

भारत सरकार/ Government of India
वित्त मंत्रालय/ Ministry of Finance
आयुक्त सीमा शुल्क एनएस-II का कार्यालय,
केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन
न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र- 400 707
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
CENTRALIZED ADJUDICATION CELL,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
DIST- RAIGAD, MAHARASHTRA-400707



फ़ा.सं. /F. No.: S/10-128/2025-26/ADC/CEAC/NS-II/CAC/JNCH

Date of Order: 28.01.2026

द.प.सं./DIN: 20260178NT0000777F99

Date of Issue: 28.01.2026

SCN No. 1946/2023-24/ADC/CEAC/NS-II/CAC/JNCH

Date of SCN 28.11.2023

जारीकर्ता/Passed By: **Shri Raghu Kiran B.,**
Commissioner of Customs (In-situ),
CEAC, NS-II, JNCH, Nhava Sheva.

मूल आदेश सं./Order-In-Original No.: 1528/2025-26/ADC/CEAC/NS-II/CAC/JNCH

निर्यातक का नाम/Exporter's Name: **मै. तावेज़ा एक्सपोर्ट्स (आयात निर्यात कोड: CPOPS4536L)**
M/s. Taweza Exports (IEC No.: CPOPS4536L)

मूल आदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़ - ४०० ७०७, महाराष्ट्र को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

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

BRIEF FACTS OF THE CASE

This office received information from CGST & Central Excise, Palghar vide letter F.No. CGST/R-1/Dn.I/ DGARM/21 H/108/2020/T-2/2650 dated 11.10.2021 regarding inquiry about IGST refund claimed by **M/s. Taweza Exports** (hereinafter referred as exporter) having IEC: CPOPS4536L, and having registered address at 3rd floor, Guru Prasad, Surat Wala Compound, Kacheri Road, Zenda Bazar, Vasai Gaon, Thane, Maharashtra-401201. Exporter **M/s. Taweza Exports** has filed nine S/Bs having FOB value of @ Rs. 1.67 Crore and claimed IGST refund of Rs. 30 Lac during the period of July 2017 to August 2019 **from JNPT port through Customs Broker firm M/s. Rajesh Tripathi. The Shipping Bills were filed under Drawback and IGST refund schemes.**

2. Vide the above-mentioned letter dated 11.10.2021, it was further informed that the GSTIN of M/s Taweza Exports (27CPOPS4536L1Z2) was taken by misusing the documents of a third person. However, it was further requested to do the necessary investigation in the matter.

3. PROCEEDINGS OF THE INVESTIGATION:

3.1 As per EDI data, M/s Taweza Exports has filed following nine S/Bs through Custom Broker M/s Rajesh Tripathi (License No. 11/1554; PAN- ACWPT6271ECH002) from Nhava Sheva:

Sl. No.	SB No.	SB Date	Items	FOB (Rs.)	Drawback (Rs.)	IGST (Rs.)
1	6615139	30/08/2019	Ladies Synthetic Chappals	1962797	29,442	353303
2	6615142	30/08/2019		1962797	29,442	353303
3	6615143	30/08/2019		1962797	29,442	353303
4	6615144	30/08/2019		1962797	29,442	353303
5	6615415	30/08/2019		1962797	29,442	353303
6	6615418	30/08/2019		1798646	26,980	323756
7	6615596	30/08/2019		1864306	27,965	335575
8	6615597	30/08/2019		1404684	21,070	252843
9	6615612	30/08/2019		1798646	26,980	323756
		Grand Total		1,66,80,267	2,50,205	30,02,445

3.2 During the course of investigation, summons under the provisions of section 108 of Customs act were issued on 11.04.2022 to Shri Asad Anwar Shaikh, IEC Holder of M/s Taweza Exports, and Shri Ashok R Sahi / CEO of Custom Broker M/s Rajesh Tripathi to record their statement. However, in pursuance to the said summons dated 11.04.2022, Shri Asad Anwar Shaikh submitted his written reply dated 21/04/2022 stating that he had not opened any account in central bank of India, nor provided any documents for such account opening procedure in the name of M/s Taweza Exports; that no bank person visited at his address for any KYC Verification process; that he was working as driver with VYOM SHUBHAM LOGISTICS PVT LTD which provided pickup/drop services to Corporate Employees at MIND SPACE, AIROLI. He further informed that that some CUSTOMS OFFICIAL from VASAI division visited his residential address on 07.03.2020 and further some CUSTOM official from ANDHERI, CARGO DIVISION (i.e. ACC, Sahar, Andheri) visited on 01.11.2021 for verification process, wherein he explained about his

unawareness & non- involvement in such account/company opening activities. Vide the above submission, it is also informed by Shri Asad Anwar Shaikh that he had already reported in Central Bank of India, Abdul Rehman Street regarding not opening of any account. In this regard, he has submitted a copy of letter acknowledged by Central Bank of India on 02.11.2021.

Mr. Asad Anwar Shaikh has also submitted some documents i.e (a) a copy of Panchanama dated 07/03/2020 made by officers of CGST, Palghar Commissionerate, (b) two letters dated 26/09/2019 from M/s Central Bank of India mentioning the customer No. and (c) visit report dated 01/11/2021 of Customs officers from ACC, Mumbai.”

4. This office issued summons dated 14/06/2022 to **Shri Asad Anwar Shaikh**, proprietor of M/s Taweza Exports and his statement was recorded on 14/06/2022 (RUD-01) under the provisions of Section 108 of the Customs Act, 1962 wherein he, inter-alia, stated that he *didn't know about Taweza Exports; that initially he came to know about M/s Taweza Exports when he received two letters both dated 26.09.2019 from Central Bank of India, Abdul Rehman Street Branch, Mumbai in the name of M/s Taweza Exports. He further stated that the letter was kept in the letter box of his building as they were not at home that time; that he picked up the letter from the box some time in December 2019; that as he had not opened any account in his name in Central Bank of India, Abdul Rehman Street Branch, he told the incident to his dad after three months; that his father is working as Driver with Marine and Preventive of Customs department, Marine Lines, Mumbai. He further stated that after telling the incident to his father, he lodged a formal complaint in Vasai Police Station that he had not opened any such account with the said branch. He further stated that, he didn't know anything about M/s Taweza Exports, that, he had not applied for any account opening in the name of M/s Taweza Exports or in his own name at Abdul Rehman Street Branch, Mumbai. He only came to know about M/s Taweza Exports after getting the letters from M/s Central Bank of India, Abdul Rehman Street Branch, Mumbai.*

During the course of statement, he further stated that he was not related with any matter of M/s Taweza Exports; that his house was also searched by CGST & Central Excise Palghar in that connection and copy of the panchanama dated 07.03.2020 was submitted to this office on 21.04.2022; that his house was also visited by the officers of TRC(X), ACC, Andheri, Mumbai on 01.11.2021 in the same connection; that he had submitted the copy of the Visit report dated 01.11.2021 of TRC(X), ACC, Andheri on 21.04.2022 to this office.

