working as his driver cum assistant for more than 15 years. He coordinated with various members of the syndicate and others at the behest of the mastermind, Shri Rehman Shaikh. He used to collect the documents (including the Exemption Certificate, Diplomatic ID cards, declarations etc.) from MEA through Rajeev Sood and then used to forward the documents to the Customs Broker for filing of the Bills of Entry once the luxury cars were sourced from abroad by Shri Rehman Shaikh. Once the luxury cars were cleared duty free, Shri Liyakat used to take the delivery of the luxury cars imported in the name of the diplomats under their authority letters and used to deliver the same to the addresses/persons as per the details provided by Rehman Shaikh. Once the car was cleared from Customs Authorities, he used to instruct one Shri Wasim Abdul Gani Siddhique to prepare forged documents pertaining to the car including:

- i. Forged Bill of Entry, wherein the details of the importer were different than the diplomats and the duty paid amount was reflected as per the normal rates.
- ii. Forged customs duty Challan copy in respect of the import of the car, even though neither such challan existed, nor duty was paid.
- iii. Forged Indian invoice, to show that the said car was procured from a car dealer in India.
- iv. Forged invoice and Bill of Lading copies.

Thereafter, using these forged documents the luxury car used to be registered in the name of a non-privileged person. Shri Liyakat used to liaison with other members of the syndicate and their various contacts in RTOs across India and get the cars registered. Shri Liyakat Bachu Khan also coordinated the movement of these cars across India to various car dealers for display and sale of the same. Once the car was sold to the final buyer, he also collected money on behalf of Shri Rehman Shaikh in many cases and handed over the commission to various car dealers as instructed

by Shri Rehman Shaikh. Further, Shri Liyakat Bachu Khan did all the miscellaneous work as and when required, as instructed by Shri Rehman Shaikh.

**16.4** Shri Mohammed Wasim Abdul Gani Siddique is a Mumbai-based person who is into the job of designing and printing marriage and visiting cards. He had good knowledge of Carroll software (software used for editing documents). He assisted Shri Liyakat Bachu Khan in preparing all the forged documents as per the requirements given by Shri Rehman Shaikh and others through Shri Liyakat Bachu Khan. He had prepared forged Bills of Entry, invoices, Bill of Lading copies, Payment challans, stamps etc. in such a manner which were used in the fraudulent registration of the smuggled luxury cars at RTOs across India. The said forged documents were also used by the syndicate in price negotiations with the prospective buyers. Wasim had received monetary consideration from Shri Liyakat Bachu Khan for the said forgery done.

**16.5** Investigations have revealed that this syndicate led by Shri Rehman Shaikh had smuggled more than 20 Luxury cars such as Range Rover, Toyota Land Cruiser, Bentley, Nissan Patrol etc. using the Modus Operandi as explained above, thus evading Customs Duty and thereby, robbing the exchequer to the tune of several crores of rupees. They have misused the diplomatic exemptions provided to the various diplomats of foreign countries when posted in India and have thus soured the relations between India and many other countries. There are several other private individuals who had provided their personal details to the members of the syndicate in whose names the smuggled luxury cars were fraudulently registered. There are several other car dealers who assisted the syndicate in finding prospective buyers for the smuggled cars. Further, the syndicate had also used the services of several other hawala agents, individuals, and firms to route the sale proceeds of the smuggled cars. This Investigation Report however is limited to the vehicle 'Range Rover Vougue Model 2014' having Chassis No. SALGA2JEXEA1146188 smuggled and registered in the name of a non-privileged person by the said modus operandi.

**17. ARREST OF SHRI LIYAKAT BACHU KHAN, SHRI NIPUN MIGLANI AND SHRI RAJEEV SOOD:**

Based on various evidence it was revealed that Shri Rehman Shaikh, presently based in Dubai, initially identified the interested diplomats through Shri Rajeev Sood and dealt with the diplomats for carrying out the import of cars, the details of which were forwarded by Shri Rajeev Sood to Shri Liyakat Bachu Khan. Then his close confidant Shri Liyakat Bachu Khan came into action and prepared the request letter to import the cars which had been forwarded to the diplomats, which were in turn forwarded by the diplomats to MEA for permission and sanction orders been obtained from MEA. On the basis of the same, the import documents have been made, which were forwarded to Customs Brokers for the import of high-end luxurious cars made by fraudulently availing the exemption benefits available to the diplomats. It was also found that after getting clearance from customs, the forged papers were prepared by Shri Liyakat Bachu Khan through Shri Wasim and shown to prospective buyers. Shri Nipun Miglani, an active member of the syndicate was in contact with the mastermind of the case since 2012, who had introduced him to his close confidant Shri Liyaqat Bachu Khan, who used to take care of all the documents of imported cars. He identified the prospective buyers with the help of his own contacts and delivered

the imported vehicles to those prospective buyers. He helped in document preparation of documents for the smuggled cars and closely co-ordinates with Shri Liyakat Bachu Khan for forging invoices. He takes his commission/part in the successful sales of smuggled cars. Shri Nipun Miglani had helped the syndicate in selling several smuggled cars and even helped in getting the registration done for some of the smuggled cars in the name of a non-privileged person by using forged documents. After the finalization of the deal with the prospective buyers, the forged Bill of Entry indicating payment of duty, forged invoices, etc. have been shown to the buyers and high-end Luxurious cars are then sold to them. The investigation further confirms about Shri Mohammed Wasim Abdul Gani Siddique who prepared the forged document at the behest of Shri Liyakat Bachu Khan had admitted during his statement recorded under the provisions of Section 108 of the Customs Act, 1962 that Shri Liyakat Khan gave him the Bills of entry to edit the name of the importer or value of the goods and also gave him Invoices, Customs duty payment receipt, etc. to change the name of Buyer. Further, the cars were being registered in RTOs in India based on the forged documents. The recovery of incriminating documents/records from the mobiles of Shri Nipun Miglani, Shri Liyakat Bachu Khan, Shri Mohammed Wasim Abdul Gani and the recovery of Registrations Certificates of many such illicitly imported cars along with the statements recorded under the provisions of Section 108 of the Customs Act, 1962, it appeared that Shri Liyakat Bachu Khan, Shri Nipun Miglani and Shri Rajeev Sood were involved in the fraudulent import of luxury cars in the name of diplomats and were actively instrumental in getting the cars registered in the name of a non-privileged person. Therefore, Shri Liyakat Bachu Khan was arrested in Mumbai on 15.07.2021 under the provisions of Section 104 of the Customs Act, 1962 and produced before the Court of Hon'ble First Class Judicial Magistrate, Uran Court, where he was remanded to Judicial Custody at Taloja Central Jail. Shri Nipun Miglani was arrested on 15.07.2021 at Delhi and under transit remand, produced before the Court of Hon'ble First Class Judicial Magistrate, Uran Court. Subsequently, considering the active role of Shri Rajeev Sood and his active participation in the crime of illicit import of luxury cars, which tarnished the image of the nation, he was arrested on 18.07.2021 at Delhi and under transit remand, produced before Ld. Judicial Magistrate First Class, Uran Court. Shri Rajeev Sood and Shri Nipun Miglani were remanded to Judicial Custody at Taloja Central Jail. Subsequently, after completion of 60 days, the said accused were released on default bail.

**18.** The evidence gathered during the investigation, as described in the foregoing paras appears to clearly establish the above modus operandi employed by the syndicate led by Shri Rehman Shaikh for smuggling of luxury cars. These evidences have been accepted by Shri Liyakat Bachu Khan as true. It was also admitted by him that this syndicate of importing luxury cars in the names of the diplomats by availing the exemption notification No. 03/1957-Cus dated 08.01.1957, is led by Shri Rehman Shaikh. He has stated that firstly they identify the interested diplomats and obtain request letters from the diplomats to import the cars, which are sent to MEA for Prior Approval and finally they obtain the duty Exemption Certificate. In the present case, it appears to have been established that after obtaining the Prior Approval and the Exemption Certificate from MEA, the import documents were made and the import of Chassis No. SALGA2JEXEA146188 was affected

by fraudulently availing the exemption benefits available to the diplomat Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi.

**19. SUMMARY OF INVESTIGATIONS AND APPARENT LEGAL LIABILITIES RELATING TO THE SUBJECT CAR**

**19.1** It appears from the investigations carried out and various statements recorded that the privileged person Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi appears to have joined hands with Shri Rehman Sheikh and facilitated all the paperwork required for importing car duty-free in his name by misusing his diplomatic status, which was found registered in the name of a non-privileged person Shri Ashtamkar Noel Yona. The exemption Notification No. 03/1957-Cus. dated 08.01.1957 as well as the Exemption Certificate issued by MEA clearly mandate that the vehicle cannot be sold without payment of customs duty and without the concurrence of CBIC. On enquiry with the Registration Transport Authority, Mohali-DTO, Punjab the said vehicle 'Range Rover Vogue Model 2014' was found registered in the name of a non-privileged person Shri Ashtamkar Noel Yona.

**19.2** Further, forged invoice bearing Invoice No. AMPJVV00364944 dated 13.03.2017 issued by M/s AMP Motors Pvt. Ltd., Delhi was prepared by the syndicate to get the registration from the Registration Transport Authority, Mohali-DTO, Punjab to obtain registration No. PB65 AE 0999 in the name of a non-privileged person Shri Ashtamkar Noel Yona.

**19.3** The facts revealed that if dutiable goods have been brought into the country without paying the customs duty by way of availing exemption, the Customs duty attaches to goods brought into the country and though it may not have been paid at the time of clearance from Customs Area for the reasons as it is meant for a foreign diplomat, the privileged person, the duty is leviable later on when the goods pass into the hands of persons other than the privileged person. In the instant case as per Rule 4A(c) of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957, if a diplomat wants to sell or otherwise dispose of the motor vehicle to any non-privileged person, he must do so with the permission of Central Board of Excise and Customs through the Ministry of External Affairs, on payment of appropriate customs duty. Thus, substantiating the fact that the duty has been attached to the goods. Further, it appears that the importer who smuggles the goods is certainly guilty under the clause because he imports them in derogation of the prohibition or restriction but any person who deals with the goods in the context of the import as explained above in any one of the connected ways with the requisite knowledge and intention would equally be guilty of the offence.

**19.4** The evidence unearthed during the course of the investigation revealed that the said 'Range Rover 2014 Model (Petrol)' was imported into India without payment of duty as provided under the Customs Notification No. 03/1957 dated 08.01.1957. It has also been revealed that the members of the syndicate appear to have done so after a previous arrangement with the foreign diplomat Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi as

the said vehicle was sold and registered on the basis of the forged documents in the name of a non-privileged person instead of being registered in the name of the said diplomat. The said car was imported in the name of the diplomat, Mr. Ghassan Abdelkhalek Charge D Affairs in the Embassy of Lebanon, New Delhi using the Customs exemption Notification No 03/1957-Cus dated 08.01.1957 available to foreign diplomats in India and found to have registered in the name of non-privileged person after import which appears to have rendered the said car liable to confiscation under the Customs Act, 1962.

**19.5** The Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with DGFT Notification No. 39 (RE-2010)/2009-2014 dated 31.03.2011, allow for disposing of vehicles imported by foreign diplomats to non-privileged persons in the manner specified. The policy condition (4) of Schedule 1 of Import Policy also prescribes the disposal of such imported vehicles in the manner specified in the Foreign Privileged Persons (Regulations of Customs Privileges) Rules, 1957, as amended from time to time. Thus, the vehicles imported by Foreign Diplomats can be disposed of only after payment of due customs duty which is not so paid in the present case.

**19.6** Thus, from the above facts, it appears that Shri Rehman Shaikh was successful in importing the said 'Range Rover Vogue Model 2014' under the diplomatic exemption provided in the Customs Notification No. 3/1957 dated 08.01.1957 with the help of Shri Liyakat Bachu Khan, Shri Rajeev Sood and Customs Broker Babaji Khimji & Co. After the import was made without payment of duty in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi the smuggling syndicate had succeeded in getting the registration in the name of non-privileged person Shri Ashtamkar Noel Yona. The said vehicle has further been sold to another non-privileged person by the name of Shri Neeraj P. Maurya by one of the syndicate members.

**19.7** Shri Chetan Shetty, a car dealer, had informed that the said vehicle was initially, in the possession of Shri Suriya Arjunan who had asked him to look for some client for purchase of the said car and through one of his friends, Shri Chetan Shetty had sold the said vehicle to Shri Neeraj Maurya. Shri Neeraj Maurya had informed that the said vehicle was sold to him by Shri Chetan Shetty. However, he had later on returned the said vehicle to Shri Chetan Shetty. Shri Chetan Shetty had however informed in his further statement that the said vehicle was still in the possession of Shri Neeraj Maurya. Further, Shri Rahul BH, Insurance Agent of ICICI Lombard GIC Ltd. in his statement had informed that he has been renewing the insurance of the said vehicle from the past 6 years on the instructions of Shri Neeraj Maurya, which substantiates that the said vehicle was still in his possession. Shri Neeraj Maurya was issued three summons dated 12.06.2024, 19.06.2024 and 26.06.2024 in order to confront him with these facts. However, he failed to appear. A visit was then made to Bangalore by the officers and the said vehicle was traced to a premises belonging to Shri Neeraj Maurya and the said vehicle was seized on 20.11.2024 from his possession. Shri Neeraj Maurya had lied in his earlier statement and tried to divert the

investigation by stating that he had returned the car to Sh. Chetan Shetty. He had also tried to evade the investigation as he had not appeared before this office when he was issued summons dated 12.06.2024, 19.06.2024, 26.06.2024, 20.11.2024 and 22.11.2024. It was only when the officers of DRI, MZU visited Bangalore and the vehicle was recovered from his possession, that he had joined the investigation and revealed the true facts in his statement recorded on 09.12.2024.

**19.8** The crucial evidence unearthed during the investigation like the forged invoice, corroborated by the statement of Shri Liyakat Bachu Khan recorded under Section 108 of the Customs Act, 1962, also appears to establish that the smuggling of the said ‘‘Range Rover Vogue Model 2014’ was made on behest of Shri Rehman Shaikh. It, therefore, appears that Shri Rehman Shaikh had hatched a conspiracy of smuggling of the said ‘‘Range Rover Vogue Model 2014’ into the country and had effected fraudulent import and registration of the said car resulting in evasion of Customs duty and rendering the said car liable to confiscation.

**20.** As per the SCN, the extracts of the following relevant provisions of the Customs Act, 1962 and other allied act for the time being in force relating to import of goods, recovery of duties, liability of the goods to confiscation and the persons concerned to penalty for improper importation, were mentioned in the subject SCN. The same are not produced in this Order-in-Original for the sake of brevity:

**20.1 The Customs Act, 1962**

- Section 2(26)- Definition of importer
- Section 12(1) Dutiable Goods.
- Section 28(4) Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.
- Section 46 - Entry of goods on importation.
- Section 47 Clearance of goods for home consumption
- Section 110 AA
- Section 111 - Confiscation of improperly imported goods, etc.
- Section 112 - Penalty for improper importation of goods, etc.
- Section 114A - Penalty for short-levy or non-levy of duty in certain cases.
- Section 114AA- Penalty for use of false and incorrect material.

**20.2 Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957**

- Section 2(b)-Definition of ‘‘privileged person’’
- Section 2 (c) – Definition of ‘‘Non-privileged person’’
- Section 3- Formalities to be observed at the time of clearance of the goods.
- Section 4A- Permission for the sale or disposal of motor vehicles
- Section 5- Recovery of goods sold or disposed of to non-privileged persons.

**20.3 Rule 14 of Foreign Trade (Regulations) Rules, 1993: Prohibition regarding making, signing of any declaration, statement or documents.**

**20.4 Notification No. 3-Cus. dated 8-1-1957**

**20.5 DGFT Notification No- 39(RE-2010)/2009-2014 dated 31.3.2011 Subject: Import policy of Vehicles.**

**21. LIABILITY FOR CONFISCATION OF THE GOODS:**

**21.1** As revealed during the investigation, the goods viz. ‘Range Rover Vougue Model 2014’ was imported into India vide Bill of Entry No. 94 dated 31.05.2016 without payment of duty by availing the benefit of the Customs duty exemption Notification No. 03/1957-Cus. dated 08.01.1957, in the name of a privileged person Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, and was diverted into the open market and registered by using fraudulent means. The said car was registered in the name of non-privileged person based on forged documents. As per Section 111(j) of the Customs Act,1962, the goods are liable for confiscation, if dutiable or prohibited goods are removed or attempted to be removed from a Customs area or a warehouse without the permission of the Proper officer or contrary to the terms of such permission. In the instant case, the provisions of Section 111(j) appear to be applicable since the dutiable goods viz. ‘Range Rover Vougue Model 2014’, was removed contrary to the terms of the permission of the proper officer who had granted permission for its clearance to Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, subject to getting it registered in his name and not selling it without prior permission and on payment of Customs duty. Further, Section 111(o) of the Customs Act,1962 covers any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer. In the present case, the contravention of Section 111(o) appears evident, as per the facts revealed during the investigation, since the said car was exempted from duty subject to the conditions which were not fulfilled, and it was diverted and registered in the name of a non-privileged person. Therefore, the said vehicle appears liable for confiscation under Section 111(j) and Section 111(o) of the Customs Act, 1962.

**22. CALCULATION OF CUSTOMS DUTY AND ITS DEMAND:**

**22.1** The calculation of customs duty as per the tariff rate at the time of import of the ‘Range Rover Vougue Model 2014’ bearing chassis No Chassis No. SALGA2JEXEA146188 in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi vide Bill of Entry No 94 dated 31.05.2016 is explained in the following table: -

**TABLE NO-2**

**(In Rs.)**

<b>Assessable value</b>	<b>BCD @125%</b>	<b>CVD@30%</b>	<b>Cess@3% (2% + 1%)</b>	<b>ACD @ 4%</b>	<b>Total Duty</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>	<b>(f)</b>

	a * 125%	(a+b)*30%	(b+c) *3%	(a+b+c+d) * 4%	b+c+d+e
35,39,621	44,24,526	23,89,244	2,04,413	4,22,312	74,40,496

BCD – Basic Customs Duty, CVD – Countervailing Duty, Cess – Education Cess @ 2% and Higher Education Cess @ 1%, ACD – Additional Customs Duty

**22.2** Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi had applied to the MEA for the Prior Approval and the Exemption Certificate in respect of the import of the said 'Range Rover Vogue Model 2014' bearing chassis No. SALGA2JEXEA146188 and the said car was imported for his personal use. Further, the Customs Duty Exemption Certificate issued vide Serial No. EC 1/OFF/1/2016 dated 25.05.2016 issued by MEA in respect of the said vehicle specifically clarified that the vehicle would not be sold or otherwise disposed of to a person who is not entitled to import motor vehicle free of duty without the concurrence of CBIC to be obtained through MEA and without the payment of customs duty to the Commissioner of Customs nearest to the headquarters of the privileged person concerned. As discussed supra, the said vehicle was directly sold in the open market and was found registered in the name of a non-privileged person. Thus, the post-import conditions as envisaged under Customs Duty exemption Notification No. 03/1957-Cus. dated 08.01.1957 appears to be willfully violated by Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon. It is well-settled law that the conditions of the notifications are to be strictly construed and the Customs Duty is recoverable when there is an infringement of any of the conditions of the exemption notifications. The power to recover duty which has escaped collection is a concomitant power arising out of the levy of Customs Duty under Section 12 of the Customs Act, 1962.

