

	<p><b>OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-I</b>  सीमा-शुल्क आयुक्त का कार्यालय, एनएस-1  <b>CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU  CUSTOM HOUSE,</b>  केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा-शुल्क भवन,  <b>NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA</b>  <b>400707</b>  न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707</p>
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**Date of Order:** 12.01.2026  
आदेश की तिथि : 12.01.2026

**Date of Issue:** 12.01.2026  
जारी किए जाने की तिथि: 12.01.2026

**DIN: 20260178NW0000666AB2**

**F. No. S/10-42/2025-26/Commr./NS-I/CAC/JNCH [S/6-Gen-8582/2022-23/ Bond/JNCH (Part-I)]**  
**SCN No. 1477/2024-25/Commr./Bond/NS-I/CAC/JNCH dated 14.12.2024**

**Passed by: Shri Yashodhan Wanage**

पारितकर्ता: श्री यशोधन वनगे

**Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva**

प्रधान आयुक्त, सीमाशुल्क (एनएस-1), जेएनसीएच, न्हावाशेवा

**Order No.: 354/2025-26 /Pr. Commr./NS-I /CAC /JNCH**

आदेश सं.: 354/2025-26/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच

**Name of Party/Noticee:** Shri Prasad Kurhade, Shri Kirty Raj Singh, Shri Karan Singh alias Pankaj, Shri Vinay Mishra, M/s Highland International, M/s Alpha Industries, M/s Blue I Store, Shri Sanjay Vithoba Sable, Shri Allwyn Saldanha, Shri Uday Sharma, Shri Sagar Bangar, Peejaycee and Co., M/s OSLG Overseas, & Shri Swaroop Shridhar Shetty

**पक्षकार (पार्टी)/ नोटिसी का नाम:** श्री प्रसाद कुरहाड़े, श्री कीर्ति राज सिंह, श्री करण सिंह उर्फ पंकज, श्री विनय मिश्रा, मेसर्स हाईलैंड इंटरनेशनल, मेसर्स अल्फा इंडस्ट्रीज, मेसर्स ब्लू आई स्टोर, श्री संजय विठोबा साबले, श्री ऑल्विन सलदान्हा, श्री उदय शर्मा, श्री सागर बांगर, पीजेसी एंड कंपनी, मेसर्स ओएसजीएल ओवरसीज, और श्री स्वरूप श्रीधर शेट्टी

**ORDER-IN-ORIGINAL**

मूलआदेश

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

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

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

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमा-शुल्क अधिनियम 1962 की धारा 129(ए) के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्याय पीठ (वेस्टरीजनलबेंच), ३४, पी. डी. मेलो रोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

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

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

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

फार्म - फार्मन. सी ए ३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

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

समय सीमा- इस आदेश की सूचना की तारीख से ३ महीने के भीतर

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

फीस- (क) (एक हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये या उससे कम है।

(b) Rs. Five Thousand - Where amount of duty & Page 2 of 159

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 ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है।

(c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.

(ग) दस हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५० लाख रुपये से अधिक है।

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

भुगतान की रीति— क्रॉस बैंकड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सीईएसटीएटी, मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

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

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित तमाम लों के लिए, सीमा-शुल्क अधिनियम, १९९२, सीमा-शुल्क (अपील) नियम, १९८२ सीमा-शुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए।

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

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्धृतशास्ति का ७.५% जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमा-शुल्क अधिनियम, १९९२ की धारा १२८ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

## **1. BRIEF FACTS OF THE CASE**

- 1.1 Intelligence was received by the Directorate of Revenue Intelligence, Mumbai Zonal Unit, that the goods of some of the importers that were allowed for warehousing in Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) were being clandestinely removed from the said warehouse and illegally diverted to the local market by a syndicate, to evade the payment of Customs Duty and to circumvent the restrictions imposed under the Customs Act, 1962 read with Public Warehouse Licensing Regulations, 2016.
- 1.2 The syndicate imported the goods utilizing multiple Import-Export codes (IECs) through various ports which were warehoused in the said warehouse either under the provisions of Section 49 of the Customs Act, 1962 or by export from SEZ under Bond transfer. After the movement of the goods from CFS/ SEZ to the warehouse, the syndicate members, with the help of the warehouse manager and other warehouse staff, clandestinely removed the warehoused goods and, then, replaced the same with goods having negligible value. By doing this clandestine removal of the goods, the syndicate members had illegally diverted the goods to the local market to evade the payment of Customs duty and to circumvent the restrictions imposed under the Customs Act, 1962 read with Public Warehouse Licensing Regulations, 2016.

### **SCOPE OF INVESTIGATION**

- 1.3 The subject Show Cause Notice is limited to the clandestine removal of goods from the warehouse as detailed below:-

**Table 1: Details of the Public Bonded Warehouse under investigation**

Name of Warehouse	Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168)
Address	Building No. A1, (Gala No. 5 & 4B), Ashra Warehousing Park, Mumbai-Goa Road, Kushivali Shirdon Village, Taluka Panvel, Raigad-410221
Warehouse type	Customs Public Bonded Warehouse
Period	November 2022-December 2022
Clandestinely removed goods under investigation	Dried Areca Nuts, Black Pepper
Warehouse run by	M/s Allsan Shipping and Logistics Pvt. Ltd. (License holder)
Directors of Allsan Shipping and Logistics Pvt. Ltd.	Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha

Warehouse Manager	Shri Vinay Mishra, Shri Anil Ghadge, Shri Sagar Bangar
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- 1.4 The said Allsan Shipping and Logistics Pvt. Ltd. warehouse was managed by M/s Allsan Shipping and Logistics Pvt. Ltd. having an office at A350, Balaji Bhavan, Sector 11, CBD Belapur, Navi Mumbai-400614. The directors of the company are Shri Allwyn Saldanha and Shri Sanjay Vithoba Sable. Both of them are active directors equally controlling the company, each having 50% shares. M/s Allsan Shipping and Logistics Pvt. Ltd is having Custom Bonded Warehouse which is used to keep and store the dutiable and non-dutiable imported goods.
- 1.5 Investigation revealed that the clandestinely removed goods were imported by using the IECs of the below-mentioned importers/SEZ entity/SEZ clients. After the importation, said goods were warehoused at Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168), either by obtaining permission for the warehouse from Investigation Agency, JNCH, Nhava Sheva under Section 49 or were transferred from Kandla SEZ to Public Bonded Warehouse under Section 46 (13) of SEZ Rules, 2006. Based on said intelligence, examination and panchnama proceedings were conducted at the Allsan warehouse and after concluding the panchnama proceedings it was found that the goods related to some of the importers were clandestinely removed from Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168). The details of the said goods are as under: -

**Table 2: Details of the Bills of Entry under investigation:**

Sr. No.	Name of the Importer	B/E No./ Date	Desc. of goods in B/E	Quantity in Bill of Entry (In Kg.)	Declared Ass. Value as per B/E	Declared duty as per B/E (B CD+SWS+IGST)	Per Kg declared value in BE	Container Hold Agency/ Commissionerate	Pre. status as per examination panchnama
1	M/s Highland International	3344092/ 17.11.2022	Dried Areca Nuts	108000	67726406	91566101	627.10	CIU, JNCH	Major portion of the goods removed
2	M/s Highland International	3343242/ 17.11.2022	Black Pepper	55520	29358685	25204432	528.79	CIU, JNCH	Major portion of the goods removed
3	M/s Alpha Industries	2012100/ 18.10.2022	Black Pepper	84000	41554800	35674796	494.7	KASEZ goods	Not found
4	M/s Alpha Industries	2012099/ 18.10.2022	Black Pepper	44000	21766800	18686798	494.7	KASEZ goods	Not found

As per the DGFT import Policy:

- As per the DGFT Notification 20/2015-20 dated 25.07.2018 Import of Areca/Betel nuts is free if

CIF value is Rs. 251/- and above per kg. The import price of the subject goods imported vide BE No. 3344092/ 17.11.2022 is 627.10 Rs./Kg which is above the minimum import price of 251/- per kg. Hence, the goods do not fall under the category of prohibited goods and the same are allowed for import as the price is more than the minimum import price.

2. As per the DGFT Notification 21/2015-20 dated 25.07.2018 for 'Pepper' wherein, it is mentioned that import is free if CIF value of the goods is more than Rs. 500 and above per kg. The goods imported vide B/E No. 3343242/ 17.11.2022 are imported @ Rs. 528.79 and satisfying the minimum import price condition. Hence, the said goods are freely importable and do not fall under the category of prohibited goods.
3. Further, the per kg declared value for the goods imported at Kandla SEZ vide BE No. 2012100/ 18.10.2022 and 2012099/ 18.10.2022, comes to around 494.7 Rs./Kg which is lower than the MIP for 'Pepper' notified vide DGFT Notification 21/2015-20 dated 25.07.2018, however as per the said Notification, no MIP is applicable for Black pepper imported through SEZ Units, hence the goods do not fall under the prohibited goods as the same were imported through Kandla SEZ.

**Table 3: Details of the importers, SEZ Client and SEZ Entity under investigation**

Sr. No.	Name of the Importer	IEC	IEC used as	Port of import
1	M/s Highland International*	AAMFH8931M	Importer	JNCH, Mumbai Customs Zone-II
2	M/s Alpha Industries	ABYFA3809L	Importer	Kandla SEZ
3	M/s Blue I Store	AVTPB0390E	SEZ Client	Kandla SEZ
4	M/s OSGL Overseas	AAHFO4006B	SEZ Entity	Kandla SEZ

\*The imports in relation to M/s Highland International were initially investigated by CIU, JNCH. Afterwards, CIU, JNCH allowed warehousing of the said goods under Section 49 of the Customs Act, 1962. Then the said goods were moved into Allsan Shipping and Logistics Warehouse (NSA 1U 168). The Bills of Entry were filed by M/s Highland International, but no duty was paid at the time of warehousing.

### **EXAMINATION AND SEARCH**

- 1.6 Acting on the said intelligence, inspection/ examination proceedings were carried out under panchnama at Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) starting from the date 22.12.2022 to 03.01.2023 (RUD 1). During the panchnama proceedings, it was noticed that the goods have been outrightly removed from the said warehouse in violation of the licensing conditions imposed while providing the

license for a Public bonded warehouse. It was further noticed that replacement goods having negligible commercial value were placed in place of the said goods. Other than the panchnama proceedings at Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) from 22.12.2022 to 03.01.2023, various other searches/ examinations and panchnamas related to the investigation were drawn and the details of the same are as below:

**Table 4: Details of the various panchnama drawn during the investigation**

S. No.	Address of the Premises searched	Date of Panchanama	Remarks
1	Office premises of M/s Allsan Logistics and Shipping Private Limited at Office No. A-350, 3rd Floor, Balaji Bhavan, Plot No. 42A, Sector-11, C.B.D. Belapur-400614	04.01.2023	Two laptops, 1 digital video recorder and a few other documents related to M/s Allsan Logistics and Shipping Private Limited were resumed under the panchnama (RUD 2)
2	Room No. 6, Building No. 16, Trimurti Apartments, Sector 15, Nerul East, Navi Mumbai	06.01.2023	Nothing incriminating was found (RUD 3)
3	Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168), Building No. A1, (Gala No. 5 & 4B), Ashra Warehousing Park, Mumbai-Goa Road, Kushivali Shiridon Village, Taluka Panvel, Raigad-410221	07.06.2023- 08.06.2023	De-sealed the Allsan warehouse under the proceedings panchnama (RUD 4)
4	Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168), Building No. A1, (Gala No. 5 & 4B), Ashra Warehousing Park, Mumbai-Goa Road, Kushivali Shiridon Village, Taluka Panvel, Raigad-410221	13.07.2023- 14.07.2023	Regarding segregation of the original goods available in Allsan Warehouse and seizure of the same. (RUD 5)

### PANCHNAMA PROCEEDINGS

#### **Findings of the Panchnama dated 22.12.2022 to 03.01.2023 Proceedings at Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) Warehouse:-**

- 1.7 During the panchnama proceedings starting from 22.12.2022 to 03.01.2023, it was seen that, on 22.12.2022, Areca nuts in 11 containers had been offloaded and stored in Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) warehouse. However, the documents related to the Areca Nuts were not available with the warehouse manager, Shri Sagar Bangar, at that time. On inspection of goods, it was found that all the goods warehoused in the said warehouse were mixed and it was not possible to ascertain which goods belonged to whom. As per the normal procedure, each lot available in the warehouse should be properly stacked and should contain markings for identification of different lots as per different Bills of entry or any other relevant detail, but the same was not followed. The segregation of the goods on the basis of colour of bags and goods found inside the bags was done during the panchnama proceedings dated 22.12.2022 to 03.01.2023. During the panchnama proceedings, it was also observed that the Areca nuts stored in the said warehouse were packed in brown-coloured jute bags and white-coloured gunny

bags and the goods Black Pepper were packed in the white-coloured gunny bags. Additionally, there were white-colored gunny bags which contained greyish-white powder and brown-colored jute bags which contained brown- coloured powder.

After completion of the segregation of the goods stored in the warehouse, the following goods were found stored in the said warehouse:-

Sr. No.	Appearance of the bags	Goods Description	Total no. of bags
1	Brown-coloured jute bags	Areca Nuts	3817
2	White Coloured gunny bags	Areca Nuts	2127
3	White-coloured gunny bags	Black Pepper	774
4	White-coloured gunny bags	Greyish White Powder	1101
5	Brown Coloured jute bags	Brown coloured powder	1073

- 1.8 Representative samples, in duplicate, of approximately 40 gm each of the brown-colored powder and the greyish-white powder found stored in the bonded warehouse during the panchnama proceedings, were drawn. Further, during the panchnama proceedings, it was found that the latest records were not provided by the warehouse and no proper data was found to be maintained in the said warehouse.
- 1.9 During the investigation it was found that several consignments of Areca nuts /Black pepper had been received in the M/s Allsan Shipping and Logistics Pvt. Ltd. (NSAIU 168) and the said goods should have been present in the said warehouse but the same appeared to be removed and replaced. Since several consignments of dried Areca nuts/Black Pepper were not found available in the said warehouse, it was ascertained that the said consignments that were received in the said warehouse were taken out of the warehouse illegally as no re-export/ ex-bond related documents were found during the course of the investigation. The goods as mentioned in the above table appeared to have been placed inside the warehouse apparently to make an appearance that the originally imported goods were still available in the warehouse and the same was done to hoodwink the customs authorities.
- 1.10 It was revealed during the panchnama proceedings that the goods which were Areca nuts/ Black pepper pertaining to M/s Highland International and M/s Alpha Industries and other importers were diverted to Allsan Shipping and Logistics Pvt. Ltd. and were clandestinely removed from the said warehouse and replaced with greyish white powder and brown colored powder.
- 1.11 The Panchnama proceedings which started on 22.12.2022, were completed on 03.01.2023. After completion of the said panchnama proceedings, the following replaced goods having negligible commercial value were seized vide Seizure Memo dated 03.01.2023 **(RUD 6)**.

**Table 5: Details of the Goods seized vide panchnama dated 03.01.2023:**

<b>Sr. No.</b>	<b>Goods Description</b>	<b>Appearance of the bags in which the goods are stuffed</b>	<b>Total No. of bags</b>
1.	Brown Colored Powder	Brown Colored Jute bags	1073
2.	Greyish White Powder	White Colored gunny bags	1101

On the basis of facts and evidence gathered during the enquiry, it was ascertained that the brown colored powder/ greyish white powder contained sand/ dust/ waste powder in bags and had no commercial value.

- 1.12 Further, during the panchnama proceedings officers from Bond Section, JNCH present in the warehouse produced a copy of the monthly statement having data up to 31.10.2022 which was submitted by Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) and no data was available for the dates after October 2022 to till 22.12.2022. However, the data available in the monthly statement reflected few entries only and further documents related to the consignments present in the warehouse were not readily available.

**Findings of the Panchnama Proceedings dated 13.07.2023 to 14.07.2023 at Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) Warehouse: -**

- 1.13 During the investigation, it was revealed that goods of M/s Highland International (dried Areca Nuts in split form and Black pepper), which were not replaced by the syndicate members and still available in Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) were also likely to be illegally removed from the warehouse. Accordingly, for the segregation of the goods of the importers under investigation which were not clandestinely removed and were still available in the warehouse, Panchnama proceedings were conducted from 13.07.2024 to 14.07.2024 at Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) Warehouse. During the panchnama proceedings it was observed that the goods belonging to M/s Highland International were having (GSM) marks stamped on the brown color jute bags. During the course of Panchanama proceedings, two persons Shri Arun Kumar Palakurthy, Superintendent of Customs, Bond Section, JNCH and Shri Ashish Choudhary, Inspector, Marine and Preventive Wing (M&P), Mumbai came to the said warehouse to join the panchanama proceedings. Then the labour started segregating the Dried Areca nuts in split form having marking GSM and the brown color jute bags having marking GSM were segregated and placed as two different lots. First lot was containing 458 number of brown color jute bags and the second lot was found to contain 467 number of brown color jute bags making a total of 925 number of jute bags. The jute bags having GSM stamped on it were randomly weighed and the weight of each jute bag weighed was found to be around 60 Kgs. The weight of each jute bag was tallied with the panchanama proceedings dated 22.12.2022 to 03.01.2023 for goods covered under Bill of Entry No. 3344092 dated 17.11.2022 and the goods appeared to be of Highland International. The total weight of goods Areca Nuts belonging to M/s Highland International available in the warehouse was found to be  $925 \times 60 = 55,500$  Kgs.

1.14 Thereafter, bags of black pepper available in the warehouse were segregated and a total 774 bags in 3 different lots (336+280+158) were found. The weight of each bag was done and weight of bags of lots of 336 and 280 bags was 25 Kgs each and weight of bags of lot of 158 bags was 50 kg each. The weight of each bag containing black pepper was tallied with the panchanama dated 22.12.2022 to 03.01.2023 for goods Black Pepper, covered under Bill of Entry No.- 3343242 dated 17.11.2022, and the goods appeared to be of Highland International. The total weight of Black Pepper bags belonging to M/s Highland International available in the warehouse was found to be  $336 \times 25 + 280 \times 25 + 158 \times 50 = 23,300$  Kgs. The remaining goods available in the warehouse were 5019 bags of brown and white color bags containing Areca Nuts and it was informed by the director of Allsan Warehouse Shri Sanjay Vithoba Sable that the said 5019 bags of Areca Nuts belonged to the importer, M/s Future First International. The said importer is not being investigated by DRI.

Accordingly, the goods related to M/s Highland International available in the Allsan Warehouse were seized vide Seizure Memo dated 14.07.2023 (RUD 7). The details of the seized goods are as below:-

**Table 6: Details of the seizure of original goods which were not clandestinely removed and available at Allsan Warehouse as on 14.07.2023**

Sr. No.	Name of the importer	Description of Goods	Total number of bags	Total Weight of bags (In Kgs)	Bill of Entry No. and date	Value of the goods remaining in warehouse (Rs.)
1.	M/s Highland International	Dried Areca Nuts in split form	925	55,500	3344092 dated 17.11.2022	3,48,03,848/-
2.	M/s Highland International	Black Pepper	774	23,300	3343242 dated 17.11.2022	1,23,20,918/-

1.15 Further, it was revealed in the month of August 2023 that some part of the said remaining goods, which were seized vide Seizure Memo dated 14.07.2023, were also clandestinely removed by the unknown persons. The said investigation is currently being done by Bond Section, JNCH and CIU, JNCH. The details of the remaining goods of M/s Highland International i.e. Dried Areca Nuts in split form and Black Pepper, were recorded under panchnama dated 14.08.2023-18.08.2023, and shown below in Table 7. Subsequently, it was also learnt that an FIR in relation to the theft of goods from Allsan Warehouse in the month of August 2023, was registered at Panvel City Station, vide FIR No. 95/2024 dated 27.02.2024 and the said removal of the goods in the month of August 2023, is being investigated by Bond Section, JNCH and CIU, JNCH. Panvel City Police Station is also investigating the said removal as theft from the warehouse in the light of FIR registered.

**Table 7: Details of the original goods which were not clandestinely removed and were still available at Allsan Warehouse as on 18.08.2023 :**

Sr. No.	Name of the importer	Description of Goods	Total number of bags	Total Weight of bags (In Kgs)	Bill of Entry No. and date	Value of the remaining goods as on 18.08.2023 (Rs.)
1.	M/s Highland International	Dried Areca Nuts in split form	925	55,500	3344092 dated 17.11.2022	3,48,03,848
2	M/s Highland International	Black Pepper	89	2275	3343242 dated 17.11.2022	12,03,008
	<b>Total</b>					<b>3,60,06,856</b>

- 1.16 A Show Cause Notice in respect of the seizure of the goods was issued vide F. No. S/6-Gen-8582/2022-23/Bond/JNCH/Part I dated 29.12.2023, wherein Shri Prasad Kurhade, M/s Highland International (IEC-AAMFH8931M), Shri Sanjay Vithoba Sable (Director of M/s Allsan Shipping and Logistics Pvt. Ltd) and Shri Allwyn Saldanha (Director of M/s Allsan Shipping and Logistics Pvt. Ltd) were asked to show cause for of their role in clandestine removal of the goods and for confiscation of the said goods having value of Rs. 3,60,06,856 /-.

**DETAILS OF THE GOODS IMPORTED THROUGH KANDLA SEZ AND WAREHOUSING OF THE SAME AT ALLSAN WAREHOUSE:**

- 1.17 By going through the data received from Kandla SEZ, it was observed that the syndicate members used an SEZ entity M/s OSGL Overseas for the purpose of bringing the said goods from outside India into Kandla SEZ on behalf of their client. Subsequently, M/s OSGL Overseas deemed exported the said goods to the local buyer (which will be called an importer as per SEZ regulations) and then the said importer transferred the goods from SEZ to Public Bonded Warehouse Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) under Section 46(13) of SEZ Rules, 2006. The details of the said import at Kandla SEZ and subsequent sale to Importer and then transfer of goods from SEZ to Public Bonded Warehouse under Section 46(13) of SEZ Rules, 2006 at Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) are as below:-

**Table 8 : Details of the SEZ Bills of Entry by which the goods exported from Kandla SEZ to Public Bonded Warehouse under Section 46(13) of SEZ Rules, 2006 from Kandla SEZ to Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168)**

Sr. No.	SEZ Entity	SEZ Client	BE at KASEZ	Name of the Importer	B/E from KASEZ to Nhava Sheva	Description of goods in B/E	Quantity in Bill of Entry (In Kg.)	Declared Assessable Value in B/E (Rs)	Duty amount in Bill of Entry (Rs)
1	OSGL Overseas (IEC-AAHFO4006 B)	Blue I Store IEC-AVTPB0390 E	1. 1014738/19.09.2022 2. 1015620/	M/s Alpha Industries	2012100/18.10.2022	Black Pepper	84000	41554800	356747

			04.10.2022						
2	OSGL Overseas (IEC-AAHFO4006 B)	Blue I Store IEC-AVTPB0390 E	7008752/21.10.2022	M/s Alpha Industries	2012099/18.10.2022	Black Pepper	44000	21766800	186867

### STATEMENTS

1.18 Various statements from the syndicate members and other related persons were recorded during the investigation. The statements of various persons recorded are as below:-

**Table 9: Statements of various persons recorded during the investigation:**

Sr. No.	Name of the person	Role	Statement date
1.	Shri Sanjay Vithoba Sable	Director of M/s Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168)	05/06.01.2023, 08.01.2023, 21.02.2023, 10.05.2023, 23.05.2023, 18.07.2023, 10.08.2023 and 27.12.2023
2.	Shri Allwyn Saldanha	Director of M/s Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168)	05/06.01.2023, 07.01.2023, 01.12.2023
3.	Shri Anil Sudam Ghadge	Warehouse manager prior to Shri Vinay Mishra	06.01.2023
4.	Shri Sagar Bangar	Warehouse manager appointed after Vinay Mishra	10.02.2023, 23.05.2023, 11.07.2023
5.	Shri Prasad Kurhade	Kingpin of the syndicate who arranged warehouse and appointed his accomplice as warehouse manager	15.05.2023, 22.07.2024, 26.07.2024, 25.09.2024, 27.09.2024
6.	Shri Uday Sharma	He arranged customs clearances and documents filing of the goods of M/s Highland International which were to be removed	02/03.02.2023, 06.02.2023 and 13.03.2023
7.	Shri Musha Dawood Kumbhar	CHA who filed the Bill of Entry related to M/s Highland International for the goods to be removed.	30.01.2023
8.	Ghanshyam Walia	Transporter who transported the goods from Kandla to Mumbai	13.09.2023
9.	Rakesh Yadav	Dummy partner in M/s Alpha Industries	15.11.2023
10.	Anil Kumar	Transporter who transported the goods from Kandla to Mumbai	23.11.2023
11.	Akash Bhojne	Inactive Partner of M/s OSGL Overseas, which was the SEZ entity at KASEZ	02.12.2023
12.	Kirty Raj Singh	Arranged CHA for import of M/s Highland International and helped Prasad Kurhade for removal of the goods.	18.10.2024

1.19 Further, the statement of the following persons could not be recorded as they are either absconding /untraceable or not responding to Summons issued to them. The details of those persons are as below:-

**Table 10: Details of the persons who did not turn up for the statement before DRI, Nhava Sheva**

Sr. No.	Name of the person	Role	No. of Summons issued	Final Status
1	Karan Singh alias Pankaj	He was the person who was in direct touch with Shri Prasad Kurhade. He used to come along with the trucks/ containers to take the delivery from the warehouse.	3 (17.10.2023, 25.10.2023, 01.11.2023)	Not turned up for statement
2	Shri Vinay Mishra	Warehouse manager of Allsan Warehouse	3 (18.10.2023, 25.10.2023, 01.11.2023)	Not turned Up for statement
3	Shri Swaroop Shridhar Shetty	Active Partner of M/s OSGL Overseas, which was the SEZ entity at KASEZ	3 (19.10.2023, 25.10.2023, 01.11.2023)	Not turned Up for statement
4.	OSGL Overseas	SEZ Entity who imported the goods at Kandla SEZ	3 (17.10.2023, 25.1.2023, 01.11.2023)	Not turned Up for statement
5.	Highland International	Importer of the goods clandestinely removed from Allsan warehouse	3 (30.09.2024, 08.10.2024, 11.10.2024)	Not turned Up for statement
6.	Alpha Industries	Importer of the goods clandestinely removed from Allsan Warehouse	3 (30.09.2024, 08.10.2024, 11.10.2024)	Not turned Up for statement
7.	Shambhu Sharan	Partner of M/s Highland International	3 (07.02.2024, 16.02.2024, 23.02.2024)	Not turned Up for statement
8.	Vijay Kumar	Partner of M/s Highland International	3 (07.02.2024, 16.02.2024, 23.02.2024)	Not turned Up for statement
9.	Rajat Kumar	Partner of M/s Alpha Industries	3 (24.02.2023, 24.10.2024, 29.10.2024)	Not turned Up for statement
10.	Delhi Baroda Road Carrier Pvt. Ltd.	Transporter who transported the goods from Kandla SEZ to Allsan Warehouse	3 (05.09.2023, 10.11.2023, 23.11.2023)	Not turned Up for statement
11.	Amit Kumar	Transporter who transported the goods from Kandla	3	Not turned

	Pandey	SEZ to Allsan Warehouse	(18.09.2023, 10.11.2023, 23.11.2023)	Up for statement
12.	Bhiyaram Chaudhary	Transporter who transported the goods from Kandla SEZ to Allsan Warehouse	3 (17.07.2023, 05.09.2023, 23.11.2023)	Not turned Up for statement
13.	Swami Azranand Tpt Co	Transporter who transported the goods from Kandla SEZ to Allsan Warehouse	3 (18.09.2023, 10.11.2023, 23.11.2023)	Not turned Up for statement

The brief of the statements mentioned in Table 09 above is explained here in under for a better understanding of the issue.

**1.20 Statement dated 05/06.01.2023 of Shri Sanjay Vithoba Sable (RUD 8), wherein he, inter-alia, stated that:-**

- i. He was one of the directors of M/s Allsan Shipping and Logistics Pvt. Ltd who managed the Allsan Shipping and Logistics Pvt. Ltd. Warehouse. The license for the said warehouse was issued in the month of October 2022.
- ii. As per the conditions mentioned in the said license which, inter alia, read as that ‘*The license holder shall be strictly responsible for the safe custody of the bonded goods and for the due observation of the law*’ and on being asked to provide his comments on the same, he stated that he was strictly liable for the said pilferage/ diversion of the goods from his warehouse and thereby grossly violating licensing conditions.
- iii. On being asked, he stated that the entries were missing in the said register as the same had not been updated by them.
- iv. Further, the CCTVs fitted in the said warehouse were not functional and he stated that they were not maintaining any record of trucks used for transporting the goods in and out of the said warehouse. He further stated that they were not maintaining their records properly and the records were also not being maintained digitally as per the licensing conditions and they had failed to adhere to the licensing conditions.
- v. They had issued around 12 space certificate NOCs till date and they had not maintained any official record for all the said NOCs.
- vi. On being asked to produce the documents related to the importers M/s Highland International and M/s Alpha Industries, whose goods were allowed to be warehoused in the said Allsan Shipping and

Logistics Pvt. Ltd. warehouse, he stated that the consignments of Dried Areca Nuts and Black Pepper related to M/s Highland International were in-bonded in Allsan Shipping Pvt. Ltd. in December 2022. Further, consignments of Black Pepper related to M/s Alpha Industries were in-bonded in Allsan Shipping Pvt. Ltd. in the month of November 2022. The details of the said warehoused goods were as under:

Sr. No.	Name of the Importer	Bill of Entry No.	Bill of Entry date	Description of goods in Bill of Entry	Quantity in Bill of Entry (In Kg.)
1	M/s Highland International	3344092	17.11.2022	Dried Areca Nuts	108000
2	M/s Highland International	3343242	17.11.2022	Black Pepper	55520
3	M/s Alpha Industries	2012100	18.10.2022	Black Pepper	84000
4	M/s Alpha Industries	2012099	18.10.2022	Black Pepper	44000

vii. He further stated that the said goods were warehoused on the directions of one Shri Prasad Kurhade and that Shri Prasad Kurhade had introduced him to one Shri Pankaj and informed that Shri Pankaj would coordinate with him in relation to the consignments of the above-mentioned importers.

viii. He further stated that the consignments related to the M/s Alpha Industries were imported in Kandla SEZ and afterwards re-warehoused in Allsan Shipping and Logistics Pvt. Ltd. warehouse and the consignments related to the M/s Highland International were imported at Nhava Sheva and in-bonded in their warehouse.

ix. He stated that Shri Anil Ghadge was the warehouse keeper of Allsan Shipping Pvt. Ltd. from October 2022 to 16.11.2022 and afterwards Shri Vinay Mishra was appointed as the warehouse keeper. The reference of Shri Vinay Mishra was given by Prasad Kurhade only. Further, Shri Sagar Bangar was to be appointed as the warehouse keeper of the said warehouse as Vinay Mishra had decided to resign recently and even Shri Sagar Bangar had started to work in the said warehouse.

x. He further stated that all the goods i.e. Black Pepper, of importer M/s Alpha Industries and part shipment of goods Dried Areca Nuts of Importer, M/s Highland International might have been pilfered/diverted into the local market by Shri Prasad Kurhade with the help of his (Prasad) contact, Shri Pankaj and their warehouse keeper, Shri Vinay Mishra. Further, Shri Prasad Kurhade contacted him regarding the goods of the said importers and afterwards, Pankaj used to coordinate with him on behalf of Prasad Kurhade in relation to the consignments related to the above-mentioned importers. He was told by Prasad Kurhade that Pankaj would coordinate on his (Prasad) behalf.

- xi. Further, no goods of the M/s Alpha Industries and M/s Highland International had been re-exported from Allsan Shipping Pvt. Ltd. He also stated that even no process of doing the re-export of the goods had been initiated.
- xii. On being asked about the consignment of goods appearing to be brown colored powder stuffed in gunny bags, he stated that the said goods were placed as replacement cargo in place of the originally imported cargo as the originally imported cargo was diverted into the local market for sale. On being asked about the greyish white powder found in their warehouse, he stated that he didn't have any records regarding the in-bond of the said white powder in the warehouse.
- xiii. He stated that he didn't know where the pilfered/diverted goods were taken and the same was known to Shri Prasad Kurhade only.

**1.21 Statement dated 08.01.2023 of Shri Sanjay Vithoba Sable (RUD 9), wherein he, inter-alia, stated that:-**

- i. On being asked about keeping records of stocks in and out of the warehouse, he stated that the said records were not being properly maintained in their warehouse.
- ii. On being asked about the reason for not entering the details of the consignments related to M/s Alpha Industries and M/s Highland International in the said register, he stated that the same was told to be as general cargo and he instructed Anil Ghadge not to enter the said details.
- iii. Shri Pankaj told him that the consignment of black pepper would be brought to the warehouse for storage as it was a matter of 7 days only since it was urgently required for himself and would be taken back by him. He stated that as per rules, general cargo should not be allowed to be warehoused.
- iv. Further, he stated that a space certificate was issued for Areca Nuts but the same did not arrive in the warehouse.
- v. On being asked about the omission of entries of space certificates in the warehouse, he accepted that the records were not maintained properly as per the rules. He said that the Importer/Customs broker liaises with them for the issuance of the space certificate. The work of allowance of space by the Bond officer in charge was handled by the Customs Broker.
- vi. He further stated that it was either Shri Prasad Kurhade or Shri Pankaj who used to come to collect space certificates from their office. He never met the original importer of the goods and used to coordinate with Shri Prasad Kurhade and Shri Pankaj.

vii. On being asked about the last MTR submitted to the Bond Section, he stated that the last MTR submitted in the Bond Section was for the month of October and MTRs for the months of November and December were yet to be filed.

**1.22 Statement dated 10.05.2023 of Shri Sanjay Vithoba Sable (RUD 10), wherein he, inter-alia, stated that:**

- i. He knew Shri Prasad Kurhade as a transport agent. Shri Prasad had informed him that he (Prasad) knew a few importers and could bring business for him if their consignments could be stored in the warehouse.
- ii. He (Prasad), introduced him to one Shri Pankaj for the first time when the consignment of Black Pepper of the importer M/s Alpha Industries had arrived and that Shri Pankaj would be handling the operations on behalf of the importers.
- iii. During the warehousing of goods of M/s Highland International, Shri Pankaj coordinated for warehousing of the goods.
- iv. Shri Prasad Kurhade had approached him(Sanjay) to appoint one Shri Vinay Mishra who was his (Prasad's)employee, as Warehouse Keeper.
- v. He submitted copies of the documents as mentioned below, related to the subject investigation:

S. No.	Invoice No. & Date	Name of party	B/E No. & Date	Commodity	No. of containers	Storage charges (Rs)
1	320/2022-23 dated 12.12.2022	M/s Highland International, 36, Block-A, Pocket- 1, Sector-7, Rohini, Delhi, North Delhi- 110085	3343242 dated 17.11.2022	Black Pepper 1585 bags	2	1,20,000/-
2	323/2022-23 dated 12.12.2022	M/s Alpha Industries, Opp. IOC Petrol Pump, 3 <sup>rd</sup> Fl., Office No.315, Freeway Trade Centre, Ahmedabad, Gujarat, 201301	3344092 dated 17.11.2022	Areca Nuts split 1800 bags	4	2,40,000/-
3	PI No. 92/ 2022-23 dated 12.11.2022		2012100 dated 18.10.2022  2012099 dated 18.10.2022	Black Pepper 1680 bags 1687 bags	5	1,49,000/-

vi. He stated that with respect to issues of invoices at SI. No. 1 & 2 above, they had issued the invoices and had received the warehouse storage charges of Rs. 3,60,000/- inclusive of taxes into their ICICI

Bank, A/C No. 087305500644 on 14.12.2022.