On being asked about Customs Broker M/s Rajesh Tripathi or Shri Ashok R. Sahi, he replied that he didn't know any Customs Broker in the name of M/s Rajesh Tripathi or any other person namely Shri Ashok R. Sahi. On being asked whether he had ever entered in the business of Import Export with any person or whether he worked in any import export company, he replied in negative, that, he never worked in such type of company nor related to any import export business. He further stated that, he is not related to M/s Taweza Exports nor he is the proprietor of M/s Taweza Exports; that someone had fraudulently used his documents for opening the firm and obtaining an IEC code and opening for related Bank Accounts; that he didn't know about any

Customs Broker in the name of M/s Rajesh Tripathi or any person namely Shri Ashok R. Shahi; that he was working as Driver since 2019 and earlier worked with Automotive service Advisor.

5. This office issued summons dated 15.12.2022 to the Custom Broker for further investigation in the matter. In pursuance to the above summons, Sh. Ranga Rao D. Patil, G – card holder of the Custom Broker firm *M/s Rajesh Tripathi*, bearing Kardex No. G-2985 visited this office on 27.12.2022 and submitted a letter dated 27.12.2022 enclosing copies of KYC documents and nine shipping bills. Further, he stated that he is not in state to give statement right now and requested for an extension in the matter.

6. This office further issued summons dated 18/04/2023 to the Custom Broker and in pursuance of the same statement of **Shri Satendra R. Shahi**, Manager, and authorized representative of Custom Broker firm *M/s Rajesh Tripathi* was recorded on 25/04/2023 (**RUD-02**) under Section 108 of the Customs Act, 1962 wherein he, inter-alia, stated that *his Customs Broker firm name is M/s. Rajesh Tripathi & he is the Manager of the said firm; that his Custom Broker firm is having CB licence no. 11/1554 (ACWPT6271ECH002); that he know M/s Taweza Exports through Mr. Sanjay Waghmare who is a freight forwarder. He further stated that the company name of Mr. Sanjay Waghmare is M/s Yash Clearing situated at Masjid Bunder; that he could not recall his office address and will provide the same in two working days.*

On being asked about KYC details and export documents of M/s Taweza Exports, he stated that, Mr. Sanjay Waghmare has provided them the KYC details and export documents of M/s Taweza Exports. On being asked that how he know Mr. Sanjay Waghmare, he stated that, his firm's earlier employee and "G" card holder with power of attorney, Sh. Pramod Kumar Jha introduced Mr. Sanjay Waghmare to their CB firm. He further stated that Mr. Sanjay Waghmare will be made available to this office for further investigation; that his mobile no. is 9867373093.

During the course of investigation, he submitted the authorization letter from exporter, provided by Mr. Sanjay Waghmare. He further stated that he had filed 09 shipping bills on behalf of M/s Taweza Exports and provided the copies of 09 S/Bs vide their letter dated 27.12.2022; that ladies synthetic chappals were exported and drawback was claimed vide the export of these shipping bills. Regarding brokerage, he stated that, they were supposed to get Rs. 2500/- per shipping bill from the exporter through cheque; that Mr. Sanjay Waghmare had committed for the above mentioned brokerage; that till date he had not received any amount from him or M/s Taweza Exports as brokerage; that, he had not met the exporter; that he was not present during verification of the KYC of the exporter; that it might have been done by Sh. Pramod Kumar Jha who was their "G" card holder employee at that time; that Sh. Pramod Jha has left their CB firm in 2022 and his mobile no. is 8424957652; that Sh. Pramod Kumar Jha is the person concerned in their Custom Broker firm who was well acquainted with the facts and he will make him (Mr. Jha) available within two working days for further investigation, if asked.

With respect to the Bank account details of M/s Taweza Exports, he submitted a letter dated 24.04.2019 from Bank of Baroda wherein the Bank details of M/s Taweza Exports is mentioned.

After going through the statement of Mr. Asad Anwar Shaikh dated 14.06.2022, he stated that, it appears that he did not know anything about M/s Taweza Exports (exporter), M/s Rajesh Tripathi (CHA) and any of the related export business; that some other person has used his documents for the fake IEC. On being asked about the real beneficiary vide these exports he stated that he didn't know any such person and he has also not any idea regarding BRC for the above mentioned 09 exports.

7. This office issued summons dated 27/04/2023 to **Shri Pramod Kumar Jha**, Ex-G-Card Holder of Custom Broker M/s Rajesh Tripathi. In pursuance of the above summons dated 27.04.2023, statement of Sh. Pramod Kumar Jha was recorded on 01/05/2023 (**RUD-03**) under Section 108 of the Customs Act, 1962 wherein he, inter-alia, stated that he joined the CB firm, (M/s Rajesh Tripathi) in 2016; that previously he worked with CB M/s Arun Kumar Mukherjee which License Number is not recalled by him presently; that he was working there as a "G" card holder; that he also worked with M/s Rajesh Tripathi as a "G" card holder; that he left working with M/s Rajesh Tripathi in May, 2022, due to corona as there was not more work in the CB M/s Rajesh Tripathi; that he left the job due to the above mentioned reason; that presently, he is self-employed and not working with any Custom Broker since May, 2022.