**22.3** The Hon'ble Supreme Court in the case of Mediwell Hospital and Health Care Pvt. Ltd. v. Union of India, 1997 (89) ELT 425 (SC) has held that the liability to pay the duty in the events of non-compliance of the condition of Notification No. 64/88 is continuing one. The Hon'ble Supreme Court observed that;

*"12. While, therefore, we accept the contentions of Mr. Jaitley learned senior Counsel appearing for the appellant that the appellant was entitled to get the certificate from Respondent No. 2 which would enable the appellant to import the equipment without payment of customs duty but at the same time we would like to observe that the very notification granting exemption must be construed to cast continuing obligation on the part of all those who have obtained the certificate from the appropriate authority and on the basis of that to have imported equipments without payment of customs duty to give free treatment at least to 40 per cent of the outdoor patients as well as would give free treatment to all the indoor patients belonging to the families with an income of less than Rs. 500/- p.m. The competent authority, therefore, should continue to be vigilant and check whether the undertakings given by the applicants are being duly complied with after getting the benefit of the exemption notification and importing the equipment without payment of customs duty and if on such enquiry the authorities are satisfied that the continuing*

*obligations are not being carried out then it would be fully open to the authority to ask the person who have availed of the benefit of exemption to pay the duty payable in respect of the equipments which have been imported without payment of customs duty. Needless to mention the Government has granted exemption from payment of customs duty with the sole object that 40% of all outdoor patients and entire indoor patients of the low-income group whose income is less than Rs. 500/- p.m. would be able to receive free treatment in the Institute. That objective must be achieved at any cost, and the very authority who have granted such certificate of exemption would ensure that the obligations imposed on the persons availing of the exemption notification are being duly carried out and on being satisfied that the said obligations have not been discharged they can enforce realization of the customs duty from them.*

*13. It is needless to reiterate that all the persons including the appellant who had the benefit of importing the hospital equipment with an exemption of customs duty under the notification should notify in the local newspaper every month the total number of patients they have treated and the 40% of them are the indigent persons below stipulated income of Rs. 500/- per month with full particulars and address thereof which would ensure that the application to treat 40% of the patients free of cost would continuously be fulfilled. In the event of default, there should be coercive official action to perform their obligation undertaken by all such persons. This condition becomes a part of the exemption order application and strictly be enforced by all concerned including the Police personnel when complaints of non-compliance were made by the indigent persons, on denial of such treatment in the concerned hospital or diagnostic centres, as the case may be."*

**22.4 In the present case, the said 'Range Rover Vogue Model 2014' having chassis No. SALGA2JEXEA146188 imported duty free was diverted in the open market and was found duly registered in the name of a non-privileged person. Thus, the customs duty along with interest is recoverable from the diplomat concerned viz. Mr. Ghassan Abdelkhalek, as per the provisions prescribed under Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 and Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with Customs Notification No. 03/1957-Cus dated 08.01.1957.**

**23. CULPABILITY OF PERSONS INVOLVED IN THE CASE:**

**LIABILITY TO PENALTY: Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, Shri Rehman Iqbal Ahmed Shaikh, Shri Liyakat Bachu Khan, Shri Rajeev Sood, Shri Manjeet Maurya, Shri Mohammed Wasim Abdul Gani Siddique, Shri Aubrey Elias D'Souza, Shri Suriya Arjunan, Shri Nipun Miglani, Shri Neeraj Maurya, Shri Chetan Shetty & Shri Ashtamkar Noel Yona (Shri Neil Barrow).**

Investigation of the case and scrutiny of evidence appears to indicate that besides Shri Rehman Shaikh and his key associates Shri Liyakat Bachu Khan, Shri Mohammed Wasim Abdul

Gani Siddique and Shri Rajeev Sood, the role of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi was also crucial in executing the conspiracy of smuggling of the said 'Range Rover Vougue Model 2014' bearing Chassis No. SALGA2JEXEA146188. A few other persons also appear to have done acts of omission and commission, which appears to have rendered them liable to penalty. The same is discussed as follows:

- (i) **Shri Rehman Iqbal Ahmed Shaikh:** Investigations in the case revealed that Shri Rehman Shaikh was the mastermind of the syndicate which had smuggled into India several high-end luxury cars in the name of foreign diplomats. The car 'Range Rover Vougue Model 2014' covered by this Investigation Report is one such car. It was consigned by Shri Rehman Shaikh from Dubai and the entire finance for expenses including transportation was provided by Shri Rehman Shaikh and Shri Rehman Shaikh appears to be the principal conspirator and kingpin of the whole conspiracy of smuggling of the said 'Range Rover 2014 Model (Petrol)' undertaken by this syndicate. He was instrumental in carting the vehicle from Dubai to India, identification of the foreign diplomat, Mr. Ghassan Abdelkhalek Charge D Affairs in the Embassy of Lebanon, New Delhi, supplied and facilitated the finance for all activities pertaining to the said acts of smuggling as stated by the co-conspirators, viz. Shri Liyakat Bachu Khan and Shri Rajeev Sood. He also appears to be the person who forwarded the specific details related to forging the documents to his co-conspirators to enable them to register the vehicle. Such evidence indicates his primary role in the conspiracy of smuggling of 'Range Rover Vougue Model 2014', in the present case. He also took delivery of the illicitly imported 'Range Rover Vougue Model 2014' from the Customs Broker M/s Babaji Khimji & Co. and instead of delivering it to the importer diplomat, he diverted it in the open market. Though he remained behind the scenes and engaged the services of other co-conspirators to get the vehicle cleared and registered, he appears responsible for the aforesaid contraventions in importing the subject car for sale to the non-privileged person. Further, for his acts of omission and commission in improper importation of the said car which appears to have rendered the said car liable to confiscation under Section 111, as explained above, Shri Rehman Shaikh appears liable to penalty under Section 112 (b) of the Customs Act, 1962. In addition, Shri Rehman Shaikh also appears liable to penalty under section 114AA of the Customs Act, 1962, as he knowingly and intentionally caused his co-conspirators Shri Liyakat Bachu Khan to submit documents to clear the goods from Customs as well as submitted fabricated and forged documents for the purpose of registration in the name of a non-privileged person.
- (ii) **Mr. Ghassan Abdelkhalek:** The privileged person, appears to have dealt with Shri Rehman Shaikh and complied with all the necessary formalities, on his behest, for importing the vehicle 'Range Rover Vougue Model 2014' in his name. Mr. Ghassan Abdelkhalek had applied for Prior Approval for the import of the vehicle and obtained the customs duty Exemption Certificate from MEA. In the certificate, it is specifically mentioned that the vehicle would not be sold or otherwise disposed of to a person who is not entitled to import

a motor vehicle free of duty without the concurrence of CBIC and without the payment of Customs Duty to the Commissioner of Customs nearest to his headquarters in India. However, the said car was registered in the name of a non-privileged person. Thus, Mr. Ghassan Abdelkhalek appears to have deliberately failed to adhere to the statutory provisions prescribed for the import of vehicles under Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1967 read with Customs Act, 1962. Thus, for his act of omission and commission, and collusion with the members of syndicate led by Rehman Iqbal Ahmed Shaikh in evasion of Customs duty and by suppression of facts in improper importation of the said car, including not adhering to the prescribed provisions of law, which appear to have rendered the said car liable to confiscation under section 111 of Customs Act, 1962, as explained above, appear to have rendered Mr. Ghassan Abdelkhalek liable to penalty under Section 112(a) of the Customs Act, 1962. It further appears that he had knowingly disposed of the said vehicle in violation of the statutory conditions and thus for the offence of knowingly/intentionally making/ signing or using, or causing to be made, signed or used the documents which were false or incorrect in material particular. The same appears to have rendered him liable for imposition of penalty under Section 114AA of the Customs Act, 1962.

**(iii) Shri Liyakat Bachu Khan and Shri Mohammed Wasim Abdul Gani Siddique:** In their various submissions as detailed in this Investigation Report supra, have, while admitting to their roles, also narrated the crucial role played by others in the entire conspiracy of smuggling of the said 'Range Rover Vogue Model 2014'. Shri Liyakat Bachu Khan played a prominent role on the ground in executing the conspiracy. Towards this end, he used the services of Shri Mohammed Wasim Abdul Gani Siddique for the preparation of the necessary documents and for the preparation of forged documents Shri Liyakat Bachu Khan paid money to Shri Wasim Siddique. In this manner, they played a crucial role in the smuggling of the said 'Range Rover Vogue Model 2014'. In view of the above, for their acts of commission and omission in the smuggling of luxury vehicle 'Range Rover Vogue Model 2014', which appears to have rendered the said car liable to confiscation, it appears that co-conspirators Shri Liyakat Bachu Khan and Shri Mohammed Wasim Abdul Gani Siddique are liable for penalty under the provisions of Section 112(b) of the Customs Act 1962. Further, for the offence of knowingly or intentionally making, signing or using, or causing to be made, signed or used any declaration statement or document which was false or incorrect in material particular, in this transaction of import and sale of the said 'Range Rover 2014 Model (Petrol)', co-conspirators Shri Liyakat Bachu Khan and Shri Mohammed Wasim Abdul Gani Siddique also appears to be liable for imposition of penalty under Section 114AA of the Customs Act, 1962.

**(iv) Shri Rajeev Sood and Shri Manjeet Maurya:** Rajeev Sood, who is based in Delhi had good contacts at various embassies. He worked in coordination with the syndicate led by the mastermind Shri Rehman Shaikh in liaisoning with the Embassy. He also took the assistance

of Shri Manjeet Maurya who was working at the Ministry of External Affairs by extracting crucial information about the eligibility of diplomats and expediting the process of Prior Approval and Exemption Certificate at MEA. Along with the members of the syndicate led by the mastermind Shri Rehman Shaikh, for their acts of omission and commission in smuggling the said luxury car, Shri Rajeev Sood and Shri Manjeet Maurya appear liable for penalty under the provisions of Section 112 (b) of the Customs Act, 1962.

- (v) **Shri Chetan Shetty:** In his statement, he had informed that the said vehicle was in possession of Shri Suriya Arjunan who had asked him to look for some client for purchase of the said car and through one of his friends, he had sold the said vehicle to Shri Neeraj Maurya. He was supposed to receive commission for the sale of the said vehicle. He had also informed that the vehicle was sold to Shri Suriya Arjunan by Shri Nipun Miglani. These facts bring out his dealing with the smuggled car for which he had reasons to believe that it is liable for confiscation. Thus, he appears to have rendered himself liable for imposition of penalty under Section 112(b) of the Customs Act, 1962.
- (vi) **Shri Suriya Arjunan:** He was issued three summons dated 18.03.2024, 07.06.2024 and 14.06.2024 in order to enquire about the said vehicle as Shri Chetan Shetty in his statement had informed that Shri Suriya had contacted him for sale of the said vehicle and all the documents related to the said vehicle were available with Shri Suriya. However, he had failed to appear which points towards his culpability. These facts bring out his dealing with the smuggled car for which he had reasons to believe that it was liable for confiscation. Thus, he appears to have rendered himself liable for imposition of penalty under Section 112(b) of the Customs Act, 1962.
- (vii) **Shri Nipun Miglani:** He was issued a summons dated 15.07.2024 for enquiring about the said vehicle. However, he failed to appear for enquiry. Shri Chetan Shetty, in his statement, had informed that the vehicle in the said case was sold to Shri Suriya by Shri Nipun Miglani. These facts bring out his dealing with the smuggled car for which he had reasons to believe that it is liable for confiscation. Thus, he appears to have rendered himself liable for imposition of penalty under Section 112(b) of the Customs Act, 1962.
- (viii) **Shri Neeraj Maurya:** In his initial statement, he had informed that the said vehicle was sold to him by Shri Chetan Shetty, but he had later on, returned it to Shri Chetan Shetty. In the statement of Shri Chetan Shetty, which was recorded subsequently by this office, he had informed that Shri Neeraj Maurya was lying and the said vehicle was still in the possession of Shri Neeraj Maurya. Further, Shri Rahul BH, an Insurance Agent of ICICI Lombard GIC Ltd. in his statement informed that he had been renewing the insurance of the said vehicle from the past 6 years on the instructions of Shri Neeraj Maurya, which corroborates that the said vehicle was still in his possession. He was issued three (03) summons dated 12.06.2024, 19.06.2024 and 26.06.2024, in order to confront him with these facts. However, he failed to

appear in person. A visit was then made to Bangalore by the officers, wherein the said vehicle was traced to premises belonging to Shri Neeraj Maurya and was seized on 20.11.2024 from his possession. Shri Neeraj Maurya was then issued summons dated 20.11.2024 and 22.11.2024 to appear in person. However, he failed to join the investigation. He was then issued another summons dated 27.11.2024 for appearing before this office on 09.12.2024, which was honoured by him and his statement was recorded on 09.12.2024, wherein he revealed that he had lied in his earlier statement and the vehicle was in his possession since 2018. He has also been renewing the insurance of the said vehicle since 2018. These facts bring out his dealing with the smuggled car for which he had reasons to believe that it is liable for confiscation. Thus, he appears to have rendered himself liable for imposition of penalty under Section 112(b) of the Customs Act, 1962.

(ix) **Shri Neil Barrow (Ashtamkar Noel Yona):** In his statement, he had submitted that he was not aware about the registration of the said vehicle in his name. However, Shri Rehman Shaikh, the mastermind in the said case was known to him, who had used his documents without his knowledge. The said fact appears to be a made-up story as he has been found to be related to the said syndicate of smuggling of luxury cars and has also filed for provisional release and writ petitions in some cases. These facts bring out his dealing with the smuggled car for which he had reasons to believe that it is liable for confiscation. Thus, he appears to have rendered himself liable for imposition of penalty under Section 112(b) of the Customs Act, 1962.

(x) **Shri Aubrey Elias D'Souza:** The 'Range Rover Vogue Model 2014' having chassis Number SALGA2JEXEA146188 was imported in the name of Mr. Ghassan Abdelkhalek Charge D Affairs in the Embassy of Lebanon, New Delhi vide Bill of Entry No 94 dated 31.05.2016, which was dealt by Shri Aubrey Elias D'Souza, of M/s Babaji Khimji & Co. He was fully aware that the said car was not taken to its nominated destination i.e. to the Embassy of Lebanon at New Delhi. It is fact that the said car was registered in the name of non-privileged person and not the importer diplomat. However, as they were the Customs Brokers, they were well aware that the imported goods cleared were required to be transported to the nominated place as above but instead, they were sold in the open market. Thus, it appears that they were concerned themselves with the imported goods on which Customs duty was evaded which were liable for confiscation under Section 111(j) and Section 111(o) of the Customs Act, 1962. Thus, it appears that Shri Aubrey Elias D'souza was actively involved in the improper importation of the impugned goods and hence appears liable for penalty under the provisions of Section 112 (a) of the Customs Act, 1962.

24. Further, the competent authority has been granted the Provisional Release of the said goods under Section 110A of the Customs Act, 1962 on 13.03.2025 vide F. No. S/26-Misc-350/2024-25 Gr. VB, NS-V, JNCH. Therefore, they pass the following order-

- i. Execute a Bond of Rs.35,39,621/- (Rupees Thirty-Five Lakhs Thirty-Nine Thousand Six Hundred Twenty-One only) with an undertaking that they shall pay the duty, fine and/or penalty as may be adjudged by the Adjudicating Authority, subject to the appellate provisions under the Act;
- ii. Payment of full duty of Rs. 74,40,496/- (Rupees Seventy-Four Lakhs Forty Thousand Four Hundred Ninety-Six only) forgone;
- iii. Execute a Bank Guarantee of Rs. 1,00,00,000/- (Rupees One Crore only) to be furnished with contents as mentioned in para 5 of Circular No. 35/2017-Cus dated 16.08.2017, to cover the potential penalties under section 114A, 114AA and redemption fine under section 125 of Customs Act, 1962;
- iv. The beneficiary shall not alienate or otherwise encumber the vehicle till the adjudication is completed;

**25. Therefore, in view of the foregoing, vide Show Cause Notice No. 119/2025-26/COMMR/Gr. VB/CAC/JNCH dated 09.05.2025.**

**25.1.** Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, was called upon to show cause to the Commissioner of Customs, NS-V, JNCH, Mumbai Customs Zone-II having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why: -

- (i) The said "Range Rover Vogue Model 2014" bearing Chassis No. SALGA2JEXEA146188 having declared Assessable Value of Rs. 35,39,621/- (Rupees Thirty-Five Lakh Thirty-Nine Thousand Six Hundred Twenty-One Only), imported vide Bill of Entry No. 94 dated 31.05.2016 in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, seized under seizure memo dated 20.11.2024, should not be confiscated under Section 111(j) and Section 111(o) of the Customs Act, 1962;
- (ii) The total duty foregone amounting to Rs. 74,40,496 /-(Rupees Seventy-Four Lakh Forty Thousand Four Hundred Ninety-Six Only) as detailed in Table No-2 above should not be demanded and recovered along with interest as per the provisions prescribed under Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 read with the Customs Act, 1962 and Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with Notification No. 03/1957-Cus dated 08.01.1957.
- (iii) Penalties under Section 112(a) and under Section 114AA of the Customs Act, 1962, should not be imposed on him;

**25.2.** M/s. Shri Rehman Iqbal Ahmed Shaikh, was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the

Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

**25.3.** Shri Liyakat Bachu Khan and Shri Mohammed Wasim Abdul Gani Siddique were called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the Customs Act, 1962, should not be imposed on each one of them;

**25.4.** Shri Rajeev Sood and Shri Manjeet Maurya, was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra-400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

**25.5.** Shri Chetan Shetty Maurya, was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

**25.6.** Shri Suriya Arjunan, was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

**25.7.** Shri Nipun Miglani, was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

**25.8.** Shri Neeraj Maurya, was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

**25.9.** Shri Neil Barrow (Ashtamkar Noel Yona), was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra-400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

**25.10.** Shri Aubrey Elias D'Souza, was called upon to show cause, in writing, to the Commissioner of Customs, Nhava Sheva- V (NS-V), JNCH, Mumbai Customs Zone-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad, Maharashtra- 400707 within 30 days of receipt of this notice, as to why Penalties under Section 112(a) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should not be imposed on each one of them;

## **26. WRITTEN SUBMISSION OF THE NOTICE**

**26.1 The Noticee, Shri. Neeraj P. Maurya (Noticee No. 10) vide letter dated 15.04.2026 gave written reply to the subject SCN. the interalia submitted as under:**

(i). The present proceedings pertain to seizure of a vehicle, viz. Range Rover Vogue, Model 2014 bearing Chassis No.: SALGA2JEXEA146188. The said vehicle was originally imported under Bill of Entry No. 94 dated 31.05.2016, allegedly in the name of Mr. Ghassan Abdelkhalek (Chargé D Affairs) Embassy of Lebanon (Noticee No.02).

(ii). That the subject vehicle was imported by availing exemption under Notification No. 03/1957-Cus dated 08.01.1957 without payment of customs duty; that the said vehicle was subsequently registered in India in the name of Shri Ashtamkar Noel Yona in the State of Punjab; that he purchased the said vehicle through a broker in the open market for valid consideration, in good faith and without any knowledge of any alleged irregularities; that he has no connection whatsoever with the import of the said vehicle. The SCN itself attributes the alleged act of importing the said vehicle to other individuals forming part of a syndicate. At no stage is the Noticee shown to be associated with or connected to such a syndicate.

(iii). That there is no evidence on record to demonstrate that the Noticee had:

- i. any involvement in the import documentation,
- ii. any knowledge of alleged misuse of diplomatic exemption, or
- iii. any participation in the alleged conspiracy.