- vii. Similarly, they had received an advance of Rs. 1,49,000/- from M/s Alpha Industries which was reflected in their Axis Bank A/c No. 916020049215283 and they had issued proforma invoice for the same inclusive of taxes. Relevant ledger account of the importer had been submitted by them. No other amount other than those mentioned above had been received from the importer. The invoices were forwarded over mail to the importers.
- viii. Initially, Shri Anil Ghadge was appointed as warehouse keeper for a month in November. Later, Shri Vinay Mishra was appointed by him as the warehouse keeper. Shri Vinay Mishra approached him for the job as a warehouse keeper and he was referred by Shri Prasad Kurhade, owner of M/s Prasad Logistics, Nerul.
- ix. After issuance of the 1st and 2nd Space Certificates for storage of black pepper by the warehouse keeper, he was informed by Shri Pankaj, the Importer of M/s Alpha Industries that duty-paid goods would be received in the warehouse. On being asked, about the reason for not entering the details of the said consignments in the said register, he stated that the same was told to be as general cargo and he instructed Anil Ghadge not to enter the said details. The first two space certificates were informed as cancelled by Shri Pankaj. Shri Pankaj informed him that still the consignment of black pepper would be brought to the warehouse for storage as it was a matter of 7 days only since it was urgently required for himself and would be taken back by him. As per the rules, general cargo should not be allowed to be warehoused. In respect of the 8th space certificate issued for Areca nuts, the same had not arrived at the warehouse.
- x. On being asked about the omission of entries of space certificates in the Warehouse Register, he was aware of the consignments' arrival with the Importer/Customs broker and accepted that the records were not maintained properly as per rules. The Importer/Customs broker liaises with them for the issuance of the space certificate. The work of allowance of space by the Bond Officer in charge was handled by the Customs Broker. Either Shri Prasad Kurhade or Shri Pankaj who used to come to collect space certificates from his office. He had never met the importer of the said consignments and he knew only Prasad Kurhade or Shri Pankaj in relation to these consignments.
- xi. On being asked about the filing of monthly statement of stock with the Import Bond Section of JNCH, Nhava Sheva, the MTR for the month of October had been filed within due date and that for the months of November and December 2022 remained to be filed was accepted. In view of the above omission of entries in the warehouse register, and non-filing of MTR was an admitted lapse on their part.
- xii. He instructed Shri Anil Sudam Ghadge to provide the keys to Shri Vinay Mishra and Pankaj.

1.23 **Statement dated 23.05.2023 of Shri Sanjay Vithoba Sable (RUD 11), wherein he, inter-alia, stated that:-**

- i. His licensed Customs Bonded Warehouse NSA1U 168 had an area of 15,000 sq. ft. where goods such as areca nuts belonging to Importers viz. M/s Alpha Industries and M/s Highland International were allowed to be warehoused.
- ii. Space Certificates NOCs No. 01 and 02 were issued in respect of M/s Alpha Industries by the then warehouse keeper Shri Anil Sudam Ghadge.
- iii. Shri Prasad Shantaram Kurhade was known to him as a provider of transport services, M/s Prasad Logistics, for the movement of containers on trailers.
- iv. Shri Prasad Kurhade promised a good volume of business for his warehouse and based on that he (Sanjay Vithoba Sable) agreed to do business with him.
- v. Shri Prasad Kurhade met him at his warehouse when the first consignment in the container of M/s Alpha Industries had arrived. Here he (Prasad Kurhade) introduced him to one Shri Pankaj as Operations Manager on behalf of both the Importers who would be coordinating henceforth in the matter. He (Sanjay) was told by Shri Pankaj that the goods were general cargo which would be taken back by him in 4-5 days from the warehouse and hence he was instructed to not make entry of the said goods in the warehouse register.
- vi. **M/s Alpha Industries:** On being shown the copies of Space Certificates NOCs ASLPL/01/22-23 dated 01.11.2022 and No. ASLPL/02/22-23 dated 03.11.2022 for a quantity of 1680 bags and 1687 bags of black pepper respectively, issued in the name of importer M/s Alpha Industries as well as the endorsements on the bond-to-bond transfer documents to the effect of receipt of goods in the Allsan Shipping & Logistics Ltd., he stated that the said goods were meant to be warehoused. Further, he stated that the space certificates were issued by Shri Anil Sudam Ghadge, the warehouse keeper appointed for the purpose. The goods were not duty paid and were in fact, not general cargo as stated by Shri Pankaj. No records were maintained at the gate by watchmen.
- vii. **M/s Highland International:** A perusal of the copy of Space Certificates NOC No. ASLPL/06/22-23 dated 07.12.2022 for a quantity of 1800 bags of dried Areca nuts and No. ASLPL/07/22-23 dated 07.12.2022 for a quantity of 1585 bags of black pepper issued in respect of Importer M/s Highland International, he stated that the goods were warehoused. The importers were known to Mr. Prasad Shantaram Kurhade. Shri Pankaj used to come at the time of unloading the containers in the warehouse as a person from the importer's side. They raised invoices to M/s Alpha Industries and

M/s Highland International with respect to the storage space provided and received payments for the same. Shri Prasad Kurhade, owner of M/s Prasad Logistics, Nerul referred Shri Vinay Mishra for the job of a warehouse keeper in M/s Allsan Shipping and Logistics Ltd. He stated that initially, Shri Anil Ghadge was appointed as warehouse keeper in November 2022. Later, Shri Vinay Mishra was appointed by him as the warehouse keeper. It was Shri Prasad Kurhade who visited his office to collect space certificates in respect of M/s Alpha Industries and M/s Highland International. The work of allowance of space by the Bond officer in charge was also handled by him with the help of his contacts. He never had the occasion to meet any of the importers and only knew Prasad Kurhade and Shri Pankaj in relation to their consignments.

**1.24 Statement dated 18.07.2023 of Shri Sanjay Vithoba Sable (RUD 12), wherein he, inter-alia, stated that:-**

- i. On being asked about the goods which were duly received in the said warehouse, during the period between October 2022 to December 2022:

Sr. No.	Name of the importer	B/E No.	B/E Date	Description of goods in B/E
1.	M/s Highland International	3344092	17.11.2022	Dried Areca Nuts
2.	M/s Highland International	3343242	17.11.2022	Black Pepper
3.	M/s Alpha Industries	2012100	18.10.2022	Black Pepper
4.	M/s Alpha Industries	2012099	18.10.2022	Black Pepper
5.	M/s Future First International	3618180	06.12.2022	Areca Nuts
6.	M/s Future First International	3620093	06.12.2022	Areca Nuts

- ii. On being asked about the goods presently available in M/s Allsan Shipping and Logistics Pvt. Ltd. warehouse (NSA 1U 168), he stated that as per the available records, after the clandestine removal of the goods from their warehouse, no goods of M/s Alpha Industries were currently available in their warehouse. He further stated i.e. Black Pepper and Areca Nuts pertaining to the importers, namely M/s Highland International and M/s Future First International, were currently available in their warehouse.

**1.25 Statement dated 10.08.2023 of Shri Sanjay Vithoba Sable (RUD 13), wherein he, inter-alia, stated that:-**

- i. On being shown the seizure memo dated 03.01.2023, he stated that brown- coloured powder stuffed in brown-coloured jute bags and greyish-white powder stuffed in white-coloured gunny bags which were seized vide the said seizure memo were never warehoused legally in their Allsan Shipping & Logistics Pvt. Ltd. warehouse and he did not know how these goods entered in the warehouse. He confirmed that these goods were not the originally bonded goods.

- ii. The said goods were replacement goods which have been placed inside the warehouse in exchange for the goods which had been clandestinely removed from the warehouse by Shri Prasad Kurhade with the help of their warehouse keeper, Shri Vinay Mishra.

**1.26 Statement dated 27.12.2023 of Shri Sanjay Vithoba Sable (RUD 14), wherein he, inter-alia, stated that:-**

- i. On being shown the seizure memo dated 03.01.2023 and his earlier statement dated 10.08.2023, he stated that during the discussion with Shri Prasad Kurhade after the search conducted by DRI, he came to know that the brown- coloured powder stuffed in brown-coloured jute bags and greyish-white powder stuffed in White Coloured gunny bags were sand/dust/waste powder and the said goods were having nil commercial value. The said seized goods were never warehoused legally in their Allsan Shipping & Logistics Pvt. Ltd. Warehouse. He confirmed that these goods were not the originally bonded goods.

**1.27 Statement dated 05/06.01.2023 of Shri Allwyn Saldanha (RUD 15), wherein he, inter-alia, stated that:-**

- i. He was the Director of the company M/s Allsan Shipping & Logistics Pvt. Ltd. located at A350, Balaji Bhavan, Sector 11, CBD Belapur, Navi Mumbai-400614 and the other Director was Mr. Sanjay Vithoba Sable (Mob. No. 9987318321), who resided in Panvel, Navi Mumbai. They both were active directors and were equally controlling the company and having 50-50 share.
- ii. They had been granted the said license under certain conditions to be followed as mentioned in Annexure-‘A’ to the license. As per the terms and conditions of the license, they were strictly responsible for the safe custody of the warehoused goods and they shall maintain stocks of warehouse goods and submit to the Import Bond Section a monthly statement in the prescribed format. They had appointed Shri Vinay Mishra (Mobile No.7039544601), in charge of the warehouse to operate and handle the bonded warehouse by following due procedure under the Customs Act, 1962. In this company, they had one Marketing personnel, Sh. Anil Ghadge, Mob. No. 9594952475, who was also doing office work and living near Chembur, Mumbai. Another employee was an Accountant, Mrs. Ashwani Ghadge, who was dealing with office work. All these employees had been given jobs with the consent of both of them after verifying their credentials/KYC.
- iii. On being asked about dealing with routine affairs of the bonded warehouse; including loading and unloading of cargo at the warehouse, as he was living in Pune, Shri Sanjay Vithoba Sable looked after these affairs, though it was who made payment for labour charges and other miscellaneous charges for handling of goods through their current account or even many times through his PhonePe app.

- iv. On being asked about the description of goods being stored in the said warehouse, he stated that Areca Nuts, Aluminum foils and Black Pepper used to be stored in the said warehouse. He never visited the warehouse till December 2022 end, as he was living in Pune with his family, which was around 150 Km away from the warehouse and he used to visit their office at A350, Balaji Bhavan, Sector 11, CBD Belapur, Navi Mumbai-400614 around twice a week for meeting with the clients and other Director, Mr. Sanjay Vithoba Sable in connection with their business affairs. Most of the business affairs used to be discussed with Mr. Sanjay Vithoba Sable over his mobile. He knew Mr. Sanjay Vithoba Sable when he was searching for a warehouse for one of his clients, Shingote Agro, Pune for their ground nuts export, which included re-bagging.
- v. He further stated that at that time Mr Sanjay Vithoba Sable was working with M/s R.K. Logistics, JNPT, Nhava Sheva, Navi Mumbai as a Marketing executive and then he met him and Mr Sanjay Vithoba Sable helped him in arranging warehouse space in the premises of M/s R.K. Logistics and then they used to meet on regular basis. After some time Mr. Sanjay Vithoba Sable moved to M/s Regal Shipping & Marine Services Pvt. Ltd. having a warehouse at Village Dhutum, Uran and he also joined this company as a Sales Manager and they both worked together for almost one year in the same company. Thereafter they met again in 2015 and decided to start a new company for warehousing and finally in 2016 they started a company in the name of Regal Shipping & Logistics Pvt. Ltd. having its office at the residence of Mr Sanjay Vithoba Sable in New Panvel at Laxmi Vishnu CHS 'E' Wing, 201 Sector 16, New Panvel 410206 and provided warehousing services to their clients.
- vi. Till that time they did not have any warehouse of their own and they were providing services through other warehouses like Sun Warehousing, Kanthavali, JVC Warehousing, Kanthavali Village, Uran, Hawa Warehousing, Dighode, Uran wherein these warehouse owners used to bill them for the warehouse space occupied by their clients and subsequently they used to invoice their customers and thus making profit on the same. After that, they took an office at Balaji Bhawan, 3rd Floor, CBD, Belapur, Navi Mumbai-400614 in 2021 and started their business from this premises.
- vii. Meanwhile they got into partnership with Samveda Logistics and started operating from their warehouse at Sarde Village, Uran and also were serving a client Zoomlion at a warehouse at JR Logistic Warehouse at Kaproli Village, Uran. After that, they thought to start their own bonded warehouse and took a place on rent at Shirdon Village, Raigad in October 2022.
- viii. They were marketing for this warehouse when they happened to meet Mr Prasad Kurhade, who said that he had a client – M/s Highland International, Delhi, who had initially imported black pepper followed by areca nuts for re- exporting after in-bonding from their bonded warehouse.

ix. On 23.12.2022 they came to know about the visit of DRI officers at their warehouse. The officers of DRI made a request to provide labour to take inventory of stocks at their warehouse and they provided the labour.

**1.28 Statement dated 07.01.2023 of Shri Allwyn Saldanha (RUD 16), wherein he, inter-alia, stated that: -**

- i. They had arranged for a security round the clock and installed CCTVs, but they were not functional recently and the reason for the same might be known to Shri Sanjay Vithoba Sable who looked after day-to-day affairs of the said warehouse. The security was of M/s Seven Star Security Services which provided one personnel during the daytime and two security guards during the night-time.
- ii. CCTV system had been installed by M/s AMS Solutions. Payments to these two service providers were made regularly by the company. No provision of space to be used as an office had been made for use by the warehouse keeper.
- iii. He was unaware whether any records were maintained by the security personnel for in/out of vehicles and goods at the gate and that Shri Sanjay Vithoba Sable might be aware of its maintenance or otherwise.
- iv. Initially, Shri Anil Ghadge was appointed as warehouse keeper for a month in November. Later, Shri Vinay Mishra was appointed by Shri Sanjay Vithoba Sable as the warehouse keeper; and he was unaware of the reason for the change of warehouse keeper.
- v. On being asked about the non-mention of the first two space certificates in the register, he stated that Shri Sanjay Vithoba Sable instructed the warehouse keeper to prepare the Space Certificates and it was not within his domain of work. He was informed by the office regarding the volume of containers arrived, space occupied and business generated. As regards the containers, and goods therein, the Importer or the CHA covered by NOC No.1 & 2, he stated that he was unaware of the same.

**1.29 Statement dated 10.02.2023 of Shri Sagar Bangar (RUD 17), wherein he, inter-alia, stated that:-**

- i. On being shown a copy of panchanamas dated 22/23.12.2022 drawn at Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) located at Building No. A1 (Gala No. 5 & 4B), Ashra Warehousing Park, Mumbai- Goa road, Kushivali Shirton Village, Taluka- Panvel, Raigad- 410221, he stated that he was present during the course of panchanama and he had joined as a manager in Allsan Logistics and Pvt. Ltd. on around 20.12.2022.
- ii. He was appointed as the manager of the said warehouse unofficially by Shri Prasad Kurhade and his official appointment was still pending to be done as his appointment letter was not provided till

22.12.2022. Shri Prasad Kurhade was his old friend and he had known him since childhood.

- iii. He was told by Shri Prasad Kurhade that his old employee namely Shri Vinay Mishra (7039544601) who used to work with him (Prasad Kurhade) at his transport office was appointed as Manager/ warehouse keeper of Allsan Shipping and Logistics Pvt. Ltd. Prasad Kurhade further said that Shri Vinay Mishra was not willing to continue to work as Manager/ Warehouse Keeper and he gave the offer to join as Warehouse keeper/ Manager of Allsan Shipping and Logistics Pvt. Ltd. He was further told by Shri Prasad Kurhade that the Areca nuts Black pepper would be warehoused in the said warehouse and after the unloading of the goods in the said warehouse, the said goods would be clandestinely removed from the warehouse and would be sold in the open market. Shri Prasad Kurhade offered him Rs. 50,000/-per container in exchange for the clandestine removal of goods and he immediately agreed to the said proposal as earlier he was paid Rs.30,000/- per container by Shri Akshay Phadale while he was working at Akshay Logistics warehouse which was managed by Nibha World Pvt. Ltd.

**1.30 Statement dated 23.05.2023 of Shri Sagar Bangar (RUD 18), wherein he, inter-alia, stated that:-**

- i. He was told by Shri Prasad Kurhade that the Areca nuts /supari/ black pepper would be warehoused in the said warehouse and after the unloading of the goods in the said warehouse, the said goods would be clandestinely removed from the warehouse and would be sold in open market. Shri Prasad Kurhade offered him Rs. 50,000/-per container in exchange for the clandestine removal of goods and he immediately agreed to the said proposal as earlier he was paid Rs.30,000/- per container by Shri Akshay Phadale while he was working at Akshay Logistics warehouse which was managed by Nibha World Pvt. Ltd.
- ii. He had just joined Allsan Shipping and Logistics Pvt. Ltd. and no removal had taken place in the said warehouse after his appointment as manager/ warehouse keeper. Shri Vinay Mishra was a very loyal employee of Shri Prasad Kurhade and he had been the employee of Shri Prasad Kurhade since 2016.
- iii. Shri Prasad Kurhade told him that he had intentionally made Shri Vinay Mishra the manager/ warehouse keeper of the said Allsan Shipping and Logistics Pvt. Ltd. so that he could clandestinely remove the goods easily with the help of Shri Vinay Mishra.
- iv. Shri Prasad Kurhade further told him that Shri Vinay Mishra felt afraid after doing the clandestine removal of some consignments and Shri Vinay Mishra was not willing to continue to work as the manager/ warehouse keeper of the said warehouse. Therefore, Shri Prasad Kurhade was repeatedly convincing him to work as the manager/ warehouse keeper of the said Allsan Shipping and Logistics Pvt. Ltd. since he knew that he (Sagar) was working as the manager/ warehouse keeper of the

Akshay Logistics warehouse where he had done clandestine removal of goods from the said warehouse. At last, he (Sagar) agreed to his proposal and unofficially joined on around 20.12.2022.

- v. He was told by Shri Prasad Kurhade that he had given Rs. 20,000/- to Shri Vinay Mishra and sent him to some other state to avoid interception by the DRI department.
- vi. He was on a run in the case of the clandestine removal of goods from Akshay Logistics warehouse (NSA1U 131) to avoid interception by the DRI department.
- vii. Shri Prasad Kurhade gave Rs. 10,000/- cash for the miscellaneous expenses which were incurred while he was on a run from the department. Shri Prasad Kurhade told him that he should not give his (Prasad) name in the DRI regarding the issue of appointment as manager in Allsan Shipping and Logistics Pvt. Ltd.
- viii. Shri Prasad Kurhade used to change mobile numbers and phones frequently and used to call only on whatsapp and Telegram applications and not on normal calls. He (Prasad) had instructed him to call only on these applications and not on normal calls as he thought that normal calls could be traced by the department and he might land in trouble.

**1.31 Statement dated 11.07.2023 of Shri Sagar Bangar (RUD 19), wherein he, inter-alia, stated that:-**

- i. He had joined M/s Allsan Shipping & Logistics Ltd. Warehouse as per the offer of Shri Prasad Kurhade.
- ii. He was given the keys to the warehouse by Shri Prasad Kurhade and told by Shri Prasad Kurhade that part consignment of M/s Highland International Ltd. was already clandestinely removed and that the balance consignment was lying in the warehouse. He was also informed by Shri Kurhade that, earlier, similar consignments of M/s Alpha Industries had been clandestinely removed from the said warehouse.
- iii. He stated that he had joined unofficially as a warehouse manager on 20.12.2022 and part consignment of goods viz. areca nuts, and black pepper were lying in the warehouse NSA1U 168. On being specifically asked, he stated that he was told by Shri Prasad Kurhade that these balance consignments of M/s Highland International were to be clandestinely removed from the M/s Allsan Shipping & Logistics P. Ltd. Warehouse. Afterwards, on 21.12.2022, 12 containers pertaining to importer M/s Future First International had arrived and unloading into the warehouse had begun on 22.12.2022 under his (Sagar) supervision. His role was to allow for its removal from the warehouse, as and when the lorries and labour were arranged by the importer arrived at the warehouse.

**1.32 Statement dated 15.05.2023 of Shri Prasad Shantaram Kurhade (RUD 20), wherein he, inter-alia, stated that:-**

- i. He ran the family business of transport logistics in the name of M/s Om Sai Logistics, operated from residence with Smt. Kamyani Kurhade as the proprietor. He owns two trailers viz. MH-46-AF-2125 and DN-09-S-9040 and that drivers change over 3-6 months period. Further, he concentrated his business on booking other trailers on a commission basis as and when business was good.
- ii. He knew Shri Sanjay Vithoba Sable and Shri Allwyn Valerian Saldanha from 2016 onwards. They used to enquire about the availability of his vehicles and also asked about contacts with CHAs, Forwarders and for reference of clients for their business.
- iii. He stated that he was unaware of the Importers M/s Alpha Industries and M/s Highland International.
- iv. He had referred Shri Vinay Kumar Mishra to Shri Sanjay Vithoba Sable as he was looking for better pay prospects. Further, he was using a new mobile handset as his old mobile handset fell off while he was riding his bike and got damaged under the wheels of a passing vehicle.

**1.33 Statement dated 22.07.2024 of Shri Prasad Shantaram Kurhade (RUD 21), wherein he, inter-alia, stated that:-**

- i. He knew Shri Sanjay Vithoba Sable and Shri Allwyn Valerian Saldanha from 2016 onwards. They used to inquire him about availability of his vehicles and also asked about contacts with CHAs, Forwarders and for reference of clients for their business of warehousing of goods and the movement of the said goods.
- ii. He stated that he didn't know the Importers M/s Highland International and M/s Alpha Industries, and he didn't want to comment on the same.
- iii. He didn't approach Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha, both warehouse owner of Allsan warehouse, for storage of goods Areca Nuts and Black Pepper of Importer M/s Highland International and M/s Alpha Industries (as detailed below in table), citing the same as general cargo, he wished to not comment on the same.

Sr. No.	Name of the Importer	B/E No.	B/E date	Description of goods
1	M/s Highland International	3344092	17.11.2022	Dried Areca Nuts
2	M/s Highland International	3343242	17.11.2022	Black Pepper
3	M/s Alpha Industries	2012100	18.10.2022	Black Pepper
4	M/s Alpha Industries	2012099	18.10.2022	Black Pepper

- iv. On being shown the statement dated 05/06.01.2023 of Shri Sanjay Vithoba Sable, wherein it is said that he had contacted Shri Sanjay Vithoba Sable on behalf of the importers namely, M/s Highland International and M/s Alpha Industries, for storage of the above-mentioned goods in Allsan Warehouse, he stated that he never met Shri Sanjay Vithoba Sable regarding the storage of the said goods in Allsan Warehouse.
- v. He had referred Shri. Vinay Mishra to Shri Sanjay Vithoba Sable for a job of warehouse keeper of Allsan Warehouse.
- vi. He didn't know any Pankaj and he never referred him to Shri Sanjay Vithoba Sable for any work.
- vii. He never mentioned the name Highland International to Shri Allwyn Saldanha as he didn't know the importer i.e. Highland International.
- viii. He knew Sagar since his school time as both used to study school in Ghatkopar only.
- ix. He never told Sagar Bangar that he (Prasad) had intentionally appointed Shri Vinay Mishra as the Warehouse Keeper of Allsan Warehouse to clandestinely remove the goods.
- x. He never requested Sagar Bangar for the job of warehouse keeper of Allsan warehouse.
- xi. He didn't know about the clandestine removal of the said goods Areca Nuts and Black Pepper of importers M/s Highland International and M/s Alpha Industries from Allsan Warehouse.
- xii. His mobile which was used in the period of October-December 2022, was destroyed as the same fell from his bike. He never tried to recover the data of the said destroyed mobile.

**1.34 Statement dated 26.07.2024 of Shri Prasad Shantaram Kurhade (RUD 22), wherein he, inter-alia, stated that:-**

- i. On being asked about any statement given by him in Panvel City Police Station in relation to the FIR No. 95/2024, he wished to not comment on the same.
- ii. On being asked about the clandestine removal of the said goods Areca Nuts and Black Pepper of importers M/s Highland International and M/s Alpha Industries from Allsan Warehouse and replacing the same with goods having negligible value, he did not want to comment on the same.

**1.35 Statement dated 27.09.2024 of Shri Prasad Shantaram Kurhade (RUD 23), wherein he, inter-alia, stated that:-**

- i. He knew Shri Sanjay Vithoba Sable and Shri Allwyn Valerian Saldanha from 2016 onwards. They used to inquire about availability of his vehicles and also asked about contacts with CHAs, Forwarders and for reference of clients for their business of warehousing of goods and the movement of the said goods.
- ii. He didn't know importers namely M/s Highland International and M/s Alpha Industries. He never met Shri Sanjay Vithoba Sable regarding the storage of the goods of the said importers in Allsan Warehouse.
- iii. He had referred Shir Vinay Mishra to Shri Sanjay Vithoba Sable for the job of warehouse keeper of Allsan Warehouse.
- iv. He didn't know any person namely Karan Singh alias Pankaj and he never referred him (Pankaj) to Shri Sanjay Vithoba Sable for any work.
- v. He did not want to comment on the clandestine removal of the goods Areca Nuts and Black Pepper of importers M/s Highland International and M/s Alpha Industries from Allsan Warehouse and replacing the same with goods having negligible value, as he didn't know anything regarding the said removal of goods.
- vi. He knew Sagar since school time as both used to study in same school in Ghatkopar only. Further, he never requested Shri Sagar Bangar for the job of warehouse keeper of the said Allsan warehouse.
- vii. He knew Akshay Shankar Phadale through their common friend circle. He never took delivery of any goods from Akshay Logistics Warehouse and from Shri Akshay Shankar Phadale. Further, he never paid any amount to Shri Akshay Shankar Phadale for any clandestine removal of goods from Akshay Logistics warehouse.
- viii. He knew Shri Sachin Pawar alias Sachin Billa through their friend circle. He never took any delivery of the clandestinely removed goods from Akshay Logistics Warehouse, together with Shri Sachin Pawar alias Sachin Billa.
- ix. His mobile which was used in the period of October-December 2022, was destroyed as the same fell from bike. He never tried to recover the data of the said destroyed mobile.

**1.36 Statement dated 06.01.2023 of Shri Anil Sudam Ghadge (RUD 24), wherein he, inter-alia, stated that:-**

- i. He was employed with M/s Allsan Shipping on the recommendation of Shri Sanjay Vithoba Sable, Director, who was his childhood friend; and that other Director in the company was Shri Allwyn

Saldhana. He was given the task of godown-keeping at Ashra Warehousing Complex, Shiridon Village, Panvel Dist, Raigad from October 2022. His duties involved receipt of goods, inventorying, safe custody and removal of goods in and out of the warehouse with due in- bond and ex-bond entries in the warehouse register. He was aware of the responsibilities of a Public Bonded Customs Warehouse-keeper. For the safety of the goods in the warehouse, security guards manned the gate round the clock; CCTV was installed on the premises and live access to the footage was in Sanjay Vithoba Sable's mobile. One set of keys to the warehouse was with him and the remaining two sets were kept by Sanjay Vithoba Sable.

- ii. The warehouse Customs license was granted under Section 57 by the Customs authorities in October 2022 and since there was no receipt, he had filed nil MTR for the said month with the Customs Department. He had requested Sanjay Vithoba Sable that since it was hectic for him to travel the long distance from his residence at Govandi to the godown at Panvel, he might be relieved of the work of godown-keeping and instead, he offered to work as Marketing personnel.
- iii. Sanjay Vithoba Sable replaced him with one Shri Vinay Mishra as godown-keeper since 16.11.2022 and simultaneously, he had tendered his resignation from the said post, which had been intimated to Customs Department and he had handed over the Warehouse Register to Shri Vinay Mishra. On being specifically asked if he had felt anything fishy going on in the godown, he stated that it was during his tenure as warehouse-keeper that he was asked by Sanjay Vithoba Sable to hand over space certificate for a quantity of around 1800 to 2000 bags of black pepper at NSA1U168 godown at Ashra Warehousing Complex, Shiridon Village, Panvel Dist, Raigad in respect of five (05) containers of M/s Alpha Industries to one Shri Prasad Kurhade of M/s Om Sai (Mobile No.9321082194) who was waiting in his car in the parking lot of their office building.
- iv. Afterwards, he was instructed by Sanjay Vithoba Sable to reach the godown for receipt and deposit of the goods of M/s Alpha Industries in the godown in co-ordination with one Shri Pankaj; however, that entry of the said goods was not to be made in the in-bond register as he was told that they were general cargo. Upon reaching the warehouse, he found that no containers had arrived and contacted Shri Pankaj over the phone. A little later, Shri Pankaj arrived on his Activa, 2- wheeler along with the 5 containers. He confirmed that the goods in the white gunny bags were black pepper since a few spilt out occasionally at the time of unloading by the labourers. On being asked, he stated that the labourers were arranged by Sanjay Vithoba Sable. As regards payment to the labourers, he stated that Sanjay Vithoba Sable negotiated with Mukadam and informed the same to Shri Allwyn Saldhana who transferred the labour charges over Phonepay App to him. Upon receipt of wages in his mobile, he transferred the same to Mukadam's account.

- v. He was unable to share Shri Pankaj's mobile number as the same was instructed to be deleted by Sanjay Vithoba Sable alongwith that of Shri Vinay Mishra upon the DRI raid at their godown premises. He recalled that Sanjay Vithoba Sable had arrived at the warehouse premises with a flexi-board bearing the Company's name and address of the Customs Bonded Warehouse.
- vi. The next day, he was asked to reach outside Belapur station with the keys of the godown by Shri Pankaj who arrived on his Aactiva 2-wheeler along with Shri Vinay Mishra. Sanjay Vithoba Sable told him that the keys of the godown were required for the purpose of testing the goods by FSSAI. The keys of the godown were returned only the next evening by Shri Pankaj. The keys were taken for a similar purpose either the following day or the next and returned after a day by Shri Pankaj.

**1.37 Statement of Shri Uday Sharma dated 02.02.2023 (RUD 25) and 06.02.2023 (RUD 26), wherein he, inter alia, stated that:-**

- i. He had taken the work of Customs clearance of Areca nuts related to the importers M/s Altamile Overseas, M/s Maya Enterprises and M/s Highland International and his work was to arrange the customs brokers for getting the goods cleared from Customs. The said work of clearance was given to him by Shri Kirty Raj alias Sanjay Singh who lives in Delhi and belongs to Banaras, Uttar Pradesh.
- ii. He first met Shri Kirty Raj (Mobile Number- +971545990715, Face time id:j8953495465@icloud.com) in June-2022, at Belapur. During the said meeting, Shri Kirty Raj told him that he wanted to import Areca nuts/ Supari at Nhava Sheva Port and he further told him that the said imports were to be done for re- export purposes and the re-export would be done from Kandla SEZ (KASEZ).
- iii. Shri Kirty Raj told him that the Warehousing Bill of Entry would be filed for the said imports of goods on the IECs arranged by Kirty Raj Singh. Shri Kirty Raj told that he would pay Rs. 50,000/- per container for the Customs broker and labour charges to him. Since he was getting around Rs. 25,000/- as his profit per container, he agreed to do the work of customs clearance of the said goods which included arranging the Customs broker and getting the goods examined and cleared for customs bonded warehouse. Shri Kirty Raj said that the requisite documents would be provided by his representatives shortly.

**M/s Highland International:**

- iv. He was provided with an invoice, Bill of Lading, packing list, GST copy, IEC copy, Aadhar card, bank verification letter and PAN card of the IEC holders and other related documents of the importer

M/s Highland International by Shri Karan Singh alias Pankaj (Mobile number- 9335853438) on the directions of Shri Kirty Raj Singh.

- v. Afterwards Shri Anil Kumar Goswami alias Anil Giri (Associate of Uday Sharma) met Shri Musha Dawood Kumbhar and provided him the set of documents including the KYC documents and assured him that the work was of genuine party. Thereafter, the Bill of Entry No. 3344092 dated 17.11.2022 and Bill of Entry No. 3343242 dated 17.11.2022 were filed by Shri Musha Dawood Kumbhar and the said consignments were put on hold by CIU, JNCH. The examination of the containers covered under the said Bills of Entry was carried out by the CIU officers under panchanama proceedings.
- vi. He was told by Shri Kirty Raj that his representative would get him (Uday) the permission letters for Section 49 which were to be submitted in CIU, JNCH and afterwards the letters signed by the IEC holder were given to him by Shri Karan Singh. His (Uday) employee Shri Anil Kumar Goswami alias Anil Giri along with the concerned customs broker representatives used to submit the request letters at CIU, JNCH.
- vii. After a few days, permission to warehouse the goods under Section 49 was granted by CIU, JNCH and the goods pertaining to M/s Highland International were warehoused at Allsan Shipping and Logistics Pvt. Ltd. He did not know about the further status of the said goods after the warehousing of the same was completed.

**1.38 Statement of Shri Uday Sharma dated 13.03.2023 (RUD 27), wherein he, inter alia, stated that:-**

- i. He had received certain payments related to the imports of goods made by M/s Highland International. The details of the payments made are elaborated as below:-

**M/s Highland International:**

- ii. The following payments were related to M/s Highland International (Bill of Entry Number- 3344092 dated 17.11.2022 and 3343242 dated 17.11.2022) which had been made through the account of M/s Alka Logistics. He stated that he was the proprietor of Alka Logistics and the details of the payments were as below:-

Sr. No.	Amount and Transaction Date	Remarks
1	Rs. 4,75,751 dated 09.12.2022	Credited in the Account of Alka Logistics from the account of Highland International.
2	Rs. 1,25,000 dated 16.12.2022	Credited in the Account of Alka Logistics from the account of Highland International.

- iii. He submitted a copy of the bank account statement of Alka Logistics showing the above-mentioned transactions. He made payment for stamp duty of Rs. 1,59,300/- and Rs. 54,570/-
- iv. He stated that all the above-mentioned transactions were done on the directions of Shri Kirty Raj. He was asked by Shri Kirty Raj that certain payments would be credited to the account of Alka Logistics and afterwards he was asked to make the payments as detailed above by Shri Kirty Raj. The rest of the amount which was left after doing the above-mentioned payments was to be done for the stamp duty charges of other containers related to M/s Highland International covered under Bill of Entry No. 3555569 dated 01.12.2022 which were still placed at Navkar/ Pritee CFS but the said amount had not been paid till date and some amount had also been incurred in expenses like labour charges for examination purpose and other miscellaneous expenses.