He further stated that he knew M/s Taweza Exports through Mr. Sanjay Waghmare who is a freight forwarder whose company name is M/s Yash Clearing & Forwarding Agency situated at 504, Papatlal Chambers, 5th floor, Clive Cross Road, Chinch Bander, Masjid Bunder, Mumbai-400009. He knew Sanjay Waghmare since 2018-19, as, his company M/s Yash Clearing & Forwarding Agency deals as a forwarder, therefore he knew him due to the same nature of business.

During the course of statement, he stated that he had filed nine shipping Bills on behalf of M/s Taweza Exports; that he got the opportunity of export clearance for M/s Taweza Exports through Mr. Sanjay Waghmare; that the exporter had approached him through Mr. Sanjay Waghmare; that he gave his consent to Mr. Sanjay Waghmare and accepted to file export documents on behalf of M/s Taweza Exports; that all KYC documents including invoice, packing list, authority letter were provided to him by Mr. Sanjay Waghmare on behalf of M/s Taweza Exports.

He further told that he never met the exporter/ IEC holder; that he was to receive the brokerage from Mr. Sanjay Waghmare; that it was decided to pay Rs. 2500/- for per shipping Bill; that no brokerage was received till he left the job; that he prepared the documents for export of CB firm on behalf of the exporter M/s Taweza Exports; that ladies synthetic slippers were exported vide 09 shipping Bills; he didn't have any idea regarding BRC. He told that he has Bank account No. 10220005968 in Greater Bombay Co-Operative Bank Limited since 2000; that he do not have any other bank account

On being asked about the KYC details of exporter, he stated that, he verified the same online; that he also went to the address mentioned in the IEC copy; that he found the said address- 3rd Floor, B/303, Guru Prasad, Surtawala Compound, Thane closed when he visited there; that he did not

visit the address again; that he did not meet the IEC holder – Mr. Asad Anwar Shaikh; that he had not visited the said address again, however, he had verified the said address online.

8. This office issued summons dated 11/05/2023 to **Shri Sanjay N. Waghmare**, Proprietor, M/s Yash Clearing and Forwarding Agency. In pursuance to the above summons dated 11.05.2023, statement of **Shri Sanjay N. Waghmare** was recorded on 11/05/2023 (**RUD-04**) under Section 108 of the Customs Act, 1962 wherein he, inter-alia, stated that *his firm is a freight forwarder, bringing export/ import works to different Customs Broker firms on commission basis; that he didn't know M/s Taweza Exports directly; that the work for this firm was brought to him by one of his friends namely Mr. Sitaram Jadhav, having Mobile no. 90824 02443; that he didn't remember his address right now, but he is living in Ulwe. He further stated that Sitaram Jadhav came to him in search of a good CHA firm; that he introduced Sh. Sitaram Jadhav to Shri Pramod Jha, Authorized Signatory of CB firm, M/s Rajesh Tripathi; that he took the KYC details and export documents (all in hard copy) from Shri Sitaram Jadhav and handed over to Shri Pramod Jha; that Shri. Sitaram Jadhav is his old friend since 2003.*

Regarding filing of S/Bs by CB firm M/s Rajesh Tripathi on behalf of M/s Taweza Exports he replied that as a freight forwarder he had helped his friend Shri Sitaram Jadhav and accordingly handed over the documents to Shri Pramod Jha (Customs Broker), which he had received from Sh. Sitaram Jadhav; that he had never asked them about the further advancement in the said matter nor any one of them told him about the same; that he could not comment on the shipping bills filed by them; that he had no idea about the items exported vide these shipping bills and export incentives claimed; that he did not ask for brokerage from Sh. Sitaram Jadhav as he was his good friend; that he did not receive anything as brokerage from M/s Rajesh Tripathi or Sh. Pramod Jha.

On being asked he further stated that he did not meet with the exporter/ IEC holder; that KYC might have been done by Sh. Pramod Kumar Jha who was Authorized Signatory of CB firm M/s Rajesh Tripathi; that he didn't know the IEC holder as the work was brought by his friend Sitaram Jadhav; that he didn't have any idea about the BRC realized.

9. Further, this office issued summons dated 24/05/2023 and 12/06/2023 to Shri. Sitaram Jadhav residing in Ulwe, Navi Mumbai. As there was no response from him, the officers of this office visited the below mentioned address as available, to serve the summons dated 20.06.2023 to Sh. Sitaram Jadhav:

**Krishna Kunj Building, Plot No. 87, Sector-17, Opp. M.K. Beauty
World, Navi Mumbai-410206, Ulwe.**

During visit of the above-mentioned address, inquiry was made from the security guard, Secretary of the society as well as local people/shopkeepers, however, but no one was knowing about sh. Sitaram Jadhav found on that address. Visit report dated 21/06/2023 has been prepared in this regard. (**RUD-6**).

10. This office again issued summons dated 26/06/2023 to Shri Sanjay N. Waghmare, Proprietor, M/s Yash Clearing and Forwarding Agency and his statement was recorded on 26/06/2023 (**RUD-7**) under Section 108 of the Customs Act, 1962 wherein he, inter-alia, stated that he went through his statement given on 11.05.2023; that as per his commitment to this office during his previous statement, he tried his level best to find the present residential address of Sh. Sitaram Jadhav; that he conveyed the same to this office also.

Shri Sanjay N. Waghmare, Proprietor, M/s Yash Clearing and Forwarding Agency further stated that as per his inquiry Sh. Sitaram Jadhav do not use any mobile phone. Sh. Sanjay Waghmare put his dated signature on the visit report dated 21.06.2023 for the verification of address and serving of summons to Sh. Sitaram Jadhav at Krishna Kunj Building, Plot – 87, Sector-17, Ulwe. However, no such person namely Sh. Sitaram Jadhav is residing there as an owner/ renter. He further stated that, he had no contact with Sh. Sitaram Jadhav recently; that Sh. Sitaram Jadhav does not use any mobile phone and he had also sold his home situated at Nerul in the year 2020. He further stated that, he didn't have any other address of Sh. Sitaram Jadhav as he (Sitaram) used to reside as a renter, he (Sitaram) keeps on changing his residential address.