(iv). The said car was seized on 20.11.2024, i.e., after more than eight years from the date of import, which itself raises serious doubts regarding the sustainability of the proceedings on the point of limitation.

(v) The recovery of the vehicle from the premises of the Noticee merely establishes possession and does not establish culpability. There is no material linking the Noticee to any alleged forged documents, import process, or syndicate operations.

(vi). The demand of duty is wholly unsustainable against the Noticee as the Duty liability arises only on the importer. The importer in the present case is Mr. Ghassan Abdelkhalek (Chargé D Affairs) Embassy of Lebanon (Noticee No.02); that the liability arises due to violation of exemption conditions by the diplomat i. e Mr. Ghassan Abdelkhalek (Chargé D Affairs) Embassy of Lebanon (Noticee No.02), the same cannot be extended to the Noticee in the absence of any evidence of knowledge or involvement.

(vii). That Diplomats are exempt from import duty in respect of such vehicles, as the cars are intended for their personal use. A declaration to this effect is duly filed by the diplomat, affirming that the vehicle will be used by them in India. Accordingly, this negates any presumption of knowledge on the part of the Noticee; that the Noticee did not file any Bill of Entry in respect of the subject vehicle; that the Noticee did not claim or avail any exemption under the applicable provisions of law; that the Noticee was not the importer of the said vehicle and had no role in its importation or filing any documents for declaration; that in the absence of any statutory liability attributable to the Noticee, no penalties can be imposed on the Noticee, who is merely a subsequent purchaser of the vehicle.

(viii). that Section 28 of the Customs Act, 1962 permits recovery of duty only from the 'person chargeable with duty' and within the prescribed limitation period; that the Noticee is neither the importer nor the person liable to pay duty. Further, the impugned SCN has been issued after more than eight years from the relevant date i.e., the date of import, which is far beyond the maximum limitation period of five years even under the extended proviso. Accordingly, the entire demand is ex facie time-barred and unsustainable in law.

(ix). that the entire demand of duty as well as the proposal for imposition of penalty is ex facie barred by limitation. The subject vehicle was imported vide Bill of Entry dated 31.05.2016, whereas the present Show Cause Notice has been issued only in the year date 2025, i.e., after a lapse of more than eight years from the date of import; that even in cases involving invocation of the extended period under Section 28(4) of the Customs Act, 1962, the maximum permissible limitation for issuance of a Show Cause Notice is five years from the relevant date. In the present case, the said statutory period has long expired, and therefore, the demand of customs duty is clearly time-barred and unsustainable in law.

(x). that No statement of the said diplomat i.e. Mr. Ghassan Abdelkhalek (Chargé D Affairs) Embassy of Lebanon. (Noticee No.02) has been recorded under Section 108 of the Customs Act, 1962, no investigation appears to have been conducted directly with the said diplomat, no evidence has been brought on record to establish that the diplomat himself violated the conditions of exemption.

(xi). that the Noticee has no role in the import, there is no evidence of knowledge, intent, or collusion, and the mandatory ingredients of both Section 112(b) and Section 114AA are completely absent; that the Noticee is in no manner connected with the import of the said seized vehicle; that no declaration whatsoever was filed by the Noticee in respect of the alleged import; that the Noticee has not undertaken any import-related procedure, including but not limited to the filing of a Bill of Entry or compliance with any statutory requirements under the Customs Act, 1962. In the absence of any such involvement, the provisions of Section 114AA are wholly inapplicable, and no penalty can be imposed upon the Noticee; that the entire case of the department rests on an alleged breach of conditions by the diplomat under Notification No. 03/1957-Cus. However, the said diplomat has not been examined nor his statements has been recorded u/s 108 of the Customs Act, 1962; that the alleged violation of conditions is attributed to the diplomat, the failure of the department to examine him, record his statement, or even secure his participation in proceedings is fatal to the case. In such circumstances, no liability can be fastened on the petitioner, who is merely a subsequent purchaser.

(xii) the also made following general submission.

#### **GENERAL SUBMISSIONS**

- a. That the alleged import was undertaken by a different person i.e. the diplomat viz. Mr. Ghassan Abdelkhalek (Chargé D Affairs) Embassy of Lebanon (Noticee No.02); that No statement of the said diplomat has been recorded under Section 108 of the Customs Act, 1962, no investigation appears to have been conducted directly with the said diplomat, no evidence has been brought on record to establish that the diplomat himself violated the conditions of exemption.
- b. In the absence of any statement recorded under Section 108, the very foundation of the allegation remains unverified and unsubstantiated. The department cannot proceed merely on assumptions without examining the primary person responsible for the alleged violation.
- c. Further, the SCN relies upon statements of third parties and alleged documentary evidence; however, no opportunity for cross-examination of such persons has been granted to the Noticee. The Noticee has not been allowed to test the veracity or credibility of such statements.
- d. It is a settled position in law that any statement relied upon by the department must be tested through cross-examination, failing which such statements lose evidentiary value.
- e. Further, initiation of penal proceedings after such an inordinate delay causes serious prejudice and grave hardship to the Noticee, who had no connection with the import and had acted in good faith. Hence, on this ground as well, no duty or penalty can be sustained against the Noticee.
- f. The SCN is held to be barred by limitation, no demand of duty can survive, and no penalty proceedings can be sustained. Without prejudice, it is further submitted that penalties under Section 112(b) and Section 114AA are consequential in nature and can only be invoked when the primary proceedings are validly initiated and sustained. In the present case, since the SCN itself is non est in law on account of limitation, the question of imposing any

penalty does not arise. Accordingly, the impugned demand of duty and the proposal for imposition of penalty under Sections 112(b) and 114AA of the Customs Act, 1962 are liable to be set aside on the ground of limitation alone, being grossly delayed and legally untenable.

g. In view of the above, the Noticee respectfully prays that this Hon'ble Authority may be pleased to:

- i) The proceedings against the Noticee No.10 Shri Neeraj P. Maurya be dropped in entirety; as the impugned SCN is void ab initio being barred by limitation;
- ii) No penalty be imposed under section 112 (b) and 114 AA of the Customs Act, 1962;
- iii) The seizure of the vehicle be set aside;
- iv) Grant any other relief deemed fit in the interest of justice.

**26.2 The Noticee, Shri Nipun Miglani vide letter dated 09.06.2025 gave written reply to the subject SCN. The interalia submitted as under:**

(i). They had dealt with the subject car namely 'Range Rover Vogue – Model 2014' bearing Registration No. PB 65 AE 0999 and arranged buyers through car dealers. The show cause notice further alleges that he arranged for the registration of the subject car and therefore abetted the alleged mastermind Mr. Rehman Shaikh in the import and registration of subject car in question.

(ii). That they have not in any way dealt with the subject car either during the alleged improper import of the car or post its importation in identifying any potential buyers for the subject car; that the present show cause notice dated 09.05.2025, issued under Section 28(4) of the Customs Act, 1962 is prima facie barred by limitation; that the present show cause notice dated 09.05.2025, issued with regard to short levy of duty during the import of goods under bill of entry No. 94 dated 31.05.2016, is clearly barred by limitation, as the said show cause notice has been issued after a period of around nine years from the date of import clearance of the subject goods.

(iii). That his statement dated 15.07.2021 recorded under Section 108 of the Act, which states that he had knowledge regarding the import of cars under Concessional/Nil rate of duty under Customs Exemption Notification and that he had colluded with Shri. Rehman Shaikh was obtained forcibly by the Investigation Officer. Therefore, when he was produced before the Hon'ble Magistrate, Uran on 19.07.2021, he had clearly mentioned before the Hon'ble Court that the statements were recorded under coercion and the same was noted by the Hon'ble Magistrate; that he had submitted a letter retracting the statement recorded on 15.07.2021, vide my letter dated 22.10.2021. The Investigating Officer had refused my retraction, vide letter dated 01.02.2022 stating that the retraction was made belatedly and therefore, the same cannot be accepted; that the Investigating Officer had failed to appreciate the fact that he had mentioned before the Hon'ble Magistrate, Uran on 19.07.2021 itself, that the statements dated 15.07.2021 were obtained under coercion; that the retracted statement cannot be the sole basis for conviction when it is not corroborated with any evidence. Therefore, it is submitted that the statements which were recorded forcibly and under coercion cannot be relied upon as evidence for arriving at any conclusion. Reliance is placed on

the decision of the Hon'ble Supreme Court in the case of *Vinod Solanki Vs. Union of India*, reported 2009 (13) S.T.R. 337 (S.C.) and the decision of the Hon'ble Delhi High Court in the case of *Vikas Mohan Singhal Vs. Directorate of Revenue Intelligence* reported in 2009 (243) E.L.T. 507 (Del.), the decision of the Hon'ble Delhi High Court in the case of *Directorate of Revenue Intelligence Vs. Moni*, reported in 2010 (252) ELT 57 (Del).

(iv). That the allegation that he attempted to arrange prospective buyers for the subject car, despite knowledge of its wrongful import and liability for confiscation, is baseless and contrary to facts; that he had not dealt with the subject car in any manner, was not involved in identifying buyers, and had neither received any payment nor any sale proceeds. In fact, as per the statement of Shri Neeraj P. Maurya dated 09.12.2024, a sum of Rs. 10,00,000/- was paid to another person on behalf of Shri Surya Arjunan; that he had no knowledge of the alleged illegal import or subsequent sale of the car, and that the allegation of his involvement in dealing with the car or preparing forged documents is entirely false. Reliance was placed on statements of various individuals, including Shri Liyakat Bachu Khan, who admitted to forging documents under the instructions of Shri Rehman Shaikh; Shri Rajeev Sood and Shri Manjeet Maurya, who admitted to sharing information relating to diplomats; and Shri Mohammed Wasim Abdul Gani Siddique, who admitted to forging documents under instructions; that his wife had filed a police complaint dated 28.07.2021 against Shri Liyakat Bachu Khan for deceiving and implicating him in the alleged illegal import; that he had no role in the matter, was unaware of the alleged acts, and is not liable for any penal action in respect of the subject car.

(v). It is submitted that penalty cannot be imposed merely for the sake of it, as it is not a source of revenue and must depend on the facts and circumstances of each case. Imposition of penalty requires proof of mens rea, deliberate action, and knowledge beyond reasonable doubt. In the present case, no incriminating or corroborative evidence exists to show his involvement in the import or sale of the subject car, nor any attempt to import or make payments.

In the absence of any evidence of his role, penalty would amount to a miscarriage of justice. As per settled law and judicial precedents, penalty can be imposed only when a positive act or omission is established. Section 112 of the Customs Act applies only where a person is involved in acts leading to confiscation or deals with goods knowing they are liable for confiscation. However, there is no allegation or evidence that he dealt with the car or had such knowledge; rather, he was unaware of its existence until the issuance of the show cause notice.

Further, "abetment" under Section 112 requires proof of instigation, conspiracy, or intentional aiding as per Section 107 of the IPC, which is absent in the present case. Judicial decisions, including *K. Krishnakumar*, *Ramesh Kumar Bansal*, *Vishnu Kumar*, *Anand Desai*, *S.K. Miglani*, and *Ashok Wadia*, consistently hold that penalty is not sustainable without clear evidence of involvement or knowledge. Accordingly, as no such evidence exists against him, the proposal to impose penalty under Section 112 is legally unsustainable.

(vi). that the allegations are based solely on the statement of Mr. Chetan Jagdish Chetty, who claimed that Mr. Suriya Arjunan informed him that the subject car was sold by him. This statement is contrary to facts, as he has neither dealt with the sale of the car nor identified any buyers.

**26.3 The Noticee, Shri. Suriya Arjunan vide letter dated 22.03.2026 gave written reply to the subject SCN. The interalia submitted as under:**

(i). That he has not in any way dealt with the subject car either during the alleged improper import of the car or post its importation in identifying any potential buyers for the subject car. He denied all the allegations leveled against him that the present show cause notice dated 09.05.2025, issued under Section 28(4) of the Customs Act, 1962 is prima facie barred by limitation; as the said show cause notice has been issued after a period of around nine years from the date of import clearance of the subject goods.

He relied on the Hon'ble CESTAT's order in the case of *Usha Stud & Agricultural Farms (P) Ltd. Vs. Commr. Of Cus., New Delhi* reported in 2011 (274) E.L.T. 365 (Tri. - Del.) had set aside a show cause notice issued under Section 28(4) of the Customs Act and the consequential adjudication proceedings, on the ground that the said show cause notice was issued beyond the period of five-year limitation period provided under Section 28(4) of the Customs Act, 1962; that the present show cause notice is clearly barred by limitation and is liable to be set aside,

(ii). That the entire allegation against him has been made based on the statement of two persons, viz., Mr. Chetan Jagdish Shetty and Mr. Neeraj P. Maurya, that he had allegedly dealt with the subject car and had sold the same to Mr. Neeraj P. Maurya through Mr. Chetan Jagdish Shetty; that the said allegation is completely false and is made without an iota of evidence to substantiate the same; that he had in no way dealt with the subject car in question and had therefore neither aided nor abetted in the alleged improper import of the subject car.

It is submitted that he has not, in any manner, dealt with the subject car. He has neither sold the car to Mr. Neeraj P. Maurya or Mr. Chetan Jagdish Shetty, nor received any payment in relation thereto; that the statements relied upon are contradictory: Mr. Chetan Jagdish Shetty, in his statement dated 07.11.2023, alleged that a sum of Rs. 1,00,00,000/- was paid, whereas Mr. Neeraj P. Maurya, in his statement dated 09.12.2024, stated that only Rs. 10,00,000/- was paid.

(iii). That it is a settled position of law that penalty should not be imposed for the sake of it. Penalty is not a source of revenue. Imposition of penalty depends upon facts and circumstances of each case. Further, it is a settled law that to establish a charge it is not only necessary to prove the existence of *mensrea* but also that deliberation must be proved beyond all reasonable doubt. Imposition of penalty requires deliberate action and knowledge. As can be seen from the records no incriminating evidence was found against him to implicate his involvement in import or the subsequent sale of the subject car. Nothing was brought on record to show that there was an attempt on his part either in importing the car or making payment towards its importation. Reliance is

placed on the decision in the case of ***K. Krishnakumar Versus Commissioner of Customs, Cochin - (2001) 133 ELT 320.***

(iv). In the absence of any corroborative evidence in any form, it would be miscarriage of justice, if penalty is imposed against him. It is a settled law, that for imposition of penalty, it should be proved beyond doubt that the said persons should have done positive act by their commission or omission, to render themselves liable for imposition of penalty. In the instant case, there is no evidence suggesting, even, remotely, that he had a role in the importation of the subject car. In the absence of any evidence of my involvement in the alleged illegal importation of the Car, no penalty is imposable on me. Reliance is placed on the decision in the case of ***Ramesh Kumar Bansal Versus Commissioner of Central Excise, Lucknow - (2006) 197 ELT 545.***

(v). Section 112 of the Customs Act, 1962 states that the penalty can be imposed only if it is satisfied that the person is involved in an act or omission which results in confiscation of the goods under Section 111 of the Customs Act, 1962 or if the person dealt with the goods when he has reason to believe that the goods are liable for confiscation under Section 111 of the Act. The Investigation Officer has arrived at a conclusion that the subject car is liable for confiscation under Section 111(j) and 111(o) of the Customs Act, 1962. The provisions of Section 111(j) and 111(o) of the Customs Act relate to actions and omissions relating to events occurring prior to the import and clearance of home consumption of the car in question. It is submitted that there is not a single allegation that he has dealt with the subject car or have played any role in the alleged irregular import and therefore, the situation to impose penalty under Section 112(a) of the Act, does not arise at all, that to attract Section 112(b) of the Act, he must have acquired possession or dealt with the goods or reason to believe that the goods are liable for confiscation. On perusal of the Show Cause Notice and the relied upon documents, there is no single incriminating material/evidence to show that he has dealt with the subject car or had reason to believe that the subject car is liable for confiscation. In fact, he was completely unaware about the existence of the subject car, until the present show cause notice came to be issued. This can be inferred from the statements recorded from various persons under Section 108 of the Act and the findings of the investigation.

(vi). The Hon'ble High Court of Delhi in the case of ***Vishnu Kumar Vs. Commissioner of Customs, New Delhi reported in 2010 (260) ELT 356 (Del.)*** has held that for a charge of abetment to sustain the ingredients of Section 107 of the Indian Penal Code would have to be fulfilled. The High Court further held that the charge of abetment would stand substantiated if it is proved that the alleged abettor had instigated the doing of a particular thing or he had engaged with one or more persons in a conspiracy for doing of that thing or he had intentionally aided doing of that thing by an act or illegal omission. In order to constitute abetment by conspiracy, there must be a combination of two or more persons in the conspiracy and an act or illegal omission must take place in pursuance of that conspiracy. Where the parties concert together and have a common object, the act of one of the parties done in furtherance of the common object and in pursuance of the concerted plan, is the act of the whole. It is not sufficient to prove that the charged act could not have been committed without intervention of the alleged abettor. What is necessary is that the intervention should have been made with intent to facilitate the commission of that act. Intentional

aiding, therefore, is the gist of abetment, as defined in clause thirdly of Section 107 of IPC. If there is a community of interest between the aiding person and the person who commits the actual act, it can be safely inferred that the dominant intention of the alleged abettor was to aid the doing of that particular act. In the present case no such evidence has been adduced by the Investigating agency. In these circumstances, the allegation that he had dealt with the smuggled car and thus became liable to penalty is not legally sustainable.

(vii). It is submitted that in the case of *Anand Desai Vs. Commissioner of Customs (Import), Mumbai* reported in 2015 (326) ELT 613 (Tri-Mumbai), the Mumbai Bench of the Hon'ble CESTAT held that penalty is not imposable on a car broker when there is no evidence of his involvement of misdeclaration at the time of import. The Hon'ble Tribunal further held that penalty is not imposable for merely assisting in import of the car unless the positive involvement in import is established.

(viii). In the case of *Commissioner of Customs (Import), Mumbai Vs. Ashok Wadia* reported in 2009 (247) ELT 504 (Tri-Mumbai), the Hon'ble Tribunal set aside the penalty on the broker of illicitly imported car on the ground that there was no evidence of his doing or omitting to do anything with the knowledge/belief that the car was liable to confiscation. The Hon'ble Tribunal set aside the penalty under Section 112(b) of the Customs Act, 1962. In the present case, I stand on a better footing since he has not dealt with car in any way. He is neither the importer, nor the broker nor the ultimate purchaser. Therefore, the proposal to impose penalty under Section 112 of the Customs Act, 1962 cannot stand legal scrutiny.

(ix). It is submitted that the allegations against him is based upon the statement of one Mr. Chetan Jagdish Chetty and Mr. Neeraj P. Maurya, wherein they state that he had purchased the subject car from Mr. Nipun Miglani and had sold the same to Mr. Neeraj P. Maurya through Mr. Chetan Jagdish Chetty. In this regard, it is submitted that the said statement is contrary to the facts of the case; he had in no way dealt with the sale of the subject car and have also not indulged in identifying buyers for the same. It is therefore submitted that it is necessary to cross-examine Mr. Chetan Jagdish Chetty and Mr. Neeraj P. Maurya, in the interest of justice and to help establish the fact that he had not in any dealt with the subject car. To support his above request for cross-examination, he would like to place reliance on the decision of the Hon'ble Supreme Court in the case of *Andaman Timber Industries v. Commissioner of Central Excise, Kolkata-II* reported in 2015 (324) ELT 641 (SC) has held that not allowing the assessee to cross-examine the witnesses by the adjudicating authority, though the statements of those witnesses have been relied, is a serious flaw which makes the order a nullity in as much as it would amount to violation of the principles of natural justice. Further in the case of *Thilagarathnam Match Works Vs. Commr of C.Ex, Tirunelveli* reported in 2013 (295) ELT 195 (Mad.), the Hon'ble High Court has held that if a report or statement is relied upon, it is fundamental that the author of the report and the persons from whom such statements are allegedly recorded should be made available for cross-examination and the enquiry officer cannot test the request for cross-examination on the strength of reasons.