**1.39 Statement dated 30.01.2023 of Shri Musha Kumbhar (RUD 28), wherein he, inter-alia, stated that:-**

- i. On being shown copies of Bills of Entry bearing No. 3404481 dated 21.11.2022 of Importer -M/s Maya Enterprises; and, No. 3344092 & No. 3343242 both dated 17.11.2022 of Importer, M/s Highland International, respectively, he stated that he had handled these clearances in the capacity of Customs Broker (M/s Peejaycee & Co.) upto the warehouses, viz. NSA1U168 and NSA1U131.
- ii. This was the first time they were handling the clearances of areca nuts (Supari) and black pepper; that it was through one CHA friend, Shri Anil Giri (Mobile No. 8369426812), a freelancer in Customs House, Nhava Sheva, had informed him that there were 2-3 importers who wanted to import container-loads of areca nuts and black pepper subject to first-check and Section 49 warehousing of goods in public bonded warehouses; and that if the clearance work of such whole consignments could be handled by them.
- iii. He was informed by Shri Anil Giri that one Shri Ravindra Shrivastava, Manager of M/s Maya Enterprises, Mobile No. 7039613149, and Shri Pankaj Singh, (Mobile No. 9335853438), Manager of M/s Highland International were the clients; and that after a meeting with his superior, Shri Ravi Mishra in-charge with these clients, the job could be finalized.
- iv. A meeting was held with each, Shri Ravindra Shrivastava and Shri Pankaj Singh in a gap of 10 days by himself, his superior Shri Ravi Mishra and Shri Anil Giri. During the meeting it was agreed that the goods would be subject to first-check and warehousing bills of entry were to be filed and that their agency charges were fixed at Rs.8,000/-.
- v. On request by Importer, M/s Highland International, the goods viz. areca nuts covered under Bill of Entry No. 3344092 dated 17.11.2022 in 4 containers No. FCGU4475917 (450 bags – 27000 Kgs.

Net wt.), No. FSCU4874174 (450 bags– 27000 Kgs. Net wt.), No. FSCU4936580 (450 bags – 27000 Kgs. Net wt.) & No. FSCU4946715 (450 bags – 27000 Kgs. Net wt.); and goods viz. Black Pepper covered vide Bill of Entry No. 3343242 dated 17.11.2022 in 2 containers No. HDMU6520085 (1025 bags – Nt wt.27750 kgs.) No. WHLU5477110 (560 bags – Nt wt.27770) were allowed warehousing under Section 49 in M/s Allsan Shipping & Logistics P. Ltd. Warehouse Code (NSA18168) at Shirton Village, Panvel, Raigarh.

- vi. Other than agency charges no other charges were paid to them by the importers and no cash was paid in this connection. Further, there was no billing had so far been done for agency charges by their CHA firm.

**1.40 Statement of Shri Ghanshyam Walia dated 13.09.2023 (RUD 29), wherein he, inter-alia, stated that:-**

- i. He was an employee of M/s Big Stock Logistics Pvt. Ltd. On being asked about the transport of goods ‘Areca Nuts Split’ from M/s Anomsoft Solutions Private Limited, Kandla to M/s Fonicy Multitrade Pvt Ltd, Nhava Sheva, Navi Mumbai, Maharashtra through vehicles/trucks bearing number NL01AG1141, NL01AG 1718, NL01AG1721 and NL01AG1720 of their company M/s Big Stock Logistics Pvt. Ltd, As per the official records, their company M/s Big Stock Logistics Pvt. Ltd handled the said work of transport of goods ‘Areca Nuts Split’ from Kandla to Nhava Sheva in the months of October, and November 2022. The said goods were picked up from Kandla and delivered at Akshay Logistics warehouse, Nhava Sheva, Navi Mumbai. As per their practice, at the time of delivery of the goods at the destination, they took the signature of the person concerned at the destination on their BILTI and after payment of the transport work, the said “BILTI” was given back to the concerned party along with their invoice. He had submitted all the relevant documents available with their company in respect of the said transport work of goods ‘Areca Nuts Split’ from M/s Anomsoft Solutions Private Limited, Kandla to M/s Fonicy Multitrade Pvt Ltd, Nhava Sheva, Navi Mumbai, Maharashtra e.g. Invoice, Bill, e-way bill, contact details of the party, driver details etc. The total quantity of the goods ‘Areca Nuts Split’ transported from Kandla to Mundra by their company was around 170 MT vide the above-mentioned vehicles/trucks of their company NL01AG1141, NL01AG 1718, NL01AG1721 and NL01AG1720.
- ii. Further, the goods ‘Black Pepper’ was also transported by their company M/s Big Stock Logistics Pvt. Ltd from Kandla to Nhava Sheva Mumbai vide vehicle no. NL01AG1140. As per the records available in their office, the said consignment was to be delivered to M/s Alpha Industries and they had transported around 24.44 MT of ‘Black Pepper’ through the said transport.
- iii. On being asked about other transport work of goods ‘Dried Areca Nuts Split’ having a weight of

24.02 MT which was transported by M/s Media Engine, being an authorised person of M/s Media Engine, he stated that the said consignment was delivered to M/s Alpha Industries. As per the official records, the said goods were transported from Kandla SEZ to Nhava Sheva, Navi Mumbai, Raigad. The said transport work came to M/s Media Engine through M/s Swami Azran and Tpt Co. M/s Media Engine provided vehicle No. HR 55Y6030 to M/s Swami Azran and Tpt Co. and they had transported the said goods from Kandla SEZ to Nhava Sheva, Navi Mumbai.

- iv. On being asked about the transport work of goods 'Areca Nuts Split' from M/s Anomsoft Solutions Private Limited, Kandla to M/s Fonicy Multitrade Pvt Ltd, Nhava Sheva, Navi Mumbai, Maharashtra through vehicle bearing numbers HR55Y9379, HR55Y9721 and RJ18GB3118, the said vehicle belong to M/s Road IT Logistics Pvt.Ltd. and being an authorized person of the said company, he would send the relevant documents in the next few days.

**1.41 Statement of Shri Rakesh Yadav dated 15.11.2023 (RUD 30), wherein he, inter-alia, stated that:-**

- i. He was doing labour work in Gandhinagar Market, New Delhi for last 09 years and currently he is driving vehicle for the mineral water plant.
- ii. He didn't know anything about M/s Alpha Industries (IEC- ABYFA3809L) and also didn't know anything about the import-export activity being done by this company.
- iii. He didn't know about the fact that the company M/s Alpha Industries (IEC- ABYFA3809L) is opened on his name and that he never opened any company on his name in the past.
- iv. Further, he had no idea about any goods being imported in the name of M/s Alpha Industries and thereafter their clandestine removal from the M/s Allsan Shipping and Logistics Pvt Ltd warehouse.
- v. In the month of April 2022, one of his known person Shri Nikhil came and offered him that he could get him a good salaried job of Rs. 18000-19000 per month. When he expressed his wish to join the same, he asked for his documents i.e. Aadhar Card, PAN Card, Blank Cheque etc. After providing the said documents to Nikhil, he told the job would be arranged very soon. After a few days, Nikhil came to him and asked for the OTP received on his mobile phone. He told Nikhil that only if he will arrange the job then only the OTP will be shared. Nikhil again promised the job and requested him for the OTP. Afterwards, he provided the OTP to Nikhil for 2-3 times. After providing the first OTP, Nikhil gave Rs. 5000 to him and said he would either arrange the job or provide more money. After getting the OTP for 2-3 times, Nikhil never approached him for the OTP again in future.
- vi. After a few days, he called and asked Nikhil to get him the job as promised, then Nikhil replied that he was trying for the same. After that, he never contacted Shri Nikhil and has never seen him since.

Thereafter, in April 2023 he heard from common friends that Shri Nikhil expired.

**1.42 Statement of Shri Anil Kumar dated 23.11.2023 (RUD 31), wherein he, inter-alia, stated that:-**

- i. He worked in M/s Sumit Road Lines and vehicle No. RJ14GK3829 belonged to their company M/s Sumit Road Lines. The said vehicle was purchased by them from Shri Kamal Kumar in January 2022. Further, on being asked about the transport of goods 'Black Pepper' weighing 21900 Kgs from M/s OSGL Overseas, Kandla SEZ to M/s Alpha Industries at M/s Allsan Shipping and Logistics Pvt. Ltd. warehouse Panvel, Navi Mumbai, Maharashtra through vehicle/truck bearing number RJ14GK3829, he stated that as per the official records of their company, the said goods 'Black Pepper' was transported by their truck No. RJ14GK3829 from Kandla to Panvel in the month of November 2022.
- ii. The said transport work came to M/s Sumit Road Lines through M/s Swami Azran and Tpt Co. via Broker M/s Baba Amarnath Road Lines (Contact person Pyare Lal- 997974159). Their company M/s Sumit Road Lines provided vehicle No. RJ14GK3829 alongwith Driver Mohd. Husain (9079241983) to M/s Swami Azran and Tpt Co. and they had transported the said goods from Kandla SEZ to Panvel, Navi Mumbai. He submitted all the relevant details/documents of the said transport of the goods 'Black Pepper' from Kandla SEZ to Panvel through their vehicle/truck No. RJ14GK3829 i.e. Vehicle registration details, Driver details, Vehicle movement details from Kandla SEZ to Panvel etc.

**1.43 Statement of Shri Akash Dilip Bhojne dated 02.12.2023 (RUD 32), wherein he, inter-alia, stated that:-**

- i. He didn't know anything about M/s OSGL Overseas (IEC- AAHFO4006B) and he didn't know anything about the import-export activity being done by this company. He didn't know about the fact that he was a partner in the company M/s OSGL Overseas (IEC- AAHFO4006B).
- ii. He had no idea about any goods being brought into India in the name of M/s OSGL Overseas (IEC- AAHFO4006B) at Kandla SEZ. He also doesn't know the fact that the said goods were then Bond to Bond transferred to Nhava Sheva and thereafter their clandestine removal from the Customs Bonded warehouse.
- iii. In the month of October 2021, his childhood friend Shri Swaroop Shetty told him that he (Swaroop) wanted to start an export company. He then told that to open the said export company he had to make another partner of 1% share and told him (Akash) that it is legally required to make a partner. He then asked him (Akash) to become a partner in the said company. After his repeated requests, he

(Akash) accepted the offer as he (Swaroop) was his childhood friend. Then Shri Swaroop Shetty took his KYC documents i.e. Aadhar Card, PAN Card and photo. He never shared the company name to him (Akash) which was to be opened. After giving the documents, he (Swaroop) never told that any company was opened in their partnership or not and he (Akash) thought that the company was not opened.

- iv. He never dealt with any export import activities in respect of M/s OSGL Overseas (IEC-AAHFO4006B). He was made partner in the said company by Shri Swaroop Shetty by taking his documents. He (Akash) never received any money from Shri Swaroop Shetty for any activity with respect to M/s OSGL Overseas (IEC- AAHFO4006B).
- v. He heard about one Shri 'Singh' from Swaroop Shetty many a times. He (Swaroop) told him that Shri 'Singh' was a big shot and he (Singh) had huge political support and connections also. Swaroop told him (Akash) that he worked with Shri 'Singh' who does export-import business of Carpet and Black Pepper. Once Akash was told by Swaroop that Shri 'Singh' belongs to Varanasi, Uttar Pradesh.

**1.44 Statement of Shri Kirty Raj Singh dated 18.10.2024 (RUD 33), wherein he, inter-alia, stated that:-**

- i. He didn't know any person namely Shri Karan Singh alias Pankaj and he never approached him for any work of warehousing of goods at Customs Bonded Warehouse and removal of the goods from the said warehouse.
- ii. He knew Shri Swaroop Shridhar Shetty through his father Shridhar Shetty. His father Shridhar Shetty was in the film production line and he met him many times. During the meeting with his father, he met Shri Swaroop Shetty a few times but that was before corona only. However, he never interacted with Swaroop Shetty much because Swaroop Shetty was an avid alcoholic drinker and he never liked his behavior.
- iii. On being shown the sale deed dated 26.03.2018 of his premises situated at Pent House No. 1501, 15th and 16th Floor, Eden Palace CHS Ltd, Plot no. 16, Sector 16A, Sanpada, Navi Mumbai, wherein Shri Swaroop Shetty was shown as a witness and his photograph, signature and thumb impression was present, he accepted the fact that Shri Swaroop Shetty was present during the registration of the said sale deed dated 26.03.2018. However, he called his father Shridhar Shetty for the said witness purpose as his father was instrumental in searching and buying of the said property. At that day, his father was not able to come for the witness purpose so he sent his son Swaroop Shetty to become witness of the said sale deed dated 26.03.2018 and testify on behalf of him and his wife (purchaser of that premises).

- iv. On being asked about the fact that Shri Swaroop Shridhar Shetty is the partner of M/s OSGL Overseas, which was an SEZ entity at Kandla SEZ and the said entity was used for import of Areca Nuts and Black Pepper at Kandla SEZ which were further bond to bond transferred at Akshay Logistics Warehouse and Allsan Warehouse, he said that he didn't know the fact that Shri Swaroop Shridhar Shetty was partner in any firm or any import related work was handled by him or his company at Kandla. He was also not aware of the whereabouts of Swaroop Shridhar Shetty.
- v. On being asked about Shri Prasad Kurhade (Owner of transport firm M/s Om Sai Logistics) and Shri Sanjay Vithoba Sable and Allwyn Saldanha (Both Directors of Allsan Warehouse), he stated that he didn't know any of the persons and he never approached them for warehousing of any goods and later clandestine removal of the same.
- vi. On being asked about the import of Areca Nuts and Black Pepper at JNCH Nhava Sheva Port and Kandla SEZ Port through various importers/SEZ entity/SEZ clients namely, M/s Highland International and Alpha Industries (Importers), M/s OSGL Overseas (SEZ Entity) M/s Blue I Store (SEZ Client) and afterwards warehousing of the same in Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168), he said that he didn't know any of the said companies. He never imported any areca nuts through any importer/SEZ entity/SEZ client.
- vii. Further, on being asked about the clandestine removal of the said goods Areca Nuts and Black Pepper from Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168), he said that he didn't know anything about the same and he never approached any person for the warehousing or removal of the goods from the said Allsan Warehouse. He was completely unaware about the said warehouse, hence not able to further comment on the same.

### **ANALYSIS OF STATEMENTS**

- 1.45 After going through the above-mentioned statements, it appears that with respect to the goods Areca Nuts and Black Pepper imported in the name of M/s Highland International and M/s Alpha Industries, Shri Prasad Kurhade was the main brainchild behind the said clandestine removal of the goods. Shri Prasad Kurhade approached Shri Sanjay Vithoba Sable, Director of firm M/s Allsan Shipping and Logistics Pvt. Ltd, managing Allsan Shipping and Logistics Pvt. Ltd (NSA 1U 168), a public bonded warehouse, for storage of goods in the warehouse and later clandestine removal of the same.
- 1.46 Shri Prasad Kurhade requested Shri Sanjay Vithoba Sable that the goods which were to be warehoused were general cargo for 4-5 days and the entry of the same Into-bond register was not to be made, since cargo was being stored in the warehouse temporarily. Hence, the entries with respect to the goods

pertaining to M/s Highland International and M/s Alpha Industries were not made in the Into-bond register of Allsan warehouse. To fulfil the plan of clandestine removal of goods, Shri Prasad Kurhade referred his childhood friend Shri Vinay Mishra to Shri Sanjay Vithoba Sable to appoint him as Warehouse Manager of Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). Shri Sanjay Vithoba Sable on the request/referral of Shri Prasad Kurhade, appointed Shri Vinay Mishra as warehouse manager.

- 1.47 Statements of Shri Uday Sharma revealed that documents related to M/s Highland International were given to him by Shri Kirty Raj Singh. Further, Shri Kirty Raj Singh and Shri Karan Singh alias Pankaj provided all the details related to the filing of the Bills of Entry and payments related to the same. The statements of Shri Rakesh Yadav, a partner of M/s Alpha Industries and Shri Akash Bhojne, a Partner of M/s OSGL Overseas, indicate that their details were used by the syndicate to import goods and further remove these goods clandestinely from the warehouse. The statement of Shri Akash Bhojne further reveals that Shri Swaroop Shetty was the person who had used his details.
- 1.48 Afterwards, Shri Prasad Kurhade alongwith other syndicate members namely Shri Kirty Raj Singh, Shri Karan Singh alias Pankaj and Shri Vinay Mishra clandestinely removed the goods from Allsan warehouse and diverted them into the local market without the payment of applicable customs duty. The said clandestinely removed goods were replaced with goods having nil commercial value.
- 1.49 As per Prasad Kurhade's statement his mobile which was used in the period of October-November 2022 was destroyed as the same fell from his bike and he never tried to recover the data of the said destroyed mobile.
- 1.50 Shri Kirty Raj Singh and Shri Karan Singh alias Pankaj arranged the IECs documents and provided them to CHAs for customs clearance of the goods. Then the said goods were warehoused and later clandestinely removed. Further, Shri Kirty Raj Singh and Shri Karan Singh alias Pankaj gave assistance to Shri Prasad Kurhade by arranging trucks which were used for clandestine removal of goods. Shri Prasad Kurhade with the help of Shri Pankaj, Shri Sanjay Vithoba Sable and Shri Vinay Mishra was able to remove the goods (Areca Nuts and Black Pepper) from the warehouse and replace them with goods having NIL value.

**VERIFICATION OF REGISTERED ADDRESSES OF IECs, IEC HOLDERS PREMISES AND OTHERS: -**

- 1.51 As appears from the above statements of the various persons/syndicate members, it was revealed that the syndicate members had used the IECs which were registered on the persons who were importers on

record and not the beneficial owner. In view of the same, during the investigation, several summonses were issued to various syndicate members or persons who were related to the investigation. However, no responses were received in this regard and they have not joined the investigation. The details are mentioned in Table 10.

Further, searches/visits **were** made to the registered addresses of IECs/SEZ Clients/SEZ Entity and addresses of the proprietors/partners/IEC holders. The details of the searches/visits are mentioned as below:-

**M/s Highland International (IEC- AAMFH8931M):-**

**Verification of Registered address of M/s Highland International situated at Office No. 208, Plot No-26, 2nd Floor, Vikas Royal Arcade, Road No-44, Community Center Pitampura, Delhi, North-West Delhi, Delhi, 110034 (RUD 34):-**

- 1.52 The said premises of M/s Highland International were visited by the team of officers of Mumbai Zonal Unit alongwith the officers of DRI, Delhi Zonal Unit on 14.11.2023. On visiting the office No. 208 at Vikas Royal Arcade, the same was found locked and no signboard was found there. Upon enquiring from the nearby office owners, it was learnt that they had never heard any firm named M/s Highland International operational at the said address. Further, summonses dated 30.09.2024, 08.10.2024 and 11.10.2024 were issued at the said address of M/s Highland International and the same were undelivered at the said address.

**Verification of Registered address of M/s Highland International situated at Office No. 36, Block-A, Pocket-1, Sector-7, Rohini, New Delhi (RUD 35):-**

- 1.53 A visit by the officers of DRI, DZU was made at the said address of M/s Highland International on 29.03.2023. On visit, it was found that the said premises were occupied by a different person who has been operating her Orchestra/entertainment business at the said premises from 2020 onwards. She also provided a copy of the rent agreement. Further, summonses dated 30.09.2024, 08.10.2024 and 11.10.2024 were issued at the said address of M/s Highland International and the same were undelivered at the said address.

**Verification of premises of Shri Shambu Sharan, partner of M/s Highland International (IEC holder) situated at House No. -22, G/F, Block-G, Pocket- 17, Sector-15, Rohini, Sector-7, North-West Delhi (RUD 36):-**

- 1.54 A visit by the officers of DRI, Mumbai alongwith the officers of DRI, Delhi Zonal Unit, was made at the said address of Shri Shambu Sharan, partner of M/s Highland International (IEC holder) on 14.11.2023. During the visit/verification, it was noticed that there was one billboard by the name of M/s Mahar

Interiors affixed on the said premises. On enquiring, it was informed by the person, Shri Mohammad Azhar, available at the said address, that the said premises were being used as an office space by M/s Mahar Interiors in which he is the proprietor. On enquiring about Shri Shambhu Sharan, he informed that no such person by the name Shri Shambhu Sharan resides there. He further informed that he is living at the said premises since 2010 on rent and has never come across any such person. Further, summonses dated 07.02.2024, 16.02.2024 and 23.02.2024 were issued at the said address of Shri Shambhu Sharan and the same were undelivered at the said address.

**Verification of premises of Shri Vijay Kumar, partner of M/s Highland International (IEC holder) situated at C5D, 89A, CGD Block, Janakpuri, C4 West Delhi, Delhi-110058 (RUD 37):-**

- 1.55 A visit by the officers of DRI, Mumbai alongwith the officers of DRI, Delhi Zonal Unit, was made at the said address of Shri Vijay Kumar, partner of M/s Highland International (IEC holder) on 15.11.2023. On reaching the said premises, it was noticed that one Shri Dharampal Gulati, alongwith his family, was residing in that premises. Shri Dharampal Gulati submitted a letter, wherein he mentioned that he is living at that address for the last 15-18 months. He further mentioned that he doesn't know any person named Vijay Kumar. Consequent to the said enquiry, it appeared that there is no person named Vijay Kumar residing at the said address and the said address is owned by Shri Dharampal Gulati. Further, summonses dated 07.02.2024, 16.02.2024 and 23.02.2024 were issued at the said address of Shri Vijay Kumar and the same were undelivered at the said address.
- 1.56 DRI also sent a summons to Shri Shambhu Sharan of M/s Highland International on 16.02.2023 to appear before the investigating officer for his statement in respect of investigation of clandestine removal of goods from Public Bonded warehouse. In reply to the said summons, an e-mail dated 10.03.2023 from their registered email address i.e. highlandinternational314@gmail.com was received informing that Shri Shambhu Sharan has lost his one eye in an accident and he is taking treatment for the same from Patna, Bihar and unable to come for the statement. It was further informed vide the said email that, in the firm Highland International, import and clearance to bonded warehouse is done by his firm's agent Shri Vishwanath Joddar. However, Shri Vishwanath Joaddar also never visited the DRI office. DRI again sent a summons to Shri Shambhu Sharan of M/s Highland International on 13.07.2023 (by post as well as by email) to appear before the investigating officer for his statement in respect of the said investigation. But, Shri Shambhu Sharan neither sent any reply to the said summons dated 13.07.2023 nor he appeared before the DRI for the statement. Their representative/agent Shri Vishwanath Joddar also did not appear to join the investigation. Afterwards, summonses dated 07.02.2024, 16.02.2024 and 23.02.2024 were issued at the said address of Shri Shambhu Sharan and the same were undelivered at the said address.
- 1.57 Thus, from the verification, it appears that the firm M/s Highland International is a non-existent entity.

Also, till date even after booking the case and issuing summons the IEC holders have not joined the investigation. The Director of the firm M/s Allsan Shipping and Logistics Pvt. Ltd., Shri Sanjay Vithoba Sable, in his statement dated 05/06.01.2023, has said that the goods of M/s Highland International were warehoused on the directions of Shri Prasad Kurhade. Hence, it appears the IEC holders are not genuine and the IEC has been created to facilitate the clandestine removal of goods from the Allsan warehouse.

**M/s Alpha Industries (IEC-ABYFA3809L):-**

- 1.58 During the course of the investigation verifications/visits were made to verify the genuineness of the registered office premises of M/s Alpha Industries and residential premises of IEC holders Shri Rajat Kumar and Shri Rakesh Yadav who were the partners in M/s Alpha Industries.

**Verification of registered premises of M/s Alpha Industries situated at office No. 111, Vardhaman Seven Eleven Plaza, LSC II, Rohini, Sector-7, Delhi- 110086 (RUD 38):-**

- 1.59 On reaching at the entry gate of Vardhaman Seven Eleven Plaza, it was noticed that there was a signboard affixed above the entry gate to the stairs of Vardhaman Seven Eleven Plaza wherein 'IS International' GST No.- 07BBOPP3268F1ZB was mentioned. Thereafter, on reaching the Office No. 111, which was located on the first floor of the said plaza, the said office No. was found to be locked. Thereafter, on enquiring from the nearby office owners, it was learnt that the said office is closed from past 6 months and that they never heard any firm naming M/s Alpha Industries operational at the said address. Thereafter, upon making such enquiry, it appeared that no such firm naming M/s Alpha Industries currently exists in the said address. Further, summonses dated 30.09.2024, 08.10.2024 and 11.10.2024 were issued at the said address of M/s Alpha Industries and the same were undelivered at the said address.

**Verification of registered premises of M/s Alpha Industries situated at Office No- 27-L., Block A, Sector-16, Noida, Gautam Buddha Nagar, U.P.- 201301 (RUD 39).**

- 1.60 Upon reaching at the said building it was found that the building was consisted of three floors with a basement. The basement was found to be occupied by M/s Modview Vending Services. In the first floor another firm by the name of M/s My Money Mantra was operating. Two firms M/s S.N. Enterprises and M/s Noitexh World Pvt. Ltd. were found operating from the second floor and another two firms M/s Haya Alal Falan Kids and M/s Growvision Finances Services were running from the third floor of the same building. Further enquiries were also made with the son of the owner of the building, Shri Sunny Sharma, who categorically informed that he had never rented out any part of the building to M/s Alpha Industries. Thus, the whereabouts of M/s Alpha Industries was found to be non-existent at the mentioned address. Further, summonses dated 30.09.2024, 08.10.2024 and 11.10.2024 were issued at the said address of M/s Alpha Industries and the same were undelivered at the said address.

**Verification of residential premises of Shri Rajat Kumar, Partner in M/s Alpha Industries, situated at House No.-821, Block L2A, Mohan Garden, Uttam Nagar, West Delhi (RUD 40):-**

- 1.61 On reaching the said premises at around 11:30 AM on 15.11.2023, it was noticed that the Block L2A, Mohan Garden, Uttam Nagar was having the House No. up to 200 only. After enquiring from the residents of the said Block L2A, it was informed that the said Block is not having any house No. 821. The officers tried to enquire about Shri Rajat Kumar from the residents and neighbors of House No. 21 and 121, then it was learnt that there no such person with the name of Shri Rajat Kumar residing there. After enquiring extensively about the house No. 821, it appeared that the said address is non-traceable as there is no such house No. 821 in Block L2A, Mohan Garden, Uttam Nagar, New Delhi. Further, summonses dated 24.02.2023, 24.10.2024 and 29.10.2024 were issued at the said address of M/s Alpha Industries and the same were undelivered at the said address.

**Verification of residential premises of Shri Rakesh Yadav situated at 644, A Block, JJ Colony, Pankha Road, Uttam Nagar, Delhi :-**

- 1.62 Shri Rakesh Yadav was found at his above mentioned residential premises and vide his statement dated 15.11.2023, he accepted that he has given his KYC documents to his friend who later took IEC on the name of M/s Alpha Industries by using his KYC documents. However, he was nowhere concerned with the said IEC of M/s Alpha Industries and never dealt with any import- export. Thus, from the verification, it appears that the firm M/s Alpha Industries is a non-existent entity. Also, till date even after booking the case and issuing summons the IEC holders have not joined the investigation. The Director of the firm M/s Allsan Shipping and Logistics Pvt. Ltd., Shri Sanjay Vithoba Sable, in his statement dated 05/06.01.2023, has said that the goods of M/s Alpha Industries were warehoused on the directions of Shri Prasad Kurhade. Hence, it appears the IEC holders are not genuine and the IEC has been created to facilitate the clandestine removal of goods from the Allsan warehouse.

**Blue I Store, SEZ Client (IEC- AVTPB0390E):-**

- 1.63 During the course of the investigation verifications/visits were made to verify the genuineness of the registered office premises of M/s Blue I Store and residential premises of Shri Vijay S/o Lakshmi Narayan, Proprietor of M/s Alpha Industries.

**Verification of registered premises of M/s Blue I Store at Unit 1133, Tower-B, Plot No.-1, Alphathum, Noida World One, Sector- 90 Noida, Gautam Buddh Nagar UP- 201305 (RUD 41):-**

- 1.64 On reaching the premises which was located at 11th floor of the Tower-B of said Address, unit No. 1133 was traced but it was found to be locked and non-operational. Also, there was no sign board affixed on the said unit No. 1133. Thereafter, on enquiring from the nearby office owners, it was learnt that the said

office is closed from past 6 months and that before that there was some office in it but they do not remember the name. On further enquiry, they informed that they cannot recollect any firm naming M/s Blue I Store operational at the said address. Thereafter, upon making such enquiry, it appeared that no such firm naming M/s Blue I Store currently exists in the said address.

**Verification of residential premises of Shri Vijay S/o Lakshmi Narayan, proprietor of M/s Blue I Store residing at A-1/62, Vijay Enclave, Delhi (RUD 42):-**

- 1.65 On reaching at the said premises, it was found that there was a commercial complex on ground floor which consisted of 07 shops on the ground floor. On the first and second floor of that premises, there were 06 residential apartments which were being rented out to the different tenants. Upon enquiring from the tenants, it was found that there is no Vijay S/o Lakshmi Naryan living in the said apartments. Further, tenants provided contact No. of the owner of the apartments, Shri Sachin Agarwal (Sonu) for any further enquiry. Upon contacting Shri Sachin Agarwal (Sonu), it was informed by him that, he had never rented any of the residential apartments to any person named Shri Vijay S/o Lakshmi Narayan. Upon further enquiry to the shop owners on the ground floor area, it was leant that no such person named Vijay S/o Lakshmi Narayan resided in that building and they also never heard or came across any firm name M/s Blue I Store in that building. After making such enquiries it appeared that no such person Shri Vijay S/o Lakshmi Narayan or/and firm M/s Blue I Store are present at the said address.

From the verification, it appears that the firm M/s Blue I Store is a non-existent entity. Also, till date even after booking the case and issuing summons the IEC holders have not joined the investigation.

**OSGL Overseas, SEZ Entity (AAHFO4006B) :-**

- 1.66 During the course of the investigation verifications/visits were made to verify the genuineness of the registered official premises of M/s OSGL Overseas and residential premises of Shri Swaroop Shridhar Shetty and Shri Akash Dilip Bhojne partners of M/s OSGL Overseas.

**Verification of registered premises of M/s OSGL Overseas Kandla SEZ situated at Shed No. 2 & 3, CPWD Type, Sector - I, Phase - I, Kandla Special Economic Zone, Gandhidham, Kachchh, Gujarat - 370230 (RUD 43):-**

- 1.67 The said premises was found to be closed with an iron gate and the said gate appeared to be in fully rusted condition. The said gate of the premises was not locked, however, even after opening the latch of the door, the gate did not open. There were two other shutters in the said premises which were found to be locked by two locks each. Enquiries were made with the local nearby persons, and it was told that the said premises was locked for 12-15 months. It was told that the said premises was earlier an office and godown for dates, areca nuts and black pepper which were being imported through Kandla SEZ. Vide letter dated 23.03.2023, it was informed by Deputy Commissioner of Customs, Kandla SEZ, that Shri Swaroop Shetty, Partner of M/s OSGL Overseas, was the concerned person who approached for

examination and fulfilling other customs procedures for the import of M/s OSGL Overseas at Kandla SEZ.

**Verification of residential premises of Shri Swaroop Shridhar Shetty, Partner of M/s OSGL Overseas Kandla SEZ situated at Shetty House, Shetty Estate, Opp Cigarette Factory Chakala, Sahar Road, Mumbai-99 (RUD 44):-**

- 1.68 After reaching at the said premises, the door was opened by a lady who introduced herself as Sister in Law of Shridhar Shetty (Wife of Shridhar Shetty's brother Shri Megnath Shetty). On enquiring about Shri Swaroop Shridhar Shetty, she told that Swaroop Shetty and his family no longer reside at the said address. Further, she told the said house is ancestral property and she alongwith his husband Megnath Shetty and her son Shri Nirmal Shetty live at the said address. On further enquiry she told that Shridhar Shetty and his family was previously residing at the said address, however they have left the house around August 2024, and shifted somewhere in Bhiwandi. Upon further enquiry, she made a call to his son Nirmal Shetty and Shri Nirmal Shetty told that as per the will of his grandfather the said house is now in the name of his father Shri Megnath Shetty and his family and due to that Shridhar Shetty and his family vacated the house and his family shifted into the said house. On enquiry about the current address of Shri Swaroop Shetty and his family, he told that they don't have contact details and address of Shri Swaroop Shetty and his family. However, he knows that they shifted at some place in Bhiwandi. Afterwards, the officers decided to leave the premises, as no details regarding current address of Shri Swaroop Shridhar Shetty and his family could be gathered.

**Verification of premises of Shri Swaroop Shridhar Shetty, Partner of M/s OSGL Overseas Kandla SEZ situated at 01, Bharat Nagar, Gandhidham (RUD 45):-**

- 1.69 Upon visiting the Bharat Nagar locality of Gandhidham efforts were made to locate the said address to hand deliver the summons to him, however no such address was found existing in the said locality.

**Verification of residential premises of Shri Akash Dilip Bhojne, Partner of M/s OSGL Overseas Kandla SEZ, situated at Room No. 04, Matthew Gonsalves Chawl, Near BMC School, Chakala, Islampura, Andheri (East):-**

- 1.70 Shri Akash Dilip Bhojne was found at the said premises and his statement dated 02.12.2023 was recorded under Section 108 of the Customs Act, 1962. Upon asking he said that he didn't know anything about M/s OSGL Overseas (IEC- AAHFO4006B) and he didn't know anything about the import- export activity being done by this company. He didn't know about the fact that he was a partner in the company M/s OSGL Overseas (IEC- AAHFO4006B). He had no idea about any goods being brought into India in the name of M/s OSGL Overseas (IEC- AAHFO4006B) at Kandla SEZ. He also doesn't know the fact that the said goods were then Bond to Bond transferred to Nhava Sheva and thereafter their clandestine removal from the Customs Bonded warehouse. In the month of October 2021, his childhood friend Shri

Swaroop Shetty told him that he (Swaroop) wanted to start an export company. He then told that to open the said export company he had to make another partner of 1% share and told him (Akash) that it is legally required to make a partner. He then asked him (Akash) to become a partner in the said company. After his repeated requests, he (Akash) accepted the offer as he (Swaroop) was his childhood friend. Then Shri Swaroop Shetty took his KYC documents i.e. Aadhar Card, PAN Card and photo. He never shared the company name to him (Akash) which was to be opened. After giving the documents, he (Swaroop) never told that any company was opened in their partnership or not and he (Akash) thought that the company was not opened. He never dealt with any export import activities in respect of M/s OSGL Overseas (IEC- AAHFO4006B). He was made partner in the said company by Shri Swaroop Shetty by taking his documents. He (Akash) never received any money from Shri Swaroop Shetty for any activity with respect to M/s OSGL Overseas (IEC- AAHFO4006B).