11. During the course of investigation, this office issued summons dated 07/07/2023 to Shri Asad Anwar Shaikh, IEC holder of M/s Taweza Exports and Statement of Shri Asad Anwar Shaikh, Proprietor of M/s Taweza Exports, was recorded on 10/07/2023 (**RUD-8**) under Section 108 of the Customs Act, 1962 wherein he, inter-alia, stated that, "He went through his statement given on 14/06/2023. On being asked about being proprietor of M/s Taweza Exports having IEC-CPOPS4536L, he told that, he is neither the proprietor nor he know about M/s Taweza Exports; that he didn't know anything about M/s Taweza Exports; that his documents were used as a fraud to open a company named as M/s Taweza Exports; that he didn't know anything about exports made by M/s Taweza Exports, as well as the Customs Broker M/s Rajesh Tripathi.

On being asked about the bank accounts opened in the name of M/S Taweza exports, he stated that, he came to know about one bank account opened in Central Bank of India, Abdul Rehman Street Branch, Mumbai in the name of M/s Taweza Exports when he received two letters both dated 26.09.2019 from the Central Bank of India, Abdul Rehman Street Branch, Mumbai. On being asked about, one more bank account opened in the name of M/s Taweza exports in Bank of Baroda, Mandvi Branch, he told that, no, he didn't know about any bank account opened in name of M/s Taweza exports in Bank of Baroda, he just heard during recording of statement that there is one more account at Bank of Baroda, Mandvi Branch. On being shown letter dated 24/07/2019 of Bank of Baroda addressed to AC/ JNPT received by EDI on 21.08.2019, wherein it was mentioned that M/s Taweza Exports has opened an account bearing no. 04030200001753 wherein he was Proprietor of the company, he told that, he didn't know anything about the account opened in Bank of Baroda in the name of M/s Taweza Exports; there was no correspondence from Bank of Baroda in this regard. When asked about, Satendra R. Sahi, Pramod Jha, Sanjay Waghmare and Sitaram Jadhav, he told that, he didn't know any one of them. When letter dated 22.05.2023 received from Bank of Baroda was shown to him, wherein it was mentioned that Mr. Asad Anwar Shaikh had opened an account

in the name of M/s Taweza Exports, he stated that the documents used are PAN and Aadhar of Mr. Asad Anwar Shaikh which has been mis-used.

When copy of complaint dated 21.03.2020 filed at Vasai Police station was shown to him, wherein he stated that he had applied for job at various places and submitted his details as Aadhar card, PAN, Electric bill, Bio-Data etc., he stated that someone had done forgery with him by mis-using his documents.

He further told that, he had applied for job at many places, however, he didn't remember the exact number. On being asked about the sectors & their addresses wherein he had submitted his job applications along with documents, he stated that, he submitted his job applications including his documents at Andheri, Bandra, Bhandup, Goregaon etc. in Placement consultancy services which were offering jobs in offices. He further stated that he could not recall any of their addresses; that he doesn't have any acknowledgement of the same; that he had not applied for online job application. On being asked whether PAN card & electricity bill are mandatory while applying for a job, he told that, at that time he was not aware that PAN card and electricity Bills should not be submitted with the job application.

He further stated that he was aware of procedures like visit report being followed by Bank before opening of an account; that he is not aware about the mandatory documents required to be submitted for a job. On being asked about bank account details of family members, he told that, he will ask his family members i.e. mother, father, brother and wife for the same and inform accordingly; that his father works in Marine & Preventive as a Driver and his brother works in ICICI bank situated at Parel Branch.

12. RELEVANT PROVISIONS OF LAW APPLICABLE IN THIS CASE:-

The relevant provisions of the Customs Act relating to export of goods in general, the liability of the goods to confiscation and liability to penalty for improper exportation under the provisions of the Custom Act, 1962, Foreign Trade (Development & Regulation) Act, 1992, Foreign Trade (Regulation) Act, 1993 are summarized as under:

- (i) **Rule 11 of the Foreign Trade (Regulations),1993:** Stipulates that on exportation out of any customs port of any goods, whether liable to duty or not, the owner of the such goods shall in the S/bill or any other documents prescribed under the Customs Act,1962, state the value, quantity and description of such goods to the best of his knowledge and belief and certify that the quality and specifications of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a truthful declaration of such statement at the foot of such Shipping bill or any other documents.
- (ii) **Section 50(2) of the Customs Act, 1962:** The exporter of any goods, while presenting a Shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(iii) **Section 75 (A)(2) of Customs Act, 1962:** Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AB and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

(iv) **Section 113 of the Customs Act, 1962: Confiscation of goods attempted to be improperly exported, etc.:**

(ia) goods entered for exportation under claim of Drawback which do not correspond in any material with any information furnished by the exporter or the manufacturer under this Act in relation to the fixation of rate of drawback under Section 75.

(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;]

(v) **Section 114 (iii) of the Customs Act, 1962: Penalty for attempt to export goods improperly, etc.** - (iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

(vi) **Section 114 AA of the Customs Act, 1962: 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 the goods.

(vii) **Section 114 AC of Customs Act, 1962:- Penalty for fraudulent utilisation of input tax credit for claiming refund:-** Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund or such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed.

(viii) **Section 117 of the Customs Act, 1962:** Penalties for contravention, etc., not expressly mentioned. —Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding 2[ten thousand rupees].

(ix) **Rule 17 of Customs and Central Excise Duties Drawback Rules, 2017: -**

17. Repayment of erroneous or excess payment of drawback and interest. - Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in

excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962).

(x) **Section 28AA. Interest on delayed payment of duty. -**

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

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

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

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

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

(xi) **Sub Regulation 10 of Customs Brokers Licensing Regulations, 2018, Obligations of Customs Broker:**

(d) Advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(n) Verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

13. FINDINGS OF INVESTIGATION:

(i) **M/s. Taweza Exports having IEC: CPOPS4536L filed nine S/Bs through Customs Broker firm M/s. Rajesh Tripathi, having FOB value of Rs. 1,66,80,267/- and claimed IGST refund of Rs. 30,02,445/- from JNPT port. The S/B were filed under Drawback and IGST refund.**

(ii) From the initial investigation, it appeared that, no genuine exporter exists. Hence, summons was issued to IEC Holder and CHA.