(x). It is submitted that the Hon'ble High Court of Madras in the case of *Veetrag Enterprises Vs. Commissioner of Customs, Chennai* reported in 2015 (330) ELT 74 MAD has held that, rules of natural justice require that a party must be given the opportunity to adduce all relevant evidence upon which he relies and further that the evidence of the opposite party should be taken in his presence by giving the opportunity of cross-examining the witnesses examined by that party. The Hon'ble High Court in the said case has set aside the impugned order and remanded the case to the original authority for permitting cross-examination. It is further submitted that the division bench of this Hon'ble High Court in the case of *Visal Lubetech Corporation Vs. Additional Commissioner of Customs, Coimbatore* (Writ Appeal Nos. 130 and 131 of 2017) had also set aside the adjudication order for not providing an opportunity of cross-examination and remanded the case to accord cross-examination.

(xi). It is also submitted that the adjudicating authority in paragraph 23(vi) of the show cause notice had recorded that he was issued with a summons dated 18.03.2024, 07.06.2024 and 14.06.2024, with respect to which I had not appeared. It is however categorically submitted that he had not received the said summons and therefore he had not appeared before the adjudicating authority.

(xii). In these circumstances, it is requested that the cross-examination of Mr. Chetan Jagdish Chetty and Mr. Neeraj P. Maurya may kindly be facilitated; that he reserve my right to make additional submissions after cross-examination of the above-mentioned person.

**26.4 The Noticee, Shri Aubrey Elias Dsouza letter dated 17.06.2026, 02.09.2025 & 05.03.2026 gave written reply to the subject SCN. The interalia submitted as under:**

(i). That the Bill of entry No. No. 94 dated 31.05.2016 was filed for home consumption. The bill of entry was finally assessed by the Group granting the benefit of exemption Notification No 03/1957 dated 08/01/1957 at Nil duty on 31/05/2016. The car was examined and OOC by the Proper Officer. No discrepancy was noticed by the Group at the time of assessment, nor at the time of examination of the car; that the bill of entry No No. 94 dated 31.05.2016 was filed and presented to the customs officers by the Noticee with the requisite documents. The bill of entry was finally assessed by the proper officer on 31/05/2016, granting the benefit of Notification 03/1957 dated 08/01/1957. The car was examined and given out of charge by the proper officer. No discrepancy in respect of the declaration, eligibility of notification, or genuineness of the documents was raised at the time of clearance, nor by DRI during investigation. As a result, the goods being OOC by the proper officer establishes they were cleared from Customs after following due process of law prescribed under the Act, Rules & Regulations; that in the absence of any evidence to the contrary, provisions of section 111(j) are not attracted, rendering the goods liable for confiscation. The charges leveled in the SCN against the Noticee of improperly importation and clearance, rendering the goods liable for confiscation under Section 111 (j), cannot be established, which is required to be dropped; that the bill of entry was filed by the Customs Broker. The mandatory documents to claim exemption were submitted to the department. The said documents were verified and found authentic & genuine. Based on this, the bill of entry was assessed, and the exemption was granted by the authorities. Accordingly, the car was cleared after obtaining OOC from the Customs area;

that after clearance, the car was handed over to Mr. Liyakat Khan. The delivery challan handed over to him was brought back by him, duly stamped and signed by the importer; that once the goods are handed over after clearance from the customs area to the transporter or the representative of the importer, the Customs Broker has no role to play and cannot be held responsible for post-clearance activities unless any evidence involving him/her in deliberate evasion of customs duty.

(ii). That post clearance the car was diverted in the local market by the importer Mr. Ghassan Abdul Khalek (Charge 'd' affairs) Embassy of Lebanon in connivance with the conspirators for undue financial gain evading duty, rendering the goods liable for confiscation under Section 111 (o) of the Customs Act 1962 and not the Noticee as alleged in the SCN.

(iii) That none of the conspirators involved in the case have implicated Noticee of having played any role in the diversion of the car in the local market. No documentary evidence is forthcoming in the SCN establishing Noticee had prior knowledge about the diversion of the car in the local market, rendering the goods liable for confiscation. In the absence of this, the Noticee is not liable for penal action under Section 112 (a) of the Customs Act 1962.

(iv) That they are in the clearing business. The clearance of the car complied with the law and CBLR 2018. The investigation carried out by DRI did not mention any lapse on the part of the Customs Broker in the clearance of the car from Customs.

(v) That in the absence of any evidence of submitting any false or incorrect material at the time of import, the penalty of an equal amount to duty in terms of Section 114AA does not arise and requires to be set aside.

(vi) That they are in the clearing business. The car was cleared based on an Authority letter issued by the Embassy, Diplomat, in the name of M/s Babaji Khimji & Co. The clearance of the car complied with the law and CBLR 2018.

(vii) That the investigation carried out did not mention any lapse on the part of the Customs Broker in the clearance of the car from Customs. The entire case is based on the diversion of the car after clearance, in connivance with Diplomats and other syndicate members, over which the Noticee has no control.

(viii) That reliance is placed on the following cases of import of cars by the Diplomat investigated by DRI, which were cleared by the Noticee, wherein charges leveled in the SCN were dropped and penalty set aside by the Commissioner (Appeals), JNCH, Nhava Sheva, and Additional Commissioner of Customs, CAC, NS-G, JNCH, Nhava Sheva.

- |    |  |             |
|----|--|-------------|
| a) | Order in Appeal No 40 (Gr. VB)/2025(JNCH)/Appeals dated  | 14/01/2025. |
| b) | Order in Appeal No 484 (Gr. VB)/2025(JNCH)/Appeals dated | 15/04/2025. |
| c) | Order in Appeal No 485 (Gr. VB)/2025(JNCH)/Appeals dated | 15/04/2025. |
| d) | Order No 1805/2024-25/ADC/Gr.VB/NS-V/CAC/JNCH dated      | 27/03/2025. |

e) Order No 1807/2024-25/ADC/Gr.VB/NS-V/CAC/JNCH dated 27/03/2025.

(ix) Therefore, for the act and omission post clearance on the part of the Syndicate and Diplomat leading to evasion of duty, the Noticee cannot be blamed and held responsible for imposing a penalty when he has not violated any of the provisions of the Customs Act.

In view of the above, it is prayed that in all fairness and justice, the charges leveled against the Noticee in the SCN may kindly be dropped.

## **27. RECORD OF PERSONAL HEARINGS**

There are Twelve Noticees in the subject SCN viz. (i). Shri Rehman Iqbal Ahmed Shaikh (ii). Mr. Ghassan Abdel Khalek (iii) Shri Liyakat Bachu Khan (iv) Shri Mohammed Wasim Abdul Gani Siddique (v) Shri Rajeev Sood (vi) Shri Manjeet Maurya (vii) Shri Chetan Jagdish Shetty (viii) Shri Suriya S/o Shri Arjunan (ix) Shri Nipun Miglani (x) Shri Neeraj P. Maurya (xi) Shri Neil Barrow (xii) Shri Aubrey Elias Dsouza. In compliance of provisions of Section 28(8) read with Section 122A of the Custom Act,1962 and in terms of the principal of natural justice, the noticees (i). Shri Rehman Iqbal Ahmed Shaikh (ii). Mr. Ghassan AbdelKhalek (iii) Shri Liyakat Bachu Khan (iv) Shri Mohammed Wasim Abdul Gani Siddique (v) Shri Rajeev Sood (vi) Shri Manjeet Maurya (vii) Shri Chetan Jagdish Shetty (viii) Shri Suriya S/o Shri Arjunan (ix) Shri Nipun Miglani (x) Shri Neeraj P. Maurya (xi) Shri Neil Barrow (xii) Shri Aubrey Elias Dsouza were granted opportunity of Personal Hearing (PH) on 09.03.2026 The noticees (i). Shri Rehman Iqbal Ahmed Shaikh (ii). Mr. Ghassan AbdelKhalek (iii) Shri Liyakat Bachu Khan (iv) Shri Mohammed Wasim Abdul Gani Siddique (v) Shri Rajeev Sood (vi) Shri Manjeet Maurya (vii) Shri Chetan Jagdish Shetty (viii) Shri Neeraj P. Maurya (ix) Shri Neil Barrow were granted opportunity of Personal Hearing (PH) on 06.04.2026, 16.04.2026 and PH intimation letter was issued by speedpost.

**27.1** In response to PH notice to Noticees, Mr. Aniurdh Nansi (Consultant), authorised representatives, on behalf of noticee no. 12, Sh. Shri Aubrey Elias Dsouza, attended the personal hearing on virtual mode before me on 10.03.202 and re-iterated their written submission dated 17.06.2025, 02.09.2025 & 05.03.2026. He stated that the identical case of Shri Aubrey Elias D'Souza has been decided by CESTAT, Mumbai, on 09/03/2026, by setting aside the order of the Commissioner of Customs, NSV, JNCH, imposing a penalty. The order was pronounced in the open court. A copy of the order shall be furnished as soon as it is uploaded on the CESTAT site.

**27.2** In response to PH notice to Noticee, Mr. Mohamed Uvaisullah Mushin (Advocate), authorised representatives, on behalf of noticee Shri Suriya (Noticee No. 8), and Shri Nipun Miglani (Noticee No.9) attended the personal hearing on virtual mode before me on 10.03.2026. During the PH, he reiterated the submissions made in respect of Shri Nipun Miglani vide their letter dated 09.06.2025 and said that he will submit the submission in respect of Shri Suriya within ten days.

27.3 In response to PH notice to Noticee, Mr. Anand Sachwani (Advocate), authorised representatives, on behalf of noticee Shri Neeraj P. Maurya (Noticee No.10) attended the personal hearing on physical mode before me on 16.04.2026. During the PH, he reiterated the submissions dated 15.04.2026.

27.4 The following noticees: (i) Shri Rehman Iqbal Ahmed Shaikh, (ii) Mr. Ghassan Abdel Khalek, (iii) Shri Liyakat Bachu Khan, (iv) Shri Mohammed Wasim Abdul Gani Siddique, (v) Shri Rajeev Sood, (vi) Shri Manjeet Maurya, (vii) Shri Chetan Jagdish Shetty, and (viii) Shri Neil Barrow, neither submitted their written submissions nor attended the personal hearings.

## DISCUSSION AND FINDINGS

28. I have carefully gone through the subject Show Cause Notice (SCN), material on record and facts of the case, as well as written and oral submissions made by the Noticee. Accordingly, I proceed to decide the case on merit.

In compliance to provisions of Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunity for Personal Hearing (PH) was granted to the Noticees (i) Shri Aubrey Elias D'Souza, (ii) Shri Nipun Miglani, (iii) Shri Suriya, (iv) Shri Neeraj P. Maurya (v). Shri Rehman Iqbal Ahmed Shaikh (vi). Mr. Ghassan Abdel Khalek (vii) Shri Liyakat Bachu Khan (viii) Shri Mohammed Wasim Abdul Gani Siddique (ix) Shri Rajeev Sood (x) Shri Manjeet Maurya (xi) Shri Chetan Jagdish Shetty (xii) Shri Neil Barrow, and PH intimation letter were issued by speedpost.

28.1 I find that except for Shri Aubrey Elias D'Souza, Shri Nipun Miglani, Shri Suriya, Shri Neeraj P. Maurya, the other Noticees, namely (i). Shri Rehman Iqbal Ahmed Shaikh (ii). Mr. Ghassan Abdel Khalek (iii) Shri Liyakat Bachu Khan (iv) Shri Mohammed Wasim Abdul Gani Siddique (v) Shri Rajeev Sood (vi) Shri Manjeet Maurya (vii) Shri Chetan Jagdish Shetty (viii) Shri Neil Barrow have not filed any written reply to the impugned SCN. I also find that in spite of four opportunities of personal hearing granted to the said Noticees, they have neither attended any of the personal hearings nor sought any adjournment in the matter. In this context, I find that the adjudication procedure as laid down in Section 122A of the Customs Act, 1962, is as under: -

### *122 Adjudication Procedure. -*

*(1) The Adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires.*

*(2) The Adjudicating authority may, if sufficient cause is shown at any stage of proceeding referred to in sub-section (1), grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing:*

*PROVIDED that no such adjournment shall be granted more than three times to a party during the proceeding.*

28.2 I find that the requirement of adjudication procedure has been satisfied in this case. I find that multiple opportunities have been given to the said Noticees to respond to the impugned notice but the Noticee has failed to submit any reply/details in response to the notice. Furthermore, the Noticees were also informed every time the Personal Hearing was granted as stated above that if they or their authorized representative/s failed to appear for the Personal Hearing on scheduled date/time, then the subject matter would be adjudicated ex-parte on its merit and basis the available records/evidences. However, in spite of being asked repeatedly to appear for the personal hearings for defending their case, the said Noticees have failed to appear for personal hearing. They have not made themselves available for defending their case out of their own choice. Accordingly, I proceed in the matter before me.

28.3 In this connection, I find that Hon'ble Supreme Court, High Courts and Tribunals, in several judgments/decisions, have held that ex-parte decision will not amount to violation of principles of natural justice, when sufficient opportunities for personal hearing have been given for defending the case. In support of the same, I rely upon the following judgments/orders: -

(a) The Constitution Bench of Hon'ble Supreme Court in the case of *Union of India v. Tulsiram Patel* [as reported in (1985) 3 SCC 398 AIR 1985 SC 1416] and as summarized in *Satyavir Singh v. Union of India* [as reported in (1985) 4 SCC 252 AIR 1986 SC 555], has observed that;

“.....

.....

*The principles of natural justice are not the creation of Article 14 of the Constitution. Article 14 is not the begetter of the principles of natural justice but is their constitutional guardian.*

*The principles of natural justice consist primarily of two main Rules, namely, "nemo judex in causa sua" (no man shall be a judge in his own cause) and audi alteram partem (hear the other side). The corollary deduced from the above two Rules and particularly the audi alteram partem Rule was qui aliquid statuerit parte inaudita altera, aequum licet dixerit, haud aequum fecerit (he who shall decide anything without the other side having been heard, although he may have said what is right will not have done what is right" or as is now expressed "Justice should not only be done but should manifestly be seen to be done). These two Rules and their corollary are neither new nor were they the discovery of English judges but were recognized in many civilizations and over many centuries.*

.....

.....

*It is well established both in England and in India that the principles of natural justice yield to and change with the exigencies of different situations and do not*

*apply in the same manner to situations which are not alike. They are neither cast in a rigid mould nor can they be put in a legal strait jacket. They are not immutable but flexible and can be adopted, modified or excluded by statute and statutory Rules as also by the constitution of the tribunal which has to decide a particular matter, and the Rules by which such tribunal is governed.*

.....

.....

*If legislation and the necessities of a situation can exclude the principles of natural justice including the audi alteram partem Rule, a fortiori so can a provision of the Constitution such as the second proviso to Article 311(2).*

.....

.....

*The principles of natural justice must be confined within their proper limits and not allowed to run wild. The concept of natural justice is a magnificent thoroughbred on which this nation gallops forwards towards its proclaimed and destined goal of "Justice, social, economic and political". This thoroughbred must not be allowed to turn into a wild and unruly horse, careering off where it lists, unsaddling its rider and bursting into fields where the sign "no pasaran" is put up."*

(b) Hon'ble High Court of Kerala in the case of United Oil Mills Vs. Collector of Customs & C.Ex., Cochin reported in 2000(124) E.L.T.53(Ker), has observed that;

*"Natural justice Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence - Principles of natural justice not violated."*

(c) Hon'ble High Court of Delhi in the case of Saketh India Limited Vs. Union of India reported in 2002(143) E.L.T. 274 (Del.), has observed that:

*"Natural justice Ex parte order by DGFT- EXIM Policy-Proper opportunity given to appellant to reply to show cause notice issued by Addl.DGFT and to make oral submissions, if any, but opportunity not availed by appellant Principles of natural justice not violated by Addl.DGFT in passing ex parte order."*

(d) Hon'ble CESTAT, Mumbai in the case of Gopinath Chem Tech Ltd. Vs Commissioner of C.Ex., Ahmedabad-II reported in 2004(171) E.L.T.412 (Tri-Mumbai) has observed that;

*"Natural justice Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained-Appellant cannot now demand another hearing -Principles of natural justice not violated."*

(e) Hon'ble Supreme Court in the case of F.N. Roy Vs. Collector of Customs, Calcutta reported in (1983)13 E.L.T. 1296(SC), has observed that;

*"Natural justice Opportunity of personal hearing not availed of Effect Confiscation order cannot be held mala fide if passed without hearing.*

*-If the petitioner was given an opportunity of being heard before the confiscation order but did not avail of, it was not open for him to contend subsequently that he was not given an opportunity of personal hearing before an order was passed."*

**28.4** In view of the above, I am of the considered opinion that sufficient opportunities have been given to the said noticees to present their defense and it is their conscious decision to abstain from entire proceedings in respect of the impugned SCN. It seems that the said noticees are deliberately delaying the proceedings by remaining incommunicado in spite of several communications during the course of the adjudication proceedings. Under these circumstances, I proceed to decide the matter on the basis of material available on records.