- 1.71 After the verification of M/s OSGL Overseas and its partners, it appeared that Shri Swaroop Shetty was the main person who was operating the said firm M/s OSGL Overseas. Various summonses were issued to Shri Swaroop Shetty to join the investigation (19.10.2023, 25.10.2023, 01.11.2023), however, he never joined the investigation.

**Table 11 Search/visit at registered addresses of IECs/SEZ Entity/SEZ Client**

Sr. No.	Name of the Importer	Address	IEC	Premises Visited by	Outcome of Search/Visit
1	M/s Highland International	Office No. 208, Unit No-204, Plot No-26, 2nd Floor, Vikas Royal Arcade, Arcade Road No-44, Community Center Pitampura, Delhi, North-West Delhi, Delhi-110034	AAMFH8931M	DRI, Delhi ZU (29.03.2023), DRI, MZU (14.11.2023)	Premises found locked.
		Office No. 36, Block-A, Pocket-1, Sector-7, Rohini, New Delhi	AAMFH8931M	DRI, Delhi ZU (29.03.2023),	Firm is currently non-existent
2	M/s Alpha Industries	Office No-27-L, Block A, Sector- 16, Noida, Gautam Buddha Nagar, Uttar Pradesh, 201301	ABYFA3809L	DRI, Noida RU (23.03.2023)	Firm is Non-existent
		Office No. 111, Vardhaman Seven Eleven Plaza, LSC II, Rohini, Sector-7, Delhi-110086		DRI MZU (16.11.2023)	Firm is Non-existent
3	M/s Blue I Store	Lower Ground Floor, WZ-13-D/3, Shop No. 2, Asalatpur, Janakpuri, New Delhi, West Delhi, Delhi-110058	AVTPB0390E	DRI, Delhi ZU (03.04.2023)	Firm is Non-existent. The Party has vacated the premises in

		Unit 1133, Tower-B, Plot No.-1, Alphathum, Noida World One, Sector- 90 Noida, Gautam Buddh Nagar UP- 201305		DRI MZU (17.11.2023)	February 2023 Firm is Non-existent
4	M/s OSGL Overseas	Shed No. 2, 3. CPWD Type, Phase-1, Sector 1, KASEZ, Kachchh, Gandhidham, Gujarat 370230	AAHFO4006B	DRI, MZU (18.03.2024)	Firm is Non-existent. The said premises is locked for last 12-15 months.

**Table 12 Search/visit at IEC holders addresses and syndicate members:**

Sr. No.	Name of the Importer	IEC	IEC Holder Name	IEC Holder Address	Visit made by	Outcome of Search/Visit
1	M/s Highland International	AAMFH8931M	Shambhu Sharan (Partner)	Chaneshwar Sharran, House No. -22, G/F, Block-G, Pocket- 17, Sector-15, Rohini, Sector-7, North-West Delhi	DRI, MZU (14.11.2023)	1. No such person lived at that address in the last 13 years. Wrong address given in all documents
			Vijay Kumar (Partner)	Vijay Kumar C/o Ram Singh, C5D, 89A, CGD Block, Janakpuri, C4, West Delhi, 110058	DRI, MZU (15.11.2023)	2. Vijay never lived at the said address and fake address was given while obtaining IEC.
2	M/s Alpha Industries	ABYFA3809L	Rajat Kumar	Rajat Kumar, House No.-821, Block L2A, Mohan Garden, Uttam Nagar, West Delhi	DRI, MZU (15.11.2023)	1. Rajat Kumar, non-existent address. No house No. 821 is found in L2A Block.
			Rakesh Yadav	Rakesh Yadav, 644, A Block, JJ Colony, Pankha Road, Uttam Nagar, Delhi	DRI, MZU (15.11.2023)	2. Rakesh Yadav found at that address. In his statement, he told that his known person took his KYC documents and gave him 5000 Rs. He is a dummy importer.
3	Blue I Store	AVTPB0390E	Vijay	S/o Lakshmi Narayan, A-1/62, Vijay Enclave, Delhi	DRI, MZU (16.11.2023)	Vijay never lived at the said address for the last 10 years.
4	OSGL Overseas	AAHFO4006B	Akash Dilip Bhojne, Andheri	Near BMC School, RM-04, Mathew Gonsalves Chawl, Chakala, Islampura, Andheri (East), Mumbai-99	DRI, MZU (02.12.2023)	3. Shri Akash Bhojne vide his statement dated 02.12.2023 informed that his childhood friend Swaroop Shetty made him

						partner in the said firm. He has no idea about OSGL Overseas activities.
			Swaroop Sridhar Shetty, Andheri	1. Shetty House, Shetty Estate, Opp Cigarette Factory Chakala, Sahar Road, Mumbai-99	DRI, MZU (02.12.2023 & 25.09.2024)	2. Swaroop Shetty was not staying at the said address of Chakala. His family shifted somewhere in Bhiwandi but the new address is unavailable. He was issued a summons to appear before the DRI office but he did not appear.
				01, Bharat Nagar, Gandhidham, Gujarat - 370201	DRI, Gandhidham (25.10.2024)	No such address was found existing in the said Bharat Nagar locality.
5.	Karan Singh alias Pankaj (RUD 46)			House no 1/12, B- 11, Nagwa Lanka, Gangotri Vihar Colony, Varanasi, Hindu Vishvavidhyalaya, UP- 221005	DRI Varanasi (17.10.2024)	No such House no 1/12, B-11 could be located in the given address.

1.72 As per the verifications/visits made to the registered addresses of IECs and at the addresses of IEC holders, it was revealed that the addresses of most of the IEC holders are either fake or non-existent. In a few cases, it was found that some other persons have been living at the address of the IEC holder for many years and the IEC holder never stayed at that place. In a few cases, it was found that the door of the IEC holder or firm office was locked. It is found that many other govt departments/agencies had also visited the said addresses while looking after the IEC holder or firm concerned.

1.73 In view of the above visits conducted, it is revealed that most of the IEC holders are fake, non-existent or non-beneficiary in the said case. The beneficial owners of the said clandestine removal had used the IECs of non-existent firms and imported the goods which were later removed from the warehouse by the said syndicate members. The syndicate members hatched a plan wherein they used the IEC in the name of the persons who were not connected to the import of the goods. The said IECs were taken into use in lieu of monetary considerations or other benefits.

#### **TRANSPORTATION OF GOODS FROM KANDLA SEZ TO ALLSAN WAREHOUSE:-**

1.74 During the investigation, it is revealed that the syndicate members used an SEZ entity M/s OSGL Overseas for the purpose of bringing the said goods from outside of India into Kandla SEZ on behalf of

their client. Subsequently, M/s OSGL Overseas deemed exported the said goods to the local buyer (which will be called an importer as per SEZ regulations) and, then, the said importer transferred the goods from SEZ to Public Bonded Warehouse Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) under Section 46(13) of SEZ Rules, 2006. Afterwards, the said goods were transported from Kandla SEZ to Allsan Warehouse by using the trucks of various transporter. The details of the trucks used for the transportation of the goods from Kandla SEZ to Allsan Warehouse are as under :-

Sr. No.	BE No./Date	Importer	Goods Description	Vehicle No.	Vehicle Owner	Qty (Kg)
1	2012099/ 18.10.2022	Alpha Industries	Black Pepper	RJ14GK3829	Sumit Road Lines	21900
2	2012099/ 18.10.2022	Alpha Industries	Black Pepper	RJ04GC1888	Bhinya Ram Chaudhary	22080
3	2012100/ 18.10.2022	Alpha Industries	Black Pepper	NL01AG1140	Big Stock Logistics Pvt. Ltd.	24440
4	2012100/ 18.10.2022	Alpha Industries	Black Pepper	RJ04GC1888	Bhinya Ram Chaudhary	29930
5	2012100/ 18.10.2022	Alpha Industries	Black Pepper	NL01AF9977	Bhinya Ram Chaudhary	29840

- 1.75 Summons were issued to the transporter named above and statements of Shri Anil Kumar employee of Sumit Road Lines and Ghanshyam Walia, employee of Big Stock Logistics Pvt. Ltd. were recorded. On the basis of the said statements, it was revealed that the said work of transportation of Black Pepper via truck RJ14GK3829 by the transporter Sumit Road Lines was given by another transport company i.e. M/s Swami Azranand Tpt. Co. Various summonses were issued to Swami Arzanand Tpt Co. Ltd. (18.09.2023, 10.11.2023, 23.11.2023) and Bhinya Ram Chaudhary (17.07.2023, 05.09.2023, 23.11.2023), however he never turned up for his statement.

#### **VALUATION OF GOODS:-**

- 1.76 The value of the goods which were initially imported through JNCH Nhava Sheva and Kandla SEZ are taken as per the value declared in respective Bills of Entry. The duty involved in the imports is also taken from the Bills of Entry (**RUD 47**). After going through the statements of the syndicate members and other related persons, facts emerged during the investigation, documents and data received from Bond Section, JNCH and Kandla SEZ, the value of the goods which were warehoused at Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) and subsequently clandestinely removed by the syndicate members led by Shri Prasad Kurhade along with Shri Kirty Raj Singh, Shri Karan Singh alias Pankaj and others, is as below:-

**Table 13: Importer-wise value of the goods warehoused in Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168):**

Sr. No.	Importer's Name	Goods Description	BE No/Date	Containers No. which were warehoused at Allsan Shipping and Logistics Pvt. Ltd.	Quantity (MTs)	Value of the good as per bill of entry (INR)
1.	M/s Highland International	Dried Areca Nuts	3344092/ 17.11.2022	FCGU4475917 FSCU4936580 FSCU4874174 FSCU4946715	108000	67726406
2.	M/s Highland International	Black Pepper	3343242/ 17.11.2022	WHLU5477110 HDMU6520085	55520	29358685
3.	M/s Alpha Industries	Black Pepper	2012100/ 18.10.2022	3 containers were transferred from SEZ to Bond	84000	41554800
4.	M/s Alpha Industries	Black Pepper	2012099/ 18.10.2022	2 containers were transferred from SEZ to Bond	44000	21766800
	<b>Total</b>					<b>160406691</b>

**Table 14: The value of the goods clandestinely removed by the syndicate and available at Allsan warehouse as on 14.07.2023:-**

Sr. No.	Name of the Importer	B/E No./ Date	Description of goods in B/E	Quantity in Bill of Entry (In Kg.)	Declared Assessable Value	Quantity of goods present in warehouse as on 14.07.2023 (In Kg)	Quantity of goods clandestinely removed from warehouse	Value of the goods present in warehouse (INR)	Value of the goods clandestinely removed (INR)
1	M/s Highland International	3344092/ 17.11.2022	Dried Areca Nuts	108000	67726406	55500	52500	34803848	32922558
2	M/s Highland International	3343242/ 17.11.2022	Black Pepper	55520	29358685	23300	32220	12320918	17037767
3	M/s Alpha Industries	2012100/ 18.10.2022	Black Pepper	84000	41554800	0	84000	0	41554800
4	M/s Alpha Industries	2012099/ 18.10.2022	Black Pepper	44000	21766800	0	44000	0	21766800
	<b>Total</b>			<b>291520</b>	<b>160406691</b>	<b>78800</b>	<b>212720</b>	<b>47124765</b>	<b>113281926</b>

**Table 15: The duty in respect of the goods clandestinely removed from Allsan warehouse as on 14.07.2023:-**

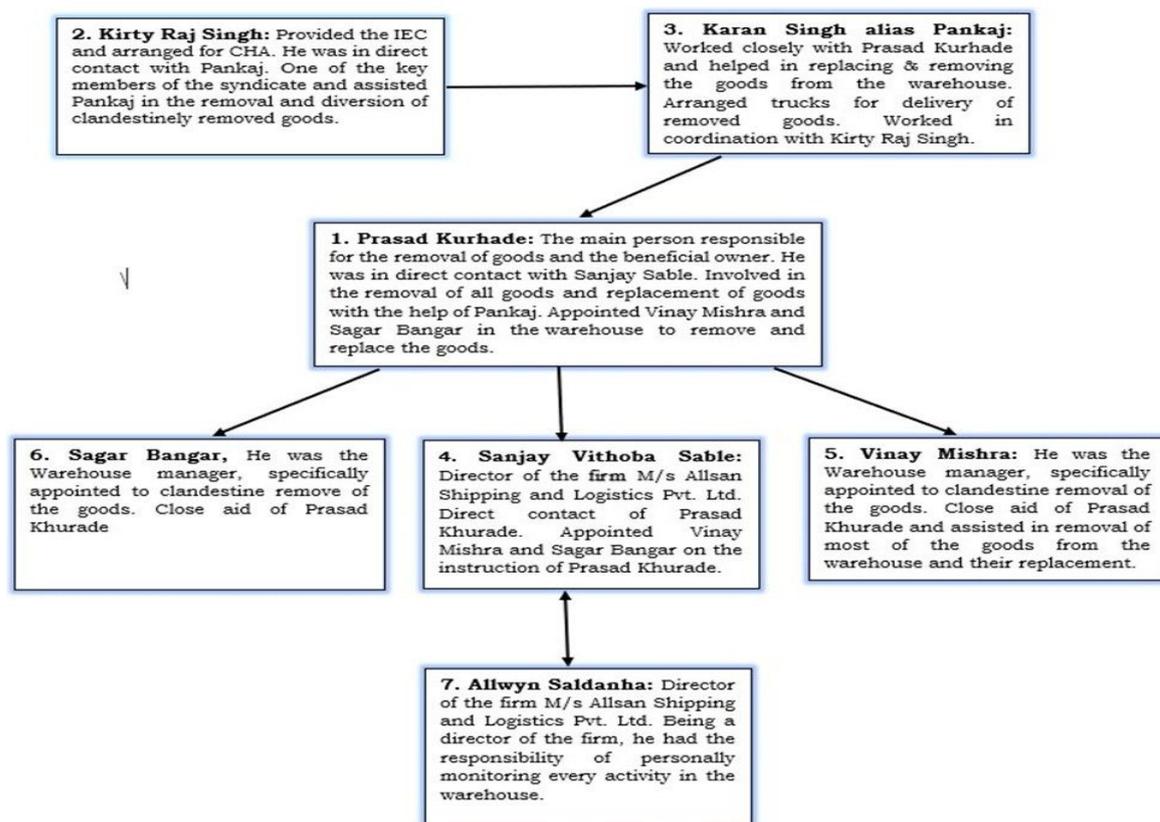
Sr. No.	Name of the Importer	B/E No./ Date	Description of goods in B/E	Quantity in Bill of Entry (In Kg.)	Total Declared Assessable Value in	Declared duty (BCD+SWS)	Total goods clandestinely removed from	Value of the goods clandestinely removed	Duty of the goods clandestinely removed
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					BE	+IGST) in BE	warehouse (In Kg)	(INR)	(INR)
1	M/s Highland Internatio nal	3344092 / 17.11.202 2	Dried Areca Nuts	108000	67726406	91566101	52500	32922558	44511299
2	M/s Highland Internatio nal	3343242 / 17.11.202 2	Black Pepper	55520	29358685	25204432	32220	17037767	14626924
3	M/s Alpha Industries	2012100 / 18.10.202 2	Black Pepper	84000	41554800	35674796	84000	41554800	35674796
4	M/s Alpha Industries	2012099 / 18.10.202 2	Black Pepper	44000	21766800	18686798	44000	21766800	18686798
	<b>Total</b>					<b>17113212 7</b>	<b>212720</b>	<b>113281926</b>	<b>113499817</b>

1.77 By going through the above Tables 14 and 15, it appears that the syndicate members attempted to clandestinely remove the goods warehoused at Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) of 11 containers having a total weight of 291.52 MTs and value of the said goods amounts to 16.04 crores. Out of these warehoused goods, the syndicate members were successful in removing all goods related to M/s Alpha Industries and a major portion of M/s Highland International, as explained in Table 14 above. It was revealed that in the month of August 2023 some part of the said remaining goods which were seized vide Seizure Memo dated 14.07.2023, were further clandestinely removed by the unknown persons. The said investigation is currently being done by Bond Section, JNCH and CIU, JNCH. The details of the remaining goods of M/s Highland International i.e. Dried Areca Nuts in split form and Black Pepper, were recorded under panchnama dated 14.08.2023-18.08.2023, and shown below in Table 7. Subsequently, it was also learnt that an FIR in relation to the theft of goods from Allsan Warehouse in the month of August 2023, was registered at Panvel City Station, vide FIR No. 95/2024 dated 27.02.2024 and the said removal of the goods in the month of August 2023, is being investigated by Bond Section, JNCH and CIU, JNCH. Panvel City Police Station is also investigating the said removal as theft from the warehouse in the light of FIR registered.

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

1.78 During the investigation, it was revealed that a well-organized syndicate was actively engaged in the clandestine removal of the goods that were allowed for warehousing in Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) and the said goods were being illegally diverted to the local market to evade the payment of customs duty and to circumvent the restrictions imposed under the Customs Act, 1962 read with Public Warehouse Licensing Regulations, 2016 and SEZ Rules, 2006. The main members of the syndicate are shown below in the flow chart.

**The Flowchart:**

1.79 Shri Prasad Kurhade who was the kingpin of the syndicate hired a customs bonded warehouse for the clandestine removal of the goods i.e. Areca nuts and Black Pepper. Shri Prasad Kurhade approached Shri Sanjay Vithoba Sable who was managing Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) and told him that he wanted to use Allsan warehouse for the purpose of storage of general cargo for 4-5 days. Shri Sanjay Vithoba Sable agreed to his proposal, however, Shri Sanjay Vithoba Sable didn't know their plan of clandestine removal of goods which were to be stored in Allsan Warehouse.

1.80 To fulfil the plan of clandestine removal of goods Areca nuts and Black Pepper, Shri Prasad Kurhade referred his childhood friend Shri Vinay Mishra to Shri Sanjay Vithoba Sable to appoint him as Warehouse Manager of Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). Shri Sanjay Vithoba Sable on the request/referral of Shri Prasad Kurhade, appointed Shri Vinay Mishra as warehouse manager.

1.81 Shri Prasad Kurhade requested Shri Sanjay Vithoba Sable that the goods which were to be warehoused were general cargo for 4-5 days and the entry of the same in-bond register was not to be made as the cargo was being stored in the warehouse temporarily. Hence, the entries with respect to the goods pertaining to M/s Highland International and M/s Alpha Industries were not made in the in-bond register of Allsan warehouse.

- 1.82 Afterwards, Shri Prasad Kurhade with the help of other syndicate members namely Shri Kirty Raj Singh, Shri Karan Singh alias Pankaj and Shri Vinay Mishra clandestinely removed the goods from Allsan warehouse and diverted them into the local market without the payment of applicable customs duty. The said clandestinely removed goods were replaced with goods having nil commercial value.
- 1.83 To hatch the plan related to the clandestine removal of goods, Shri Prasad Kurhade took the help of Shri Kirty Raj Singh, who had arranged various IECs by his contacts on the names of different persons who were mostly untraceable at their registered addresses. After the movement of the said goods to the said warehouse, Shri Prasad Kurhade through other syndicate members clandestinely removed the goods from the said warehouse to evade the payment of Customs duty and replaced the same with goods having nil commercial value. Shri Prasad Kurhade used to manage his work of warehousing and removing of goods through his close accomplices Shri Karan Singh alias Pankaj who used to arrange trucks for delivery of the goods from the warehouse to the local market and Shri Vinay Mishra, who used to assist in removing the goods from the warehouse and replace them with goods having nil commercial value.
- 1.84 Verification of the IECs revealed that most of the IEC holders were fake, non-existent or non-beneficiary in the said case. The beneficial owner, Shri Prasad Kurhade had arranged the IECs with the help of Shri Kirty Raj Singh and imported the goods which were later removed from the warehouse by the said syndicate members.

### **ARRESTS**

- 1.85 During the investigation, the following persons were arrested under Section 104 of the Customs Act, 1962:

**Table 15: Details and role of the persons arrested during the investigation**

<b>Sr. No.</b>	<b>Name</b>	<b>Role</b>	<b>Arrested on</b>
1	Shri Sanjay Vithoba Sable	Director of M/s Allsan Shipping and Logistics Pvt. Ltd. which used to manage Allsan Warehouse	06.01.2023
2	Shri Allwyn Saldanha	Director of M/s Allsan Shipping and Logistics Pvt. Ltd. which used to manage Allsan Warehouse	06.01.2023

- 1.86 All the above persons have been released on bail by the court of Hon'ble First Class Judicial Magistrate, Uran Court.
- 1.87 Shri Prasad Kurhade had filed an Anticipatory bail application in the court of Hon'ble District and Addl. Sessions Judge, Panvel, however, the bail application was rejected. Shri Prasad Kurhade had filed an appeal in the Hon'ble High Court of Bombay and has got interim relief till further orders. The case is pending in the Hon'ble High Court of Bombay. Further Hon'ble Bombay High Court directed Shri

Prasad Kurhade to attend the office of DRI, Nhava Sheva on for the period of 22.07.2024-26.07.2024 and 25.09.2024-27.09.2024. Following the Hon'ble Bombay High Court's directions, Shri Prasad Kurhade had attended the office of DRI, Nhava Sheva in the said period and his statements dated 22.07.2024, 26.07.2024, 25.09.2024 and 27.09.2024 were recorded under Section 108 of the Customs Act, 1962.

- 1.88 During the period of the said clandestine removal of the goods from Allsan warehouse (October 2022 to December 2022), a similar type of clandestine removal of goods (Areca Nuts) in another public bonded warehouse namely Akshay Logistics Warehouse (NSA1U 131) taken place. The said case is also being investigated by DRI, Mumbai Zonal Unit. During the investigation of the said clandestine removal of goods from Akshay Logistics Warehouse, the role of Shri Sagar Bangar and Shri Kirty Raj Singh had emerged and both were arrested under Section 104 of the Customs Act, 1962 by DRI, MZU. Both persons were later released on bail by the court of Hon'ble First Class Judicial Magistrate, Uran, Court on the condition of their regular attendance in DRI Nhava Sheva office.

#### **FORENSIC AND FINANCIAL INVESTIGATION: -**

- 1.89 During the course of the investigation, the bank account details of the syndicate members were retrieved. After going through the bank transactions of the syndicate members, the following bank accounts of the syndicate members were provisionally attached:-

**Table 16: Details of Bank Accounts which were provisionally attached during the investigation (RUD 48)**

<b>Sr. No.</b>	<b>Account Holder name</b>	<b>Account No.</b>	<b>Name and Branch of the Bank</b>
1.	M/s Allsan Shipping & Logistics Pvt. Ltd.	87305500644	ICICI, CBD Belapur, Navi Mumbai
2.	M/s Allsan Shipping & Logistics Pvt. Ltd.	916020049215283	Axis Bank, New Panvel
3.	Om Sai Logistics (Prasad Kurhade)	8613135461	Kotak Mahindra, Nerul (East)

- 1.90 During the investigation, it emerged that during the period of import of goods, payments were made from the accounts of the importer namely M/s Highland International (PAN No. - AAMFH8931M), into the account of CHA firm, M/s Alka Logistics (HDFC Bank Account No.- 50200053401337). The account statement of Alka Logistics (HDFC Bank Account No.- 50200053401337) was retrieved and after scrutiny, to investigate the said transactions, the bank account details, KYC details and bank statements of the concerned bank account of M/s Highland International were obtained from the concerned banks. On scrutiny of the said received bank statement of M/s Highland International (PAN No. - AAMFH8931M), the following transactions were found to be relevant to the investigation and suspicious.

Sr. No.	Date	From	To	Amount (Rs.)
1	22-11-2022	Shivalik Enterprises	Highland International	295500
2	22-11-2022	Shivalik Enterprises	Highland International	2485000
3	22-11-2022	Shivalik Enterprises	Highland International	2595200
4	23-11-2022	Shivalik Enterprises	Highland International	2435720
5	23-11-2022	Shivalik Enterprises	Highland International	4942350
6	26-11-2022	Shivalik Enterprises	Highland International	2433560
7	01-12-2022	Shivalik Enterprises	Highland International	60000
8	01-12-2022	Shivalik Enterprises	Highland International	3705001
9	08-12-2022	Shivalik Enterprises	Highland International	750131
10	09-12-2022	Highland International	Alka Logistics	475751
11	09-12-2022	Shivalik Enterprises	Highland International	200000
12	14-12-2022	Highland International	Allsan	120000
13	14-12-2022	Highland International	Allsan	240000
14	14-12-2022	Shivalik Enterprises	Highland International	200000
15	14-12-2022	Shivalik Enterprises	Highland International	250000
16	16-12-2022	Highland International	Alka Logistics	125000

- 1.91 Going through the above transactions, it appeared that whenever any amount to be transferred to Alka Logistics or Allsan Warehouse, prior to that the amounts were transferred from the bank account of M/s Shivalik Enterprises to the account of M/s Highland International. M/s Shivalik Enterprises is an SEZ client in the investigation who had imported the goods at Kandla SEZ through SEZ Entity M/s OSGL Overseas and subsequently sold the goods to M/s Alpha Industries. Further, the said goods were bond to bond transferred from Kandla SEZ to JNCH and warehoused at Akshay Logistics warehouse.
- 1.92 M/s Alka Logistics is the CHA firm and Shri Uday Sharma is proprietor of the said firm. During the investigation, it was revealed, that Shri Kirty Raj Singh approached Shri Uday Sharma and asked him to arrange Customs broker for the import of M/s Highland International. Further, he alongwith his close associate, Shri Karan Singh alias Pankaj provided KYC documents of M/s Highland International to Shri Uday Sharma.
- 1.93 Verification of registered premises of M/s Shivalik Enterprises and residential premises of its proprietor Shri Sanjay Sharma was also done and it was found that the said firm and its proprietor no longer existed at the said premises.
- 1.94 In view of the above, it appeared that all the above-mentioned importers/SEZ clients were operated by the same syndicate members as various financial transactions are found between their bank accounts and it was a well-planned modus to move the goods into Akshay Logistics warehouse and Allsan warehouse to clandestinely remove the same.
- 1.95 Further, going through the facts that emerged during the investigation and statements of the syndicate member Shri Sagar Bangar, it appears that most of the payments/transactions related to the clandestine

removal of the goods were done in cash mode only, to avoid the detection of the payments.

**SUMMARY OF THE INVESTIGATION: -**

- 1.96 It appeared that the said modus operandi of clandestine removal of goods from the warehouse was a well-thought out plan of the syndicate members and their kingpin Shri Prasad Kurhade to clandestinely remove Areca nuts and Black Pepper and divert the same to the local market.
- 1.97 During the investigation, it was revealed that a well-organized syndicate actively engaged in clandestine removal of the goods that were allowed for warehousing the goods in Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) and were being illegally diverted to the local market to evade the payment of customs duty and to circumvent the restrictions imposed under the Customs Act, 1962 or by any other law for the time being in force.
- 1.98 Shri Prasad Kurhade, who was the kingpin of the syndicate, took the help of Shri Kirty Raj Singh and Shri Karan Singh alias Pankaj, who arranged the various IECs by opening the same on the documents of the persons who were non-beneficiary in the matter. Shri Prasad Kurhade with the help of Shri Kirty Raj Singh and Shri Karan Singh imported the goods i.e. Areca Nuts and Black Pepper on those IECs from Nhava Sheva port and Kandla SEZ. The said goods were either put on hold by the investigation agency or the same were transferred to the warehouse under Bond-to-Bond transfer. After the movement of the said goods to the warehouse, Shri Prasad Kurhade, through his syndicate members, clandestinely removed the goods from the said warehouse to evade the payment of Customs Duty and replaced the same with goods having NIL commercial value. Shri Kirty Raj Singh and Shri Karan Singh provided all the details and documents to Shri Uday Sharma for filing of Bills of Entry and further processing of warehousing. The syndicate was assisted by Shri Swaroop Shetty who managed the work at the Kandla SEZ. Statements of Shri Uday Sharma revealed that documents related to M/s Highland International were given to him by Shri Kirty Raj Singh. Further, Shri Kirty Raj Singh and Shri Karan Singh provided all the details related to the filing of the Bills of Entry and payments related to the same. The statements of Shri Rakesh Yadav, a partner of M/s Alpha Industries and Shri Akash Bhojne, a Partner of M/s OSGL Overseas, indicate that their details were used by the syndicate to import goods. The statement of Shri Akash Bhojne further reveals that Shri Swaroop Shetty was the person who had used his details. Shri Swaroop Shetty was known to Shri Kirty Raj Singh and he has avoided the investigation after issuing multiple summonses.
- 1.99 Shri Prasad Kurhade approached Shri Sanjay Vithoba Sable who was managing Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) and he told him that he would need the warehouse to store general cargo for 4-5 days and the same would be taken out. He convinced Shri Sanjay Vithoba Sable not to make an entry of the goods in the stock register as the said goods were shown as duty-paid goods and

were considered as general cargo which would be warehoused for 4-5 days only. Shri Prasad Kurhade promised him a good volume of business for their warehouse, so he agreed to do business with him. Shri Prasad Kurhade met him at their warehouse when the first consignment in the container of M/s Alpha Industries arrived at the warehouse. Then, he introduced him to one Shri Pankaj as Operations Manager, on behalf of both the Importers who would be coordinating henceforth in the matter. He was told by Shri Pankaj that the goods were general cargo that would be taken back by him in 4-5 days from the warehouse and, hence, he was instructed to not make entry in the warehouse register.

- 1.100 Shri Karan Singh alias Pankaj was the close aide of Shri Kirty Raj Singh and he used to work directly under Shri Prasad Kurhade. Shri Karan Singh alias Pankaj used to take delivery of the goods on the instructions of Shri Prasad Kurhade and then used to take them away to some place known to Shri Prasad Kurhade and other syndicate members. Shri Pankaj was shown as a representative of M/s Highland International and M/s Alpha Industries and neither Shri Sanjay Vithoba Sable nor Shri Allwyn Saldanha ever met with the original importers i.e. M/s Highland International and M/s Alpha Industries.
- 1.101 Both the importers were known to Mr. Prasad Kurhade and their work of warehousing was brought by him to Allsan Warehouse. Shri Pankaj used to come at the time of unloading the containers in the warehouse as a person from the importer's side. The Allsan Shipping and Logistics Pvt; Ltd. has raised invoices to M/s Alpha Industries and M/s Highland International in respect of storage space provided and has received payment for the same.
- 1.102 Shri Vinay Mishra approached Shri Sanjay Vithoba Sable for the job as a warehouse keeper and he was referred by Shri Prasad Kurhade, owner of M/s Prasad Logistics, Nerul. Shri Vinay Mishra was the old employee of Shri Prasad Kurhade, who used to work with him (Prasad Kurhade) at his transport office. Shri Prasad Kurhade intentionally appointed Shri Vinay Mishra as Manager/ warehouse keeper of Allsan Shipping and Logistics Pvt. Ltd. by referring him to Shri Sanjay Vithoba Sable, so that he could easily remove the warehoused goods of M/s Highland International and M/s Alpha Industries. After the appointment of Shri Vinay Mishra as Warehouse Manager of M/s Allsan Shipping and Logistics Pvt. Ltd, Shri Prasad Kurhade asked him to clandestinely remove the goods which were said to be general cargo and the entry of the said goods was not made in the stock register.
- 1.103 Afterwards, Shri Prasad Kurhade along with Shri Vinay Mishra and Shri Karan Singh alias Pankaj warehoused the said goods of M/s Highland International and M/s Alpha Industries and then clandestinely removed the same and replaced the said goods with the goods having negligible commercial value. As per Prasad Kurhade's statement his mobile which was used in the period of October-November 2022 was destroyed as the same fell from his bike and he never tried to recover the data of the said destroyed mobile.

- 1.104 Shri Pankaj used to come with the trucks having containers to the warehouse and the said warehoused goods then used to be loaded into the containers and were taken to the place known to syndicate members.
- 1.105 After some time Shri Vinay Mishra felt afraid of doing the clandestine removal of some consignments and was not willing to continue to work as the manager/ warehouse keeper of the said warehouse. Therefore, Shri Prasad Kurhade convinced Shri Sagar Bangar (who was the manager at Akshay Logistics Warehouse) to work as the manager/ warehouse keeper of the said Allsan Shipping and Logistics Pvt. Ltd. since he knew that Sagar was working as the manager/ warehouse keeper of the Akshay Logistics warehouse, where he had done many consignments of clandestine removal of goods from the said warehouse. At last, Shri Sagar Bangar agreed to his proposal and unofficially joined around 20.12.2022. The appointment of Shri Sagar Bangar was done specifically for the purpose of clandestine removal of the goods which were being warehoused at that time or would be warehoused in the near future.
- 1.106 By adopting the above-mentioned modus operandi, the syndicate members had clandestinely removed around 212.72 MTs of Areca nuts and Black Pepper.
- 1.107 It is revealed during the investigation that the goods Areca nuts and Black Pepper pertaining to M/s Highland International and M/s Alpha Industries were warehoused in Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) and later the same were clandestinely removed from the said warehouses and were being illegally diverted to the local market to evade the payment of Customs duty and to circumvent the restrictions imposed under the Customs Act, 1962 or by any other law for the time being in force and the said goods were replaced with some brown coloured powder and white color powder.
- 1.108 The said warehouse was sealed after carrying out the examination proceedings. Later, the said warehouse was de-sealed and replaced goods were segregated and placed in a caged area in the warehouse vide panchanama proceedings dated 07.06.2023 and 08.06.2023.
- 1.109 The declared assessable value of the goods (Areca nuts) for which the provisional data is compiled and the same is as below:-

**Table 17: Details of the value of the goods imported through different ports and stored in Allsan warehouse:**

Sr. No.	Name of the Importer	Port	B/E No./ Date	Description of goods in B/E	Quantity in Bill of Entry (In Kg.)	Assessable value	Total Declared Assessable Value in BE
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1	M/s Highland International	JNCH, Nhava Sheva	3344092/ 17.11.2022	Dried Areca Nuts	108000	66972960	67726406
2	M/s Highland International	JNCH, Nhava Sheva	3343242/ 17.11.2022	Black Pepper	55520	29032074	29358685
3	M/s Alpha Industries	Kandla SEZ	2012100/ 18.10.2022	Black Pepper	84000	41554800	41554800
4	M/s Alpha Industries	Kandla SEZ	2012099/ 18.10.2022	Black Pepper	44000	21766800	21766800

1.110 As some part of the remaining goods of M/s Highland International i.e. Dried Areca Nuts in split form and Black pepper, which were not replaced by the syndicate members and were still available in the Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168), were seized vide Seizure Memo dated 14.07.2023. Had the DRI not busted the modus operandi pursued by the syndicate, said goods of Highland International, still available in the warehouse would have been removed from the warehouse. Further, the said goods which couldn't be removed and replaced with goods having nil commercial value, also appeared to be liable to be seized under the provisions of the Customs Act, 1962 and were seized vide seizure memo dated 14.07.2023.