(iii) The matter was further investigated by SIIB (X) and statements of IEC holder, their CHA and intermediaries were recorded. The IEC holder and CHAs involved in the transaction declined their involvement. IEC holder Shri. Asad Anwar Shaikh told that his identity proof were mis used whereas CHA had accepted that they had not met IEC holder personally nor they have received the export documents and KYC documents directly from the exporter.

(iv) In view of the above, the matter was further investigated by SIIB (X) and it is seen that the exporter M/s Taweza Exports has not received BRC in respect of any of the above mentioned nine shipping bills having combined FOB value of **Rs. 1,66,80,267/- (Rs. One Crore Sixty-Six Lac Eighty Thousand Two Hundred Sixty-Seven).**

14. Role of M/s Taweza Exports and Sh. Asad Anwar Shaikh, Proprietor of M/s Taweza Exports -

Sh. Asad Anwar Shaikh has opened a Bank account in the name of M/s Taweza Exports by using his documents in Central Bank of India, Abdul Rehman Street Mumbai. M/s Taweza Exports exported Ladies synthetic Chappals through nine shipping bills and claimed drawback and IGST. During the course of investigation, it has been found that Sh. Asad has denied of having any knowledge about the exports, Bank account and CHA. He has also made a written complain to the above-mentioned Bank and local police station regarding mis -use of his documents.

In this regard, it is pertinent to mention that an intimation letter dated 26.09.2019 was issued to Sh. Asad Anwar Shaikh from Central Bank of India regarding account opening. After a considerable lapse of time, ie on 02.11.2021, he wrote to Bank regarding mis-use of his documents while opening of account in the name of Asad Anwar Shaikh (A/c – 8389861378) and M/s Taweza Exports (A/c 8389880630). The police complaint made in this regard is dated 21.03.2020. All the above-mentioned efforts made by Sh. Asad Anwar Shaikh is an afterthought. First, the IGST claimed on the exports has been availed by him as the Scroll dated is 26.11.2019 (checked from System) and then such efforts have been made by him to prove himself innocent.

Sh. Asad Anwar has also not provided any of the addresses of the Sectors where he has submitted his documents for job. He did not give any satisfactory reason for the submission of his PAN card to these sectors.

It appears that the exporter M/s Taweza Exports through its Proprietor had exported the impugned goods to defraud the Government by claiming Drawback and IGST. Even after a considerable lapse of time, no BRC on the export of nine Shipping Bills has been realized., thereby knowingly acted in a manner which rendered the goods liable to confiscation under Section 113(ia) and Section 113(ja) of the Customs Act, 1962. Thus, the exporter has rendered themselves liable for penalty under Section 114(iii) of the Customs Act, 1962, for their acts of omission and commission to export/ attempt to export the goods covered under 09 shipping bills.

14.1 Role of Sh. Pramod Kumar Jha, Ex-G card holder of CHA M/s Rajesh Tripathi and

CHA M/s Rajesh Tripathi: The export work of M/s Taweza Exports of the nine shipping bills was handed by CHA M/s Rajesh Tripathi (11/1554; ACWPT6271ECH002). Sh. Pramod Kumar Jha was the responsible person who brought the work of M/s Taweza Exports to CHA company

while working with them. However, he never met with the IEC holder and had accepted the export documents from third person namely Sh. Sanjay Waghmare. He had verified the KYC details online only.

The CHA M/s. Rajesh Tripathi through its employee Sh. Pramod Kumar Jha failed in carrying out the obligations mandated to be followed under the CBLR, 2018. It appears that they have violated Regulation 10 (d), 10(e), and 10 (n) of CBLR, 2018. It appears that the CHA/CB had acted in very callous manner and that by contravening the aforesaid regulations of CBLR 2018, the Customs House Agent appears to have connived with the exporter in availing the undue benefits. Further, it appears from the above that the said CHA/CB has not acted efficiently in discharge of his/ their duty, as they have contravened various provisions of CBLR, 2018 ie. 10 (d), 10(e), and 10 (n) of CBLR, 2018. Accordingly, the Customs House Agent by their acts of misconduct and for contravention of provision of the Regulations under CBLR 2018 mentioned herein above aided and abetted the said export and thereby appears to have rendered themselves for penal consequences under section 114 (iii) & 114AA of the Customs Act, 1962.

14.2 Role of Sh. Sanjay Waghmare and Sh. Sitaram Jadhav- The export work of M/s Taweza Exports was brought to the CHA M/s Rajesh Tripathi by Sh. Sitaram Jadhav and Sh. Sanjay Waghmare. They are also a part of the nexus. They have acted as an intermediary between the exporter and CHA. Their cartel has caused export vide nine shipping bills wherein IGST and Drawback have been claimed. And, after a lapse of considerable time, no BRC has been realized till date on the export of the nine shipping bills. They knowingly acted in a manner which rendered the goods liable to confiscation under Section 113(ia) and 113(ja) of the Customs Act, 1962. Thus, they have rendered themselves liable for penalty under Section 114(AA) of the Customs Act, 1962, for their acts of omission and commission to export/ attempt to export the goods covered under 09 shipping bills.

15. ISSUANCE OF SCN

The goods exported vide 9 shipping bills having FOB value of **Rs. 1,66,80,267/- (Rs. One Crore Sixty Six Lac Eighty Thousand Two Hundred Sixty Seven)** should be held liable for confiscation under section 113(ia) and 113 (ja) of the Customs Act, 1962. It is verified from the ICES system that drawback amounting to **Rs. 2,50,205/- (Rupees Two Lakhs Fifty Thousand Two Hundred Five Only)** has been sanctioned to the exporter M/s. Taweza Exports, is recoverable under Rule 17 of Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75 (2) of the Customs Act, 1962 along with applicable interest u/s 28(AA). The IGST amounting to **Rs. 30,02,445/- (Rupees Thirty Lakhs Two Thousand Four Hundred Forty-Five Only)** has been sanctioned to the exporter M/s. Taweza Exports, is recoverable under Customs Act, 1962 along with applicable interest u/s 28(AA).