**28.5** I find that in the impugned Show Cause Notice it is, inter alia, alleged that a **Range Rover Vogue – Model 2014** was imported by a syndicate led by Shri Rehman Iqbal Ahmed Shaikh in the name of a diplomat/privileged person, namely Mr. Ghassan Abdelkhalek, Charge d’Affaires, Embassy of Lebanon, New Delhi, at NIL rate of duty by availing the benefit of Customs Notification No. 03/1957-Cus. dated 08.01.1957. It is further alleged that the said diplomat facilitated the requisite documentation for duty-free import by misusing diplomatic privileges and that the vehicle, instead of being retained and registered in his name as mandated, was not registered through the Ministry of External Affairs and was subsequently diverted for use and sale in the domestic market. The Show Cause Notice contends that such post-import disposal was in violation of the conditions of the aforesaid notification as well as the provisions of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957, which stipulate that duty-free imported vehicles cannot be sold or otherwise disposed of without prior concurrence of CBIC and without payment of applicable customs duty. It is also alleged that various co-noticees had colluded with the main noticee and actively aided and abetted the fraudulent import and subsequent diversion of the said vehicle by creation and use of forged documents, thereby facilitating evasion of customs duty

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

(i). Whether the said “Range Rover Vogue Model 2014” bearing Chassis No. SALGA2JEXEA146188 having declared Assessable Value of Rs. 35,39,621/- (Rupees Thirty-Five Lakh Thirty-Nine Thousand Six Hundred Twenty-One Only), imported vide Bill of Entry No. 94 dated 31.05.2016 in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, seized under seizure memo dated 20.11.2024, should be confiscated under Section 111(j) and Section 111(o) of the Customs Act, 1962 or otherwise;

(ii). Whether the total duty foregone amounting to Rs. 74,40,496 /-(Rupees Seventy-Four Lakh Forty Thousand Four Hundred Ninety-Six Only) as detailed in Table No-2 above should be

demanded and recovered along with interest as per the provisions prescribed under Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 read with the Customs Act, 1962 and Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with Notification No. 03/1957-Cus dated 08.01.1957 or otherwise;

(iii). Whether penalties under Section 112(a) and under Section 114AA of the Customs Act, 1962, should be imposed on Mr. Ghassan Abdelkhalek or otherwise;

(iv). Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on M/s. Shri Rehman Iqbal Ahmed Shaikh or otherwise;

(v). Whether penalties under Section 112(b) of the Customs Act, 1962, should be imposed on Shri Liyakat Bachu Khan and Shri Mohammed Wasim Abdul Gani Siddique or otherwise;

(vi). Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Rajeev Sood and Shri Manjeet Maurya or otherwise;

(vii). Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Chetan Shetty Maurya or otherwise;

(viii). Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Suriya Arjunan or otherwise;

(ix). Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Nipun Miglani or otherwise;

(x). Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Neeraj Maurya or otherwise;

(xi). Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Neil Barrow (Ashtamkar Noel Yona) or otherwise;

(xii). Whether penalties under Section 112(a) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Aubrey Elias D'Souza, or otherwise;

**30.** After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually in the light of facts and circumstances of the case, provisions of the Customs Act, 1962, contentions made in the defense submissions by the noticees and evidences available on record.I find that the primary issue to be decided in the case is as to:-

**30.1 Whether the said “Range Rover Vogue Model 2014” bearing Chassis No. SALGA2JEXEA146188 having declared Assessable Value of Rs. 35,39,621/- (Rupees Thirty-Five Lakh Thirty-Nine Thousand Six Hundred Twenty-One Only), imported vide Bill of Entry No. 94 dated 31.05.2016 in the name of Mr. Ghassan Abdelkhalek, Charge D Affairs in the Embassy of Lebanon, New Delhi, seized under seizure memo dated 20.11.2024, should be confiscated under Section 111(j) and Section 111(o) of the Customs Act, 1962 or otherwise;**

**30.1.1** After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually in the light of facts and circumstances of the case, provisions of the Customs Act, 1962, contentions made in the defence submissions by the noticees and evidences available on record. I find that the primary issue to be decided in the present case is as to whether Mr. Ghassan Abdelkhalek, Chargé d’Affaires, Embassy of Lebanon, New Delhi is liable to pay the Customs duty amounting to Rs. 74,40,496/- (Rupees Seventy-Four Lakhs Forty Thousand Four Hundred Ninety-Six only) as demanded vide the impugned SCN and whether the goods viz. ‘Range Rover Vogue Model 2014’ bearing Chassis No. SALGA2JEXEA146188 imported duty-free in the name of Mr. Ghassan Abdelkhalek, Chargé d’Affaires, Embassy of Lebanon, New Delhi by availing the benefit of exemption under Notification No. 03/1957-Cus dated 08.01.1957 is liable to be confiscated under Section 111(j) and 111(o) of the Customs Act, 1962.

**30.1.2** I find that Notification No. 03/1957-Cus dated 08.01.1957 allows diplomats of foreign missions (privileged persons) posted in India to import goods, including motor vehicles at NIL rate of duty (i.e., duty-free). The said benefit can be availed by the diplomat’s inter-alia by obtaining an Exemption Certificate from the Ministry of External Affairs (MEA) of the Government of India. The diplomat has to initially make a request to MEA through their Embassy for a grant of ‘Prior Approval’ for import of motor vehicle. The diplomats can import motor vehicle, as per their eligibility, for their personal use within two years from the date of their arrival in India by availing the exemption from payment of customs duty with Prior Approval from the MEA. Such a request normally includes the proforma invoice of the car along with other details such as make, model etc. and also specifies that it is for personal use. Thereafter, the application of the Prior Approval is processed at the MEA and the Prior Approval is conveyed to the foreign embassy of the diplomat. Once the prior approval for the duty-free import is granted, the diplomat, through their Embassy, requests the MEA for Exemption Certificate in respect of customs duty declaring specific particulars like Make, Model, Engine No., Chassis No. & date of Bill of Lading etc. The request of the diplomat is then processed at the MEA and the MEA issues an Exemption Certificate in respect of Customs Notification No. 03/1957-Cus dated 08.01.1957, with an explicit condition that the vehicle will not be sold or otherwise disposed of to a person who is not entitled to import a vehicle free of duty without the concurrence of CBIC (through MEA) and without payment of the Customs duty to the Commissioner of Customs. The vehicle is then imported at Nil rate of duty (duty-free) after filing the Bill of Entry by availing the benefit of the said Notification No.03/1957-Cus dated 08.01.1957 using the Exemption Certificate issued by MEA. Once the car is cleared from Customs, the imported car is required to be registered within one

month from the date of its clearance from Customs with special registration for diplomats at MEA and a copy of the vehicle registration is sent to the MEA, as specified in the Prior Approval.

**30.1.3** From the impugned SCN and record of the case, I find that based on intelligence the DRI had caused detailed investigation against a syndicate led by one Rehman Iqbal Ahmed Shaikh, which was involved in smuggling of a large number of Luxury Cars by organizing imports in the name of diplomats posted in India at Nil duty by availing the benefit of the Customs exemption Notification No. 03/1957-Cus dated 08.01.1957. It was revealed that after importing the cars, the members of the syndicate fraudulently made forged Indian invoice/Bills of Entry pertaining to the imported cars, and thereafter, the cars were registered in RTOs across India in the name of non-privileged persons and sold to those non-privileged buyers. During the course of investigations, many vehicles smuggled into India by the said syndicate by adopting the above mentioned modus operandi were seized by DRI. During the course of investigations, statements of relevant persons connected to the operation of the said modus operandi were recorded under Section 108 of the Customs Act, 1962. It is also seen that multiple Summonses were also issued to Rehman Shaikh, the mastermind of the syndicate to appear before the DRI officer and cooperate with the investigation; however, the same were not complied with and he failed to appear before the DRI officer which shows his scant regard for the law of the land. During the investigation, it was also revealed that there were many such vehicles that had been smuggled into India by the said syndicate led by Rehman Iqbal Ahmed Shaikh. The Range Rover Vogue Model 2014 bearing Chassis No. SALGA2JEXEA146188 is one such car illegally imported by the members of the said syndicate, and is subject matter of the instant case.

**30.1.4** I find that the said Range Rover Vogue Model 2014 bearing Chassis No. SALGA2JEXEA146188 is one such car illegally imported by the said syndicate duty-free in the name of Mr. Ghassan Abdelkhalek, Chargé d'Affaires, Embassy of Lebanon vide Bill of Entry No. 94 dated 31.05.2016 by availing the benefit of exemption under Notification No. 03/1957-Cus dated 08.01.1957. I find that as the import of the said Range Rover Vogue Model 2014 was made after getting the customs duty Exemption Certificate from MEA, therefore, the relevant documents pertaining to the Prior Approval, Exemption Certificate, etc. issued to Range Rover Vogue Model 2014 bearing Chassis No. SALGA2JEXEA146188 for the import of the said Range Rover Vogue Model 2014 were obtained from MEA.

**30.1.5** On going through the said documents, I find that Mr. Ghassan Abdelkhalek through Embassy of Lebanon, had requested the Ministry of External Affairs, New Delhi to grant Prior Approval for the import of a new motor vehicle viz. Range Rover Vogue (Model 2014). After processing the said request, the MEA vide letter no. D.VI/451/2(40)/2016/1971 dated 19.04.2016, conveyed Prior Approval to the embassy of Lebanon, for the import of said Range Rover Vogue (Model 2014) for personal use along with the instructions that the said vehicle was to be registered within one month from the date of its import and a copy of the vehicle registration certificate was to be sent to the Ministry. The MEA issued an Exemption Certificate, vide Serial No. EC1/OFF/1/2016 dated 25.05.2016, based on which the said vehicle, having the said Chassis No.

SALGA2JEXEA146188, was imported into India vide Bill of Entry No. 94 dated 31.05.2016 without payment of duty by availing the benefit of the Customs duty exemption Notification No. 03/1957-Cus. dated 08.01.1957.

**30.1.6** I find that during the investigation, it was ascertained that the members of the smuggling syndicate had succeeded in getting the said car registered in the name of non-privileged persons, initially with Registration Certificate No. PB 65 AE 0999 at Mohali, Punjab RTO. Necessary enquiries were made in this regard with the RTO at Mohali. The Regional Transport Authority, Mohali, vide its letter dated 05.08.2022, furnished the documents submitted at the time of registration such as Form-20, Form-21, Form-22, Retail Invoice number AMPJJV00364944 dated 13.03.2017 (issued by M/s AMP Motors Pvt. Ltd., Delhi), Insurance Copy etc. It was noticed from the said documents that the said vehicle was not registered in the name of the Privileged Person through MEA but was registered in the name of a non-privileged person, Shri Ashtamkar Noel Yona, vide Registration No. PB 65 AE 0999.

**30.1.7** It was noticed that the said Range Rover Vogue Model 2014 bearing Chassis No SALGA2JEXEA146188 was registered under registration No. PB 65 AE 0999 using the Invoice bearing no. AMPJJV00364944 dated 13.03.2017 (issued by M/s AMP Motors Pvt. Ltd., Delhi), Sale Certificate (issued by M/s AMP Motors Pvt. Ltd., Delhi) and Form 22 (issued by M/s Jaguar Land Rover India Ltd.). In order to verify the veracity of the said documents, the DRI office sent an email dated 27.10.2023 to M/s AMP Motors Pvt. Ltd., Delhi. In response to the said email, the office of M/s AMP Motors Pvt. Ltd., Delhi, vide email dated 27.03.2023 (RUD No. 15 of the SCN), informed that 'they have never sold any vehicle to Mr Ashtamkar Noel Yona House no - 367 village SOHNA Mohali Punjab 140308 as per documents attached by your good self along with your Notice. The attach invoice dons not belong to their company. It is purely forged invoice made by someone and they are not aware about the same., the investigation revealed that documents submitted before the RTO authorities at, Mohali-DTO, Punjab were forged documents and, thus, the said registration no. PB 65 AE 0999 had been obtained fraudulently.

**30.1.8** From the foregoing, it is apparent that, 'Prior Approval' was sought by the Embassy of Lebanon on behalf of Mr. Ghassan Abdelkhalek, from the MEA for import of the said Range Rover Vogue Model 2014, and after getting/receiving the approval for the same from MEA vide its Note/letter No. D.VI/451/2(40)/2016/1971 dated 19.04.2016, Mr. Ghassan Abdelkhalek completed all the formalities to import the said car duty-free by availing the benefit of exemption as provided under Notification No.03/1957-Cus dated 08.01.1957. It is also apparent from the undertaking made by him in the Exemption Certificate that he was very well aware that the said car imported duty-free could not be sold or otherwise disposed of without the concurrence of the Ministry of External Affairs, New Delhi and the CBIC, Ministry of Finance, New Delhi, and without the payment of Customs duty. Further, in the approval Note/letter No. D.VI/451/2(40)/2016/1971 dated 19.04.2016 of MEA, it was clearly mentioned that it should be ensured that the vehicle be registered within one month from the date of its import and a copy of the said vehicle registration certificate be sent to the MEA.

**30.1.9** However, during the course of investigation it was revealed that the said vehicle i.e., Range Rover Vogue Model 2014 imported in the name of Mr. Ghassan Abdelkhalek for his personal use as a privileged person, vide Bill of Entry No. 94 dated 31.05.2016, by availing the benefit of exemption under Notification No. 03/1957-Cus dated 08.01.1957 was not registered in his name.

**30.1.10** It is seen that during the course of investigation, Summons were issued under Section 108 of the Customs Act, 1962 by the DRI to Mr. Ghassan Abdelkhalek, Chargé d'Affaires, Embassy of Lebanon through MEA to appear before the investigating officer. However, the said summons were not complied with by Mr. Ghassan Abdelkhalek. Further, in respect of the said Summons issued under Section 108 of the Customs Act, 1962 against Mr. Ghassan Abdelkhalek, Chargé d'Affaires, Embassy of Lebanon, no response was received from the diplomat as well as the Embassy of Lebanon, New Delhi. This fact was informed to MEA vide their emails dated 27.10.2023, 16.11.2023 and 30.11.2023.

**30.1.11** In this regard, I have gone through the provisions of the Diplomatic Relations (Vienna Convention) Act, 1972 as well as the provisions of the Vienna Convention on Diplomatic Relations, 1961. I find that there is no provision under the Diplomatic Relations (Vienna Convention) Act, 1972 which provides immunity to the diplomats from non-payment of Customs duty in cases where vehicles were disposed to non-privileged person. Further, I find that Clause 1(c) of Article 31 of the Schedule of the provisions of the Vienna Convention on Diplomatic Relations, 1961 has clarified that a diplomatic agent shall enjoy immunity from criminal, civil and administrative jurisdiction *except in the case of:*

(a) ...

(b) ...

(c) *An action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.*

**30.1.12** Further, I find that the Prior Approval letter and the Customs Duty Exemption Certificate issued by Ministry of Foreign Affairs, New Delhi, in respect of the said car imported duty-free by Mr. Ghassan Abdelkhalek, clearly point to the fact that Mr. Ghassan Abdelkhalek had applied for import of duty-free vehicle for his personal use and not for his official functions. I also find that in the said Prior Approval Note/letter issued by MEA, it was clearly mentioned to ensure that the vehicle be registered within one month from the date of its import and a copy of the said vehicle registration certificate be sent to the MEA. However, the said vehicle was never registered in the name of Mr. Ghassan Abdelkhalek and the vehicle registration certificate has not been provided to the MEA.

**30.1.13** I find that it would be pertinent to mention the provisions of Section 6 of the Diplomatic Relations (Vienna Convention) Act, 1972, which reads as below:

***Section 6. Restrictions on certain exemptions from customs duty, etc.-***

*Nothing contained in article 36 of the Convention set out in the Schedule shall be construed to entitle a diplomatic mission or member thereof to import into India goods free of any duty of customs without any restrictions on their subsequent sale therein.*

**30.1.14** From the above provision, it is amply clear without any doubt that the diplomats are not entitled to the relaxation in payment of Customs duty on the subsequent sale of goods which were imported duty-free into India by the diplomat.

**30.1.15** I find that it is not a disputed fact in the present case that Mr. Ghassan Abdelkhalek, Chargé d’Affaires, Embassy of Lebanon was entitled for duty-free import of the said car. However, the said duty-free import by the diplomat is governed by the provisions of Notification No. 3/1957-Cus. dated 08.01.1957. As per the provisions of the said Notification the import of motor vehicles by the diplomats are subject to the provisions of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957. I find that in the present case, the provisions of the said rules are grossly violated. Further, from the investigation it is revealed that the modus operandi of the syndicate was to import the cars duty-free in the name of foreign diplomats and thereafter dispose of the same in the open market to some unprivileged person by forging the documents. I also observe that Shri Liyakat Bachu Khan, one of the co-accused and a close confidant of the mastermind of the syndicate, in his statement dated 27.07.2021 recorded under Section 108 of the Customs Act has inter alia deposed that the vehicles imported in the name of various diplomats/embassies were imported duty-free as there were exemption available to them and since these vehicles could not be sold in the open market, hence the documents had to be forged so that they could be registered in the name of private individuals. He also admitted that about 25 to 30 luxury cars were imported in the above manner by availing Customs duty exemptions in the name of diplomats.

**30.1.16** Further, it is seen that the Customs Duty Exemption Certificate issued by MEA explicitly specified that the vehicle would not be sold or otherwise disposed of to a person who is not entitled to import motor vehicle free of duty without the concurrence of CBIC to be obtained through MEA and without the payment Customs duty. While filing for the said Customs Duty Exemption Certificate with the MEA, Mr. Ghassan Abdelkhalek, Chargé d’Affaires, Embassy of Lebanon, New Delhi had also undertaken to the said effect, as is evident from Paras above. However, I find that after import of the vehicle duty-free in the instant case, the same was not registered in the name of Mr. Ghassan Abdelkhalek, Chargé d’Affaires, Embassy of Lebanon, New Delhi in contravention of the provisions of Notification No. 03/1957-Cus dated 08.01.1957 read with the Diplomatic Relations (Vienna Convention) Act, 1972 and the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957.

**30.1.17** Further, I find that the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with DGFT Notification No. 39 (RE-2010)/2009-2014 dated 31.03.2011 allows for disposing of vehicles imported by foreign diplomats to non-privileged persons but the same can be done only after payment of due Customs duty. In view of the afore discussed legal

provisions and findings, I find that Mr. Ghassan Abdelkhalek is liable to pay the due Customs duty along with applicable interest as per the provisions of the Customs Act, 1962 and the rules made thereunder. Therefore, I hold that the Customs duty amounting to Rs. 74,40,496/- is recoverable from Mr. Ghassan Abdelkhalek, the then Chargé d’Affaires, Embassy of Lebanon, New Delhi as per provisions prescribed under Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 read with the Customs Act, 1962 and Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with Notification No. 03/1957-Cus dated 08.01.1957. The calculation of the said Customs duty is tabulated as under:-  
 (Amount in Rs.)

Assessable value	BCD @125%	CVD@30%	Cess@3% (2% + 1%)	ACD @ 4%	Total Duty
(a)	(b)	(c)	(d)	(e)	(f)
	a * 125%	(a+b)*30%	(b+c) *3%	(a+b+c+d) * 4%	b+c+d+e
35,39,621	44,24,526	23,89,244	2,04,413	4,22,312	74,40,496

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

**30.1.18** I find that the impugned SCN has alleged that the said goods viz., Range Rover Vogue Model 2014 car imported in the name of the diplomat, Mr. Ghassan Abdelkhalek, by availing the duty exemption under Notification No. 03/1957-Cus dated 08.01.1957 is liable for confiscation under Section 111(j) and 111(o) of the Customs Act, 1962. In this context, it would be pertinent to go through the provisions of the same. The provisions of Section 111(j) & 111(o) of the Customs Act, 1962 are reproduced below: -

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

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

- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;*
- (o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;*

**30.1.19** It is apparent from the provisions of Section 111(j) of the Act that the goods are liable for confiscation, if dutiable or prohibited goods are removed or attempted to be removed from a Customs area or a warehouse without the permission of the Proper officer or contrary to the terms of such permission. From the detailed discussions in the foregoing paras, it is apparent that in the instant case the dutiable goods viz. Range Rover Vogue Model 2014 Car, was removed contrary to the terms of the permission of the proper officer who had granted permission for its clearance

to Mr. Ghassan Abdelkhalek, Chargé d’Affaires, Embassy of Lebanon, subject to getting it registered in his name and adhering to the terms and conditions of Notification No. 03/1957-Cus dated 08.01.1957, and not selling it without prior permission and without payment of the due Customs duty. However, the investigation has revealed that Mr. Ghassan Abdelkhalek has failed to adhere to the statutory provisions prescribed under the said Notification No. 03/1957-Cus dated 08.01.1957 read with the Customs Act, 1962. Therefore, I find that the provisions of Section 111(j) of the Customs Act, 1962 is squarely applicable to the instant case.

**30.1.20** Further, it is also apparent that the confiscation of goods under section 111(o) is applicable in case of import of goods wherein conditional exemption from duty is provided under the Customs Act, 1962 or any other law, however, the conditions prescribed thereunder has not been fulfilled. I find that in the instant case, it is proven beyond doubt that the Range Rover Vogue Model 2014 Car was imported into India vide Bill of Entry No. 94 dated 31.05.2016 without payment of duty by availing the benefit of the Customs duty exemption under Notification No. 03/1957-Cus dated 08.01.1957 in the name of the diplomat, Mr. Ghassan Abdelkhalek for his personal use. However, post clearance, the impugned car was not registered in his name in violation of the conditions specified under the said Notification No. 03/1957-Cus dated 08.01.1957 read with the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957. Therefore, I find that the said vehicle viz, Range Rover Vogue Car-2014 Model bearing Chassis No. SALGA2JEXEA146188 is liable for confiscation under Section 111(o) of the Customs Act, 1962.