1.111 It was revealed that in the month of August 2023 some part of the said remaining goods which were seized vide Seizure Memo dated 14.07.2023, were further clandestinely removed by the unknown persons. The said investigation is currently being done by Bond Section, JNCH and CIU, JNCH. The details of the remaining goods of M/s Highland International i.e. Dried Areca Nuts in split form and Black Pepper, were recorded under panchnama dated 14.08.2023- 18.08.2023, and shown below in Table 7. Subsequently, it was also learnt that an FIR in relation to the theft of goods from Allsan Warehouse in the month of August 2023, was registered at Panvel City Station, vide FIR No. 95/2024 dated 27.02.2024 and the said removal of the goods in the month of August 2023, is being investigated by Bond Section, JNCH and CIU, JNCH. Panvel City Police Station is also investigating the said removal as theft from the warehouse in the light of FIR registered.

#### **Shri Prasad Kurhade as the beneficial owner**

1.112 Beneficial Owner: As per Sub-Section 3A of Section 2 of the Customs Act, 1962: “(3A) — *beneficial owner* means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;”

1.113 In the present case, it is seen that Shri Prasad Kurhade appears to be the beneficial owner as he had complete effective control over the goods being moved into Allsan warehouse and further clandestine removal of the same. The investigation revealed that he approached Shri Sanjay Vithoba Sable for warehousing of the goods Areca Nuts and Black Pepper pertaining to M/s Highland International and

M/s Alpha Industries. At his request, Sanjay Vithoba Sable agreed to the warehousing of the said goods. Shri Sanjay Vithoba Sable never met the real importers and Shri Prasad Kurhade was the person who contacted Shri Sable on behalf of importers. He told Shri Sanjay Vithoba Sable to not make entry of warehoused goods of M/s Highland International and M/s Alpha Industries. Shri Prasad Kurhade also arranged Space Certificates for the warehousing of the goods. He also introduced Shri Karan Singh alias Pankaj to Shri Sable. Shri Pankaj Singh came to the warehouse for the removal of goods.

1.114 After warehousing of the said goods of M/s Highland International and M/s Alpha Industries, Shri Prasad Kurhade requested Sanjay Vithoba Sable and managed to appoint his accomplice Shri Vinay Mishra as Warehouse Manager. After the appointment of Shri Vinay Mishra as warehouse manager of Allsan warehouse, Shri Prasad Kurhade started to clandestinely remove the said goods i.e. Areca nuts and Black Pepper from Allsan Warehouse with the help of Shri Vinay Mishra and Shri Pankaj alias Karan Singh and Shri Kirty Raj Singh. Later, Shri Prasad Kurhade requested Shri Sable to appoint Shri Sagar Bangar as warehouse manager so that the remaining goods could be clandestinely removed.

1.115 Shri Prasad Kurhade also convinced Shri Sable not to make entries in the register/ books for the goods being stored and removed from the warehouse. All the members who were involved in clandestine removal of the goods were directly connected with Shri Prasad Kurhade. Hence, he was the person who managed all the arrangements from the warehousing of the goods to the clandestine removal of the same. He took the help of various syndicate members i.e. Shri Vinay Mishra, Shri Karan Singh alias Pankaj and Shri Kirty Raj Singh to fulfil his plan of clandestine removal of goods. Hence, he had complete effective control over the goods that were warehoused at Allan Warehouse and later clandestine removal of the same from the warehouse. Shri Sanjay Vithoba Sable, Shri Allwyn Saldanha and Shri Sagar Bangar, in their statements, have provided the complete detailed role of Shri Prasad Kurhade in the clandestine removal of goods.

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### **LIABILITY FOR CONFISCATION**

1.116 As revealed during investigations, in the instant case, the goods viz. Areca Nuts, Black Pepper and as elaborated above, were imported into India through JNCH, Nhava Sheva and Kandla SEZ Port. The said goods were warehoused at Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168) after obtaining permission for Section 49 and Bond and Bond transfer. The said warehoused goods were clandestinely removed by the syndicate members, and illegally diverted to the local market by the syndicate to evade the payment of customs duty and to circumvent the restrictions imposed under the Customs Act, 1962 read with Public Warehouse Licensing Regulations, 2016.

1.117 It appeared that the goods having a value of Rs. 11.33 Cr. were clandestinely removed from the customs area as per Table No. 14. These goods i.e. Areca Nuts and Black Pepper belonging to M/s Highland

International and M/s Alpha Industries had been diverted into the local market by the syndicate members and were replaced with goods having NIL commercial value. 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. Areca Nut and Black Pepper were removed contrary to the terms of the permission of the proper officer who had granted permission for warehousing of the said goods and for clearance of the same subject to the payment of applicable customs duty and the rules and regulations under the Customs Act, 1962 read with Public Warehouse Licensing Regulations, 2016. All the goods had been removed from the customs area without the permission of the proper officer which makes them liable for confiscation under Section 111(j) of the Customs Act, 1962.

- 1.118 It was further revealed in the month of August 2023 that some part of the said remaining goods which were seized vide Seizure Memo dated 14.07.2023, were further clandestinely removed by the unknown persons. The said investigation is currently being done by Bond Section, JNCH and CIU, JNCH. The details of the remaining goods of M/s Highland International i.e. Dried Areca Nuts in split form and Black Pepper, found during the panchnama proceedings dated 14.08.2023-18.08.2023. The said case is being investigated by Bond Section, JNCH and CIU, JNCH. A Show Cause Notice in respect of the seizure of the goods i.e. Areca Nuts and Black Pepper which were available in the warehouse and seized vide Seizure Memo dated 14.07.2023 was issued vide F. No. S/6-Gen-8582/2022-23/Bond/JNCH/Part I dated 29.12.2023, wherein Shri Prasad Kurhade, M/s Highland International (IEC- AAMFH8931M), Shri Sanjay Vithoba Sable (Director of M/s Allsan Shipping and Logistics Pvt. Ltd) and Shri Allwyn Saldanha (Director of M/s Allsan Shipping and Logistics Pvt. Ltd) were asked to show cause in respect of their role in clandestine removal of the goods and the confiscation of the said goods having value of Rs. 3,60,06,856 /-.

#### **CALCULATION OF CUSTOMS DUTY AND ITS DEMAND:**

##### **Demand of Customs duty wherein goods imported vide JNCH, Nhava Sheva Port by M/s Highland International:-**

- 1.119 The goods which were imported by M/s Highland International by filing warehouse bills of entry were initially investigated by CIU, JNCH. Afterwards, CIU, JNCH allowed for the warehousing of the said goods under Section 49 of the Customs Act, 1962 (RUD 49). Then the said goods were moved into the Allsan Shipping and Logistics Pvt. Ltd. warehouse. The Bills of Entry were filed by the importer but no duty was paid at the time of warehousing. When the investigation of the clandestine removal of goods from Allsan Shipping and Logistics Pvt. Ltd. warehouse was initiated by DRI, then vide letter F. No. SG/MISC-616/2022-23/CIU/JNCH dated 24.04.2023, the said investigation file of CIU, JNCH was forwarded to DRI to avoid duplicity of work. Bills of Entry in relation to the said goods were assessed

and no duty was paid at the time of permission for movement of the goods to the Allsan Shipping and Logistics Pvt. Ltd. warehouse (NSA 1U 168). In this regard, as the said goods were clandestinely removed from the Allsan Shipping and Logistics Pvt. Ltd. warehouse, the duty under Section 28(4) read with Section 72(1) (wherever applicable) is to be demanded from the beneficial owner of the goods in respect of M/s Highland International i.e. Prasad Kurhade. Hence, the calculation of the customs duty at the time of import of the said goods i.e. Areca nuts, and Black Pepper from JNCH, Nhava Sheva Port is explained in the following table:-

**Table 19:- Calculation of duty demand in respect of goods of M/s Highland International imported from JNCH, Nhava Sheva : (In Rs.)**

Sr. No.	B/E No./ Date	Desc. of goods in B/E	Quantity in Bill of Entry (In Kg.)	Total Declared Assessable Value in BE	Declared duty (BCD + SWS + IGST) in BE	Goods found during panchnama dated 14.07.2023 (Kg)	Clandestinely removed goods (In Kg)	Value of the clandestinely removed goods (Rs.)	Duty of clandestinely removed goods (Rs.)
1	3344092/ 17.11.20 22	Dried Areca Nuts	108000	6772640 6	91566101	55500	52500	32922558.47	44511299.1
2	3343242/ 17.11.20 22	Black Pepper	55520	2935868 5	25204432	23300	32220	17037767.12	14626923.61
		<b>Total</b>	<b>163520</b>	<b>970850 91</b>	<b>11677053 3</b>	<b>78800</b>	<b>84720</b>	<b>4,99,60,325. 6</b>	<b>5,91,38,222. 71</b>

- Basic Customs Duty, SWS- Social Welfare Surcharge, IGST-Integrated Goods & Service Tax

1.120 In view of the same, duty amount amounting to **Rs. 5,91,38,223/- (Five Crores Ninety One Lakhs Thirty Eight Thousand Two Hundred Twenty Three)** in relation to the said goods Areca Nuts and Black Pepper of M/s Highland International, as mentioned in Table above, is liable to be demanded from the beneficial owner of the goods i.e. Shri Prasad Kurhade in terms of the provisions of Section 28(4) read with section 72(1) (wherever applicable) of the Customs Act, 1962 along with the applicable interest.

1.121 **Demand of Customs duty wherein goods imported vide Kandla SEZ (M/s Alpha Industries):-** The imports in relation to M/s Alpha Industries were done from Kandla SEZ by SEZ entity M/s OSLG Overseas for their Indian Client. Then the said goods were deemed exported (SEZ to Bonded warehouse under **Section 46(13)** of SEZ Rules, 2006) to M/s Alpha Industries, Mumbai, the local buyer, vide different Bills of entry and moved the said goods into Allsan Shipping and Logistics Pvt. Ltd. warehouse (NSA 1U 168). Subsequently, the said goods were clandestinely removed by Shri Prasad Kurhade with the help of other syndicate members. Hence, the calculation of the customs duty as per the tariff rate at

the time of import of the said goods i.e. Areca nuts from Kandla SEZ is explained in the following table:-

**Table 20:- Calculation of duty demand in respect of goods imported by M/s Alpha Industries from Kandla SEZ:** (In Rs.)

Sr. No.	B/E No./ Date	Desc. of goods in B/E	Quantity in Bill of Entry (In Kg.)	Total Declared Assessable Value in BE	Declared duty (BCD + SWS + IGST) in BE	Goods found during panchama dated 14.07.2023 (Kg)	Clandestinely removed goods (In Kg)	Value of the clandestinely removed goods	Duty of clandestinely removed goods (Rs.)
1	2012100/18.10.2022	Black Pepper	84000	41554800	35674796	0	84000	41554800	35674796
2	2012099/18.10.2022	Black Pepper	44000	21766800	18686798	0	44000	21766800	18686798
		<b>Total</b>	<b>128000</b>	<b>63321600</b>	<b>54361594</b>	<b>0</b>	<b>128000</b>	<b>6,33,21,600/-</b>	<b>5,43,61,594/-</b>

- Basic Customs Duty, SWS- Social Welfare Surcharge, IGST-Integrated Goods & Service Tax

- 1.122 In view of the same, duty amount amounting to **Rs. 5,43,61,594/- (Five Crores Forty Three Lakhs Sixty One Thousand Five Hundred Ninety Four)** in relation to the said SEZ goods which were exported into Allsan Shipping and Logistics Pvt. Ltd. Warehouse, as mentioned in the above, is liable to be demanded from beneficial owner of the goods Shri Prasad Kurhade in terms of the provisions of Section 28(4) read with Section 72(1) of the Customs Act, 1962 along with the applicable interest.

**PERTINENT PROVISIONS OF LAW APPLICABLE TO THE PRESENT MATTER ARE ILLUSTRATED HEREUNDER:**

- 1.123 **Section 7 & 11 of the Foreign Trade (Development and Regulation) Act, 1992 reads as follows:-**

**7. Importer-exporter Code Number** - No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorized by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.

**11. Contraventions of provisions of this Act, Rules, Orders, and export and import policy (1)** No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the export and import policy for the time being in force.

- 1.124 **Rule 12 and 14 of FOREIGN TRADE (REGULATION) RULES,**

**12. Declaration as to Importer-exporter Code Number** - On the importation into or exportation out of any Customs port of any goods the importer or exporter shall in the Bill of Entry or Shipping Bill or, as the case may be, in any other documents prescribed by rules made under the Act or the Customs Act, 1962 (52 of 1962), state the Importer-exporter Code Number allotted, to him by the competent authority.

**14. Prohibition regarding making, signing of any declaration, statement or documents.-**

No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a licence or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

(1) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

1.125 **The Customs Act, 1962**

**Section 2(39) of the Customs Act 1962 reads as follows:-**

(39) —smuggling, in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

**Section 2(26)** “Importer”, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.

**Section 2(39) ‘smuggling’**, in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

**Section 11A of the Customs Act, 1962 Definitions. - In this Chapter, unless the context otherwise requires-** "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

**Section 12. Dutiable goods.**—(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the 1 [Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India. 2 [(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.]

**14. Valuation of goods**—(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction

value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and 1. Subs. by Act 51 of 1975, s. 13, for —Indian Tariff Act, 1934 (32 of 1934) (w.e.f. 2-8-1976). 2. Subs. by Act 30 of 1963, s. 2, for sub-section (2) (w.e.f. 1-10-1963). 3. Subs. by Act 22 of 2007, s. 95, for section 14 (w.e.f. 10-10-2007). 22 brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,—

- i. the circumstances in which the buyer and the seller shall be deemed to be related;
- ii. the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;
- iii. the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section: Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation—For the purposes of this section—

- (a) —rate of exchange means the rate of exchange—
  - (i) determined by the Board, or
  - (ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;
- (b) —foreign currency and —Indian currency have the meanings respectively assigned to

them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

**Section 23. Remission of duty on lost, destroyed or abandoned goods. —**

(1) 1 [Without prejudice to the provisions of section 13, where it is shown] to the satisfaction of the 2 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] that any imported goods have been lost 3 [(otherwise than as a result of pilferage)] or destroyed, at any time before clearance for home consumption, the 2 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall remit the duty on such goods. 4 [(2) The owner of any imported goods may, at any time before an order for clearance of goods for home consumption under section 47 or an order for permitting the deposit of goods in a warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon;] 5 [Provided that the owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.]

**Section 28(4): -**

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

- (a) collusion; or
- (b) any wilful mis-statement; or
- (c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 4 [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

vii. In terms of Subsection 26 of Section 2 of the Customs Act, 1962, "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes '[any owner, beneficial owner] or any person holding himself out to be the importer. Further, Subsection 3(A) of Section 2 of the Customs Act, 1962 defines "beneficial owner" as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.

viii. In terms of Section 28AA of the Customs Act, 1962 -

(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 percent and not exceeding thirty-six percent 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.

#### **Section 45. Restrictions on custody and removal of imported goods —**

(1) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the 2 [Principal Commissioner of Customs or Commissioner of Customs] until they are cleared for home consumption or are warehoused or are transhipped in accordance with the provisions of Chapter VIII.

(2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force,— (a) shall keep a record of such goods and send a copy thereof to the proper officer; (b) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer 1 [or in such manner as may be prescribed]. 2 [(3) Notwithstanding anything contained in any law for the time being in force, if any imported goods are pilfered after unloading thereof in a customs area while in the custody of a person referred to in sub-section (1), that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an 3 [arrival manifest or import manifest] or, as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which the said goods were carried.]

#### **Section 46. Entry of goods on importation—**

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the Customs automated system] to the proper officer a Bill of Entry for home consumption or warehousing [in such form and manner as may be prescribed:

(2) Save as otherwise permitted by the proper officer, a Bill of Entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(4) The importer while presenting a Bill of Entry shall make and subscribe to a declaration as to

the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed].

(4A) The importer who presents a Bill of Entry shall ensure the following, namely: —

- (a) The accuracy and completeness of the information given therein;
- (b) The authenticity and validity of any document supporting it; and
- (c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

**Section 47. Clearance of goods for home consumption. —**

(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption:

Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.

(2) The importer shall pay the import duty -

- a. on the date of presentation of the Bill of Entry in the case of self- assessment; or
- b. within one day (excluding holidays) from the date on which the Bill of Entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or
- c. in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf,
- d. and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten percent but not exceeding thirty-six percent per annum, as may be fixed by the Central Government, by notification in the Official Gazette.

Provided that the Central Government may, by notification in the Official Gazette, specify the class or classes of importers who shall pay such duty electronically:

Provided further that] where the Bill of Entry is returned for payment of duty before the commencement of the Customs (Amendment) Act, 1991 and the importer has not paid such duty before such commencement, the date of return of such Bill of Entry to him shall be deemed to be the date of such commencement for the purpose of this section:

Provided also that] if the Board is satisfied that it is necessary in the public interest so to do, it may, by order for reasons to be recorded, waive the whole or part of any interest payable under this section.

**Section 72. Goods improperly removed from warehouse, etc.—**

1. In any of the following cases, that is to say,— (a) where any warehoused goods are removed from a warehouse in contravention of section 71;

(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;

\* \* \* \* \*

(d) where any goods in respect of which a bond has been executed under 3 [section 59 4 \*\*\* ] and which have not been cleared for home consumption or 5 [export or] are not duly accounted for to the satisfaction of the proper officer, the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with 6 [interest, fine and penalties] payable in respect of such goods

(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may 7 [deem fit].

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

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

- (a) any goods imported .....
- (b) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (c) .....
- (d) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;
- (e) .....
- (f) 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;

**Section 112. Penalty for improper importation of goods, etc.—**Any person,

—(a) Who, in relation to any goods, does or omits to do any act which

a. act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

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

(i) *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5[not exceeding the value of the goods or five thousand rupees], whichever is the greater;*

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

*Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five percent of the penalty so determined;].....*

**Section 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.

**Section 117-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 3 [one lakh rupees].

**Section 119. Confiscation of goods used for concealing smuggled goods.** —Any goods used for concealing smuggled goods shall also be liable to confiscation. Explanation. In this section, —goods does not include a conveyance used as a means of transport.

**Section 124. Issue of show cause notice before confiscation of goods, etc.**

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

- (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and
- (c) is given a reasonable opportunity of being heard in the matter:

PROVIDED that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

PROVIDED FURTHER that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

**Section 147. Liability of principal and agent. —**

- (1) Where this Act requires anything to be done by the owner, importer or exporter of any goods, it may be done on his behalf by his agent.

(2) Any such thing done by an agent of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter, so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself. (3) When any person is expressly or impliedly authorized by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes 1 [including liability therefor under this Act]: Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than any wilful act, negligence or default of the agent, such duty shall not be recovered from the agent unless in the opinion of 2 [Assistant Commissioner of Customs or Deputy Commissioner of Customs] the same cannot be recovered from the owner, importer or exporter.

**Handling of Cargo in Customs Areas Regulations, 2009** as amended [Notification No. 26/2009- Cus (NT), Dated 17-03-2009, amended by Corrigendum F. No. 450/55/2008-Cus-IV, dt.2.04.2009, Notification No. 96/2010- Cus. (N.T.), dated 12-11-2010, 43/2012-Cus. (N.T.), dated 16-05-2012, 104/2012-Cus. (N.T.), dated 16/11/2012 115,2016-Cus. (NT) dated 26.08.2016, 24/2017-Cus. (NT) dated 31.03.2017, 29/2019-Cus. (NT) dated 01.04.2019]

**Rule 6 (i)** stipulates that the Customs Cargo Service provider shall be responsible for the safety and security of imported and exported goods under its custody;

**Public Warehouse Licensing Regulations, 2016:-**

**Public Warehouse Licensing Regulations, 2016 Notification No. 70/2016-Customs (N.T.) dated 14th May, 2016 G.S.R (E). -**

(a) Short title and commencement. – (1) These regulations may be called the Public Warehouse Licensing Regulations, 2016. (2) They shall come into force on the date of their publication in the Official Gazette.

1. **Definitions.** – (1) In these regulations, unless the context otherwise requires, -

(b) “Act” means the Customs Act, 1962 (52 of 1962); (b) “applicant” means a person who applies for a license for a public warehouse under section 57; (c) “public warehouse” means a site or building that is licensed as such by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, under section 57, wherein dutiable goods may be deposited; (d) “section” means section of the Act. (2) The words and expressions used herein and not defined in these regulations shall have the same meanings respectively as assigned to them in the said Act.

2. **Licensing of public warehouse.**– (1) Upon an application being made to license a public warehouse, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may issue a licence to an applicant who, – (a) is a citizen of India or is an entity incorporated or registered under any law for the time being in force; (b) submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be; (c) furnishes a solvency certificate from a scheduled bank for a sum of two crore rupees: Provided that the condition of furnishing a solvency certificate shall not be applicable to an undertaking of the Central Government or State Government or Union territory or to ports notified under the Major Port Trusts Act, 1963 (38 of 1963); (2) The Principal Commissioner of Customs or Commissioner of Customs, as the case may be, shall not issue a license to an applicant if, - (a) he has been declared an insolvent or bankrupt by a Court or Tribunal; (b) he has been convicted for an offence under any law for the time being in force; (c) he has been penalized for an offence under the Act, the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act, 1994 (32 of 1994); (d) he is of unsound mind and stands so declared by a competent Court; or (e) the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, is satisfied that- (i) the site or building of the proposed public warehouse is not suitable for secure storage of dutiable goods; (ii) the site or building of the proposed public warehouse is not suitable for general supervision by officers of customs; (iii) bankruptcy proceedings are pending against the applicant ; or (iv) criminal proceedings are pending against the applicant and the offences involved are of such nature that he is not a fit person for grant of license.

3. **Conditions to be fulfilled by applicant.** – Where, after inspection of the premises, evaluation of compliance to the conditions under regulation 3 and conducting such enquiries as may be necessary, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that license may be granted, he shall require the applicant to,- (a) provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime, in favour of the

President of India, for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the public warehouse at any point of time; (b) provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under sub-section (3) of section 73A or under the Warehouse (Custody and Handling of Goods) Regulations, 2016; (c) provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, dispatch or handling; and (d) appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper.

4. **Grant of license.** – Upon fulfillment of the conditions specified in regulation 3 and regulation 4, the Principal Commissioner of **Customs** or Commissioner of Customs, as the case may be, may grant a licence in respect of the public warehouse subject to such conditions as deemed necessary.

5. **Validity of license.** – Any license granted under regulation 5 shall remain valid until and unless it is cancelled in terms of the provisions under section 58B or sub-regulation (2) of regulation 8.

6. **Non-transferability of license.** - A license granted under regulation 5 shall not be transferable.

7. **Surrender of license.** – (1) A licensee may surrender the license granted to him by making a request in writing to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be. (2) On receipt of the request under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may cancel the license if, – (a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder; (b) no warehoused goods remain deposited in the public warehouse or are deposited in the public warehouse from the date of request referred in sub-regulation (1); and (c) no proceedings are pending against the licensee under the Act or the rules or regulations made thereunder.

8. **License for existing public warehouses.** - A public warehouse appointed under section 57 as it stood immediately before the commencement of the Finance Act, 2016 (28 of 2016), shall be valid under these regulations provided such warehouse fulfill the requirements specified in clause (b) and clause (c) of sub-regulation (1) of regulation 3 and the conditions specified in regulation 4 within a period of three months from the date of commencement of these regulations.

#### **ROLE AND CULPABILITY OF PERSONS INVOLVED IN THE CASE:**

1.126 Investigation of the case and scrutiny of evidence appears to indicate that Shri Prasad Kurhade, Shri Kirty Raj Singh, Shri Vinay Mishra, Shri Karan Singh alias Pankaj and other members of the syndicate

planned and executed the conspiracy of clandestine removal of warehoused goods from Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168).

- 1.127 Investigation of the case and scrutiny of evidence appears to indicate that the below-mentioned persons appear to have done acts of omission and commission which appear to have rendered them liable to penalty. The same is discussed as follows:

**LIABILITY TO PENALTY:**

- 1.128 **Shri Prasad Kurhade:-** Investigations in the case revealed that Shri Prasad Kurhade was the mastermind of the whole syndicate in relation to imports of goods i.e., Areca nuts and Black Pepper and the subsequent clandestine removal of the said goods from the warehouse. Shri Prasad Kurhade approached Shri Sanjay Vithoba Sable who was managing Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) and he told him that he would warehouse a general cargo for 4-5 days and the same would be taken out. Then, he introduced him to one Shri Pankaj (close aid of Shri Kirty Raj Singh) as Operations Manager, on behalf of both the Importers who would be coordinating henceforth in the matter. He was told by Shri Pankaj that the goods were general cargo that would be taken back by him in 4-5 days from the warehouse and hence he was instructed to not make entry in the warehouse register. Shri Prasad Kurhade referred Shri Vinay Mishra was his old employee of Shri Prasad Kurhade, who used to work with him (Prasad Kurhade) at his transport office, to Shri Sanjay Vithoba Sable for the post of warehouse manager. Shri Prasad Kurhade intentionally appointed Shri Vinay Mish as Manager/warehouse keeper of Allsan Shipping and Logistics Pvt. Ltd. by referring him to Shri Sanjay Vithoba Sable, so that he could easily clandestinely remove the warehoused goods of M/s Highland International and M/s Alpha Industries. After the appointment of Shri Vinay Mishra as Warehouse Manager of M/s Allsan Shipping and Logistics Pvt. Ltd, Shri Prasad Kurhade asked him to clandestinely remove the goods which were said to be general cargo and the entry of the said goods was not made in the stock register. After the resignation of Shri Vinay Mishra from the warehouse, Shri Sagar Bangar was appointed as Manager of the warehouse by Shri Prasad Kurhade to clandestinely remove the goods. He had provided documents related to IECs and warehousing to the warehouse manager. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, Shri Prasad Kurhade appears liable to penalty under Section 112(a) of the Customs Act, 1962. In addition, Shri Prasad Kurhade also appears liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally, alongwith his co-conspirators, namely Shri Kirty Raj Singh, Shri Vinay Mishra, and their key associate Shri Karan Singh alias Pankaj, clandestinely removed the goods from the Customs Area and replaced the same with goods having negligible commercial value and he very well knew the fact that the said clandestine removal of the goods without the payment of

applicable Customs duty will make the said goods liable for confiscation.

1.129 **Shri Kirty Raj Singh:** - Shri Kirty Raj Singh was a key member of the whole syndicate in relation to imports of goods i.e., Areca nuts and Black Pepper and the subsequent clandestine removal of the said goods from the warehouse. It emerged during the statement of Shri Uday Sharma that Shri Kirty Raj Singh was an integral part of the plan for the clandestine removal of the goods from the warehouse. For that purpose, he arranged IECs of the firms which were non-existent and arranged CHA for customs clearance of the imported goods. Shri Kirty Raj Singh took the help of his close aide Shri Karan Singh alias Pankaj during the clandestine removal of the goods. Shri Swaroop Shetty was known to him who helped him in moving goods from SEZ, Kandla. He purposely helped in the movement of the goods from CFS or Kandla SEZ to the warehouse and hatched a plan to clandestinely remove the goods from Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168). He provided the documents and details related to the import and warehousing to Shri Uday Sharma. Though he remained behind the scenes and engaged the services of other co-conspirators such as Shri Pankaj and Shri Swaroop Shetty to get the goods imported, warehoused and then clandestinely removed from the warehouse, he appeared responsible for the aforesaid contraventions in the clandestine removal of goods from Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) and illegally diversion to the local market by a syndicate to evade the payment of customs duty and to circumvent the restrictions imposed under the Customs Act, 1962 read with Public Warehouse Licensing Regulations, 2016 and SEZ Rules, 2006. He had provided documents related to IECs and warehousing to the warehouse manager and CHAs. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, Shri Kirty Raj Singh appears liable to penalty under Section 112(b) of the Customs Act, 1962. In addition, Shri Kirty Raj Singh also appears liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally alongwith his co-conspirators, namely Shri Prasad Kurhade, Shri Vinay Mishra, and their key associate Shri Karan Singh alias Pankaj, clandestinely removed the goods from the Customs Area and replaced the same with goods having negligible commercial value and he very well knew the fact that the said clandestine removal of the goods without the payment of applicable Customs duty will make the said goods liable for confiscation.

1.130 **Shri Karan Singh alias Pankaj:** -Shri Karan Singh alias Pankaj was the close aide of Shri Kirty Raj Singh and Shri Prasad Kurhade and he used to work directly under them. Shri Karan Singh alias Pankaj was used to take delivery of the goods on the instructions of syndicate members and then used to take away the same place known to syndicate members only. Shri Prasad Kurhade and Shri Kirty Raj Singh appointed Shri Karan Singh alias Pankaj, who was shown as a representative of M/s Highland International and M/s Alpha Industries. All the deliveries of the clandestinely removed goods were

arranged by Shri Karan Singh alias Pankaj only. He used to come along with the trucks/ containers when they entered the Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). He used to supervise the offloading and take a copy of the receiving of goods into the warehouse. He used to come along with trucks which were used to take the goods which were clandestinely removed from the warehouse. He was very well aware of the clandestine removal of goods being done in the Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). He had provided documents related to IECs and warehousing to the warehouse manager and CHAs. Further, for his acts of omission and commission in the clandestine removal of the goods having value of Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appear to have rendered the said goods liable for confiscation under Section 111, as explained above, Shri Karan Singh alias Pankaj appears liable to penalty under Section 112 (b) of the Customs Act, 1962. In addition, Shri Karan Singh alias Pankaj also appears liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally alongwith his co-conspirators, namely Shri Kirty Raj Singh, Shri Prasad Kurhade, Shri Vinay Mishra, and others, clandestinely removed the goods from the Customs Area and replaced the same with goods having negligible commercial value and he very well knew the fact that the said clandestine removal of the goods without the payment of applicable Customs duty will make the said goods liable for confiscation.

- 1.131 **Shri Vinay Mishra:** -Shri Vinay Mishra was an old employee of Shri Prasad Kurhade, who used to work with him (Prasad Kurhade) at his transport office. Shri Prasad Kurhade intentionally appointed Shri Vinay Mishra as Manager/ warehouse keeper of Allsan Shipping and Logistics Pvt. Ltd. by referring him to Shri Sanjay Vithoba Sable, so that he could easily clandestinely remove the warehoused goods of M/s Highland International and M/s Alpha Industries. After the appointment of Shri Vinay Mishra as Warehouse Manager of M/s Allsan Shipping and Logistics Pvt. Ltd, Shri Prasad Kurhade asked him to clandestinely remove the goods which were said to be general cargo and the entry of the said goods was not made in the stock register. Afterwards, Shri Prasad Kurhade alongwith Shri Vinay Mishra and Shri Karan Singh alias Pankaj warehoused the said goods of M/s Highland International and M/s Alpha Industries and then clandestinely removed the same and replaced the said goods with the goods having negligible commercial value. He had assisted in providing documents related to IECs and warehousing to the warehouse manager and other syndicate members. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, Shri Vinay Mishra appears liable to penalty under Section 112 (b) of the Customs Act, 1962. In addition, Shri Vinay Mishra also appears liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally alongwith his co-conspirators, namely Shri Kirty Raj Singh, Shri Prasad Kurhade, and their key associate Shri Karan Singh alias Pankaj, clandestinely removed the goods from the Customs Area and replaced the same with goods having negligible commercial value and he very well knew the fact

that the said clandestine removal of the goods without the payment of applicable Customs duty will make the said goods liable for confiscation.

1.132 **Shri Sanjay Vithoba Sable:** - Shri Sanjay Vithoba Sable was the manager of the firm M/s Allsan Shipping and Logistics Pvt. Ltd. which was managing M/s Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). He was known to Shri Prasad Kurhade through his firm M/s Prasad Logistics. Shri Prasad Kurhade approached Shri Sanjay Vithoba Sable who was managing Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168) and he told him that he would warehouse a general cargo for 4-5 days and the same would be taken out. Shri Prasad Kurhade convinced Shri Sanjay Vithoba Sable not to make an entry of the goods in the stock register as the said goods were shown as duty-paid goods and were considered as general cargo which would be warehoused for 4-5 days only. Shri Prasad Kurhade promised him a good volume of business for their warehouse, so he agreed to do business with him. Shri Prasad Kurhade met him at their warehouse when the first consignment in the container of M/s Alpha Industries had arrived at the warehouse. Then, he introduced him to one Shri Pankaj as Operations Manager, on behalf of both the Importers who would be coordinating henceforth in the matter. He was told by Shri Pankaj that the goods were general cargo that would be taken back by him in 4-5 days from the warehouse and hence he was instructed to not make entry in the warehouse register. Afterwards, Shri Prasad Kurhade alongwith Shri Vinay Mishra and Shri Karan Singh alias Pankaj warehoused the said goods of M/s Highland International and M/s Alpha Industries and then clandestinely removed the same and replaced the said goods with the goods having negligible commercial value. He also appointed Shri Vinay Mishra as warehouse manager on the referral of Shri Prasad Kurhade, which further facilitated the clandestine removal of the goods. Also, Shri Sanjay Vithoba Sable appointed Shri Vinay Mishra as Warehouse Keeper of Allsan Warehouse at the request of Shri Prasad Kurhade and Shri Vinay Mishra issued the space certificate in relation to the warehousing of the goods related to M/s Highland International and M/s Alpha Industries. By this act of allowing to store goods without making entry of the same in the Bond register and allowing them to be clandestinely removed from the warehouse by his negligence, Shri Sanjay Vithoba Sable rendered himself for penal action under the Customs Act, 1962. It appears that Shri Sanjay Vithoba Sable has failed to abide by the conditions imposed in the said license and grossly failed to fulfil his duties as a warehouse Licensee. The entire modus operandi used by the syndicate would have not been possible at the first instance if Shri Sanjay Vithoba Sable had diligently done his duties. Shri Sanjay Vithoba Sable has also thrown his mobile phone which indicates his active role in the clandestine removal of goods from the said warehouse. Therefore, it appears that for the act of omissions and commissions committed by Shri Sanjay Vithoba Sable, he has abetted the syndicate members in pilfering/ diverting/ removing the goods clandestinely from the said warehouse and diverting them to the local market, in gross violation of the warehousing provisions and the provisions of Customs Act, 1962. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having

negligible commercial value, which appears to have rendered the said goods to be liable for confiscation under Section 111, as explained above, Shri Sanjay Vithoba Sable appears liable to penalty under Section 112(b) and Section 114AA of the Customs Act, 1962.

1.133 **Shri Allwyn Saldanha:** - Shri Allwyn Saldanha was the manager of the firm M/s Allsan Shipping and Logistics Pvt. Ltd. which was managing M/s Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). Shri Allwyn being a director of the firm that was managing the Allsan warehouse the responsibility of personally monitoring every activity in the warehouse. During the investigation, it was revealed that Shri Allwyn Valerian Saldanha has failed to abide by the conditions imposed in the said license and grossly failed to fulfil his duties as a warehouse Licensee. The entire modus operandi used by the syndicate would have not been possible at the first instance if Allwyn Valerian Saldanha had diligently done his duties. By this act of allowing to store goods without making entry of the same in the Bond register and allowing them to be clandestinely removed from the warehouse by his negligence, Shri Allwyn Saldanha rendered himself for penal action under the Customs Act, 1962. Therefore, it appears that for the act of omissions and commissions committed by Shri Allwyn Valerian Saldanha, has abetted the syndicate members in removing the goods clandestinely from the said warehouse and diverting them to the local market, in gross violation of the warehousing provisions and the provisions of Customs Act, 1962. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods to be liable for confiscation under Section 111, as explained above, Shri Allwyn Saldanha appears liable to penalty under Section 112(b) of the Customs Act, 1962.