16. Therefore, M/s. Taweza Exports, IEC: CPOPS4536L, having address 3rd floor, Guru Prasad, Surat Wala Compound, Kachehri Road, Zenda Bazar, Vasai Gaon, Thane,

Maharashtra-401201, were hereby required to show cause, in writing, within 30 days of the receipt of this Show Cause Notice, to the **Additional Commissioner of Customs, NS-II, Nhava Sheva**, having his office at Jawaharlal Nehru Custom House, Nhava Sheva as to why: -

- i) The goods covered under a total of 9 shipping Bills as mentioned above in Table-I having declared FOB value of **Rs. 1,66,80,267/- (Rs. One Crore Sixty-Six Lac Eighty Thousand Two Hundred Sixty-Seven)** should not be held liable for confiscation under Section 113(ia) & 113(ja) of the customs Act, 1962,
- ii) The drawback disbursed amounting to **Rs. 2,50,205/- (Rupees Two Lakhs Fifty Thousand Two Hundred Five Only)** should not be recovered alongwith applicable interest from the exporter as per 2nd Provision of Section 75 of Customs Act 1962 read with Rule 17 of Customs and Central Excise Duties Drawback Rules, 2017.
- iii) Penalty under Section 114(iii) of the Customs Act, 1962 should not be imposed on M/s. Taweza Exports,

17. M/s. Rajesh Tripathi, CHA – 11/1554, PAN- ACWPT6271ECH002) having address at G-27, Neighbourhood Shopping Complex, Plot No. 10 & 11, Sector-04, Nerul (W) -400706, was hereby required to show cause, in writing, within 30 days of the receipt of this Show Cause Notice, to the **Additional Commissioner of Customs, NS-II, Nhava Sheva**, having his office at Jawaharlal Nehru Custom House, Nhava Sheva as to why:

- i) Penalty under Section 114 (iii) of the customs Act, 1962 should not be imposed on them,

18. Sh. Asad Anwar, proprietor of M/s Taweza Exports, **Shri Pramod Jha**, *Ex-employee of M/s Taweza Exports*, **Sh Sanjay Waghmare** and **Sh. Sitaram Jadhav** were hereby required to show cause, in writing, within 30 days of the receipt of this Show Cause Notice, to the **Additional Commissioner of Customs, NS-II, Nhava Sheva**, having his office at Jawaharlal Nehru Custom House, Nhava Sheva as to why:

- (i) Penalty under Section 114 (iii) of the customs Act, 1962 should not be imposed on them,

WRITTEN SUBMISSIONS OF THE EXPORTER

24. Vide Show Cause Notice No. 1946/2023-24/AOC/CEAC/NS-II/CAC/JNCH dated 28.11.2023, the exporter M/s Taweza Exports was asked to submit its written reply within 30 days of receipt of the said notice. In this regard, Shri Asad Anwar Shaikh has submitted his written reply through email dated 03.01.2025, which has been taken on record.

In his reply, Shri Asad Anwar Shaikh has stated as under:

“With reference to your SCN No. 1946/2023-24/AOC/CEAC/NS-II/CAC/JNCH, I wish to submit that I, myself Asad Anwar Shaikh, am not involved or related to M/s Taweza Exports.

Also, as mentioned in my reply dated 21.04.2022 provided in point 3.2 of the proceedings of investigation, I have not opened any account in Central Bank of India in the name of M/s Taweza Exports. Thus, I would not be liable to revert regarding penalty imposed matter.

Further, I request you to please not consider my personal address for Taweza Exports. Any details or requirement related to the investigation will be provided / reverted personally with identity of Asad Shaikh.

In his email reply, Shri Asad Anwar Shaikh has stated that he has enclosed the following documents: Revert letter to the Bank, Complaint letter submitted to Vasai Police Station, Panchanama copy received from Customs Office, Vasai, and Visit Report (ACC, Andheri, Mumbai). However, it is observed that the above-mentioned enclosures were not found attached with the email submission dated 03.01.2025.

RECORD OF PERSONAL HEARING

25. In adherence of the Principles of Natural Justice the Exporter and other noticees was granted an opportunity to appear before the Adjudicating Authority for Personal Hearing (PH) for giving oral submissions in their defence. Accordingly, PH Memos dated 01.08.2025, 25.08.2025, 10.09.2025, 29.09.2025, 14.10.2025, 01.01.2026 were issued by the Adjudicating Authority. However, neither the Exporter nor its authorized representative honored the said PH Memos and appeared before the Adjudicating Authority for PH.

DISCUSSION AND FINDINGS

26. I have carefully gone through the SCN No. 1946/2023-24/ADC/CEAC/NS-II/CAC/JNCH dated 28.11.2023, the written reply dated 03.01.2025 submitted by the noticee and the evidences on record. As the noticee failed to appear for personal hearing despite repeated opportunities, I proceed to adjudicate the case on the basis of available records and written submissions.

27. I find that following issues are required to be decided in the instant case:

- i. Whether the goods exported vide 9 Shipping Bills having total declared FOB value of Rs. 1,66,80,267/- (Rupees One Crore Sixty Six Lakh Eighty Thousand Two Hundred Sixty Seven only) are liable to confiscation under the provisions of Section 113(ia) and Section 113(ja) of the Customs Act, 1962, or not.
- ii. Whether the drawback amounting to Rs. 2,50,205/- (Rupees Two Lakh Fifty Thousand Two Hundred Five only), sanctioned and disbursed to the exporter M/s Taweza Exports, is recoverable under Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75(2) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962, or not.
- iii. Whether the IGST refund amounting to Rs. 30,02,445/- (Rupees Thirty Lakh Two Thousand Four Hundred Forty Five only), sanctioned and disbursed to the exporter M/s

Taweza Exports, is recoverable under the provisions of the Customs Act, 1962 along with applicable interest under Section 28AA, or not.

- iv. Whether penalty is imposable on M/s Taweza Exports under the provisions of Section 114(iii) of the Customs Act, 1962, or not.
- v. Whether penalty is imposable on the Customs Broker M/s Rajesh Tripathi (CHA – Licence No. 11/1554) under the provisions of Section 114(iii) of the Customs Act, 1962, or not.
- vi. Whether penalty is imposable on Shri Asad Anwar Shaikh, Shri Pramod Jha, Shri Sanjay Waghmare and Shri Sitaram Jadhav under the provisions of Section 114(iii) of the Customs Act, 1962, or not.