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

**30.1.22** In view of above, I hold that the impugned vehicle viz, Range Rover Vogue Car-2014 Model bearing Chassis No. SALGA2JEXEA146188 is liable for confiscation under Section 111(j) and Section 111(o) of the Customs Act, 1962.

**Applicability of Redemption Fine**

**30.1.23** As the impugned goods viz, Range Rover Vogue Car-2014 Model is found to be liable for confiscation under Section 111(j) and 111(o) of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCN. The Section 125 ibid reads as under: -

**125. Option to pay fine in lieu of confiscation. —**  
*(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such*

*owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit.*

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

**30.1.24** In the instant case, it is seen that the subject goods, viz, Range Rover Vogue Car-2014 Model bearing Chassis No. SALGA2JEXEA146188 has been cleared and seized vide seizure memo dated 20.11.2024. In this regard, I find that Hon'ble Supreme Court in the case of **CC Kandla vs Essar Oil Ltd** reported in 2004(172) E.L.T. 433(S.C.) held that

*"Fraud as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or words, which includes the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. It is also well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against fraud. A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations, which he knows to be false, and injury enures therefrom although the motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to be deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud. fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. (See Ram Chandra Singh v. Savitri Devi and Ors. (2003 (8) SC 319)."*

**30.1.25.** Relying on the above guiding judgments, I conclude that redemption fine is intrinsically linked to the authorization of confiscation under Section 111 and serves to mitigate the consequences of such confiscation. In view of the discussions, I find that redemption fine is liable to be imposed on the said impugned vehicle seized vide seizure memo dated 20.11.2024 which has been held to be liable for confiscation under Section 111(j) and 111(o) of the Customs Act, 1962.

**30.2 Whether the total duty foregone amounting to Rs. 74,40,496 /-(Rupees Seventy-Four Lakh Forty Thousand Four Hundred Ninety-Six Only) as detailed in Table No-2 above should be demanded and recovered along with interest as per the provisions prescribed under Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 read with the Customs Act, 1962 and Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with Notification No. 03/1957-Cus dated 08.01.1957 or otherwise;**

**30.2.1** At the outset, I find that it is an admitted and undisputed fact on record that the impugned vehicle was imported vide Bill of Entry No. 94 dated 31.05.2016 in the name of a foreign diplomat Mr. Ghassan Abdelkhalek by availing the benefit of duty exemption under Notification No. 03/1957-Cus dated 08.01.1957, read with Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 issued through the Ministry of External Affairs (MEA). The said exemption allowed duty-free import of the motor vehicle, resulting in total duty foregone amounting to Rs. 74,40,496/-. However, I find that such exemption is not unconditional but is subject to strict compliance with the provisions of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 and the specific conditions incorporated in the Exemption Certificate itself.

**30.2.3** On careful perusal of the Exemption Certificate and the governing legal provisions, I find that the exemption was granted subject to the fundamental conditions that the vehicle shall be imported strictly for the personal use of the privileged person; that the vehicle shall be registered through the Ministry of External Affairs; and most importantly, that the vehicle shall not be sold, transferred, or otherwise disposed of to any non-privileged person without prior approval of the competent authority and without payment of applicable customs duty. It is also implicit in the scheme of the exemption that the benefit is personal to the diplomat and cannot be misused for commercial gain or for indirect sale in the domestic market.

**30.2.4** However, I find from the investigation conducted by DRI that the impugned vehicle was never used in accordance with the conditions of exemption. On the contrary, it was diverted and found in possession of Shri Neeraj P. Maurya, a non-privileged person, thereby clearly establishing that the vehicle was disposed of in violation of the conditions of the exemption notification and the Exemption Certificate. Further, there is no evidence on record to show that any permission was obtained from the competent authority for such transfer, nor is there any evidence of payment of customs duty at the time of such disposal. I also find that the vehicle was not registered through MEA as mandated, which is a crucial post-import condition governing such imports.

**30.2.5** I further find that the investigation has brought out a systematic modus operandi involving fraudulent import of luxury vehicles in the names of diplomats and their subsequent diversion into the domestic market through forged or manipulated documentation. The present case is a clear instance of such organized evasion, wherein the exemption meant for diplomatic use has been misused to evade legitimate customs duty. The possession of the vehicle by a non-privileged person, coupled with absence of lawful documentation and non-compliance with MEA procedures, conclusively proves that the conditions of exemption have been grossly violated.

**30.2.6** In view of the above, I find that once the conditions of exemption are violated, the exemption itself becomes invalid ab initio and the duty which was foregone at the time of import becomes recoverable. It is a settled legal position that exemption notifications must be strictly construed and any breach of conditions renders the exemption inoperative. Therefore, the

importer or the person in possession cannot claim any vested right over the exemption once the conditions are not fulfilled.

**30.2.7** I also find that the provisions of Section 28 of the Customs Act, 1962 provide for recovery of duties not levied or short-levied due to suppression, misstatement or contravention of provisions of the Act. In the present case, the duty was not levied at the time of import solely on account of the exemption claimed under Notification No. 03/1957-Cus. However, subsequent violation of the conditions of the said notification amounts to contravention of the provisions of the Act and renders the duty recoverable. Further, the extended period of limitation is clearly invocable in the present case, as the entire transaction is vitiated by suppression of facts, misrepresentation and fraudulent conduct.

**30.2.8** I also take note of the fact that despite being given an opportunity to regularize the matter through provisional release order dated 13.03.2025, which specifically required payment of duty amounting to Rs. 74,40,496/- along with furnishing of bond and bank guarantee, the noticee failed to comply with the same. This further strengthens the conclusion that the noticee has deliberately avoided discharge of legitimate duty liability and has not acted in a bona fide manner.

In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in CC Kandla vs Essar Oil Ltd. [2004 (172) E.L.T. 433 (S.C.)], wherein it has been held that fraud vitiates every solemn act and any benefit obtained by misrepresentation or deceit cannot be sustained in law. The Apex Court has clearly held that even innocent misrepresentation leading to wrongful gain would justify recovery and denial of benefit. In the present case, the misuse of diplomatic exemption through diversion of goods to a non-privileged person constitutes a clear case of fraud and misrepresentation, and therefore, the benefit of exemption cannot be allowed to stand.

**30.2.9** I further find that the provisions of the Diplomatic Relations (Vienna Convention) Act, 1972 and the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 do not grant any immunity in respect of subsequent sale or disposal of duty-free imported goods without payment of duty. On the contrary, Section 6 of the said Act clearly restricts such exemptions and mandates that duty must be paid if the goods are disposed of in the domestic market. Therefore, the liability to pay customs duty squarely arises once the vehicle is transferred to a non-privileged person.

**30.2.10** In light of the above detailed findings, I hold that the total duty foregone amounting to Rs. 74,40,496/- in respect of the impugned vehicle is legally recoverable under the provisions of the Customs Act, 1962. I further hold that the said duty is recoverable along with applicable interest in terms of Section 28AA of the Customs Act, 1962, from the date it became due till the date of actual payment.

**30.2.11** I also find that the conduct of the noticee, the nature of violation, and the established modus operandi leave no scope for any leniency or equitable consideration. The misuse of

diplomatic privileges for commercial gain strikes at the very root of the exemption scheme and cannot be tolerated.

**30.2.12** Accordingly, I conclude that the duty foregone amounting to Rs. 74,40,496/- (Rupees Seventy-Four Lakh Forty Thousand Four Hundred Ninety-Six Only) is liable to be demanded and recovered along with applicable interest under the provisions of the Customs Act, 1962, read with Notification No. 03/1957-Cus dated 08.01.1957, the Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016, and the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957.

**30.3 Whether penalties under Section 112(a) and under Section 114AA of the Customs Act, 1962, should be imposed on Mr. Ghassan Abdel khalek or otherwise;**

**30.3.1** It is seen that the impugned SCN has proposed penalty on Mr. Ghassan Abdel khalek under Section 112(a) and Section 114AA of the Customs Act, 1962 for his acts of omission and commission, and collusion with the members of syndicate in evasion of Customs duty and by willful suppression of facts in improper importation of the impugned car, including not adhering to the prescribed provisions of law.

**30.3.2** Regarding the issue of imposition of penalty, it is appropriate to reproduce the provisions of Section 112 as under:

*Section 112 (Penalty for improper importation of goods etc.) reads as:*

*“Any person,-*

*(a) who in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act or*

*(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*

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

*(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher.....”*

**30.3.3** Mr. Ghassan Abdel khalek, the privileged person, appears to have dealt with Rehman Iqbal Ahmed Shaikh and his accomplices and complied with all the necessary formalities, at his behest, for importing the vehicle “Range Rover Vogue Car - 2014 Model” in his name. Mr. Ghassan Abdelkhalek, Charge d’Affaires, Embassy of Lebanon, New Delhi had applied for Prior Approval for the import of the vehicle and obtained the customs duty Exemption Certificate from MEA. In the certificate, it is specifically mentioned that the vehicle would not be sold or otherwise disposed of to a person who is not entitled to import a motor vehicle free of duty without the concurrence

of CBIC and without the payment of Customs Duty to the Commissioner of Customs nearest to his headquarters in India. However, the said car was registered in the name of a non-privileged person and was also sold and found in the possession of a non-privileged person. It also appears that the illicit diversion of the said vehicle imported by Mr. Ghassan Abdel khalek was knowingly permitted by Mr. Ghassan Abdel khalek for monetary consideration. Thus, Mr. Ghassan Abdel khalek, Charge d’Affaires, Embassy of Lebanon, New Delhi have deliberately failed to adhere to the statutory provisions prescribed for the import of vehicle under Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1967 read with Customs Act, 1962.

**30.3.4** From the discussions above, it is evident that he had aided and abetted the syndicate in smuggling of the said “Range Rover Vogue Car - 2014 Model” by using his official privileges as a diplomat which clearly establishes malafide intent on his part. Thus, for his act of omission and commission, and collusion with the members of the syndicate led by Rehman Iqbal Ahmed Shaikh in evasion of Customs duty and by suppression of facts in improper importation of the said car, including not adhering to the prescribed provisions of law, which have rendered the said car liable to confiscation under section 111 of Customs Act, 1962, as explained above, Mr. Ghassan Abdel khalek, Charge d’Affaires, Embassy of Lebanon, New Delhi have rendered himself liable to penalty under Section 112(a) of the Customs Act, 1962. Therefore, I hold that Mr. Ghassan Abdel khalek is liable to penalty under the provisions of Section 112(a) of the Customs Act, 1962.

**30.3.5** The impugned SCN has also proposed penalty on Mr. Ghassan Abdel khalek under Section 114AA of the Act. I find that Section 114AA ibid deals with the penalty inter alia for making, signing or using any false or incorrect declaration, statement or document in customs transactions. The provisions of Section 114AA ibid read as under: -

**“114AA. Penalty for use of false and incorrect material.**

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

**30.3.6** As discussed in the foregoing paras, the investigation has revealed that the impugned car was imported duty-free in the name of Mr. Ghassan Abdel khalek for his personal use as a privileged person, by availing the benefit of exemption under Notification No. 03/1957-Cus dated 08.01.1957. However, post clearance, the impugned car was not registered in the name of Mr. Ghassan Abdel khalek. The investigations has further revealed that Mr. Ghassan Abdel khalek had deliberately joined hands with Rehman Iqbal Ahmed Sheikh and facilitated all the paperwork required for importing car duty-free in his name by misusing his diplomatic status. I find that Mr. Ghassan Abdel khalek was very much aware from the beginning that the impugned car imported duty-free in his name would be sold in the open market to an unprivileged person. However, in

spite of fully aware about the said facts, he made application with MEA for Prior Approval for import of the impugned car for his personal use. In the certificate, it is specifically mentioned that the vehicle would not be sold or otherwise disposed of to a person who is not entitled to import a motor vehicle free of duty without the concurrence of CBIC and without the payment of Customs Duty to the Commissioner of Customs nearest to his headquarters in India. As such, I find that Mr. Ghassan Abdel khalek had consciously and knowingly signed documents and declarations which were false or incorrect as he knew that after import, the impugned car would not be registered in his name through MEA. Therefore, I hold that Mr. Ghassan Abdel khalek is liable to penalty under the provisions of Section 114AA of the Customs Act, 1962.

**30.4 Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on M/s. Shri Rehman Iqbal Ahmed Shaikh or otherwise;**

**30.4.1** It is seen that the impugned SCN has proposed penalty on Shri Rehman Iqbal Ahmed Shaikh under Sections 112(b) and 114AA of the Customs Act, 1962. It is also seen that he has neither submitted any defence reply nor appeared for Personal Hearing(s) during the adjudication procedure. Thus, it is clear that ample opportunities were granted to the Noticee following the principles of natural justice. During the course of investigation also, multiple Summons were issued to him to appear before the investigation officer and cooperate with the investigation; however, the same were not complied with and he failed to appear before the DRI officer. Therefore, it appears that he has nothing to say in his defence. Accordingly, I would decide the case of this noticee based on the evidences on record.

**30.4.2** I find that penalty under Section 112(b) is imposable if goods are liable to confiscation under Section 111 ibid. The provisions of Section 112 have been reproduced above.

**30.4.3** I have discussed in detail the role and modus operandi of Rehman Iqbal Ahmed Sheikh in the earlier parts of this order. The detailed investigations carried out by the DRI revealed that Rehman Iqbal Ahmed Shaikh was the mastermind and kingpin of the syndicate which had smuggled into India many high-end luxury cars in the name of foreign diplomats by availing customs duty exemption available to foreign diplomats/privileged persons under Notification No. 03/1957-Cus dated 08.01.1957. The impugned vehicle viz., Range Rover Vogue – Model 2014” bearing Chassis No. SALGA2JEXEA146188 imported in the name of Mr. Ghassan Abdel khalek, Charge d’Affaires, Embassy of Lebanon, covered in the instant case, is one such car. Investigation has revealed that in the instant case also, Rehman Iqbal Ahmed Shaikh was the principal conspirator and kingpin of the whole conspiracy of smuggling of the impugned Range Rover Vogue car undertaken by this syndicate. He was instrumental in identification of the foreign diplomats (Mr. Ghassan Abdel khalek in the instant case) and colluding with them by offering monetary consideration/illegal gratification through his accomplice Rajeev Sood, taking delivery of the impugned car at customs port through his another accomplice Liyakat Bachu Khan and then selling the same in the open market to unprivileged person. It was also revealed that Rehman Iqbal Ahmed Shaikh had supplied and facilitated the finance for all activities with respect to the

smuggling of the impugned car. The same is very much clear from the statements of Rajeev Sood and Liyakat Bachu Khan recorded under Section 108 of the Customs Act, 1962. The same are mentioned in the earlier part of the order.

**30.4.4** On going through the said statements, it is evident that at the instance of Rehman, Shri Rajeev Sood identified the diplomat who was ready to share their diplomatic information and complete all the necessary paperwork/ formalities to import the car duty-free, in lieu of monetary consideration/gratification. Rajeev Sood had provided the details of Lebanon Embassy diplomat to Rehman. Shri Liyaqat Bachu Khan sent him (Rajeev Sood) draft of all the required documents for taking signature of the diplomat on those documents. He collected the hard copy of the sanction documents from the diplomat and sent the photograph of the same over WhatsApp to Rehman. He has deposed that the diplomats received amounts ranging from Rs. 8 to Rs. 10 Lakh, and that he had received around Rs.60 Lakhs in cash from Rehman on behalf of the diplomats in the last 3 years. Further, Liyakat Bachu Khan has deposed that about 25 to 30 luxury cars were imported using the said modus operandi by availing Customs duty exemptions in the name of diplomats and that since these vehicles could not be sold in the open market, hence the documents had to be forged so that they could be registered in the name of private individuals. He has admitted that he worked for Rehman Shaikh when the impugned car i.e., Range Rover Vogue car was imported in the name of the diplomat Mr. Ghassan Abdel khalek. He further stated that his job was to hand over the documents as given to him by Rehman Shaikh and after customs clearance, he had taken the delivery of the vehicle and dispatched the same as instructed by Rehman Shaikh.

**30.4.5** From the above, I find that the evidences gathered during the course of investigation clearly shows that Rehman Iqbal Ahmed Shaikh was the mastermind and the principal conspirator of the whole conspiracy and played the primary role in the smuggling of the impugned Range Rover Vogue car. He also prepared/got prepared draft of all the required documents and got them signed and completed by the concerned diplomat by colluding with them through his accomplices for import of the impugned car duty-free in the name of the diplomat. He also instructed Liyakat Bachu Khan to take the delivery of the illicitly imported impugned vehicle viz., Range Rover Vogue car from the Customs Broker and instead of delivering it to the importer diplomat, he diverted it into the open market. Thus, I find that the impugned car was removed by Rehman Iqbal Ahmed Shaikh through his accomplice contrary to the terms of the permission of the proper officer who had granted permission for its clearance subject to adhering to the terms and conditions of Notification No. 03/1957-Cus dated 08.01.1957; however, the said car was sold/disposed of by him in the open market in utter violation of the conditions specified under the said Notification. Therefore, I find that all the above mentioned acts of omission and commission on part of Rehman Iqbal Ahmed Shaikh have rendered the impugned car liable for confiscation under Section 111(j) and Section 111(o) of the Customs Act, 1962. As such, I hold that Rehman Iqbal Ahmed Shaikh is liable to penalty under the provisions of Section 12(b) of the Customs Act, 1962.

**30.4.6** Further, from the above, it is also apparent that Rehman Iqbal Ahmed Shaikh had hatched the conspiracy to fraudulently avail duty exemption available to foreign diplomats by colluding

with Mr. Ghassan Abdel khalek, Charge d’Affaires, Embassy of Lebanon and got the required documents/paper works made or/and signed by the said diplomat with the sole purpose of evasion of Customs duty. He was very much aware that the said documents are meant for the foreign diplomats for their exclusive use, and that in the instant case the impugned car would not be registered in the diplomat’s name. However, he deliberately and intentionally used the said documents through his syndicate members in smuggling the impugned car by submitting the said documents to clear the impugned car from the Customs and thereafter disposed of the impugned car in open market to unprivileged person. Therefore, I hold that Rehman Iqbal Ahmed Shaikh is also liable for penalty under Section 114AA of Customs Act, 1962.

**30.5 Whether penalties under Section 112(b) and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Liyakat Bachu Khan and Shri Mohammed Wasim Abdul Gani Siddique or otherwise;**

**30.5.1** It is seen that the impugned SCN has proposed penalty on Shri Liyakat Bachu Khan and Shri Wasim Abdul Gani Siddique under Sections 112(b) and 114AA of the Customs Act, 1962. It is also seen that inspite of providing ample opportunities, he has neither submitted any defence reply nor appeared for Personal Hearing(s) during the adjudication procedure. It thus appears that he has nothing to say in his defence. Therefore, I would decide the case of this noticee based on the evidences on record.