1.134 **Shri Uday Sharma:** - Shri Uday Sharma was the person who had taken the work of Customs clearance of Areca nuts related to the importers M/s Highland International. The said work was given to him by Shri Kirty Raj Singh. Shri Uday Sharma had arranged all the Customs related documents and coordinated with the Customs Authorities for the Customs Clearance and his work was to arrange the customs brokers for getting the goods cleared from Customs. He was aware that the goods belonged to Shri Kirty Raj Singh and Shri Prasad Kurhade and not the actual IEC holders. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of Rs. 4.99 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, Shri Uday Sharma appears liable to penalty under Section 112 (b) of the Customs Act, 1962.

1.135 **Shri Sagar Bangar:** - Shri Sagar Bangar was told by Shri Prasad Kurhade that his old employee namely Shri Vinay Mishra who used to work with him (Prasad Kurhade) at his transport office was appointed as Manager/ warehouse keeper of Allsan Shipping and Logistics Pvt. Ltd. by him. Prasad Kurhade further

said that Shri Vinay Mishra was not willing to continue to work as Manager/ Warehouse Keeper and he gave the offer to join as Warehouse keeper/ Manager of Allsan Shipping and Logistics Pvt. Ltd. He was further told by Shri Prasad Kurhade that the Areca nuts/ black pepper would be warehoused in the said warehouse and after the unloading of the goods in the said warehouse, the said goods would be clandestinely removed from the warehouse and would be sold in open market. Shri Prasad Kurhade offered him Rs. 50,000/-per container in exchange for the clandestine removal of goods and he immediately agreed to the said proposal as earlier he was paid Rs. 30,000/- per container by Shri Akshay Phadale while he was working at Akshay Logistics warehouse which was managed by Nibha World Pvt. Ltd. Though, no goods were replaced during the tenure of Shri Sagar Bangar but his acts of omission and commission in the attempt to remove clandestinely the goods from the Customs Area seized under seizure memo dated 14.07.2023 read with Panchnama proceedings dated 14.08.2023-18.08.2023, which appears to have rendered the said goods having value of Rs. 3,60,06,856/- liable for confiscation under Section 111(j) of the Customs Act, 1962 as detailed in Show Cause Notice issued vide F. No. S/6-Gen-8582/2022-23/Bond/JNCH/Part I dated 29.12.2023; Shri Sagar Bangar appears liable for penalty under Section 117 of the Customs Act, 1962.

1.136 **M/s Highland International (IEC- AAMFH8931M):** - During the course of the investigation, verifications/visits were made to verify the genuineness of the registered office premises of M/s Highland International and residential premises of the IEC holders i.e. Shri Shambhu Sharan and Shri Vijay Kumar.

As elaborated in above paras, from the verification, it appeared that the firm M/s Highland International is a non-existent entity. Also, till date even after booking the case and issuing summons the IEC holders have not joined the investigation. The Director of the firm M/s Allsan Shipping and Logistics Pvt. Ltd., Shri Sanjay Vithoba Sable, in his statement dated 05/6.01.2023, has said that the goods of M/s Highland International were warehoused on the directions of Shri Prasad Kurhade. Hence, it appears the IEC holders are not genuine, and the IEC has been created to facilitate the clandestine removal of goods from the Allsan warehouse. Hence, for their acts of omission and commission in the clandestine removal of the goods having a value of Rs. 4.99 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, M/s Highland International appears liable for penalty under Section 112 (b) of the Customs Act, 1962.

1.137 **M/s Alpha Industries:** - **During** the course of the investigation, verifications/visits were made to verify the genuineness of the registered office premises of M/s Alpha Industries and residential premises of the IEC holders i.e. Rajat Kumar and Shri Rakesh Yadav. As elaborated in above paras, from the verification, it appeared that the firm M/s Alpha Industries is a non-existent entity. Also, till date even after booking

the case and issuing summons the IEC holders have not joined the investigation. The Director of the firm M/s Allsan Shipping and Logistics Pvt. Ltd., Shri Sanjay Vithoba Sable, in his statement dated 5/6.01.2023, has said that the goods of M/s Alpha Industries were warehoused on the directions of Shri Prasad Kurhade. Further, as per the statement dated 15.11.2023 of Shri Rakesh Yadav, partner of M/s Alpha Industries, wherein he accepted that he had provided his KYC documents to his friend and the said firm may have been opened by using the said KYC documents. Hence, it appeared that Shri Rakesh Yadav was the dummy partner in the said firm, and he had no idea about any import export activity of M/s Alpha Industries. Hence, it appeared that the IEC holders are not genuine and the IEC has been created by using KYC documents of IEC holders to facilitate the clandestine removal of goods from the Allsan warehouse. Hence, for their acts of omission and commission in the clandestine removal of the goods having a value of Rs. 6.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, M/s Alpha Industries appears liable for penalty under Section 112 (b) of the Customs Act, 1962.

- 1.138 M/s Blue I Store: - During the course of the investigation verifications/visits were made to verify the genuineness of the registered office premises of M/s Blue I Store, SEZ client and residential premises of Shri Vijay S/o Lakshmi Narayan, Proprietor of M/s Alpha Industries.
- 1.139 It was revealed that that no such firm naming M/s Blue I Store currently exists at the registered premises of M/s Blue I Store. Further, it was revealed during the verification of residential premises of Shri Vijay S/o Lakshmi Narayan proprietor of firm M/s Blue I Store was also non-existent. Hence, it appeared that the firm M/s Blue I Store (SEZ client) was non-existent and the same was used for import of goods at Kandla SEZ and to facilitate the clandestine removal of goods from the Allsan warehouse. Hence, for their acts of omission and commission in the clandestine removal of the goods having a value of Rs. 6.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, M/s Blue I Store (SEZ client) appeared liable for penalty under Section 112 (b) of the Customs Act, 1962.
- 1.140 M/s OSGL Overseas and its partner Shri Swaroop Shridhar Shetty: - Shri Swaroop Shetty was the active partner in the firm M/s OSGL Overseas, which was a SEZ entity at Kandla SEZ. The said SEZ entity was used, for the purpose of bringing the said goods from outside of India into Kandla SEZ on behalf of their client. Subsequently, M/s OSGL Overseas deemed exported the said goods to the local buyer (which will be called an importer as per SEZ regulations) and then the said importer exported the goods from SEZ to Public Bonded Warehouse under Section 46(13) of SEZ Rules, 2006, into Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). During the investigation and by the statements of key members, it was revealed

that Shri Swaroop Shridhar Shetty was known to Shri Kirty Raj Singh and the import through Kandla SEZ in the name of M/s OSGL Overseas through their SEZ Client Blue I Store and further bond to bond transfer to M/s Alpha Industries was planned to move the said goods i.e. Black Pepper in Allsan warehouse, so that the same can be removed from the said warehouse clandestinely. Further, as per the statement of Shri Akash Bhojne, inactive partner of M/s OSGL Overseas, it is revealed that Shri Swaroop Shridhar Shetty used the KYC documents of Shri Akash Bhojne to make him partner in the said firm M/s OSGL Overseas, wherein Shri Akash Bhojne had no idea about any import-export activity carried out in the name of M/s OSGL Overseas. Hence, it appeared that Shri Swaroop Shridhar Shetty created a firm which was instrumental in import of goods through Kandla SEZ, and later the same goods were bond to bond transferred from Kandla SEZ to Allsan warehouse. Further, Shri Swaroop Shridhar Shetty was known to Shri Kirty Raj Singh who was involved in the clandestine removal of the goods from Allsan warehouse. Hence, it appeared that Shri Swaroop Shridhar Shetty, was involved in the whole conspiracy of import of goods from Kandla SEZ and their later clandestine removal from Allsan warehouse. Hence, for their acts of omission and commission in the clandestine removal of the goods having a value of Rs. 6.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appeared to have rendered the said goods liable for confiscation under Section 111, as explained above, M/s OSGL Overseas and its partner Shri Swaroop Shridhar Shetty appear liable for penalty under Section 112 (b) of the Customs Act, 1962.

- 1.141 **M/s Peejaycee and Co.(CHA License No. 11/2509):** M/s Peejaycee and Co. was the Customs Broker in the import of M/s Highland International. Shri Musha Dawood Kumbhar, who was the Proprietor of M/Peejaycee and Co. was approached by Shri Anil Giri who was an employee of Shri Uday Sharma and requested him to take up the said Customs clearance work in respect of the import of M/s Highland International. Shri Anil Giri provided him with all the KYC documents i.e. Aadhar card, bank verification letter and PAN card of the importer M/s Highland International on the directions of Shri Uday Sharma. Later the said goods of M/s Highland International were put on hold by CIU, JNCH and subsequently warehoused at M/s Allsan Shipping and Logistics Pvt. Ltd. (NSA1U 168). During the investigation, it was revealed that M/s Peejaycee and Co. never verified details regarding M/s Highland International. It appeared that M/s Peejaycee and Co. did not follow due diligence while taking the work of M/ s Highland International by not verifying the existence of the said firm. Hence, M/s Peejaycee and Co. rendered itself with the goods having a value of rs. 4.99 Cr. which were clandestinely removed from the Customs area without the payment of Customs duty by doing the Customs Clearance work for M/s Highland International without due diligence., which appears to have rendered the said goods liable for confiscation under Section 111, as explained above, M/s Peejaycee and Co. appeared liable to penalty under Section 112 (b) of the Customs Act, 1962.

**DETAILS OF SHOW CAUSE NOTICE, F. NO. S/6-GEN-8582/2022-23/BOND/JNCH/PART I**

**DATED 29.12.2023, IN RESPECT OF THE SEIZURE OF THE GOODS VIDE SEIZURE MEMO DATED 03.01.2023 AND 14.07.2023: -**

1.142 A Show Cause Notice in respect of the seizure of the goods seized vide seizure memo dated 03.01.2023 and 14.07.2023 was issued vide F. No. S/6- Gen-8582/2022-23/Bond/JNCH/Part I dated 29.12.2023, wherein Shri Prasad Kurhade, M/s Highland International (IEC- AAMFH8931M), Shri Sanjay Vithoba Sable (Director of M/s Allsan Shipping and Logistics Pvt. Ltd) and Shri Allwyn Saldanha (Director of M/s Allsan Shipping and Logistics Pvt. Ltd) was called upon to show cause in writing to the Additional Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad, within 30 days of receipt of this notice, as to why :-

- i. *The replacement goods having negligible commercial value and seized vide seizure memo dated 03.01.2023 at Allsan Shipping and Logistics Pvt. Ltd. warehouse (NSA IU 168), should not be held liable for confiscation under Section 119 of the Customs Act, 1962.*
- ii. *The remaining goods i.e. Areca Nuts and Black Pepper, which were attempted to be clandestinely removed, having value of Rs. 3,60,06,856/- and seized vide seizure memo dated 14.07.2023 read with Panchnama proceedings dated 14.08.2023-18.08.2023, at Allsan Shipping and Logistics Pvt. Ltd warehouse (NSA IU 168), should not be held liable for confiscation under Section 111(j) of the Customs Act, 1962.*
- iii. *Penalty under Section 117 of the Customs Act, 1962, in respect of the goods having negligible commercial value, liable for confiscation under Section 119 of the Customs Act, 1962 and which were seized from M/s Allsan Shipping and Logistics Pvt. Ltd warehouse vide Seizure memo dated 03.01.2023., should not be imposed on them.*
- iv. *Penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962, in respect of the goods having value Rs. 3,60,06,856/-, liable for confiscation under Section 111(j) of the Customs Act, 1962 and which were seized at M/s Allsan Shipping and Logistics Pvt. Ltd warehouse vide Seizure memo dated 14.07.2023 read with Panchnama proceedings dated 14.08.2023-18.08.2023, should not be imposed on them.*

1.143 The subject show cause notice is concerning with the smuggling and clandestine removal of goods related to M/s Highland International and M/s Alpha Industries is being issued, which were clandestinely removed without payment of applicable duty and replaced with goods having NIL commercial value.

**IN LIGHT OF THE ABOVE DISCUSSED FACTS AND EVIDENCE:**

1.144 Therefore, Shri Prasad Kurhade was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why: -

- i. Goods which were clandestinely removed from the customs area as per Table No. 14 and replaced with the goods having negligible value and having a value of Rs. 11,32,81,926/-, should not be

held liable for confiscation under Section 111(j) of the Customs Act, 1962.

- ii. Customs duty amounting to Rs. 5,91,38,223/- in respect of the goods of M/s Highland International, which were clandestinely removed from Allsan Shipping and Logistics Pvt. Ltd warehouse (NSA 1U 168) as per Table No. 15 above, should not be demanded from him under Section 28(4) read with Section 72(1) (wherever applicable) of the Customs Act, 1962, along with the interest under section 28AA of the Customs Act, 1962.

1.145 Customs duty amounting to Rs. 5,43,61,594/- in respect of the goods of M/s Alpha Industries, which were clandestinely removed from Allsan Shipping and Logistics Pvt. Ltd warehouse (NSA 1U 168) as per Table No. 15 above, should not be demanded from him under Section 28(4) read with Section 72(1) (wherever applicable) of the Customs Act, 1962, along with the interest under section 28AA of the Customs Act, 1962.

- i. Penalty under Section 112 (a) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.

1.146 Therefore, Shri Kirty Raj Singh was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad, as to why :-

- i. Penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.

1.147 Therefore, Shri Karan Singh alias Pankaj was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why :-

- i. Penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.

1.148 Therefore, Shri Vinay Mishra was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why:-

- i. Penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.

- 1.149 Therefore, M/s Highland International (IEC- AAMFH8931M) was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why: -
- i. Penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 4,99,60,326/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on them.
- 1.150 Therefore, M/s Alpha Industries (IEC- ABYFA3809L) was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why: -
- i. Penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on them.
- 1.151 Therefore, M/s Blue I Store (IEC- AVTPB0390E) was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why: -
- i. Penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on them.
- 1.152 Therefore, Shri Sanjay Vithoba Sable was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why :-
- i. Penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.
- 1.153 Therefore, Shri Allwyn Saldanha was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why:-
- i. Penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.

- 1.154 Therefore, Shri Uday Sharma was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why:-
- i. Penalty under Section 112 (b) of the Customs Act, 1962, in respect of the goods clandestinely removed of M/s Highland International and having value Rs. 4,99,60,326/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.
- 1.155 Therefore, Shri Sagar Bangar was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why :-
- i. Penalty under Section 117 of the Customs Act, 1962, in respect of the goods which were attempted to be removed and having value Rs. 3,60,06,856/- liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.
- 1.156 Therefore, Peejaycee and Co. (CHA License No. 11/2509) were called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why :-
- i. Penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed of M/s Highland International and having value Rs. 4,99,60,326/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on them.
  - ii. Action under Customs Broker Licensing Regulations, 2018 should not be taken against them.
- 1.157 Therefore, M/s OSGL Overseas, SEZ entity at Kandla SEZ were called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why :-
- i. Penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on them.
- 1.158 Therefore, Shri Swaroop Shridhar Shetty, Partner of M/s OSGL Overseas, SEZ entity at Kandla SEZ was called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Nhava Sheva-I, having office at Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad as to why :-
- i. Penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on them.

- 1.159 Subsequently, a supplementary SCN dated 13.06.2025 was issued under Section 124 of the Customs Act, 1962 read with the Customs (Supplementary Notice) Regulations, 2019 as notified under CBIC Notification No. 42/2019 Cus dated 18.06.2019, which is related to the investigation done after the rejection of the Anticipatory Bail Application of Shri Prasad Shantaram Kurhade, the beneficial owner, for incorporating the additional facts that emerged in the said investigation.
- 1.160 **SCOPE OF THE SUPPLEMENTARY SCN:** During the investigation, anticipatory bail application No. 1429/2023 was filed by Shri Prasad Shantaram Kurhade, the beneficial owner, before the Hon'ble Bombay High Court and the outcome was pending at the time of issuance of SCNs dated 29.12.2023 and 14.12.2024. The Hon'ble Bombay High Court vide Order dated 15.01.2025(RUD -3) rejected the said Anticipatory Bail Application filed by Shri Prasad Shantaram Kurhade.
- 1.161 Aggrieved with Hon'ble Bombay High Court order dt. 15.01.2025, Shri Prasad Kurhade filed SLP (CRL) No. 1661/2025 before Hon'ble Supreme Court of India. The said SLP was dismissed by the Hon'ble Supreme Court on 07.02.2025(RUD - 4).
- 1.162 **STATEMENTS AND VISITS:** The statement of Shri Prasad Shantaram Kurhade was recorded on 12.02.2025 under section 108 of the Customs Act, 1962 (RUD - 5), wherein he *inter alia* stated, that:
- i. Shri Pankaj (alias Karan Singh) approached him for the warehousing of goods, areca nuts and black pepper at Allsan Warehouse. Shri Pankaj told him that there are total 18 Containers which are imported for re-export purposes and the same needs to be warehoused, and later the same will be re-exported. The said person told him to arrange a warehouse for the same.
  - ii. He approached Shri Sanjay Vithoba Sable to allow for warehousing of the said goods, areca nuts and black pepper in his Allsan warehouse and Shri Sanjay Vithoba Sable agreed for the same. Later, the goods areca nuts and black pepper of Importer M/s Highland International and M/s Alpha Industries, were moved into the M/s Allsan Warehouse.
  - iii. He had referred Shri Vinay Mishra to Shri Sanjay Vithoba Sable for the job of warehouse keeper of Allsan Warehouse.
  - iv. In a meeting where he, Shri Sanjay Vithoba Sable and Shri Pankaj were present, Shri Pankaj told them that he wanted to clandestinely remove 4 containers of goods out of 18 containers and later the clandestinely removed goods will be replaced with goods having negligible value. Shri Pankaj told them that he would manage replacement goods at the time of export. However, Shri Sanjay Vithoba Sable refused the said proposal.

- v. Shri Pankaj called and told him that he had removed 2 trucks of areca nuts and black pepper and he would give him (Prasad Kurhade) monetary consideration for his role for the arrangement of warehousing of the goods.
- vi. His mobile, which was used in the period of October-December 2022, was destroyed as the same fell from the bike. He never tried to recover the data of the said destroyed mobile.

1.163 Further, to verify the allegations made by Shri Prasad Kurhade in his statement dated 12.02.2025 in respect of Shri Karan Singh alias Pankaj, attempts were made to trace and find out the whereabouts of Shri Karan Singh alias Pankaj. Summons were issued in the name of Shri Karan Singh alias Pankaj, at his residential address available with the DRI office i.e. House No 1/12, B-11, Nagwa Lanka, Gangotri Vihar Colony, Varanasi, Hindu Vishvavidhyalaya, UP-221005 and forwarded to DRI, Varanasi Sub-Regional Unit for the hand delivery of the same. DRI, Varanasi Sub-Regional Unit informed this office, vide email dated 06.03.2025 (RUD:- 6), that a team of officers of DRI, Varanasi tried to locate the said address of Shri Karan Singh alias Pankaj on 28.02.2025. However, no such house could be located in the given address. Hence, the given summons addressed to Shri Karan Singh alias Pankaj, could not be delivered and returned back to DRI, Nhava Sheva (RUD: 7).

1.164 **ARREST OF SHRI PRASAD SHANTARAM KURHADE:** On the basis of material facts on record, it was affirmed that he was the main person behind the clandestine removal of goods from the warehouse. He tendered evasive replies and did not fully cooperate with the investigation. He admitted to his active involvement and shared critical details of conspiracy leading to said clandestine removal of impugned goods. He, during his statement dt. 12.02.2025, revealed how the goods were clandestinely removed with the help of syndicate members and their respective roles. Being a key conspirator and the beneficial owner of clandestine removal as well as due to his persistent non-cooperation and failure to disclose true facts, he appeared to have committed acts which are punishable under Section 135 of the Customs Act. Hence, he was arrested on 12.02.2025 and produced before Hon'ble JMFC, Uran Court on 13.02.2025. He was enlarged on bail by the Hon'ble JMFC Court on 16.04.2025.

1.165 In view of the above, it appeared that the penalties proposed against Shri Prasad Kurhade and other noticees vide Show Cause Notice no. 2218/23 24/ADC/NS-I/BOND/CAC/JNCH dated 29.12.2023, in respect of the seizure of the goods having value of Rs. 3,60,06,856/-, are further affirmed in the said SCN.

1.166 Further, it appears that vide the SCN 1477/2024-25/Commr/Bond/NS 1/CAC/JNCH) dated 14.12.2024, the penalties in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-,

proposed against Shri Prasad Shantaram Kurhade and other noticees under various Sections of Customs Act, 1962, are also further evidenced, as outlined above.

1.167 Accordingly, additional facts/ evidences emerged after issuance of SCN NO. 2218/23-24/ADC/NS-I/BOND/CAC/JNCH dated 29.12.2023 and SCN 1477/2024-25/Commr/Bond/NS-1/CAC/JNCH) dated 14.12.2024, elucidated in paras above, are being served to all the noticees of said SCN, in the form of Supplementary Show Cause Notice under Section 124 of the Customs Act, 1962

## 2. WRITTEN SUBMISSIONS

2.1 Advocate Shri R. K. Tomar filed written submissions dated 16-11-2025 on behalf of Shri Sanjay Vithoba Sable (Noticee No. 8) and Shri Allwyn Saldanha (Noticee No. 9), both Directors of M/s. Allsan Shipping and Logistics Pvt. Ltd. which are as following: -

2.2 The said SCN has been issued upon culmination of investigation by the Directorate of Revenue Intelligence, Mumbai Zonal Unit, Mumbai along with CIU, JNCH (“the Revenue”). The said SCN has been issued by the Commissioner of Customs (NS-I), JNCH and the same is answerable to the Pr. Commissioner / Commissioner of Customs (NS-I), JNCH (“the Adjudicating Authority”). The investigating agencies and the SCN issuing authority are being referred to as the “the Revenue”.

2.3 The said SCN has been issued to the Noticees based on the alleged role played by them as under:

### **(A) Role played by Shri Sanjay Vithoba Sable:**

*Shri Sanjay Vithoba Sable was the manager of the firm M/s. Allsan Shipping and Logistics Pvt. Ltd. which was managing M/s. Allsan Shipping and Logistics Pvt. Ltd (NSA IU 168). He was known to Shri Prasad Kurhade through his firm M/s. Prasad Logistics. Shri Prasad Kurhade approached Shri Sanjay Vithoba Sable who was managing Allsan Shipping and Logistics Pvt. Ltd. (NSA IU 168) and he told him that he would warehouse a general cargo for 4-5 days and the same would be taken out. Shri Prasad Kurhade convinced Shri Sanjay Vithoba Sable not to make an entry of the goods in the stick register as the goods were shown duty-paid goods and were considered as general cargo which would be warehoused for 4-5 days only. Shri Prasad Kurhade promised him goods volume of business for their warehouse, so he agrees to do business with him. Shri Prasad Kurhade met him at their warehouse when the first consignment in the container of M/s. Alpha Industries had arrived at the warehouse. Then, he introduced him to one Shri Pankaj as Operations Manager, on behalf of both the importers who would be coordinating henceforth in the matter. He was told by Shri Pankaj that the goods were general cargo that would be taken back by him in 4-4 days from the warehouse and hence he was instructed to not make entry in the warehouse register. Afterwards, Shri Prasad Kurhade*

*alongwith Shri Vinay Mishra and Shri Karan Singh alias Pankaj warehoused the said goods of M/s. Highland International and M/s. Alpha Industries and then clandestinely removed the same and replaced the said goods with the goods having negligible commercial value. He also appointed Shri Vinay Mishra as warehouse manager on the referral of Shri Prasad Kurhade, which further facilitated the clandestine removal of the goods. Also, Shri Sanjay Vithoba Sable appointed Shri Vinay Mishra as Warehouse Keeper of Allsan Warehouse at the request of Shri Prasad Kurhade and Shri Vinay Mishra issued the space certificate in relation to the warehousing of the goods related to M/s. Highland International and M/s. Alpha Industries. By this act of allowing to store goods without making entry of the same in the Bond register and allowing them to be clandestinely removed from the warehouse by his negligence, Shri Sanjay Vithoba Sable rendered himself for penal action under the Customs Act, 1962. It appears that Shri Sanjay Vithoba Sable has failed to abide by conditions imposed in the said license and grossly failed to fulfil his duties as a warehouse Licensee. The entire modus operandi used by the syndicate would not have been possible at the first instance if Shri Sanjay Vithoba Sable had diligently done his duties. Shri Sanjay Vithoba Sable has also thrown his mobile phone which indicates his active role in the clandestine removal of goods from the said warehouse. Therefore, it appears that for the act of omission and commission committed by Shri Sanjay Vithoba Sable, he has abetted the syndicate members in pilfering / diverting / removing the goods clandestinely from the said warehouse and diverting them to local market, in gross violation of the warehousing provisions and the provisions of the Customs Act, 1962. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs.11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods to be liable for confiscation under Section 111, as explained above, Shri Sanjay Vithoba Sable appears liable to penalty under Section 112(b) and Section 114AA of the Customs Act, 1962.*

- 2.4 Based on the above, Shri Sanjay Vithoba Sable has been called upon to show cause as to why penalty under Section 112(b) and Section 114AA of the Customs Act, in respect of the goods clandestinely removed and having value Rs.11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.

**(B) Role played by Shri Allwyn Saldanha:**

*Shri Allwyn Saldanha was the manager of the firm M/s. Allsan Shipping and Logistics Pvt. Ltd. which was managing M/s. Allsan Shipping and Logistics Pvt. Ltd (NSA IU 168). Shri Allwyn being a director of the firm managing Allsan warehouse the responsibility of personally monitoring every activity in the warehouse. During the investigations, it was revealed that Shri Allwyn Valerian Saldanha has failed to abide by the conditions imposed in the said license and*

*grossly failed to fulfil his duties as a warehouse Licensee. The entire modus operandi used by the syndicate would have not been possible at first instance if Allwyn had diligently done his duties. By this act of allowing to store goods without making entry of the same in the Bond register and allowing them to be clandestinely removed from the warehouse by his negligence, Shri Allwyn Saldanha rendered himself for penal action under the Customs Act, 1962. Therefore, it appears that for the act of omission and commission committed by Shri Allwyn Valerian Saldanha, has abetted the syndicate members in removing the goods clandestinely from the said warehouse and diverting them to local market, in gross violation of the warehousing provisions and the provisions of the Customs Act, 1962. Further, for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs.11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, which appears to have rendered the said goods to be liable for confiscation under Section 111, as explained above, Shri Allwyn Saldanha appears liable to penalty under Section 112(b) and Section 114AA of the Customs Act, 1962.*

- 2.5 Based on the above, Shri Allwyn Saldanha has been called upon to show cause as to why penalty under Section 112(b) and Section 114AA of the Customs Act, in respect of the goods clandestinely removed and having value Rs.11,32,81,926/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him.
- 2.6 Since the allegations on both the Noticees are identical and identical penalties have been proposed in the said SCN, this common reply to the said SCN is being submitted.
- 2.7 In the alleged role played by the Noticees as mentioned in in para's 21 (v) and 21(vi) of the said SCN, it has been mentioned that the good said to be clandestinely removed (the said goods) were believed to be general cargo and not Bonded goods as per the provisions of the Customs Act, 1962. It has specifically been mentioned in para 21(v) of the said SCN that the said goods declared by the said Shri Prasad Kurhade and other persons were general cargo and duty paid goods. There is no mention that the Noticees herein were aware of the Bonded nature of the said goods or that they had reasons to believe that the said goods were Bonded goods in terms of provisions of Chapter IX (Warehousing) of the Customs Act, 1962. Under the circumstances, the Revenue has not shown that the Noticees were aware of any contravention of the provisions of the Customs Act, 1962. Under the facts of the case, it is abundantly clear that what was being stored in the warehouse were the goods being general duty paid cargo and not goods under Bond as explained above. Under the circumstances, there is no reason for the Noticees to either enter the said goods in their Bond Register or to treat the same as imported duty not paid goods.

2.8 Para 6 of the said SCN provides details of the goods seized under Panchnama by the Revenue. The details of clandestinely removed goods also appear in the said SCN in details. Further, it is alleged that the Noticees have been instrumental in clandestine removal of the said goods from their warehouse. However, in para 6.2 of the said SCN states that it was revealed in the month of August 2023 that some part of the said remaining goods which were seized vide Seizure Mamo dated 14-07-2023, were clandestinely removed. The said goods after having been seized, were in the custody of the Customs Authorities. The clandestine removal of the said goods while being in the custody of the Customs Authorities has not been blamed on anyone. This clearly shows that the Noticees have no role to play in the alleged clandestine removal of the said goods, which in any case were removed from the custody of the Customs Authorities when the Noticees were not at all in picture.

2.9 The said SCN proposes to impose penalty under Section 112 of the Customs Act, 1962. However, the provisions of Section 112 become operational only when the goods are held liable to confiscation under Section 111 of the Act owing to acts of omission and commission of the Noticees. However, the Noticees have not been called upon to show cause as to why the said goods should be held liable to confiscation under Section 111 of the Customs Act 1962. The Noticees have been called upon to show cause as under:

*“to show cause as to why penalty under Section 112(b) and Section 114AA of the Customs Act, in respect of the goods clandestinely removed and having value Rs.11,32,81,926/-, **liable for confiscation under Section 111(j) of the Customs Act, 1962, should not be imposed on him”.***

2.10 The Noticees have been called upon to show cause as to why penalty under Section 112(b) and 114AA of the Customs Act, 1962 should not be imposed. There is no mention of calling upon the Noticees to show cause as to why the said goods should be held liable to confiscation under Section 111 of the Customs Act, 1962. It appears that the Revenue has already decided in the said SCN itself that the said goods are liable to confiscation in any case, whatever be the response of the Noticees, therefore there is no need for the Noticees to show cause anything about their confiscation. This also shows the intent of the Revenue that imposition of penalties under Section 112(b) and 114AA of the Customs Act, 1962 is a foregone conclusion, irrespective of the legality of liability to confiscation of the said goods, or presence or absence of ingredients of Section 114AA of the Customs Act, 1962. The provisions of 112 of the Customs Act 1962 are as under:

***SECTION 112. Penalty for improper importation of goods, etc.-***

*Any person, -*

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

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

*shall be liable, -*

- 2.11 The above provisions of law specifically mandate that penalty under Section 112 of the Act can be imposed only when the any goods are held liable to confiscation due to the acts of omission and commission of the accused person. The Noticees have not been called upon to show cause in respect of liability to confiscation of the said goods, therefore, there is no application of Section 112 of the Customs Act, 1962.
- 2.12 In respect of the proposal for imposition of penalty under Section 112 of the Act, reliance is placed on the order of the **Hon'ble CESTAT, Chandigarh in the matter of M/s. Hindustan Distributors Vs. Commissioner of Customs, Ludhiana reported vide 2024 (6) TMI 59 – CESTAT Chandigarh** a copy of which is placed as Annexure-A. The relevant part of the same is as under:

***Imports 'Prime Pre-painted Steel Coils (Non Alloy) - Restricted goods or not - Violation of policy conditions imposed by the DGFT - Minimum Import Price (MIP) for the impugned goods as fixed vide Notification No. 38/2015-2020 - Confiscation of goods u/s 111(d) - Imposition of redemption fine and penalty - HELD THAT:-*** It is pertinent to note that in the impugned order dated 08.10.2018 passed by the learned Commissioner (Appeals), sufficient reasons have not been given for imposing the redemption fine and penalty. Further, the impugned order dated 27.07.2013 relating to the same impugned goods, the learned Commissioner (Appeals) has categorically held that there was no attempt by the appellant to mis-declare the description or transaction value; and consequently the learned Commissioner (Appeals) set aside the confiscation u/s 111(d) of the Customs Act, 1962 and also set aside the imposition of redemption fine, but still retained the penalty imposed u/s 112(a) of the Act.

***Further, once the confiscation is set aside, then the question of imposition of penalty u/s 112(a) of the Act does not arise. Here, it is pertinent to refer to Section 112(a) of the Customs Act, 1962.***

*Further, there was no malafide intention to evade duty on the part of the appellant and hence, the imposition of penalty is not sustainable in view of the various decisions relied upon by the learned Counsel for the appellant; particularly the decision of this Tribunal in the case of John Deere India Pvt Ltd. [[2017 \(12\) TMI 292 - CESTAT CHANDIGARH](#)], wherein it has been held that when the issue relates to interpretation then the goods are not liable to confiscation and no*

*redemption fine is imposable on the said goods and consequently no penalty is imposable on the appellant.*

*The appeals were allowed, and both impugned orders were set aside with consequential relief as per law.*

- 2.13 Further, imposition of penalty has been proposed under Section 114AA of the Customs Act, 1962. Provisions of Section 114AA of the Customs Act, 1962 are as under:

***Section 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*

- 2.14 As provided in the above provision, penalty can be imposed only when **knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material** particular, in the transaction of any business **for the purposes of the Customs Act 1962**. In para 21 (Liability to penalty) of the said SCN, there is no mention of any presence of any of the ingredients of Section 114AA of the Customs Act, 1962.

- 2.15 It has been explained above that the said goods were declared by the other persons involved in the case as regular general cargo, which were duty paid. The Noticees had no reason to believe otherwise or that the said goods were imported duty not paid goods. Even the Revenue has not made out any case to show that the Noticees were aware of the nature of the said goods as to whether the same were duty paid or not. Under the circumstances, there was no reason for making entry of the said goods in Bond Register. There was no document which the Noticees have knowingly or intentionally made, signed or used, or caused to be made, signed or used, or any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of the Customs Act 1962.