27.1 Whether the goods exported vide 9 Shipping Bills having FOB value of Rs. 1,66,80,267/- are liable to confiscation under Sections 113(ia) and 113(ja) of the Customs Act, 1962 or not.

27.1.1 I find that M/s Taweza Exports filed nine shipping bills declaring total FOB value of Rs. 1,66,80,267/- and claimed drawback and IGST refund thereon. Investigation has revealed that the GSTIN and IEC of the said exporter were obtained by use of the identity documents of Shri Asad Anwar Shaikh, which he claims to have been misused, but such claim is not supported by any documentary evidence and is contradicted by the fact that the bank accounts in the name of M/s Taweza Exports were opened in his name and the export incentive amounts were credited therein.

27.1.2 It is further found that no genuine business activity was carried out at the declared address of the exporter. The Customs Broker admitted that the exporter was never personally met and that export documents and KYC documents were received through intermediaries. Further, no Bank Realisation Certificate or foreign remittance has been realised in respect of any of the nine shipping bills even after lapse of several years.

27.1.3 Although Shri Asad Anwar Shaikh, in his reply dated 03.01.2025, denied involvement with M/s Taweza Exports and opening of any bank account in its name, he failed to submit any documentary evidence in support of his claim despite stating that relevant documents were enclosed, which were not found attached. The reply being a bare denial unsupported by evidence does not rebut the investigation findings regarding non-existence of a genuine exporter and fraudulent claim of export incentives.

27.1.4 Accordingly, I hold that the goods were entered for export under claim of drawback and refund of tax on the basis of false particulars and with intent to make wrongful claims and are therefore liable to confiscation under Sections 113(ia) and 113(ja) of the Customs Act, 1962.

27.1.5 I find that, on the basis of the facts and circumstances mentioned herein above, it appears that the Exporter have knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to Shipping Bills mentioned in SCN, with an intent to violate the provisions of Custom Act by their aforesaid acts of omission and commission appears to have rendered the impugned goods liable for confiscation under Section 113 (i) & 113 (ia) of

the Customs Act, 1962. I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing the payment of the redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (i)."

27.1.6 I find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged by any of the parties in operation. Hence, I find that any goods improperly exported as provided in any sub-section of Section 113 of the Customs Act, 1962 are liable to confiscation and merely because the exporter was not caught at the time of clearance of the exported goods, can't be given differential treatment. In view of the above, I find that the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), is squarely applicable in the present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.

27.2 Whether drawback amounting to Rs. 2,50,205/- is recoverable with interest or not.

27.2.1 I find that drawback amounting to Rs. 2,50,205/- was sanctioned and disbursed to M/s Taweza Exports as verified from the ICES system. The exporter has failed to establish the genuineness of exports or realisation of export proceeds. Shri Asad Anwar Shaikh denied opening of any bank account in the name of the exporter but produced no supporting documentary evidence,

while bank records show that the accounts were opened in his name as proprietor of M/s Taweza Exports.

27.2.2 Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75(2) of the Customs Act, 1962 mandates recovery of drawback paid erroneously or fraudulently along with applicable interest. Accordingly, drawback amounting to Rs. 2,50,205/- is recoverable from M/s Taweza Exports along with interest under Section 28AA of the Customs Act, 1962.

27.3 Whether IGST refund amounting to Rs. 30,02,445/- is recoverable with interest or not.

27.3.1 I find that IGST refund amounting to Rs. 30,02,445/- was sanctioned and credited to the bank account linked with M/s Taweza Exports. The exporter entity was found to be non-genuine, export proceeds were never realised and export incentives were obtained by misrepresentation and abuse of export procedures. The denial by Shri Asad Anwar Shaikh regarding opening of the said bank account is unsupported by documentary proof, whereas bank records establish that the account was opened in his name and was used for receiving the IGST refund amount. Accordingly, the IGST refund of Rs. 30,02,445/- was erroneously and fraudulently obtained and is recoverable from M/s Taweza Exports along with interest under Section 28AA of the Customs Act, 1962.

27.4 Whether penalty is imposable on M/s Taweza Exports under Section 114(iii) of the Customs Act, 1962 or not.

27.4.1 I find that M/s Taweza Exports, in whose name nine shipping bills were filed, had obtained IEC and GST registration by use of the identity documents of Shri Asad Anwar Shaikh with his knowledge and connivance, as evidenced by opening of bank accounts in his name and receipt of export incentive amounts therein. The investigation has clearly brought out that no genuine business activity was carried out by the exporter at the declared address and that the exporter entity existed merely on paper.

27.4.2 It is further evident that M/s Taweza Exports filed the said shipping bills through the Customs Broker M/s Rajesh Tripathi by projecting itself as a genuine exporter, declared the goods for export, claimed drawback and IGST refund thereon and succeeded in obtaining the refund amount of Rs. 30,02,445/- and drawback of Rs. 2,50,205/- from the Government exchequer. However, export proceeds in respect of any of the nine shipping bills were never realised in India, as no BRC has been received even after lapse of several years. The act of filing shipping bills on the basis of false particulars, projecting a fictitious exporter, claiming export incentives without realisation of export proceeds and obtaining refund of IGST and drawback by misrepresentation of material facts clearly establishes deliberate acts of commission and omission on the part of M/s Taweza Exports, intended to defraud the Government revenue. Accordingly, I hold that M/s Taweza Exports is liable for imposition of penalty under Section 114(iii) of the Customs Act, 1962.

27.5 Whether penalty is imposable on the Customs Broker M/s Rajesh Tripathi under Section 114(iii) of the Customs Act, 1962 or not.

27.5.1 I find that the Customs Broker never personally met the exporter, accepted KYC documents through intermediaries without proper verification of the exporter's functioning at the declared address and failed to exercise due diligence in ascertaining the correctness of the particulars of the exporter, thereby facilitating filing of shipping bills by a fictitious exporter and wrongful claim of export incentives. Such conduct is contrary to the obligations prescribed under Regulation 10 of the Customs Brokers Licensing Regulations, 2018. Accordingly, M/s Rajesh Tripathi, CHA, is liable to penalty under Section 114(iii) of the Customs Act, 1962.