**30.5.2** I find that many a co-conspirators and other persons in their various submissions and statements as detailed in the Show Cause Notice, while admitting to their respective roles, also narrated the crucial role played by others in the entire conspiracy of smuggling of the said Range Rover Vogue car. Liyakat Bachu Khan played a prominent role on ground in executing the conspiracy. From the investigation and various statements given under section 108, of the Customs Act, 1962, it is established that he used the services of Mohammed Wasim Abdul Gani Siddique for preparation of the necessary forged documents. He paid money to Wasim for forging the documents like forged Invoice etc, as per the directions of Rehman Iqbal Ahmed Shaikh and in this manner, played a crucial role in the smuggling of the said Range Rover Vogue car. He also played a role in coordinating with Rajeev Sood and was exchanging documents received by him from the privileged person and submitting it for clearance. Once the car was cleared from Customs Authorities he used to instruct one Wasim Abdul Gani Siddique to prepare forged documents pertaining to the car thereafter, using these forged documents the luxury car used to be registered in the name of a non-privileged person. Liyakat used to liaison with other members of the syndicate and their various contacts in RTOs across India and get the cars registered. Liyakat Bachu Khan also coordinated the movement of these cars across India to various car dealers for display and sale of the same. Once the car was sold to the final buyer, he also collected money on behalf of Rehman Iqbal Shaikh in many cases and also handed over commission to various car dealers as instructed by Rehman Shaikh. Investigation further proved that Mohammed Wasim Abdul Gani Siddique who is into the job of designing and printing of marriage and visiting cards had good knowledge of Carroll software (a software used for editing documents). He assisted Liyakat Bachu

Khan in preparing all the forged documents as per the requirements given by Rehman Shaikh and others through Liyakat Bachu Khan. He had prepared forged Bills of Entry, invoices, Bill of Lading copies, Payment challans, stamps etc. in such manner which were used in the fraudulent registration of the smuggled luxury cars at RTOs across India. The said forged documents were also used by the syndicate in price negotiations with the prospective buyers. Wasim had received monetary consideration from Liyakat Bachu Khan for the said forgery done. In view of the above, for their acts of commission and omission in the smuggling of luxury vehicle Range Rover Vogue car, which have rendered the said car liable to confiscation, the co-conspirators Liyakat Bachu Khan and Mohammed Wasim Abdul Gani Siddique are liable for penalty under the provisions of Section 112(b) of the Customs Act 1962.

**30.5.3** I further find that the investigation presented the forged documents created by the duo for the purpose of manifesting this fraud. The proof of the forged documents are recorded in the show cause notice as various RUDs. I find that for the offence of knowingly or intentionally making, signing or using, or causing to be made, signed or used any declaration or statement or document which was false or incorrect in material particular, in this transaction of import and for the purpose of sale of the said Range Rover Vogue car, co-conspirators Liyakat Bachu Khan and Mohammed Wasim Abdul Gani Siddique are also liable for imposition of penalty under Section 114AA of the Customs Act, 1962.

**30.6 Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Rajeev Sood and Shri Manjeet Maurya or otherwise;**

**30.6.1** It is seen that the impugned SCN has proposed penalty on Shri Rajeev Sood and Shri Manjeet Maurya under Sections 112(b) of the Customs Act, 1962. It is also seen that inspite of providing ample opportunities, they have neither submitted any defence reply nor appeared for Personal Hearing(s) during the adjudication procedure. It thus appears that they have nothing to say in their defence. Therefore, I would decide the case of these noticees based on the evidences on record.

**30.6.2** The role played by Rajeev Sood and Manjeet Maurya in the entire conspiracy of smuggling of the impugned Range Rover Vogue car is discussed in details in foregoing paras. I find that Rajeev Sood had goods contacts in embassies/high commissions and played the crucial role of a handler, facilitator and link between the diplomats and Rehman Iqbal Ahmed Shaikh. He has admitted that, at the instance of Rehman, he identified the diplomat who was ready to facilitate all the required formalities/paperwork in lieu of monetary consideration/gratification. He took the assistance of Manjeet Maurya who was working at the Ministry of External Affairs in extracting crucial information about the eligibility of diplomats and expediting the process of Prior Approval and Exemption Certificate at MEA. Rajeev Sood has further admitted that he had also provided the details of Embassy of Lebanon to Rehman Shaikh, and that Shri Liyaqat Bachu Khan sent him draft of all the required documents for taking signature of the diplomat on those documents. He collected the hard copy of the sanction documents from the diplomat and sent the photograph of

the same over WhatsApp to Rehman. He has also deposed that the diplomats received amounts ranging from Rs. 8 to Rs. 10 Lakh, and that he had received around Rs.60 Lakhs in cash from Rehman on behalf of the diplomats in the last 3 years. Shri Manjeet Maurya in his statement has admitted that he knew that the diplomats got full Customs/GST exemption of imported vehicles when they registered their vehicle through MEA. He also knew the procedure for claiming the said exemption. He used to provide Rajeev Sood the required information in lieu of monetary benefits. I find that for his crucial role played in the said conspiracy of illicit import of luxury cars.

**30.6.3** In view of the above, I find that all the above-mentioned acts of omission and commission on part of Shri Rajeev Sood and Shri Manjeet Maurya have rendered the impugned car liable for confiscation under Section 111(j) and Section 111(o) of the Customs Act, 1962. As such, I hold that Shri Rajeev Sood and Shri Manjeet Maurya are liable to penalty under the provisions of Section 112(b) of the Customs Act, 1962.

**30.6.4** However, insofar as the proposal for imposition of penalty under Section 114AA of the Customs Act, 1962 is concerned, I find that no sufficient and cogent evidence has been brought on record to establish that Shri Rajeev Sood and Shri Manjeet Maurya had themselves knowingly made, signed, or used any false declaration, statement, or document in any customs transaction. Though fabricated documents were found to have been used in the overall transaction, there is no direct evidence establishing their specific role in preparation, signing, or intentional use of such false documents before Customs authorities. Therefore, the essential ingredients required for invoking Section 114AA are not satisfactorily established against them.

**30.6.5** In view of the foregoing findings, I hold that Shri Rajeev Sood and Shri Manjeet Maurya are liable for penalty under Section 112(b) of the Customs Act, 1962 for knowingly dealing with goods liable to confiscation. However, I hold that the proposal for imposition of penalty under Section 114AA of the Customs Act, 1962 is not sustainable and is accordingly dropped.

**30.7 Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Chetan jagdish Shetty or otherwise;**

**30.7.1** It is seen that the impugned SCN has proposed penalty on Shri Chetan jagdish Shetty under Sections 112(b) & 114AA of the Customs Act, 1962. It is also seen that inspite of providing ample opportunities, they have neither submitted any defence reply nor appeared for Personal Hearing(s) during the adjudication procedure. It thus appears that they have nothing to say in their defence. Therefore, I would decide the case of these noticees based on the evidences on record.

**30.7.2** I find from the statements recorded under Section 108 of the Customs Act, 1962 that Shri Chetan Jagdish Shetty was actively involved in facilitating the sale and movement of the impugned vehicle in the domestic market after its diversion from diplomatic import. Shri Neeraj P. Maurya has clearly stated that the vehicle was shown and arranged by Shri Chetan jagdish Shetty through Shri Suriya and that he had taken possession of the vehicle through him. Further, Shri Chetan

Shetty himself has admitted that he acted as a dealer/intermediary and arranged the sale of the said vehicle to Shri Neeraj Maurya and was to receive commission for the same. These statements clearly establish his active role in facilitating the disposal of the vehicle in the local market.

**30.7.3** In terms of Section 112(b) of the Customs Act, 1962, penalty is imposable on any person who acquires possession of, or is in any way concerned in carrying, removing, keeping, selling, purchasing, or otherwise dealing with goods which he knows or has reason to believe are liable to confiscation. In the present case, Shri Chetan Jagdish Shetty, being a car dealer, was knowingly concerned in arranging and facilitating the sale of the impugned vehicle which was originally imported under diplomatic exemption and subsequently diverted in violation of the conditions of Notification No. 03/1957-Cus dated 08.01.1957. His involvement in arranging the buyer, handling the transaction, and receiving commission clearly establishes that he had reason to believe that the vehicle was not legally transferable in the domestic market. Therefore, his acts squarely attract penalty under Section 112(b) of the Customs Act, 1962.

**30.7.4** However, insofar as the proposal for imposition of penalty under Section 114AA of the Customs Act, 1962 is concerned, I find that there is no direct and conclusive evidence on record to establish that Shri Chetan Jagdish Shetty had himself knowingly made, signed, used, or caused to be used any false declaration, forged document, or false material in relation to customs clearance proceedings. Though the investigation has revealed that forged/false documents were used in the overall chain of transactions, there is no specific evidence showing his direct involvement in preparation or submission of such false documents before Customs authorities. Therefore, the essential ingredients required for invoking Section 114AA are not satisfied in his case.

**30.7.5** In view of the foregoing findings, I hold that Shri Chetan Jagdish Shetty is liable for penalty under Section 112(b) of the Customs Act, 1962 for knowingly dealing with and facilitating the disposal of the impugned vehicle which was liable to confiscation. However, I hold that the proposal for imposition of penalty under Section 114AA of the Customs Act, 1962 is not sustainable and is accordingly dropped.

**30.8 Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Suriya Arjunan or otherwise;**

**30.8.1** I find that Shri Suriya Arjunan was actively involved in the network dealing with luxury vehicles imported under diplomatic exemption. His statements recorded under Section 108 of the Customs Act, 1962 clearly show that he was engaged in arranging and facilitating sale of high-end vehicles sourced from Shri Nipun Miglani and further circulated through his contacts. He admitted that he used to receive details of imported vehicles and passed them on within his network for identifying buyers. He also acknowledged his association with persons engaged in registration facilitation of such vehicles.

**30.8.2** Further, Shri Chetan Jagdish Shetty in his statement dated 07.11.2023 confirmed that the impugned vehicle was initially in the possession of Shri Suriya Arjunan, who had asked him to

find buyers for the same. It was also revealed that Shri Suriya had handed over relevant documents such as Form 29 and Form 30 for transfer of the vehicle. This clearly establishes his role in initiating and facilitating the chain of transactions involving the impugned vehicle, which was later found to be imported under exemption and diverted into the domestic market.

**30.8.3** On the basis of the above, I find that Shri Suriya Arjunan had sufficient knowledge and involvement in dealing with goods which were liable for confiscation under the Customs Act, 1962. His role goes beyond mere introduction of buyers and extends to active facilitation of sale and movement of the impugned vehicle in the domestic market.

**30.8.4** Accordingly, I hold that Shri Suriya Arjunan is liable for penalty under Section 112(b) of the Customs Act, 1962 for knowingly dealing with goods liable for confiscation.

**30.8.5** Shri Suriya Arjunan contended that he is not involved in any act of smuggling or illegal importation of vehicles. He contends that he is only engaged in arranging funds and occasional facilitation between known persons in the luxury car market. He states that he does not directly deal in importation or registration of vehicles and merely acts as a mediator between buyers and sellers. He further contended that he has not handled any customs clearance documents, nor has he been involved in preparation or submission of any false or forged documents. He denies having any knowledge that the vehicles in question were imported in violation of exemption conditions or were liable for confiscation under the Customs Act, 1962. He also argues that mere facilitation or acquaintance with persons dealing in luxury cars does not establish any criminal intent or knowledge that the goods were smuggled or improperly imported.

**30.8.6** I find that the contention of Shri Suriya Arjunan does not stand, since there is evidence on record, including his own statement and that of co-noticees, which clearly establishes his active and conscious role in facilitating the sale of the impugned vehicle imported under diplomatic exemption. His admission that he arranged clients, received details of vehicles, and coordinated with persons involved in registration and sale demonstrates that he was not a mere intermediary but an active participant in the disposal of the impugned vehicle. The statement of Shri Chetan Jagdish Shetty further corroborates that Shri Suriya was in possession of documents relating to the vehicle and had facilitated its onward transfer.

**30.8.7** I find that the repeated involvement in arranging sales of multiple luxury vehicles imported under similar exemption scheme indicates a pattern of deliberate conduct rather than an isolated transaction. Therefore, the plea of ignorance of the illegal nature of the goods is not acceptable.

**30.8.8** Accordingly, I hold that the ingredients of Section 112(b) of the Customs Act, 1962 are clearly satisfied, as Shri Suriya Arjunan knowingly dealt with goods which were liable for confiscation. Therefore, I uphold the imposition of penalty under Section 112(b) of the Customs Act, 1962. However, in the absence of any concrete evidence showing that he personally created, signed, or used any forged or fabricated documents before Customs authorities, the proposal for

penalty under Section 114AA of the Customs Act, 1962 is not sustainable against him and is accordingly dropped

**30.9 Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Nipun Miglani or otherwise;**

**30.9.1** It is seen that the impugned SCN has proposed penalty on Shri Nipun Miglani under Sections 112(b) of the Customs Act, 1962. In response to PH notice to Noticee, Mr. Mohamed Uvaisullah Mushin (Advocate), authorised representatives, on behalf of noticee Sh. Nipun Miglani, attended the personal hearing before me on 10.03.2026 and submitted in written submission dated 09.06.2025, he submitted that the allegations made in the SCN are on the basis of the statement only and the said statement has been retracted in front of the magistrate. And he further argued that no evidence has been presented in the SCN against Mr. Nipun Miglani and that he was not aware of any wrongdoing at the time of import as he was not involved in the import process of the impugned goods. He requested for the proceeding against the noticee be dropped as no evidence implicating the name of the noticee has been brought out in the SCN.

**30.9.2** Before delving into the substantive allegations made in the SCN, I will discuss and give my findings on the above issue of retraction of statement as to whether the said retraction can be held valid.

**30.9.2 (i)** I find that Section 108 is a machinery Section to gather evidence in case of violations/offence under the Customs Act. These proceedings are deemed to be judicial in nature in terms of Section 193 and 228 of IPC, therefore, evidence collected during recording of statement is a material and admissible evidence. In the case of Naresh J. Shukawani Vs Union of India [1996 (83) ELT. 258 (SC)] it was observed by the Hon'ble Apex Court that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973 and therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act, 1962. It was further stated by the Hon'ble Court that if such a statement incriminates the accused, inculcating him in the contravention of the provisions of the Customs Act, it can be considered as substantive evidence to connect the accused with the contravention of the provisions of this Act.

**30.9.2 (ii)** It is a settled law that the statements recorded under Section 108 of Customs Act, 1962 is relevant and admissible evidence as held in umpteen number of legal pronouncements till date. The person summoned under this Section is bound to state the truth thus, there is a strong presumption of truthfulness of the statements recorded under Section 108 of the Customs Act, 1962. This fairly establishes the case of the department. It has been held that Section 108 is an enabling act and an effective tool in the hands of Customs to collect evidences in the form of voluntary statements. The Hon'ble Courts in various judicial pronouncements have further strengthened the validity of this enabling provision and it has been affirmed that statement given before Customs officers is a material piece of evidence and certainly can be used as substantive evidence. Further, these Statements are not hit by bar of admissibility under either Section 25 of

the Evidence Act, 1872 or Article 20(3) of the Constitution of India and is presumed to be truthful. A few of the legal citations relied upon in the support of the above are referred below:

- Asst. Collector of Central Excise, Rajamundry Vs. M/s. Duncan Agro India Ltd. reported in 2000 (120) E.L.T. 280 (S.C.): Statement recorded by a Customs Officer under Section 108 is a valid evidence.
- In 1996 (83) ELT. 258 (S.C.) in the case of Shri Naresh J. Sukawani Vs. Union of India, the Hon'ble Supreme Court observed as under:

4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act.

It was held that statement recorded by the Customs officials can certainly be used against a co-noticee when a person giving a statement is also tarnishing his image by making admission of guilt. Similar view was taken in the case of In Gulam Hussain Shaikh Chougule Vs. S. Reynolds (2002) 1 SCC 155-2001 (134) ELT. 3 (S.C.).

- State (NCT) Delhi Vs Navjot Sandhu @ Afsan Guru, 2005 (122) DLT 194 (SC): Confessions are considered highly reliable because no rational person would make admission against his interest unless prompted by his conscience to tell the truth. "Deliberate and voluntary confessions of guilt, if clearly proved are among the most effectual proofs in law." (Vide Taylors's Treatise on the Law of Evidence, VI. I).
- There is no law which forbids the acceptance of voluntary and true admission statement if the same is later retracted on bald assertion of threat and coercion, as held by Hon'ble Supreme Court in the case of K.I. Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin, (1997) 3 SCC 721. Hon'ble Supreme Court also held that:

*"Even though the Customs officers have been invested with many of the powers which an officer in charge of a police station exercises while investigating a cognizable offence, they do not, thereby, become police officers within the meaning of Section 25 of the Evidence Act and so the confessional statements made by the accused persons to Customs officials should be admissible in evidence against them. The object of the Act is to prevent large-scale smuggling of precious metals and other dutiable goods and to facilitate detection and confiscation of smuggled goods into, or out of the country. The contraventions and offences under the Act are committed in an organised manner under absolute secrecy. They are white-collar crimes upsetting the economy of the country. Detection and confiscation of the smuggled goods are aimed to check the escapement and avoidance of customs duty and to prevent perpetration thereof. In an appropriate case when the authority thought it expedient to have the contraveners prosecuted under Section 135 etc., separate procedure of filing a complaint has been provided under the Act. By necessary implication, resort to the investigation under Chapter XII of the Code stands excluded unless during the course of the*

*same transaction, the offences punishable under the IPC, like Section 120-B etc., are involved. Generally, the evidence in support of the violation of the provisions of the Act consists in the statement given or recorded under Section 108, the recovery panchnama (mediator's report) and the oral evidence of the witnesses in proof of the offences committed under the Act has consistently been adopting the consideration in the light of the object which the Act seeks to achieve."*

- Hon'ble Supreme Court in the case of Kanhailal Vs. UOI, 2008 (1) Scale 165 observed that:

*"The law involved in deciding this appeal has been considered by this court from as far back as in 1963 in Pyare Lal Bhargava's case (1963) Supp. 1 SCR 689. The consistent view which has been taken with regard to confessions made under provisions of section 67 of the NDPS Act and other criminal enactments, such as the Customs Act, 1962, has been that such statements may be treated as confessions for the purpose of Section 27 of the Indian Evidence Act."*

- Hon'ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in the case of Kantilal M Jhala Vs Union of India vide judgment dated October 5, 2007 (reported in 2007-TIOL-613-HC-MUM-FEMA) held that "Confessional statement corroborated by the seized documents, admissible even if retracted".

- The Apex Court in the case Hazari Singh V/s Union of India reported in 110 E.L.T. 406, and case of Surjeet Singh Chhabra V/s. Union of India & Others reported in 1997 (1) S.C.C. 508 has held that the confessional statement made before the Customs Officer even though retracted, is an admissible and binding on the person.

- The Hon'ble Supreme Court in the case of Badku Joti Savant Vs. State of Mysore 1966 AIR 1746=1978 (2) ELT J 323 (SC 5-member bench) laid down that statement to a customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct.

- In the case of Bhanakhalpa Bhai Patel Vs. Asstt. Collt. of Cus., Bulsar [1997 (96) E.L.T. 211 (SC)], the Hon'ble Apex Court at Para 7, of the judgment held that:

Para 7: It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Romesh Chandro v. State of West Bengal, AIR 1970 S.C. 940 and K.I. Pavunny v. Assistant Collector (HQ.), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C)=(1997) 3 S.C.C. 721."