- 2.16 Under the circumstances the provisions of Section 114AA of the Customs Act, 1962 are not attracted. Reliance is placed on **the order of the Hon'ble CESTAT, New Delhi in the matter of M/s. Esson Furnishing Pvt. Ltd. Vs. Pr. Commissioner, Customs ICD, Tughlakabad, New Delhi reported vide 2025(8) TMI 510 – CESTAT New Delhi**, a copy of which is placed as **Annexure-B** hereto. The relevant part of the same is as under:

***Determination of retail sale price - mis-utilisation of DFIA scrips - suppression of facts - extended period of limitation - Levy of penalty u/s 114AA of the Customs Act, 1962 - HELD THAT:-***

*The Principal Commissioner has found that he was responsible for import, purchases, sales and marketing of all the products imported by the appellant but he did not intentionally declare the actual retail sale price and got the goods cleared by mis-declaring the retail sale price. The Principal Commissioner has also noted that Suveet Kalra had mis-utilised the DFIA scrips. It has been found as a fact that neither had Suveet Kalra mis-declared the actual retail sale price nor he had mis-utilised the DFIA scripts. In such a situation, penalty under section 114AA of the Customs Act could not have been imposed upon him - Insofar a duty demands pertaining to Annexure A-2 and A-4 are concerned, the same cannot be sustained as the appellant is entitled to avail the benefit of duty free imports of Lacquers under the DFIA's.*

*The order dated 24.09.2019 passed by the Principal Commissioner cannot, therefore, be sustained and is set aside - Appeal allowed.*

2.17 The present case relates to import of goods and alleged clandestine removal of the same by some persons and the Noticees have nothing to do with them. It is further submitted that the penalty under Section 114AA of the Customs Act, 1962 can be imposed where export benefits are claimed without exporting the goods and by presenting false documentation, and not in the case of importation. Admittedly, this is a case of importation of goods and thus, the provisions of Section 114AA of the Customs Act, 1962 are not invocable, as the same have been inserted to penalize exporters who claim undue export benefits. Admittedly, this is a case of import and penalty under Section 114AA of the Customs Act, 1962 can be imposed for fraudulent 'exports'. In these circumstances, the penalty under Section 114AA of the Customs Act, 1962 is not imposable on the Noticees herein.

2.18 Reliance is placed on the ***order of the Hon'ble CESTAT, Kolkata in the matter of M/s. Gainwell Commosales Private Limited Vs. Commissioner of Customs (Import-I), Mumbai reported vide 2025(8) TMI 1483 – CESTAT Kolkata***, a copy of which is placed as **Annexure-C** hereto. The relevant part of the same is as under:

***Levy of penalties u/s 112(a) of the Customs Act, 1962 and u/s 114AA of the said Act - mis-declaration of imported goods - availability of benefit of concessional rate of duty in terms of N/N. 50/2017-Cus. dated 30.06.2017.***

***Penalty u/s 112(a) of CA, 1962 - HELD THAT:- Admittedly, the appellant has acted as an agent of the foreign supplier and asked for assessment, on first check, which has been denied to the appellant. In these circumstances, the allegation against the appellant that they have aided or abetted the evasion of duty by the importer, cannot be sustained - no penalty under Section 112(a) of the Customs Act, 1962 can be imposed on the appellant. Accordingly, the penalty of Rs.3,00,00,000/- imposed on the appellant under Section 112(a) of the Act is set aside.***

**Penalty u/s 114AA of CA, 1962 - HELD THAT:-** It is a fact that the said penalty can be imposed where export benefits are claimed without exporting the goods and by presenting false documentation, and not in the case of importation. Admittedly, this is a case of importation of goods and thus, the provisions of Section 114AA of the Act are not invocable, as the same have been inserted to penalize exporters who claim undue export benefits.

Admittedly, this is a case of import and penalty under Section 114AA of the Act can be imposed for fraudulent 'exports'. In these circumstances, the penalty under Section 114AA of the Act is not imposable on the appellant. Consequently, the penalty imposed on the appellant under Section 114AA of the Act is also set aside.

*The impugned order qua imposition of penalties on the appellant set aside - appeal allowed.*

- 2.19 It is submitted that the Noticees herein are victims of a fraud and cheating operation perpetrated by some fraudsters. The Noticees have not been paid their warehouse charges running into millions of Rupees. The fact may be appreciated that even when the said goods were in the custody of the Customs Authorities after seizure of the same on 14-07-2023 (refer para 6.2 of the said SCN), the fraudsters could still remove the said goods from the warehouse which speaks volumes about their audacity and intent to break the law for their nefarious activities. The Noticees submit that they are not at all involved in the said clandestine operation of the said fraudsters and that they themselves are victims of the same fraud.
- 2.20 In view of the above, the Noticees pray that they may be exonerated from the present proceedings and the said SCN may be dropped qua the Noticees. It is also prayed that :-
- i. That the said SCN may be dropped qua the Noticees Shri Sanjay Vithoba Sable (Noticee No. 8) and Shri Allwyn Saldanha (Noticee No. 9) and they may be exonerated from the present proceedings.
  - ii. That the said goods may not be held liable to confiscation under Section 111 of the Customs Act, 1962 as the Noticees have not acted in contravention of the provisions of the Customs Act, 1962, and the rules and regulations made thereunder;
  - iii. That the said goods may not be held liable to confiscation under Section 111 of the Customs Act, 1962 owing to acts of omission and commission of the Noticees herein as they have not been called upon to show cause in respect of such liability to confiscation of the said goods under Section 111 of the Customs Act, 1962;

- iv. That penalty under Section 112(b) of the Customs Act, 1962 may not be imposed as the said goods are not liable to confiscation under Section 111 of the Customs Act, 1962 owing to the acts of omission and commission of the noticees herein;
- v. That penalty under Section 114AA of the Customs Act, 1962 may not be imposed on the Noticees herein as there is no ingredient mentioned in the said SCN against the Noticees warranting invocation of Section 114AA of the Customs Act, 1962;
- vi. That penalty under Section 114AA of the Customs Act, 1962 may not be imposed as the Noticees have bonafidely believed that they were storing with regular general duty paid cargo and not with any imported goods and definitely not for the purpose of transaction of business under the Customs Act, 1962;
- vii. That penalty under Section 114AA of the Customs Act, 1962 as these provisions apply to export goods and not to imported goods as held by various Hon'ble Tribunals;

**Shri Kirty Raj Singh filed written submissions dated 14-11-2025 which are as following:-**

- 2.21 The show cause notice has been issued mechanically in a pre-determined manner, and the same is not based on any positive or cogent evidence and is thus required to be set aside.
- 2.22 Noticee denies each and every charge, averment, and allegation leveled in the show cause notice and states that they have not committed any acts of omission or commission or committed any breach of the provisions of the Customs Act, 1962, in the alleged clandestine removal of the said goods from the warehouse to evade the payment of Customs duty and to circumvent the restrictions imposed under the Customs Act, 1962 read with Public Warehouse Licensing Regulations, 2016 and SEZ Rules, 2006.
- 2.23 The impugned show cause notice is issued on the basis of assumption and presumption, thus required to be set aside. The respondent has made a presumption in the impugned show cause notice that the noticee is the key member of the whole syndicate in relation to imports of goods, i.e., Areca nuts and Black Pepper, and the subsequent clandestine removal of the said goods from the warehouse, without any documentary or conclusive evidence. The subject case is based on mere surmises and conjectures; therefore, the proposition of the penal action is denied by the noticee. The same is also not sustainable in law on the following grounds, independently or jointly.
- 2.24 It is humbly submitted that the case made out by the Revenue is based on an erroneous understanding of the relevant facts.

2.25 **Issue involved** -From a plain reading of the impugned Show Cause Notice dated 14.12.2024, it appears that in this case, there is only one issue: Whether the noticee is liable for penal action or not — the allegations and penal actions are denied by the importer in toto.

2.26 Point wise submissions in respect of the issue raised in the Show Cause Notice dated 14.12.2024.

2.27 The noticee is not a key member nor a member or in any way connected with the whole syndicate in relation to imports of goods i.e. Areca nuts and Black Pepper, and the subsequent clandestine removal of the said goods from the warehouse, and the charges are based on presumption without any documentary evidence or cogent reasons:

2.28 **Profile of Shri Kirty Raj Singh:**

- i. He is a Director in M/s. Rudranasha Export Pvt. Ltd, and the company's business was of export of various types of Carpets during the period from 2013 to 2016. At present, there is no activity in the company.
- ii. He is the Proprietor of M/s. Baba Export started in 2018. The company is having the business of local trading of textile goods and property rental income.

2.29 **Allegations are baseless and contrary to the facts:**

At the outset, the noticee submits that, the allegations against them in the impugned SCN are baseless and contrary to the facts recorded therein and the relied-upon documents.

2.30 **Statement of Shri Kirty Raj Singh dated 18.10.2024 (RUD 33), wherein he, inter alia, stated that:-**

- i. He didn't know any person, namely Shri Karan Singh alias Pankaj, and he never approached him for any work of warehousing of goods at the Customs Bonded Warehouse and removal of the goods from the said warehouse.
- ii. He knew Shri Swaroop Shridhar Shetty through his father, Shridhar Shetty. His father, Shridhar Shetty, was in the film production line, and he met him many times. During the meeting with his father, he met Shri Swaroop Shetty a few times, but that was before the Coronavirus only. However, he never interacted with Swaroop Shetty much because Swaroop Shetty was an avid alcoholic, and he never liked his behavior.
- iii. On being shown the sale deed dated 26.03.2018 of his premises situated at Pent House no. 1501, 15th and 16th Floor, Eden Palace CHS Ltd, Plot no. 16, Sector 16A, Sanpada, Navi Mumbai, wherein Shri Swaroop Shetty was shown as a witness and his photograph, signature and thumb

impression was present, he accepted the fact that Shri Swaroop Shetty was present during the registration of the said sale deed dated 26.03.2018. However, he called his father Shridhar Shetty for the said witness purpose as his father was instrumental in searching for and buying the said property. On that day, his father was not able to come for the witness purpose, so he sent his son, Swaroop Shetty, to become a witness of the said sale deed dated 26.03.2018 and testify on behalf of him and his wife (purchaser of that premises).

- iv. On being asked about the fact that Shri Swaroop Shridhar Shetty is the partner of M/s. OSGL Overseas, which was an SEZ entity at Kandla SEZ and the said entity was used for import of Areca Nuts and Black Pepper at Kandla SEZ which were further bond transferred at Akshay Logistics Warehouse and Allsan Warehouse, he said that he didn't know the fact that Shri Swaroop Shridhar Shetty was partner in any firm or any import related work was handled by him or his company at Kandla. He was also not aware of the whereabouts of Swaroop Shridhar Shetty.
- v. On being asked about Shri Prasad Kurhade (Owner of transport firm M/s Om Sai Logistics) and Shri Sanjay Vithoba Sable and Allwyn Saldanha (Both Directors of Allsan Warehouse), he stated that he didn't know any of the persons and he never approached them for warehousing of any goods and later clandestine removal of the same.
- vi. On being asked about the import of Areca Nuts and Black Pepper at JNCH Nhava Sheva Port and Kandla SEZ Port through various importers/SEZ entity/SEZ clients namely, M/s Highland International and Alpha Industries (Importers), M/s OSGL Overseas (SEZ Entity), M/s Blue I Store (SEZ Client) and afterwards warehousing of the same in Allsan Shipping and Logistics Pvt. Ltd. (NSAIU 168), he said that he didn't know any of the said companies. He never imported any areca nuts through any importer/SEZ entity/SEZ client.
- vii. Further, on being asked about the clandestine removal of the said goods, Areca Nuts and Black Pepper from Allsan Shipping and Logistics Pvt. Ltd. (NSAIU 168), he said that he didn't know anything about the same, and he never approached any person for the warehousing or removal of the goods from the said Allsan Warehouse. He was completely unaware about the said warehouse, hence not able to further comment on the same.

2.31 Noticee is termed as a member of the syndicate with no single evidence of any financial adjustments with other members of the syndicate (if any), and that there is no evidence of caused clandestine removal of Areca Nuts and Black Pepper from the warehoused premises with other members of the syndicate.

2.32 That, it may be mentioned that syndicate of persons would work for financial gains and the department has failed to indicate names of the persons of the syndicate and their financial gains in the process (if any) and how and to what extent this noticee would be benefited in the entire scenario of import and

clandestine removal of Areca Nuts and Black Pepper *from* the Customs bonded warehouse. In this case, the department has come up with a concocted story to implicate the noticee just on the basis of statements of some individuals, and with not a single piece of evidence against the noticee.

- 2.33 It is pertinent to mention that regarding the matter of storage of areca nuts and black pepper in the Custom bonded warehouse, it requires permission under section 49 of the Customs Act 1962, also requires payment to the custodian (Custom bonded warehouse), handling charges, shipping line charges are to be paid, and other incidental charges also arise. No such payments have ever been made by the noticee, nor has the noticee ever been the facilitator, representative/finances of such imports/warehousing. It is not forth coming as to who were the persons who under took permission, how the payments were done as none of payment of the aforesaid charges are possible in cash, only banking transactions are possible and trails are easily visible once the payments transaction is tracked, as it is truly stated that nothing has been executed by the noticee directly or indirectly related to any account of his holding.
- 2.34 Noticee submits that, as per the SCN, the department has no digital footprint of any sort of document exchange, information exchange, follow-ups of container of goods, follow-ups of payment, or anything else specified for the clandestine removal of the said impugned goods.
- 2.35 It is worth mentioning that there is no communication on record of this noticee with those co-accused persons at any point in time *exists* Which establishes that this noticee either knew these persons or ever contacted them directly or indirectly.
- 2.36 Noticee submits that, they have never derived any monetary benefits, did not perform any paperwork, never signed any document with any attorney or register, for on or behalf of any such importing or warehousing firms/companies. Further, noticee had never entered into any sort of verbal or written contract or agreement with anyone relating to the subject goods under investigation.
- 2.37 Shri Kirty Raj Singh's statement recorded on 18.10.2024 under Section 108 of the Customs Act, 1962, stated that he didn't know anything about the clandestine removal of the said goods, Areca Nuts and Black Pepper, from Allsan Shipping and Logistics Pvt. Ltd. He never approached any person for the warehousing or removal of the goods from the said Allsan Warehouse. He didn't know Shri Prasad Kurhade (Owner of transport firm M/s Om Sai Logistics) and Shri Sanjay Vithoba Sable, Allwyn Saldanha (Both Directors of Allsan Warehouse), and Shri Karan Singh alias Pankaj. He didn't know the fact that Shri Swaroop Shridhar Shetty was a partner in any firm, or that any import-related work was handled by him or his company at Kandla.

- 2.38 From the aforesaid facts, it is evident that, Shri Kirty Raj Singh does not know other noticees who have been alleged to be involved in the clandestine removal of goods from the warehouse. Also, he never approached them for the warehousing or removal of the goods from the said Allsan Warehouse. He was completely unaware of the said warehouse; therefore, he was not able to further comment on the same. There is no statement of Shri Prasad Kurhade, Shri Sanjay Vithoba Sable, Allwyn Saldanha, Shri Karan Singh alias Pankaj that they know Mr. Kirty Raj Singh and he was involved in the clandestine removal of the said goods, Areca Nuts and Black Pepper, from Allsan Shipping and Logistics Pvt. Ltd. Hence, the charge on the noticee of being a key member of the whole syndicate is baseless and unsustainable.
- 2.39 Noticee submits that, in this case, from the DRI investigation it appears that-
- 2.40 The investigating agency did not find any diverted goods, viz. Areca Nuts and Black Pepper, from Allsan Shipping and Logistics Pvt. Ltd. warehouse, in the custody or possession of Shri Kirty Raj Singh;
- 2.41 The investigating agency did not find any documents related to the Allsan Shipping and Logistics Pvt. Ltd. warehouse, in the custody or possession of Shri Kirty Raj Singh, and
- 2.42 The investigating agency did not find any documents or goods imported by M/s. Highland Industries and M/s. Alpha Industries, in the custody or possession of Shri Kirty Raj Singh.
- 2.43 There is not a single statement by any accused or conspirator, or unscrupulous persons, except Shri Uday Sharma, against the noticee.
- 2.44 There is not a whisper in the show cause notice, where the original cargo, i.e. '212.72 MTs of Areca nuts and Black Pepper', imported by M/s. Highland Industries and M/s. Alpha Industries has disappeared.
- 2.45 There is no evidence of any action (commission) or inaction (omission) on the part of the noticee in regard to the clandestine removal of the said goods, Areca Nuts and Black Pepper, from Allsan Shipping and Logistics Pvt. Ltd. Warehouse. Department did not show any material to show that the noticee and or/others acted in concert. Department did not show any material or evidence that the noticee and or/others had acted in a common intention or premeditated or planned the act so as to substitute and divert the goods from the Customs Bonded warehouse. Further, the noticee was not a conduit in the commission of the offence with other persons (other Noticees), and hence if there was any conspiracy presumed not admitted, then, as per the said facts, he was not part of that conspiracy. On this ground alone, the allegation leveled against the noticee is required to be set aside as the same is not tenable in law.

- 2.46 Noticee submits that, he did not know Shri Uday Sharma and he never met him personally or spoke to him on the telephone, or never he was ever in touch with him. Shri Kirty Raj Singh did not hand over any clearance work of the importers, viz. M/s. Altamile Overseas, M/s. Maya Enterprises and M/s. Highland International to Shri. Uday Sharma. Shri Kirty Raj Singh had never said to Mr. Uday Sharma that he wanted to import Areca nuts/ Supari at Nhava Sheva Port. He never paid any money into the account of Alka Logistics, nor did he pay any money to Shri Uday Sharma directly or indirectly. He never gave any instructions directly or indirectly to Shri Uday Sharma, nor planned with Shri Uday Sharma or any other co-noticees for arranging the warehouse or importing the impugned goods and the clandestine removal of the impugned goods from the Customs- bonded warehouse. Shri Uday Sharma has given the oral statement without any material or documentary evidence in support of his statement. There is no corroborative evidence or statement.
- 2.47 In the statement of Shri Uday Sharma, recorded on 02.02.2023 and 06.02.2023 under Section 108 of the Customs Act, 1962, he has stated that, he was provided with an invoice, Bill of Lading, packing list, GST copy, IEC copy, Aadhar card, bank verification letter and PAN card of the IEC holders and other related documents of the importer M/s Highland International by Shri Karan Singh alias Pankaj (Mobile number- 9335853438) on the directions of Shri Kirty Raj Singh. But there is no statement of Shri Karan Singh alias Pankaj to prove that the import documents were given by Shri Kirty Raj Singh. Further, submits that, the noticee has stated in his statement that he didn't know Shri Karan Singh alias Pankaj, and he never approached him for any work of warehousing of goods at the Customs Bonded Warehouse and removal of the goods from the said warehouse. Therefore, the department cannot rely on the unilateral statement of Shri Uday Sharma, not backed by any documentary evidence, to penalize the noticee.
- 2.48 Noticees submit that, merely because a statement has been recorded under summons before a Gazetted Officer, it does not mean that it has to be ipso facto accepted as truthful. Its evidentiary value has to be judged in conjunction with other evidence, vide [Orient Express v. collector— 1986 (23) E.L.T. 507(Tri)].
- 2.49 Noticee submits that, there is no documentary material or evidence produced except the statement of Shri Uday Sharma produced on record to show that the import documents were given to him for clearance on the impugned goods on the direction of Shri Kirty Raj Singh by Shri Karan Singh alias Pankaj. Merely on a bald statement of Shri Uday Sharma, it cannot be held that the noticee was a member of the syndicate for clandestine removal of the said goods, Areca Nuts and Black Pepper, from Allsan Shipping and Logistics Pvt. Ltd. Noticee submits that, suspicion of a person being involved cannot take the place of proof. That there is no concrete evidence in the show cause notice to link the noticee to the act of clandestine removal of the said goods, Areca Nuts and Black Pepper, from Allsan Shipping and Logistics

Pvt. Ltd. Warehouse. It appears that the department has been cheated by some unscrupulous people other than the noticee, by clandestine removal of the said goods.

2.50 Noticee submits that the department has failed to substantiate any evidence as to how they have termed him as a member of the syndicate with some other co-accused persons who appear to have caused clandestine removal of Areca Nuts and Black Pepper from the Customs Bonded warehouse. As the noticee truly states that he has no digital footprints, no visits or communications with such persons, in India or abroad. Neither are these perishable products are nature of his business nor even such similar goods been domestically traded by him. And for being implicated as a member of the syndicate, it further requires evidence of a catena of events justifying his role in the clandestine clearances of such goods. And it is a matter of further investigation why the noticee is framed by the co-accused in their statements and sometimes retracted from their statements, whereas no material evidence is on record except mere verbal accusations, and herewith causes an extreme deviation and diversion from the core line of investigation of the clandestine removal orchestra. In the absence of any material evidence turning the noticee mastermind/kingpin, the department appears to have created a concocted story against the noticee, which is hypothetical and devoid of any material facts.

2.51 In view of the above grounds/clarifications, the penal action against the noticee is required to be set-aside.

2.52 **Sought cross-examination of Shri Uday Sharma (Noticee No. 10):**

The Show Cause Notice is largely based on statements recorded during the investigation. Noticee specifically sought cross-examination of Shri Uday Sharma, whose statements had been relied upon.

The extract of the case law supporting our contention is reproduced below:

(i) Tejas Narendra Mehta Vs. Commissioner of Customs, Ahmedabad [2024(388) ELT. 207 (Tri. - Ahmd.)]

*Offences - Relevancy of statement - Cross-examination of witness - Improper import - Primary evidence was in nature of detection of certain luxury goods concealed behind paper cartons - Prima facie no significant evidence was gathered from searches made in premises of appellants - Show Cause Notice was largely based on statements recorded during investigations - Appellant specifically sought cross-examination of persons whose statement had been relied upon, but same had been denied - However, impugned order was passed for confiscation of improperly imported goods and levy of penalty - Statements could not be relied without cross-examination of witnesses - Therefore, impugned order which had been relying very heavily on all these statements and that too without granting cross-examination cannot therefore be sustained - Matter was remanded to original Adjudicating Authority to decide issue afresh after giving opportunity to cross-examine*

*person whose statement had been relied upon - Section 138B read with Sections 111, 112 and 125 of Customs Act, 1962. [paras 5, 5.1, 5.2, 5.4 and 6]*

(ii) Gobinda Das Vs. Commissioner of Customs (Prev.), Kolkata [2023(385) ELT. 722 (Tri. - Kolkata)] / (2023) 7 Centax 201 (Tri. - Kolkata)

Evidence - **Oral evidence - Statement of co-accused was recorded under Section 108 of Customs Act, 1962 - Such statement would have no evidentiary value if co-accused was neither examined by adjudicating authority nor was any opportunity of his cross-examination provided to accused in terms of Section 138B of Customs Act, 1962 - Section 3 of Evidence Act, 1872 - Sections 108 and 138B of Customs Act, 1962. [para 23J]**

(iii) N. C. Alexender Vs. Commissioner of Customs Chennai [2022(381) ELT. 148 (Mad)]

Customs : Where *reliance* was placed on statement of third party but such person was not produced for cross-examination, order-in-original was to be remitted for de novo adjudication.

(iv) Andaman Timber Industries Vs. Commissioner of C. EX., Kolkata- II [2015(324) ELT. 641 (S.C.)J]

Evidence - Natural *justice* - Cross-examination of witnesses - **Denial of - Revenue issuing show cause notice of undervaluation by appellant only on the basis of statement of two witnesses - Serious flaw by adjudicating authority in denying cross-examination of these two witnesses** - Request of appellant seeking cross-examination also not dealt with in order - Tribunal too erred in guessing that cross-examination of witnesses could not have brought out any material not already available - Adjudicating authority relying on price list of Depots of appellant, but whether said witnesses bought goods on that price list or not was a subject matter of cross-examination - Appellant wanting to discredit testimony of witnesses by contesting truthfulness of statements - If testimony of these two witnesses is discredit, there is no other material with Revenue to justify its action - Principles of natural justice violated making order nullity Tribunal order set aside - Sections 9(D) and 33 of Central Excise Act, 1944. [paras 6, 7, 8]

2.53 Noticee Shri. Kirty Raj Singh is not liable for any penal action under Section 112(b) of the Customs Act, 1962:

*Section 112:- PENALTY FOR IMPROPER IMPORTATION OF GOODS ETC.*

*Any person, -*

(b) *who acquires possession of or is in any way concerned in carrying, removing,*

*depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,- Penalty detailed therein.*

It is submitted that a penalty cannot be imposed under Section 112(b) of the Act as the noticee has not done nor omitted to do any act which acts or omission would render such goods liable to confiscation under Section 111, or abetted the doing or omission of such an act. The noticee has also neither acquired possession of nor has in any way concerned themselves in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which they knew or had reason to believe were liable to confiscation under section 111. Further submits that, the noticee has not dealt with the goods in any manner, either directly or indirectly, and also not dealt with the other noticees or conspirators. There is no act of mis-declaration or not abetted in the diversion/ clandestine removal of goods on the part of the noticee as per the clarifications/grounds given above. Therefore, the noticee is not liable for penal action.

The extract of the case laws supporting our contention is reproduced below:

- (i) Gobinda Das Vs. Commissioner of Customs (Prev.), Kolkata [2023(385) ELT. 722 (Tri. - Kolkata)] / (2023) 7 Centax 201 (Tri. - Kolkata)

Gold smuggling - Penalty - Appellant-accused was implicated solely based on statement of co-accused from whose possession gold was recovered - Co-accused had stated that he was carrying gold at instance of accused on consideration and was required to hand over same to a person as instructed by him - There being no corroborative evidence to establish that accused had instructed co-accused to carry gold to another person, hence merely on basis of statement of co-accused and conversation between them on mobile phone number that was found to have been registered in name of some other person and not in name of accused, it could not be concluded that co-accused was carrying gold for and on instructions of accused - In absence of corroborative evidence, statement of co-accused was weak evidence and not sufficient to implicate accused - It was more so when adjudicating authority had neither examined co-accused nor provided opportunity of his cross-examination to accused in terms of Section 138B of Customs Act, 1962 - Further, inference drawn by adjudicating authority that accused and proprietor of a gold shop from where seizure of gold effected in another case booked after twenty days of initial seizure from possession of co-accused were one and same person, was not acceptable as same was not supported with any evidence - If both persons were one and same, co-accused in his statement could have stated name of accused as Govinda Das as proprietor of said gold shop instead of as Govinda Babu.

**- Hence accused was wrongly implicated in smuggling and imposition of penalty on him**

**under Section 112(b) of Customs Act, 1962 was not justified and was to be quashed - Section 112(b) of Customs Act, 1962.** [paras 1, 3, 15 to 23]

(ii) Ummer Abdulla Vs. Commr. of C. Ex. Cus. & Service Tax Calicut [2019(367) ELT. 181 (Ker.)]

Gold - Smuggling - Penalty - **Statements of witnesses solely relied on by authorities although documentary proof produced by appellant that mobile number spoken to by witnesses as his, belonged to someone else - No concrete evidence found to rope the appellant in the alleged smuggling of gold but for the recorded statements of persons directly involved** - Appellant having specifically requested cross-examination of witnesses, Adjudicating Authority bound to follow the mandatory procedure prescribed in Section 138B of Customs Act, 1962 - Tribunal not considered all these aspects in its order - **Therefore, impugned order imposing penalty against the appellant set aside - Section 112 of Customs Act, 1962.** (paras 21, 26]

(iii) Dr. Ankineedu Chowdry Vs. Commissioner of Customs, Chennai [2005(182) ELT. 206 (Tri. Chennai)]

Penalty - Customs - Appellant looked after the affairs of Custom House Agent - No evidence brought on record to show that appellant had, in any manner, physically dealt with the confiscated goods - Following ratio of Tribunal's decision in appellant's own case as reported in 2004 (178) E.L.T. 578 (Tribunal), provisions of Section 112(b) of Customs Act, 1962, not attracted - Hence, penalty not imposable. [paras 6, 7]

**Para 6.** In Final Order No. 75T/2004 *ibid*, which was passed in an appeal the same party against penalty of the same kind, we have examined the requirements of a penalty under Section 112(b). In that case also, Ld. Commissioner had ordered confiscation of imported goods under Section 111 (j) of the Customs Act and had imposed a penalty on the appellant under Section 112(b) of the Act. We found that the goods were correctly held liable to confiscation, and we proceeded to examine the legality of the penalty imposed on the appellant. Ultimately, we vacated the penalty after finding that the appellant had not physically dealt with the goods. The ratio of our decision is contained in the following extract from the above Final Order :

"..... However, whether the above penalty was liable to be imposed on the appellant would depend on whether his conduct satisfied the requirement of Clause (b) of Section 112 of the Act. This clause reads as under :-

“(b) who acquires possession of or is in any way concerned in carrying, removing, depositing,

harbouring, keeping, concealing, selling or purchasing or any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111...

In order that a person is penalized under the above provision, it has to be established that he acquired possession of or was 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 knew or had reason to believe were liable to confiscation under Section 111 of the Act. Ld. DR has harped on the expression underlined above and submitted that the appellant had dealt with the goods by associating himself with the modus operandi of clearance of the goods. Ld. Counsel has opposed this argument. We find that no physical act of the appellant in relation to the goods in question has been brought out to justify the penalty. The expression "in any other manner dealing with" has to be understood ejusdem genesis with the preceding words/expressions in the Clause in terms of the Apex Court's ruling in Thakur Amar Singhji v. State of Rajasthan [AIR 1955 S.C. 504]. The Court held thus :-

"the true scope of the rule of 'ejusdem generis' is that words of a general nature following specific and particular words should be construed as limited to things which are of the same nature as those specified and not its reverse, that specific words which precede are controlled by the general words which follow. "

According to the above doctrine, the meaning of the expression "in any other manner of dealing with" should be understood in a sense similar or comparable to how the preceding words viz. carrying, removing, depositing etc. are understood. In other words, "any other manner of dealing" with the goods is also some physical manner of dealing with the goods. In the impugned order, there is no finding that the appellant physically dealt with the goods in question, nor was any allegation to this effect raised against him in the relevant show cause notice. Therefore, the provisions of Section 112(b) were not applicable to the case. It would follow that the penalty imposed on the appellant is not sustainable on facts or in law."

(Emphasis Supplied)

(iv) Dr. Ankineedu Chowdry Vs. Commissioner of Customs, Chennai [2004(178) ELT. 578 (Tri. Chennai)]

Penalty (Customs) - Imposition of - Nexus to confiscability, essential for penalty under Section 112 of Customs Act, 1962. [para 5]

Penalty (Customs) - Imposition of - 'In any other manner dealing with' in Section 112(b) of Customs Act, 1962 has to be read ejusdem genesis with the preceding expression in the clause viz. carrying, removing, depositing etc. - In that sense it would also mean some physical manner of dealing with the goods - Brother of Customs House Agent not shown to have

physically dealt with the impugned goods held not liable to penalty under the above clause.  
[para 5]

- (v) Anil Jatia Vs. Commissioner of Customs, New Delhi (Gen.) [2003 (162) ELT. 702 (Tri. -Del)]  
Penalty - Customs - Penalty not imposable on partner of transport company, N.K. Goel, **no evidence having been brought to prove his connivance or conspiracy with Goenka for illegal import of fabric from Nepal** - Section 112(b) of the Customs Act, 1962. [para 21]

2.54 **No Penalty sustainable under Section 114AA of the Customs Act, 1962 on Shri. Kirty Raj Singh:**

Noticee submits that, no penalty is imposable on them under Section 114AA of the Act as they have not knowingly or intentionally made, signed or used, or caused to be made, signed or used, any declaration, statement or document which was false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, on the basis of the grounds/clarifications given above.

There is no evidence of any action (commission) or inaction (omission) on the part of the noticee. Therefore, the proposed penal action under Section 114AA is not applicable and it requires to be set-aside.

STANDING COMMITTEE ON FINANCE (2005 -2006) - FOURTEENTH LOK SABHA — THE TAXATION LAWS (AMENDMENT) BILL, 2005 — TWENTY SEVENTH REPORT. PRESENTED IN LOK SABHA — 13.12.2005

— LAID IN RAJYA SABHA — 13.12.2005. PARA 65 THE MINISTRY ALSO INFORMED AS UNDER — THE NEW SECTION 114AA (Inserted vide clause 24 of the bill) HAS BEEN PROPOSED CONSEQUENT TO THE DETECTION OF SEVERAL CASES OF FRAUDULENT EXPORTS WHERE THE EXPORTS WERE SHOWN ONLY ON PAPER AND NO GOODS CROSSED THE INDIAN BORDER. THE ENHANCED PENALTY PROVISION HAS BEEN PROPOSED CONSIDERING THE SERIOUS FRAUDS BEING COMMITTED AS NO GOODS ARE BEING EXPORTED, BUT PAPERS ARE BEING CREATED FOR AVAILING THE NUMBER OF BENEFITS UNDER VARIOUS EXPORT PROMOTION SCHEMES.

However, further, as per the said amendment bill, the penalty under Section 114 AA was proposed only for export matters, and hence it is not applicable to imported goods. Therefore, provisions of Section 114AA of the Customs Act, 1962 are not applicable to the noticee as the relevant act is applicable for export matters and the subject case pertains to the import consignment or import matter.

The noticee submits that, on the basis of the grounds/clarifications given above, in this case, no condition precedent exists warranting a penalty.

Hence, it is evident from the aforesaid facts that, the noticee did not render the impugned goods liable for confiscation under the Customs Act, 1962, and the proposed penal action in the SCN requires to be set-aside.

2.55 In view of the above submissions, we humbly pray to your Honour to kindly accord sympathetic and judicious consideration to various submissions put forth as above and to drop the proceedings initiated by the said Show Cause Notice dated 14.12.2024.

2.56 In light of the above submissions, we request Your Honour :-

- i. to withdraw all the allegations against the Noticee (No.2) in the Show Cause Notice No. 1477/2024-25/Commr/Bond/NS-1/CAC/JNCH dated 14.12.2024; drop the said proceedings initiated by the above Show Cause Notice against the noticee (No.2) and/or
- ii. the Noticee (No.2) may be granted any other relief as may deem fit, by the Adjudicating Authority as the facts and circumstances of the case require.
- iii. We also reserve our right to seek cross-examination of Shri Uday Sharma (Noticee No.10), Shri Prasad Kurhade (Noticee No.1), Shri Sanjay Vithoba Sable (Noticee No.8), M/s OSGL Overseas (Noticee No.13), Shri Swaroop Shridhar Shetty (Noticee No.14), Shri Karan Singh Alias Pankaj Singh
- iv. We crave leave to add, alter, or amend any or all of the above submissions and to make any additional submissions that we may be advised to do either during or after the personal hearing.
- v. We may kindly be granted an opportunity for a personal hearing before any decision is taken in the matter.

2.57 Advocate Shri S K Mathur made written submissions on behalf of Shri Uday Sharma in which the following contentions have been made:-

2.58 That, for purpose of imposition of penalty under Section 112(b) of the Customs Act, 1962 there should be an act of "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", and whereas nothing has emerged in the course of investigation that this noticee was instrumental in the process of transportation, keeping, depositing or removal of the goods but only facilitated expenditures of stamp duty for sum of Rs. 1,59,300/- and Rs. 54,570/- from the account of his firm M/s. Alka Logistics and that this noticee acted for facilitation to earn some commissions out of the petty work and in no way concerned with any nefarious activities or clandestine removal of the goods.