27.6 Whether penalty is imposable on Shri Asad Anwar Shaikh, Shri Pramod Jha, Shri Sanjay Waghmare and Shri Sitaram Jadhav under Section 114(iii) of the Customs Act, 1962 or not.

27.6.1 I find that the identity documents of Shri Asad Anwar Shaikh were used with his knowledge and consent to obtain IEC, GSTIN and to open bank accounts in the name of M/s Taweza Exports and that export incentive amounts were credited to such accounts. His complaints to the bank and police were made only after receipt of the refund and he failed to submit supporting documents with his reply or to attend multiple personal hearings. His plea of misuse of identity documents is therefore rejected as an afterthought intended to evade penal consequences.

27.6.2 I further find that Shri Pramod Jha handled the export documentation, Shri Sanjay Waghmare acted as intermediary/freight forwarder and Shri Sitaram Jadhav acted as the key link in arranging documents and filing of shipping bills. Their acts and omissions facilitated execution of fraudulent exports and wrongful claim of drawback and IGST refund.

Accordingly, Shri Asad Anwar Shaikh, Shri Pramod Jha, Shri Sanjay Waghmare and Shri Sitaram Jadhav are liable to penalty under Section 114(iii) of the Customs Act, 1962.

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

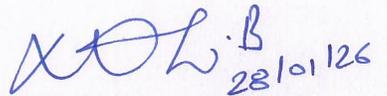
ORDER

- i. I order that the goods exported vide the aforesaid 9 Shipping Bills, having total declared FOB value of Rs. 1,66,80,267/- (Rupees One Crore Sixty Six Lakh Eighty Thousand Two Hundred Sixty Seven only), are liable to confiscation under Sections 113(ia) and 113(ja) of the Customs Act, 1962. As the said goods are not physically available for confiscation, I impose a redemption fine of **Rs. 4,00,000/- (Rupees Four Lakh only)** under Section 125 of the Customs Act, 1962, in lieu of confiscation.
- ii. I order recovery of Drawback amounting to Rs. 2,50,205/- (Rupees Two Lakh Fifty Thousand Two Hundred Five only), wrongly sanctioned and disbursed to the exporter M/s Taweza Exports, under Rule 17 of the Customs and Central Excise Duties Drawback Rules,

2017 read with Section 75(2) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

- iii. The jurisdictional CGST Authorities, CGST & Central Excise, Palghar Commissionerate, Maharashtra, are requested to initiate suitable action for recovery of inadmissible IGST refund / Input Tax Credit, if any, and to take necessary action in accordance with the provisions of the CGST Act, 2017 and the rules made thereunder against M/s Taweza Exports (IEC: CPOPS4536L), in respect of the fraudulent avilment of IGST refund as brought out in the investigation and discussed in this order.
- iv. I impose penalty of **Rs. 3,00,000/- (Rupees Three Lakh only)** on the Exporter, M/s. Taweza Exports (IEC No. **CPOPS4536L**) u/s. 114 (iii) of the Customs Act, 1962.
- v. I impose penalty of **Rs. 1,00,000/- (Rupees (One Lakh only))** on **M/s Rajesh Tripathi CHA, (11/1554), PAN- ACWPT6271ECH002** u/s. 114(iii) of the Customs Act, 1962.
- vi. I impose penalty of **Rs. 2,00,000 /- (Rupees Two Lakh only)** on **Sh. Asad Anwar** Proprietor of M/s. Taweza Exports (IEC No. **CPOPS4536L**) u/s. 114(iii) of the Customs Act, 1962.
- vii. I impose penalty of **Rs. 1,00,000/- (Rupees (One Lakh only))** on **Sh. Sanjay Waghmare** u/s. 114(iii) of the Customs Act, 1962.
- viii. I impose penalty of **Rs. 1,00,000/- (Rupees (One Lakh only))** on **Sh. Sitaram Jadhav** of u/s. 114(iii) of the Customs Act, 1962.
- ix. I impose penalty of **Rs. 1,00,000/- (Rupees (One Lakh only))** on **Sh. Pramod Jha** of u/s. 114(iii) of the Customs Act, 1962.

29. 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 the Republic of India.


(Raghu Kiran B.)

Commissioner of Customs(In-situ),
CEAC (NS-II), JNCH.

To,

- i) M/s. Taweza Exports,
IEC: CPOPS4536L,
3rd floor, Guru Prasad, Surat Wala Compound,
Kachehri Road, Zenda Bazar, Vasai Gaon,
Thane, Maharashtra-401201.
- ii) M/s Rajesh Tripathi, CHA, (11/1554), PAN- ACWPT6271ECH002
G-27, Neighbourhood Shopping Complex,
Plot No. 10 & 11, Sector-04, Nerul (W) -400706,

- iii) Sh. Pramod Kumar Jha, Ex-employee of M/s Rajesh Tripathi CHA (11/1554),
A-10, Flat No.-205, Sector-18, Nerul-18, Nerul (W), Navi Mumbai-400706.
- iv) Sh. Sanjay Waghmare,
30/2034, Abhyudaya Nagar, G D Ambekar Marg,
Near Sambhaji Mandir Hall, Kalachowki, Mumbai-400033.
- v) Sh. Sitaram Jadhav, Through Notice Board.

Copy to:

1. The Commissioner of Customs, NS-II, JNCH, Nhava Sheva.
2. The Dy. Commissioner of Customs, CRAC, JNCH, Nhava Sheva.
3. The Dy. Commissioner of Customs, CRRC, JNCH, Nhava Sheva.
4. The Dy. Commissioner of Customs, Centralized Adjudication Cell (CAC) NS-V, JNCH,
Nhava Sheva.
5. The Dy./Asstt. Commissioner of Customs, Drawback Section, JNCH, Nhava Sheva..
6. The Dy. Commissioner of Customs, EDI, JNCH, Nhava Sheva.
7. CHS, JNCH for display on Notice Board.
8. Office copy.
9. Office of the Assistant Commissioner of CGST – Division I (Range 1), 1st Floor, Khodiyar
Bhavan, Manikpur Road, Vasai (West), District Palghar, Maharashtra – 401202.


(Rajesh Kumar B.)
Commissioner of Customs (In-charge),
CEAC (NS-II), JNCH