- In the case of Raj Kumar Karwal Vs. UOI & Others (1990) 2 SCC 409, Court held that officers of the Department of Revenue Intelligence who have been vested with the powers of an Officer-in-Charge of a police station under Section 53 of the NDPS Act, 1985, are not police officers within the meaning of Section 25 of the Evidence Act. Therefore, a confessional statement

recorded by such officer in the course of investigation of a person accused of an offence under the Act is admissible in evidence against him.

**30.9.3** Going by the ratio of the above decisions, I am of the considered view that the oral evidences in the form of statement which was documented is acceptable and credible evidence to support the allegations levelled in the SCN against the Noticee and constitutes a valid and sound proof. In view of the above pronouncements, I find that placing reliance upon statement is correct and legal and this evidence proved the offence of the Noticee and constitute material piece of evidence. In the light of the above discussed judgements, I find that the statement of Sh. Nipun Miglani recorded under Section 108 of the Customs Act, 1962 has legal evidentiary value in the present matter.

**30.9.4** I find that Shri Nipun Miglani is a close aide of the mastermind, Rehman Iqbal Ahmed Shaikh and had assisted him in finding prospective buyers and realizing their sale proceeds in respect of many such luxury cars that were smuggled in the name of diplomats. In the instant case, he not only arranged buyer for the said Range Rover Vogue, to be delivered to the mastermind, Rehman Iqbal Ahmed Shaikh, thus enabling the syndicate in diversion of the said car. Nipun Miglani, having already dealt with multiple such smuggled cars by Rehman Shaikh was in the full knowledge that the said Toyota Lexus car was being diverted to the open market in contravention to the Customs Notification No. 03/1957. Even after this knowledge about the said car he helped Rehman in the sale of the said car to a non-privileged person. Thus, it is clear that Nipun Miglani has abetted the mastermind Rehman Shaikh in the smuggling of the said luxury car, Range Rover Vogue and sale thereof.

**30.9.5** In view of the above, I find that all the above-mentioned acts of omission and commission on part of Shri Nipun Miglani have rendered the impugned car liable for confiscation under Section 111(j) and Section 111(o) of the Customs Act, 1962. As such, I hold that Shri Nipun Miglani is liable to penalty under the provisions of Section 112(b) of the Customs Act, 1962.

**30.9.6** I further find that although the role of Shri Nipun Miglani in facilitating the sale and disposal of the impugned vehicle is clearly established, there is no sufficient and cogent evidence on record to prove that he had himself knowingly made, signed, or used any false or incorrect declaration, statement or document in any customs transaction so as to attract the provisions of Section 114AA of the Customs Act, 1962. Accordingly, I hold that the proposal for imposition of penalty under Section 114AA of the Customs Act, 1962 is not sustainable and is hereby dropped.

**30.10 Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Neeraj Maurya or otherwise;**

**30.10.1** It is seen that the impugned SCN has proposed penalty on Shri Neeraj P. Maurya under Section 112(b) of the Customs Act, 1962 alleging that they have purchased the impugned imported Range Rover Vogue car.

**30.10.2** I find that Shri Neeraj P. Maurya was aware of the fact that the said vehicle was not imported properly for sale in the open market, as he purchased the same through Shri Chetan Jagdish Shetty, who was not the actual owner of the vehicle and was not the rightful possessor of the vehicle. It is also observed that Shri Chetan Jagdish Shetty had arranged the said transaction at the instance of Shri Suriya Arjunan, from whose possession the vehicle was initially circulated for sale. Shri Neeraj P. Maurya had taken possession of the vehicle despite the absence of any valid ownership documents in his name and continued to use the same for a considerable period without getting it registered through the prescribed legal procedure. Further, the documents handed over to him at the time of acquisition of the said vehicle were incomplete and irregular in nature, consisting of unsigned or partially filled forms purported to be RTO documents. It is also observed that the transaction was not supported by any formal sale agreement or legally valid transfer records. Shri Neeraj P. Maurya failed to verify the authenticity and legality of the documents relating to the vehicle and proceeded with the transaction in a casual and negligent manner. The fact that they had dealt in the car without any agreement and procured the same on the basis of dubious documents apparently indicates the they had prior knowledge of improper importation of the said Range Rover Vogue car.

**30.10.3** I find that the principle of *caveat emptor* is clearly applicable to this case. While examining the role of Shri Neeraj P. Maurya, whether knowingly or otherwise, in facilitating the continued possession and use of the said vehicle in contravention of law, I am inclined to rely upon the settled legal position as under:

- The maxim *caveat emptor* is clearly applicable to a case of this nature. As per Advanced Law Lexicon by P. Ramanatha Aiyar, 3rd Edn. 2005 at page 721: *Caveat emptor* means "Let the purchaser beware." It is one of the settled maxims, applying to a purchaser who is bound by actual as well as constructive knowledge of any defect in the thing purchased, which is obvious, or which might have been known by proper diligence.
- "*Caveat emptor* does not mean either in law or in Latin that the buyer must take chances. It means that the buyer must take care." (See *Wallis v. Russell* (1902) 21 R 585, 615).
- Applying the maxim, it is the bounden duty of the purchaser to make all necessary enquiries and to ascertain all facts relating to the property prior to entering into any transaction.
- It was for the purchaser to establish that he had no knowledge about the genuineness or otherwise of the transaction in question.

**30.10.4** I find that Shri Neeraj P. Maurya's lackadaisical approach in the entire transaction and his failure to exercise due diligence facilitated the conspirators in the disposal and circulation of the said vehicle in violation of statutory conditions. Thus, for their act of omission and commission, and collusion with the members of syndicate led by Shri Rehman Iqbal Ahmed Shaikh in evasion of Customs duty by suppression of facts in improper importation of the said car, including not adhering to the prescribed provisions of law, has rendered the said car liable to confiscation under section 111 of Customs Act, 1962, as explained above. Accordingly, I find that Shri Neeraj P. Maurya was concerned in dealing with goods which he knew or had reason to believe were liable

to confiscation and, therefore, due to such acts of omission and commission, he has rendered himself liable for imposition of penalty under the provisions of Section 112(b) of the Customs Act, 1962.

**30.10.5** I find that though penalty under Section 112(b) of the Customs Act, 1962 is imposable on Shri Neeraj P. Maurya for knowingly dealing with goods liable to confiscation, there is no sufficient and cogent evidence on record to establish that he had knowingly made, signed, or used any false or incorrect declaration, statement or document in any customs transaction so as to attract the provisions of Section 114AA of the Customs Act, 1962. Accordingly, I hold that the proposal for imposition of penalty under Section 114AA of the Customs Act, 1962 is not sustainable and is hereby dropped.

**30.11 Whether penalties under Section 112(b) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Neil Barrow (Ashtamkar Noel Yona) or otherwise;**

**30.11.1** It is seen that the impugned SCN has proposed penalty on Shri Neil Barrow (Ashtamkar Noel Yona) under Sections 112(b) & 114AA of the Customs Act, 1962. It is also seen that inspite of providing ample opportunities, they have neither submitted any defence reply nor appeared for Personal Hearing(s) during the adjudication procedure. It thus appears that they have nothing to say in their defence. Therefore, I would decide the case of these noticees based on the evidences on record.

**30.11.2** I find that Shri Neil Barrow, in his statement dated 26.10.2023, has categorically stated that his identity documents were used by Shri Rehman Shaikh without his knowledge for registration of the impugned vehicle and that he was not aware of the said vehicle or its registration. He has further denied any involvement with the purchase, possession, or dealing of the said vehicle and has also denied any knowledge of Shri Chetan Shetty or Shri Neeraj Maurya in relation to the impugned vehicle.

**30.11.3** However, I find that the investigation has brought out circumstances which indicate that the plea of complete ignorance taken by Shri Neil Barrow is not entirely free from doubt. The analysis of the case records reveals that the registration of the vehicle in his name formed part of a larger syndicate operation involving diversion of diplomatically exempted vehicles into the domestic market using identity manipulation and forged documentation. The fact that the vehicle was successfully registered in his name and subsequently used in commercial transactions indicates that his identity was used as part of the chain facilitating disposal of the smuggled vehicle.

**30.11.4** I further find that the involvement of Shri Rehman Shaikh, the mastermind of the syndicate, in misuse of identity documents for vehicle registration has been established during investigation. In such a scenario, even if Shri Neil Barrow claims lack of direct participation, his identity was used in the process of dealing with goods which were liable for confiscation, thereby facilitating the unlawful circulation of the smuggled vehicle in the domestic market. Accordingly,

I hold that the ingredients of Section 112(b) of the Customs Act, 1962 are attracted, as his identity played a role in the chain of transactions relating to goods liable for confiscation.

**30.11.5** In view of the above facts and circumstances, I hold that Shri Neil Barrow (Ashtamkar Noel Yona) is liable for penalty under Section 112(b) of the Customs Act, 1962 for his role in facilitating the dealing of goods liable for confiscation.

**30.11.6** However, I find that there is no evidence on record to establish that Shri Neil Barrow has created, signed, used, or knowingly participated in preparation or submission of any forged or fabricated documents before Customs authorities. The allegation under Section 114AA of the Customs Act, 1962 requires active involvement or conscious use of false or fabricated documents in relation to Customs proceedings, which is not substantiated against him in the present case.

**30.11.7** Accordingly, I hold that the proposal for imposition of penalty under Section 114AA of the Customs Act, 1962 is not sustainable and is hereby dropped.

**30.12 Whether penalties under Section 112(a) of the Customs Act,1962 and under Section 114AA of the Customs Act, 1962, should be imposed on Shri Aubrey Elias D'Souza, or otherwise;**

**30.12.1** It is seen that the impugned SCN has proposed penalty on Shri Aubrey Elias D'Souza under Section 112(a) & 114AA of the Customs Act, 1962 alleging that he was the representative of the Customs Broker who had cleared the impugned imported Range Rover Vogue Car Model 2014. In his defence, Aubrey Elias D'Souza has inter alia contended that he had the impugned car was cleared on the basis of duty exemption certificate in favour of the diplomat and were directly received from the diplomat email to the noticee's email ID [jpintl@rediffmail.com](mailto:jpintl@rediffmail.com). All the documents were attested by the Embassy. Based on the above documents, Bill of Entry 94 dated 31.05.2016 was filed. The BoE was assessed by the Group granting the benefit of exemption Notification No. 03/1957 dated 08/01/1957 at Nil duty. No discrepancy was noticed by the department at the time of assessment, nor at the time of examination of the car. Accordingly, OOC was given by the proper officer. Thus, Section 111(j) is not applicable in the present case. He had received a duly acknowledged delivery Challan from the Diplomat. There was no complaint of non-delivery of car after clearance. It is well settled that the Customs Broker is not liable for diversion of the goods after clearance. None of the conspirators involved in the case has implicated Noticee of having played any role in the diversion of the car in the local market. He had not committed any act rendering the goods liable for confiscation under Section 111. Therefore, he was not liable for penalty under Section 112 of the Customs Act 1962. They have inter alia relied on the following cases of import of cars by the Diplomat wherein penalty on the Noticee has been set aside by the Commissioner (Appeals), JNCH, Nhava Sheva-

- i) Order in Appeal No. 40 (Gr. VB)/2025(JNCH)/Appeals dated 14/01/2025.
- ii) Order in Appeal No. 484 (Gr. VB)/2025(JNCH)/Appeals dated 15/04/2025.

**30.12.2** I find that the impugned car was imported and cleared at JNCH, Nhava Sheva through Bill of Entry No. 94 dated 31.05.2016 which was dealt by Aubrey Elias D'souza, representative of Customs Broker, Babaji Khimji and Co. On going through the impugned SCN and statements of Shri Aubrey Elias D'souza recorded under Section 108 of the Act, I find that all the documents required for import of the impugned car under Notification no. 03/1957-Cus, dated 08.01.1957 were received by him directly from the email ID of the concerned embassy/diplomat. I also observed that Shri Aubrey Elias D'souza was fully aware of the duty exemption Notification No. 03/1957-Cus dated 08.01.1957 and sought documents for generation of the Bill of Entry only from the official e-mail id of the embassy/ diplomats duly signed and stamped from embassy/diplomat. These facts have not been refuted by any of the members of the syndicate nor DRI has produced any evidence to the contrary. I find that in the present case, the documents such as Prior Approval from MEA No. D.VI/451/2(40)/2016/1971 dated 19.04.2016, Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 issued by MEA, Bill of Lading, Invoice, Diplomatic identity card, etc. were sought by him for import of the impugned car in the name of the diplomat. Further, Thus, it is seen that the impugned car was cleared from Customs and no infirmity was noticed from filing the BoE to the out-of-charge by proper officer. Further, no malafides are attributed against him by the co-noticees involved in the conspiracy. As such, I find that the charges levelled against Shri Aubrey Elias D'souza in the impugned SCN is not sustainable.

**30.12.3** I also find that the Notification No 21/2004 dated 23/02/2004 also known as CHALR 2004", stipulates that any diversion the imported goods is the responsibility of the importer and not the CHA whose role was complete once the car was cleared from Customs. It is seen that no evidence has been produced by the department establishing that Aubrey D'Souza was aware that the impugned car was not to be taken to its destination and diverted to the local market. Further, none of the conspirators and beneficiaries have implicated his role or involvement in the diversion of the impugned car. Thus, I find that collusion on the part of Shri Aubrey Elias D'souza with other co-noticees of not taking the impugned car to the nominated destination cannot be established. I also find that all the formalities for the customs clearance were complied with by him as per law. The impugned SCN also does not allege his role in the diversion of the car post-clearance. Further, I find that as a Customs Broker, the Noticee's responsibility was restricted only upto the clearance of the car from Customs which was performed by him following due process of law. I also find that, in identical cases, the Commissioner (Appeals)/JNCH, vide Orders-in-Appeal No. 40 (Gr. VB)/2025(JNCH)/Appeals dated 14/01/2025 and 484 (Gr. VB)/2025(JNCH)/Appeals dated 15/04/2025, has set aside the imposition of penalty on the noticee. I therefore find that Shri Aubrey Elias D'souza is not liable for imposition of penalty under Section 112(a) & 114AA of the Act.

**31** In view of the foregoing discussions and findings, I pass the following order:

**ORDER**

(i). I order confiscation of the impugned goods, namely the "Range Rover Vogue Model 2014" bearing Chassis No. SALGA2JEXEA146188, imported vide Bill of Entry No. 94 dated 31.05.2016 having declared assessable value of Rs. 35,39,621/- (Rupees Thirty-Five Lakh Thirty-Nine

Thousand Six Hundred Twenty-One Only), in the name of Mr. Ghassan Abdel khalek, Charge d’Affaires, Embassy of Lebanon, New Delhi, and seized under seizure memo dated 20.11.2024, under the provisions of Section 111(j) and Section 111(o) of the Customs Act, 1962.

However, since the goods have not been provisionally released and continue to remain under the control and custody of the Customs Department due to non-fulfilment of the conditions stipulated in the provisional release order dated 13.03.2025 (including furnishing of Bank Guarantee, execution of Bond, and payment of applicable duty), I hereby extend an option to redeem the said goods to Shri Neeraj P. Maurya, from whose possession the same were seized, on payment of redemption fine of Rs. 3,50,000/- (Rupees Three Lakh Fifty Thousand Only) in lieu of confiscation, in terms of Section 125(1) of the Customs Act, 1962.

(ii). I confirm the demand of Customs duty amounting to Rs. 74,40,496/- (Rupees Seventy-Four Lakh Forty Thousand Four Hundred Ninety-Six Only) and order recovery of the same from Mr. Ghassan Abdelkhalek, Charge d’Affaires, Embassy of Lebanon, New Delhi, being the importer in whose name the “Range Rover Vogue Model 2014” bearing Chassis No. SALGA2JEXEA146188 was imported vide Bill of Entry No. 94 dated 31.05.2016 by availing duty exemption.

I further order that the said duty shall be recovered in terms of the conditions prescribed under Exemption Certificate Serial No. EC 1/OFF/1/2016 dated 25.05.2016 read with the provisions of the Customs Act, 1962, the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957, and Notification No. 03/1957-Cus dated 08.01.1957, along with applicable interest as per law.

(iii). I impose penalty of **Rs. 7,00,000/- (Rupees Seven Lakh Only)** on Mr. Ghassan Abdelkhalek, Charge d’Affaires, Embassy of Lebanon, under Section 112(a) of the Customs Act, 1962;

(iv). I impose penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on Mr. Ghassan Abdelkhalek, Charge d’Affaires, Embassy of Lebanon, under Section 114AA of the Customs Act, 1962;

(v). I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on Shri Rehman Iqbal Ahmed Shaikh under Section 112(b) of the Customs Act, 1962.

(vi). I impose penalty of **Rs. 3,00,000/- (Rupees Three Lakh Only)** on Shri Rehman Iqbal Ahmed Shaikh under Section 114AA of the Customs Act, 1962.

(vii). I impose penalty of **Rs. 3,00,000/- (Rupees Three Lakh Only)** on Shri Liyakat Bachu Khan under Section 112(b) of the Customs Act, 1962.

(viii) I impose penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on Shri Liyakat Bachu Khan under Section 114AA of the Customs Act, 1962


(ix). I impose penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on Shri Mohammed Wasim Abdul Gani Siddique under Section 112(b) of the Customs Act, 1962.

(x). I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on Shri Mohammed Wasim Abdul Gani Siddique under Section 114AA of the Customs Act, 1962.

(xi). I impose penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on Shri Rajeev Sood under Section 112(b) of the Customs Act,

- (xii). I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on Shri Manjeet Maurya under Section 112(b) of the Customs Act,
- (xiii). I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on Shri Chetan Jagdish Shetty under Section 112(b) of the Customs Act,
- (xiv). I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on Shri Suriya Arjunan under Section 112(b) of the Customs Act, 1962.
- (xv). I impose penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on Shri Nipun Miglani under Section 112(b) of the Customs Act, 1962.
- (xvi). I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on Shri Neeraj Maurya under Section 112(b) of the Customs Act, 1962.
- (xvii). I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on Shri Neil Barrow (Ashtamkar Noel Yona) under Section 112(b) of the Customs Act, 1962.
- (xviii) I refrain from imposing penalty on Shri Aubrey Elias D'Souza under Section 112(b) & 114AA of the Customs Act, 1962, for the reasons discussed hereinabove. as discussed above.
- (xix) I hereby drop the proceedings initiated under Section 114AA of the Customs Act, 1962 against Shri Rajeev Sood, Shri Manjeet Maurya, Shri Chetan Jagdish Shetty, Shri Surya Arunan, Shri Nipun Mishra, Shri Neeraj P. Maurya and Shri Neil Barrow (Ashramkar Noel Xoma), as discussed above.

**32.** This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved under the provisions of the Customs Act, 1962 and/or any other law for the time being in force in India.

  
(अनिल रामटेके / ANIL RAMTEKE)  
सीमा शुल्क आयुक्त / Commissioner of Customs,  
एनएस-V, जेएनसीएच / NS-V, JNCH

**To,**

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**Copy to: -**

1. The Additional Director, DRI, NS-I, MZU with reference to letter F. No. DRI/MZU/NS-I/INT-51(22)/2021/2308 dated 28.02.2025
2. Embassy of Labanon, New Delhi (through Ministry of External Affairs, 1099, Special Protocol Section, B- Wing, Jawaharlal Nehru Bhawan, Old Janpath Road, New Delhi- 110011).
3. The Additional Commissioner of Customs, Group-5B, JNCH
4. The Dy./Asstt. Commissioner of Customs, CCO, JNCH
5. The Dy./Asstt. Commissioner of Customs, Centralized Revenue Recovery Cell, JNCH
6. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board
7. EDI Section.
8. Office copy