- 2.59 That, this noticee is not a Customs Broker and hence had no access to any Customs imports or clearance activities and therefore no violation of provisions of Customs Act, 1962 has emerged in the course of investigation made by officers of DRI Mumbai.
- 2.60 That, the conclusive part of the investigation relating to this noticee is mentioned at para 21(vii) of the SCN which stipulates that" the work of Uday Sharma was to arrange the Custom Brokers for getting the goods cleared from Customs and for arranging the Custom broker this noticee is proposed for imposition of penalty under section 112(b) of the Customs Act, 1962 though there has been no act of commission and omission on the part of this noticee which rendered the goods confiscable under the provisions of Section 111 of the Customs Act, 1962.
- 2.61 That, there was no violation of provisions of Customs Act 1962 in the process of arranging a Customs Broker for any importer as it is a commission job and this noticee presumes that the transaction of import for which this noticee is arranging any Custom Broker will be true and correct and hence with this kind of bonafide belief there has been no wrongful act on the part of this Noticee for which any penalty could be imposed under Customs Act, 1962.
- 2.62 That, there are no specific allegations in the instant show cause notice that this noticee was aware of clandestine removal of goods in relation to the warehoused goods and that there was no mensrea about any clandestine removal of goods from the warehouse, as such this noticee is not liable for imposition of penalty under the Customs Act, 1962.
- 2.63 That, payment of DO charges, handling charges out of the amount received from M/s. Highland International in the account of Alka Logistics is a routine phenomenon in the work of Customs clearance as incidental charges, miscellaneous expenses are required to be incurred in the work of Customs clearance and such expenditures are incurred from the advance amount received from the importers and it did not constitute to be any offence under the Customs Act, 1962.
- 2.64 That, the above averments are made to clarify the position of this noticee that the assistance in suggesting the Custom broker and assistance removal of goods from docks and its deposit in warehouse constitutes no offence as the work was carried out on commission basis only and as such the show cause notice proposing for Imposition of penalty is without any cogent evidence against this noticee hence be dropped.

### **3. PERSONAL HEARING**

- 3.1. Advocate Shri R. K. Tomar appeared for Personal Hearing virtually on 17.11.2025 on behalf of Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha and following submissions were made by him during

course of personal hearing:-

- (i) Advocate Shri Tomar submitted reply dated 16-11-2025 to the SCN dated 14-12-2024 and reiterated the same. He submitted that a common reply is submitted for both the Noticees as the allegations against them were almost the same as both are Directors of M/s. Allsan Shipping & Logistics Pvt. Ltd.;
- (ii) He further submitted that the Noticees were told by the persons who brought the goods for storing in the warehouse that the said goods were duty paid general cargo and that the same will be removed within 4-5 days. Believing the same, the Noticee permitted the said goods to be stored in the ware house as general cargo and not as Bonded goods;
- (iii) He also submitted that since the said goods were not Bonded goods as per provisions of the Customs Act, there was no need to enter the same in the Bond Register, therefore there is no violation of provisions of the Customs Act;
- (iv) It was further submitted that since they were not aware of the non-duty paid nature of the said goods, no penalty under Section 112(b) of the Customs Act is imposable;
- (v) It was submitted that since the said goods were considered to be duty paid general cargo, the same were not required to be entered in the Bond register therefore there is no application of provisions of Section 114AA of the Customs Act;
- (vi) He stated that the Noticees themselves are victims of fraud and sought leniency in the case;
- (vii) He prayed that both the Noticees may be exonerated from the proceedings by dropping the allegations against them.

3.2. Shri Kirty Raj Singh appeared for Personal Hearing physically on 17.11.2025 following submissions were made by him during course of personal hearing:-

- (i) I should not be penalised under various sections 114 AA and 112 (b) of the Customs Act, 1962 for which detail physical submissions have already been given.
- (ii) It is submitted that I don't know other noticees who have been alleged to be involved in the clandestine removal of goods from the warehouse. Also, I never approached them for the warehousing or removal of the goods from the said Allsan Warehouse. I was completely unaware of the said warehouse therefore, I am not able to further comment on the orchestra of clandestine removal of the alleged goods. There is no statement of Shri Prasad Kurhade, Shri Sanjay Vithoba Sable, Allwyn

Saldanha, Shri Karan Singh alias Pankaj that they know me, and i was involved in the clandestine removal of the said goods, Areca Nuts and Black Pepper, from Allsan Shipping and Logistics Pvt. Ltd. Hence, the charge on me of being a key member of the whole syndicate is baseless and unsustainable.

(iii) There is not a whisper in the show cause notice, where the original cargo, i.e., 212.72 MTs of Areca nuts and Black Pepper', imported by M/s. Highland Industries and M/s. Alpha Industries has disappeared.

(iv) I submit that the department has failed to substantiate any evidence as to how they have termed me as a member of the syndicate with some other co-accused people who appear to have caused clandestine removal of Areca Nuts and Black Pepper from the Customs Bonded warehouse As I truly state that I don't have any digital footprints, no visits or communications with such persons, in India or abroad. Neither are these perishable products are nature of my business, nor even such similar goods have been domestically traded by me. And for being implicated as a member of the syndicate, it further requires evidence of a catena of events justifying his role in the clandestine clearances of such goods. And it is a matter of further investigation why the noticee is framed by the co-accused in their statements and sometimes retracted from their statements, whereas no material evidence is on record except mere verbal accusations, and herewith causes an extreme deviation and diversion from the core line of investigation of the clandestine removal orchestra. In the absence of any material evidence, I demand right to seek examination of Shri Uday Sharma (Noticee No. 10). Shri Prasad Kurhade (Noticee No.1). Sanjay Vithoba Sable (Noticee No.8), M/s OSGL Overseas (Noticee No.13), Shri Swaroop Shridhar Shetty (Noticee No.14), Shri Karan Singh Alias Pankaj Singh in view of tendering evidences or submitting evidences to support their accusation of targeting me as mastermind of this heist.

(v) I submit to say that this must be done to gain monetary benefits or commercial gains but how the department has accused me of being a beneficial owner is still a question unanswered and needs further clarifications.

3.3. Shri Uday Sharma appeared for Personal Hearing physically on 28.11.2025 following submissions were made by him during course of personal hearing:-

(i) That a written submission is given by him in person which is self-explanatory.

(ii) That, he is in no way connected with the impugned goods as he neither ordered, nor paid any amount for the impugned goods, did not keep, transport or dealt with the goods except that he remitted small amount of shipping line charges which was received from the importer and that he simply gave his

services for earning small amount of Commission.

- (iii) He is not a Customs clearing agent.
- (iv) That he had given his services as per directions of Shri Kirty Raj Singh and Shri Karan alias Pankaj and one person, Shri Ravinder Shrivastav that he had absolutely no knowledge or information for the goods if any cleared from the bond. The noticee prayed that no omission or commission in violation of provisions of Customs Act, 1962 done by him, he may be absolved from imposition of penalty proposed in the show cause notice.
- (v) That he is proprietor of M/s Alka Logistics, a freight forwarding firm.
- (vi) That he met Shri Kirty Raj Singh for the first time in Oct-Nov, 2021 at Port Users Building (PUB), Nhava Sheva. In their conversation, Kirty Raj Singh informed that he is engaged in export-import business. Further in their conversation, Kirty Raj Singh told that he had some references of some genuine exporters and importers and asked if he (Uday Sharma) is interested, he (Uday Sharma) can facilitate the imports/exports by arranging Customs Brokers. Thereafter there has been no contact between them for 4 to 5 months. Then accidentally they both met at PUB again in Feb-Mar, 2022 and exchanged contact Nos. Kirty Raj Singh then informed that he had been engaged in business of import-warehousing and re-export of betel nuts. Kirty Raj Singh and Pankaj alias Karan requested Uday Sharma to arrange for Customs Brokers for this work. He said that Kirty Raj Singh asked him to arrange for 1 or 2 customs brokers and the rest would be taken care of by Pankaj alias Karan and Ravinder Shrivastav, Shri Kirty Raj Singh assured Uday Sharma to pay Rs. 50,000/- per container including all charges (Customs and labour). As agreed, Uday Sharma had arranged Customs Brokers for M/s. High Land International. He (Uday Sharma) said that he had received amounts for stamp duty, CFS charges and shipping line charges apart labour and customs charges in to my bank account from the importer's bank account as mentioned in the sheet appended hereto. At the end Uday Sharma mentioned that no act of omission or commission is done by him in violation of provisions of Customs Act, 1962 as facilitating for Custom procedure and suggesting Custom broker is not a violation under Customs Act, 1962 and requested to drop the charges leveled in the show cause notice against him.

#### **4. DISCUSSION AND FINDINGS**

- 4.1 I have examined the Show Cause Notice, material on record, facts of the case, and the written and oral submissions made by the Noticees. I find that personal hearing opportunities were granted to all the Noticees on 10.10.2025, 28.10.2025, 17.11.2025, and 28.11.2025. Only Shri Kirty Raj Singh (Noticee No. 2), Shri Uday Sharma (Noticee No. 10), and Advocate Shri R. K. Tomar, appearing on behalf of Shri

Sanjay Vithoba Sable (Noticee No. 8) and Shri Allwyn Saldanha (Noticee No. 9), attended the personal hearing and filed their written submissions.

4.2 I observe that the other Noticees did not participate in the adjudication proceedings in spite of the servicing of letters for Personal Hearings in terms of Section 153 of Customs Act, 1962. Section 153 of the Customs Act, 1962 reads as under:

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

(a) *by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him*

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

(c) *by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*

[ (ca) *by making it available on the common portal; ]:*

(d) *by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business or*

(e) *by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*

4.3 In compliance with Section 28(8) and Section 153 of the Customs Act, 1962 and the principles of natural justice, sufficient opportunities were afforded to all the Noticees to file replies and appear for personal hearing. Except the aforesaid 04 Noticees, the remaining Noticees failed to participate despite due service of personal hearing notices. Such non-cooperation cannot be allowed to delay a time-bound adjudication, particularly in a matter involving recovery of Government dues. I therefore hold that the principles of natural justice have been duly complied with and proceed to adjudicate the case *ex parte* against the non-appearing Noticees on the basis of evidence available on record, as supported by the following decisions in :-

(i) Sumit Wool Processors Vs. CC, Nhava Sheva [2014 (312) E.L.T. 401 (Tri. - Mumbai)]

(ii) Modipon Ltd. Vs. CCE, Meerut [reported in 2002 (144) ELT 267 (All.)]

4.4 The present proceedings emanate from Show Cause Notice No. 1477/2024-25/COMMR/Bond/NS-I/CAC/JNCH dated 14.12.2024, alleging clandestine removal of the goods viz. Dried Areca nuts and black pepper worth more than 11 crores from Customs Bonded Warehouse M/s Allsan Shipping & Logistics Pvt. Ltd. without payment of applicable duties by employing dubious IECs. The Show Cause Notice proposes to hold the said clandestinely removed goods liable for confiscation under Section 111(j) of the Customs Act, 1962 and recovery of the customs duty amounting to more than Rs. 11 crore from Shri Prasad Kurhade who was understood to be the beneficial owner of the said goods. The Show cause Notice also proposes penalties under Section 112(a) and 114AA on Shri Prasad Kurhade for his role in the clandestine removal of the goods viz. Dried Areca nuts and black pepper worth more than 11 crores without payment of applicable customs duties. Furthermore, the SCN also proposed imposition of penalties under Section 112(b) and 114AA on Shri Kirty Raj Singh, Shri Karan Singh alias Pankaj, Shri Vinay Mishra, Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha for their roles in the clandestine removal of the goods from Customs Bonded Warehouse. Besides penalty under Section 112 (b) of the Customs Act, 1962 has also been proposed on M/s Highland International, M/s Alpha Industries, M/s Blue I Store, Shri Uday Sharma, CHA Peejaycee & Co., M/s OSGL Overseas, Shri Swaroop Shetty for their respective roles in the said act. Apart from this, penalty under Section 117 of the Customs Act, 1962 has been proposed in the impugned SCN against Shri Sagar Bangar and action against CHA Peejaycee & Co. has also been proposed under Customs Broker Licensing Regulations, 2018.

4.5 On the other hand submissions have been received from Shri Kirty Raj Singh, Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha and Shri Udaya Sharma wherein allegations levelled against them in the SCN have been denied. Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha, through their authorized representative Advocate Shri R K Tomar have submitted that they were told by the persons who brought the goods for storing in the warehouse that the said goods were duty paid general cargo and that the same will be removed within 4-5 days. Believing the same, the Noticees permitted the said goods to be stored in the warehouse as general cargo and not as Bonded goods and therefore, no entries were made in Bond Register. Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha have submitted that the necessary ingredients for imposing penalty against them under Section 112 (b) and 114AA of the Customs Act, 1962 are missing in the instant case. Shri Kirty Raj in his written submissions has stated that he don't know other noticees who have been alleged to be involved in the clandestine removal of goods from the warehouse and he never approached them for the warehousing or removal of the goods from the said Allsan Warehouse. He further submitted that there is no statement of Shri Prasad Kurhade, Shri Sanjay Vithoba Sable, Allwyn Saldanha, Shri Karan Singh alias Pankaj that they know him and he was involved in the clandestine removal of the said goods, Areca Nuts and Black Pepper, from Allsan Shipping and Logistics Pvt. Ltd. and therefore, the charge on him of being a key member of the whole syndicate is

baseless and unsustainable. He has also submitted that the department has failed to substantiate any evidence as to how they have termed me as a member of the syndicate with some other co-accused people who appear to have caused clandestine removal of Areca Nuts and Black Pepper from the Customs Bonded warehouse as he doesn't have any digital footprints, no visits or communications with such persons, in India or abroad. Shri Kirty Raj Singh has also requested that proposal for penal action against him under Section 112 (b) and 114AA of the Customs Act, 1962 be dropped. Shri Uday Sharma has also made submissions that the assistance in suggesting the Custom broker and assistance removal of goods from docks and its deposit in warehouse constitutes no offence as the work was carried out on commission basis only and as such the show cause notice proposing for imposition of penalty is without any cogent evidence against this noticee hence be dropped.

4.6 On careful perusal of the Show Cause Notice, reply filed by the Noticee and the case records, I find that the following main issues arise for determination in this case:

- i. Whether or not the goods removed clandestinely from the customs area as per Table No. 14 having a value of Rs. 11,32,81,926/- and replaced with the goods having negligible value should be held liable for confiscation under Section 111(j) of the Customs Act, 1962.
- ii. Whether or not the customs duty amounting to Rs. 5,91,38,223/- in respect of the goods of M/s Highland International, and customs duty amounting to Rs. 5,43,61,594/- in respect of the goods of M/s Alpha Industries, which were clandestinely removed from Allsan Shipping and Logistics Pvt. Ltd warehouse (NSA 1U 168) as per Table No. 15 above, should be demanded from Shri Prasad Kurhade under Section 28(4) read with Section 72(1) (wherever applicable) of the Customs Act, 1962, along with the interest under section 28AA of the Customs Act, 1962.
- iii. Whether or not penalty under Section 112 (a) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Prasad Kurhade.
- iv. Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Kirty Raj Singh.
- v. Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Karan Singh alias Pankaj.

- vi. Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Vinay Mishra.
- vii. Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 4,99,60,326/-, should be imposed on M/s Highland International (IEC- AAMFH8931M).
- viii. Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, should be imposed on M/s Alpha Industries (IEC- ABYFA3809L).
- ix. Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/- should not be imposed on M/s Blue I Store (IEC- AVTPB0390E).
- x. Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Sanjay Vithoba Sable.
- xi. Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Allwyn Saldanha.
- xii. Whether or not penalty under Section 112 (b) of the Customs Act, 1962, in respect of the goods of M/s Highland International clandestinely removed and having value Rs. 4,99,60,326/-, should be imposed on Shri Uday Sharma.
- xiii. Whether or not penalty under Section 117 of the Customs Act, 1962, in respect of the goods which were attempted to be removed and having value Rs. 3,60,06,856/-, should be imposed on Shri Sagar Bangar.
- xiv. Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods of M/s Highland International clandestinely removed and having value Rs. 4,99,60,326/-, should be imposed on Peejaycee and Co. (CHA License No. 11/2509).
- xv. Whether or not action under Customs Broker Licensing Regulations, 2018 should be taken

against Peejaycee and Co. (CHA License No. 11/2509).

xvi. Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, should be imposed on M/s OSGL Overseas, SEZ entity at Kandla SEZ and on its partner Shri Swaroop Shridhar Shetty.

4.7 After having framed the substantive issues raised in the SCN which are required to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN, provision of the Customs Act, 1962, nuances of various judicial pronouncements, as well as Noticee's oral and written submissions and documents / evidences available on record.

**Whether or not the goods removed clandestinely from the customs area as per Table No. 14 having a value of Rs. 11,32,81,926/- and replaced with the goods having negligible value should be held liable for confiscation under Section 111(j) of the Customs Act, 1962.**

4.8 I find that M/s Highland International filed two Bills of Entry in JNCH, Nhava Sheva for import of Dried Areca Nuts and black pepper having combined declared assessable value of Rs. 9,70,85,091/-. The said 2 bills of entry were examined by CIU, JNCH and were allowed for warehousing under Section 49 of the Customs Act, 1962. Subsequently, the goods covered under the said Bills of Entry were shifted to Allan Shipping & Logistics Warehouse payment of applicable customs duty.

4.9 I find that M/s Alpha Industries procured goods viz black pepper having declared assessable value of Rs 6,33,21,600/- from SEZ Entity OSGL Overseas through SEZ Client Blue I Store and the same were transferred from Kandla SEZ to Public Bonded Warehouse of M/s Allsan Shipping & Logistics Pvt. Ltd. under Section 46(13) of SEZ Rules, 2006. I find that M/s OSGL Overseas which is a SEZ entity, had brought the said goods from outside India into Kandla SEZ.

Consequently, goods viz. dried areca nuts (weighing 108 MTs) and black pepper (weighing 183.52 MTs) having combined delated assessable value of Rs.16,04,06,691/- were shifted by the two entities M/s Highland International and Alpha Industries to Public Bonded Warehouse of M/s Allsan Shipping and Logistics Pvt. Ltd. without payment of applicable Customs duty.

4.10 However, during the examination of the said goods conducted under panchnama proceedings from 13.07.2023 to 14.07.2023, it was found that only 55.5 MTs of dried areca nuts and 23.3 MTs of black pepper were available in the warehouse. No records or documents were found explaining the whereabouts of the remaining quantities of dried areca nuts and black pepper, having an assessable value of ₹11,32,81,926/-, belonging to M/s Highland International and M/s Alpha Industries. In place of the missing goods, sand, dust and waste powder having no commercial value were found. Further, during the

said panchnama proceedings, it was found that no records in respect of the storage of goods were maintained in the warehouse, the CCTV systems were non-operational, and no records of vehicles used for transportation of goods into or out of the warehouse were maintained. It was also found that all goods stored in the warehouse were indiscriminately mixed, making it impossible to identify ownership or correlate the goods with specific Bills of Entry or other import documents. The normal procedure of segregated stacking and proper lot-wise identification of goods, with markings corresponding to individual Bills of Entry, was not followed. I further find that in his statement recorded under Section 108 of the Customs Act, 1962 on 18.07.2023, Shri Sanjay Vithoba Sable, Director of M/s Allsan Shipping & Logistics Pvt. Ltd., categorically admitted that no goods belonging to M/s Alpha Industries were available in the warehouse. Despite issuance of multiple summons by the DRI to the importers and other stakeholders, no explanation has been offered by anybody regarding the disappearance of the said goods. All the above facts and evidence conclusively establish that the said goods were clandestinely removed from the Customs bonded warehouse with the active connivance of the warehouse operator and staff, without payment of applicable customs duty.

4.11 I find that the SCN has proposed confiscation of the clandestinely removed goods under Section 111 (j) of the Customs Act, 1962. Section 111 (j) is reproduced below for ready reference:-

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

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*(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;*

4.12 I find that M/s Highland International and M/s Alpha Industries shifted goods viz. dried areca nuts weighing 108 MTs and black pepper weighing 183.52 MTs, having a combined declared assessable value exceeding ₹16 crore, to the Customs bonded warehouse of M/s Allsan Shipping & Logistics Pvt. Ltd. without payment of applicable customs duty. Imported goods permitted to be stored in a customs bonded warehouse are deemed to remain in the customs area, and the taxable event occurs only when such goods cross the customs barrier. Lawfully, goods may be removed from a customs bonded warehouse only if (i) there is no prohibition or restriction on their import and (ii) applicable customs duty has been duly paid after filing the prescribed documents and obtaining permission from the proper officer. In the instant case, although the goods imported by M/s Alpha Industries were at prices below the Minimum Import Price (MIP) prescribed under DGFT Notification No. 21/2015-20 dated 25.07.2018, the said MIP is not applicable to imports made through SEZ units, and therefore the goods do not qualify as prohibited goods. Further, the goods imported by M/s Highland International were declared at prices above the MIP

prescribed under DGFT Notification Nos. 20/2015-20 and 21/2015-20 dated 25.07.2018 and were thus freely importable. Accordingly, the said goods were eligible to cross the customs barrier only upon payment of applicable customs duty. However, I find that no ex-bond Bill of Entry or shipping bill was filed for clearance of the said goods from the customs bonded warehouse, no customs duty was paid in respect of the dried areca nuts and black pepper belonging to M/s Highland International and M/s Alpha Industries, and no permission was granted by the proper officer for removal of the said goods from the bonded warehouse. Despite this, goods viz. dried areca nuts weighing 52.5 MTs and black pepper weighing 160.22 MTs, having a combined value of ₹11,32,81,926/-, belonging to M/s Highland International and M/s Alpha Industries, were removed from the customs bonded warehouse without payment of appropriate customs duty and without authorization from the proper officer. In view of the foregoing, I find that the provisions of Section 111(j) of the Customs Act, 1962, relating to confiscation of goods clandestinely removed from a customs bonded warehouse, have been correctly invoked in the Show Cause Notice. Accordingly, I hold that the goods clandestinely removed from the customs area, as detailed in Table No. 14, having a value of ₹11,32,81,926/-, and replaced with goods of negligible value, are liable to confiscation under Section 111(j) of the Customs Act, 1962.

- 4.13 However, I observe that the above mentioned goods which have been held liable for confiscation under Section 111(j) of the Customs Act, 1962 are not available for confiscation. 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 operates 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)."*

- 4.14 I further observe 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. I also observe that any goods improperly imported as provided in any sub-section of Section 111 of the Customs Act, 1962 are liable to confiscation and merely because the importer was not caught at the time of clandestine removal of the imported goods can't be given differential treatment.
- 4.15 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 find that the present case also merits the imposition of a Redemption Fine.

**Whether or not the customs duty amounting to Rs. 5,91,38,223/- in respect of the goods of M/s Highland International, and customs duty amounting to Rs. 5,43,61,594/- in respect of the goods of M/s Alpha Industries which were clandestinely removed from Allsan Shipping and Logistics Pvt. Ltd warehouse (N SA 1U 168) as per Table No. 15 above, should be demanded from Shri Prasad Kurhade under Section 28(4) read with Section 72(1) (wherever applicable) of the Customs Act, 1962, along with the interest under section 28AA of the Customs Act, 1962.**

- 4.16 I find that the SCN has proposed recovery of customs duty under Section 28 (4) of the Customs Act, 1962. Section 28 (4) of the Customs Act, 1962 is reproduced below for ready reference:-

*(4) Where any duty has not been 3 [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—*

*(a) collusion; or*

*(b) any wilful mis-statement; or*

*(c) suppression of facts,*

*by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 4 [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.*

4.17 I find that imported goods permitted to be stored in a customs bonded warehouse continue to remain in the customs area and removal of such goods from the bonded warehouse constitutes crossing of the customs barrier and is legally permissible only upon filing the prescribed documents, payment of applicable customs duty, and obtaining due authorization from the proper officer. However, I find that in the instant case no documents were filed, no customs duty was paid in respect of the dried areca nuts and black pepper belonging to M/s Highland International and M/s Alpha Industries, and no permission was obtained from the proper officer for their removal. Despite this, goods viz. dried areca nuts weighing 52.5 MTs and black pepper weighing 160.22 MTs, having a combined value of ₹11,32,81,926/-, were clandestinely removed from the customs bonded warehouse.

4.18 I further find that the said removal was effected by deliberate acts of omission and commission, including non-filing of statutory clearance documents, non-payment of customs duty, non-maintenance of warehouse records, and suppression of material facts from the Customs authorities, with intent to evade payment of customs duty. Accordingly, I hold that the ingredients for invocation of Section 28(4) of the Customs Act, 1962, namely wilful suppression of facts and intent to evade duty, are clearly established in the present case.

Therefore, I hold that duty demand amounting to Rs. 5,91,38,223/- in respect of the goods of M/s Highland International and Rs. 5,43,61,594/- in respect of the goods of M/s Alpha Industries, which were clandestinely removed from Allsan Shipping and Logistics Pvt. Ltd warehouse under Section 28 (4) of the Customs Act, 1962 is fully justified along with applicable interest under Section 28AA of the Customs Act, 1962.

4.19 I find that the Show Cause Notice has proposed recovery of customs duty on the goods illegally removed from the customs bonded warehouse from Shri Prasad Kurhade. During investigation, it was established that the Importer Exporter Codes (IECs) used for import of the goods, which were subsequently removed clandestinely from the customs bonded warehouse, were fictitious in nature, and the addresses used for obtaining the said IECs were also found to be fake. The persons in whose names the IECs were obtained were either not traceable or, when traced, were found to be completely unaware of the existence or use of such IECs, which were fraudulently used for illegal import and clearance activities. I further find that the imports were effected in substantial quantities at two separate customs locations, namely JNCH, Nhava Sheva and Kandla SEZ, followed by completion of customs and SEZ procedures to facilitate movement of the goods to the public bonded warehouse of M/s Allsan Shipping & Logistics Pvt. Ltd. Thereafter, an arrangement was deliberately created at the said bonded warehouse which enabled clandestine removal of the goods, followed by their physical removal from the warehouse and subsequent disposal in the domestic market.

- 4.20 I find that such a multi-layered operation, involving creation and use of fictitious IECs, coordination of imports at multiple ports, manipulation of bonded warehouse procedures, clandestine removal of goods, and their disposal in the local market, could not have been executed by one or two individuals acting independently. The execution of the said activities necessarily required a group of persons working in close coordination, under the direction and control of a central figure who conceived the scheme, assigned roles to various participants, and coordinated their actions to ensure successful evasion of customs duty.
- 4.21 I find that when the goods were found to have been illegally removed from the customs bonded warehouse, the role of the directors of the warehouse came under scrutiny. Statements of the directors were recorded under Section 108 of the Customs Act, 1962. During the course of his statement, Shri Sanjay Vithoba Sable, one of the directors, stated that the consignments of M/s Highland International and M/s Alpha Industries were warehoused on the directions of Shri Prasad Kurhade. Shri Sanjay Vithoba Sable further stated that Shri Prasad Kurhade had introduced him to one Shri Pankaj, who was designated to coordinate with him in relation to the consignments of M/s Highland International and M/s Alpha Industries. He specifically stated that he had never met the importers and knew only Shri Prasad Kurhade and Shri Pankaj in connection with the warehousing of the said consignments. Further, Shri Sanjay Vithoba Sable admitted that brown-coloured powder stuffed in brown jute bags and greyish-white powder in white gunny bags were placed inside the warehouse as replacement goods in exchange for the original consignments, which had been clandestinely removed from the warehouse by Shri Prasad Kurhade with the assistance of the warehouse keeper, Shri Vinay Mishra. These statements establish that the removal of goods was orchestrated and executed under the direction of Shri Prasad Kurhade, with active involvement of personnel associated with the bonded warehouse, and that replacement of the original goods with items of negligible value was deliberately arranged to conceal the misappropriation.
- 4.22 The statements of Shri Sagar Bangar, recorded under Section 108 of the Customs Act, 1962, who became warehouse keeper of M/s Allsan Shipping & Logistics Pvt. Ltd. after Shri Vinay Mishra, further corroborated the organized and premeditated nature of the operation. Shri Sagar Bangar stated that Shri Prasad Kurhade informed him that consignments of dried areca nuts/supari and black pepper would be warehoused and later clandestinely removed for sale in the open market. Shri Sagar Bangar further stated that Shri Kurhade offered him Rs. 50,000 per container to facilitate the removals, which he agreed to, having previously received Rs. 30,000 per container from Shri Akshay Phadale while at Akshay Logistics warehouse. Shri Sagar Bangar revealed that Shri Kurhade had intentionally appointed Shri Vinay Mishra as warehouse keeper to ensure smooth execution of the clandestine removal, and when Vinay Mishra became reluctant, Kurhade gave him Rs. 20,000 and sent him to another state to avoid DRI interception. Shri Kurhade then repeatedly persuaded Shri Sagar Bangar to take over as warehouse keeper, being aware of his prior experience in facilitating clandestine removals of goods at another warehouse, and

provided him Rs. 10,000 for miscellaneous expenses while he was on the run evading DRI. He instructed Shri Sagar Bangar not to disclose his name and to communicate only via encrypted channels such as WhatsApp and Telegram to avoid traceability. These actions underscore Shri Prasad Kurhade's deliberate and calculated propensity to evade detection. Use of encrypted channels for communication demonstrates his cautious approach of not leaving any digital foot print. He remained under constant apprehension of being caught by authorities and took systematic steps to conceal his involvement in the clandestine removal of goods. This was further corroborated by Shri Kurhade's own admission that his mobile phone used in October–November 2022 was destroyed in a bike accident and that he did not attempt to recover any data. The deliberate non-recording of statements of Shri Vinay Mishra and Shri Pankaj further demonstrates that Shri Kurhade meticulously orchestrated the entire operation to avoid leaving any trail of his central role in the illegal removal of goods from the customs bonded warehouse without payment of duty. The fact that M/s Highland International and M/s Alpha Industries operated using dummy IECs with fake addresses is consistent with such schemes, where masterminds employ fictitious credentials to evade detection.

4.23 I find that Shri Prasad Kurhade, in his initial statement recorded under Section 108 of the Customs Act, 1962, denied any role in the clandestine removal of goods from M/s Allsan Shipping & Logistics Pvt. Ltd. However, in his subsequent statement recorded under Section 108 on 12.02.2025, he admitted that Shri Pankaj (alias Karan Singh) approached him regarding warehousing of consignments of dried areca nuts and black pepper at Allsan warehouse. Shri Pankaj informed him that a total of 18 containers, imported for re-export purposes, needed to be warehoused and later re-exported. Shri Prasad Kurhade stated that he contacted Shri Sanjay Vithoba Sable to facilitate warehousing of the consignments, and Shri Sable agreed. He further stated that in a meeting attended by Shri Sanjay Vithoba Sable, Shri Pankaj, and himself, Shri Pankaj proposed to clandestinely remove 4 containers out of the 18 and replace them with goods of negligible value at the time of export. Shri Sanjay Vithoba Sable refused this proposal. Shri Prasad Kurhade also admitted that Shri Pankaj later informed him that 2 trucks of dried areca nuts and black pepper had been clandestinely removed and offered him monetary consideration for his role in arranging warehousing of the goods. These admissions establish that Shri Prasad Kurhade had knowledge of, and participated in, the orchestration of the clandestine removal of goods from the bonded warehouse, directly linking him to the unlawful scheme. However, through his statement recorded under Section 108 of the Customs Act, 1962, Shri Prasad Kurhade has admitted his involvement in the clandestine removal of goods from the Customs bonded warehouse but has deliberately attempted to downplay and misrepresent the extent of his role. While he sought to portray himself as a mere facilitator and Shri Pankaj as the main actor, the cumulative evidence—including witness statements, coordination of warehouse personnel, pre-arranged appointments, use of dummy IECs, replacement of goods, and destruction of incriminating mobile data—unequivocally establishes that Shri Prasad Kurhade was the central orchestrator and mastermind of the entire operation. His deliberate minimization of his role is a

clear attempt to evade responsibility, but the material on record overwhelmingly demonstrates his controlling and culpable position in the illegal removal of goods without payment of customs duty.

4.24 Furthermore, the evidence on record clearly indicates that Shri Prasad Kurhade was not a mere participant. His statements under Section 108 confirms that he had known Shri Sanjay Vithoba Sable and Shri Allwyn Valerian Sandanha, Directors of M/s Allsan Shipping & Logistics Pvt. Ltd., since 2016, and had recommended Shri Vinay Mishra for appointment as warehouse keeper. He was also acquainted with Shri Sagar Bangar from school and knew Shri Akshay Shankar Phadale and Shri Sachin Pawar alias Sachin Billa through a common friend circle. Far from being passive, Shri Prasad Kurhade maintained direct connections with all key players—warehouse personnel, intermediaries, and other conspirators—and orchestrated the entire scheme, including the appointment of compliant warehouse keepers, coordination of replacements, and facilitation of clandestine removals, thereby ensuring systematic evasion of customs duty.

4.25 To sum it up, I find that the statements on record unequivocally demonstrate that the removal of goods from the bonded warehouse was a premeditated and organized operation, orchestrated by Shri Prasad Kurhade, with active involvement of warehouse personnel, deliberate concealment measures, and inducements to ensure execution of the illegal scheme. On a comprehensive review, I find that Shri Prasad Kurhade was the mastermind and team leader in this illegal act. He approached Shri Sanjay Vithoba Sable for warehousing of Areca Nuts and Black Pepper pertaining to M/s Highland International and M/s Alpha Industries and introduced Shri Karan Singh alias Pankaj as the coordinator on behalf of the importers. Following warehousing, Shri Prasad Kurhade arranged for his accomplice Shri Vinay Mishra to be appointed as warehouse manager. With the assistance of Shri Vinay Mishra, Shri Pankaj, and Shri Kirty Raj Singh, Shri Prasad Kurhade clandestinely removed the goods. Subsequently, when Shri Vinay Mishra vacated the post, Shri Prasad Kurhade ensured the appointment of Shri Sagar Bangar—who had prior experience in facilitating clandestine removals at another warehouse—to enable continued illegal removal. All participants involved were connected with Shri Prasad Kurhade: Shri Kirty Raj Singh arranged fictitious IECs and coordinated CHAs via Shri Pankaj; Shri Pankaj facilitated replacement and removal of goods; Shri Sable and Shri Allwyn Valerian Sandanha, as warehouse directors, cooperated by manipulating warehouse records; and Shri Vinay Mishra and Shri Sagar Bangar, as warehouse managers, executed the removals. Although Shri Prasad Kurhade, in his statement recorded under Section 108 of the Customs Act, 1962 on 12.02.2025, attempted to project Shri Pankaj as the main conspirator and himself as a mere participant, the circumstances, evidence, and connections of all operatives conclusively establish that Shri Prasad Kurhade was the mastermind and Shri Pankaj acted as his accomplice in the clandestine removal of goods from the Customs bonded warehouse.

4.26 I find that Shri Prasad Kurhade, being the team leader, exercised complete and effective control over the

goods that were warehoused at Allan Warehouse and later removed clandestinely from there. And going by the definition of Beneficial Owner: As per Sub-Section 3A of Section 2 of the Customs Act, 1962: “(3A) —beneficial owner means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;”, I find that Shri Prasad Kurhade fits squarely into this definition and therefore demand of the Customs duty amounting to Rs. 5,91,38,223/- and Rs. 5,43,61,594/- of the goods belonging to M/s Highland International and M/s Alpha Industries respectively which were removed clandestinely from the Customs Bonded warehouse from him is fully justified.

- 4.27 Furthermore, I find that Shri Prasad Kurhade played an active, conscious, and pivotal role in facilitating and abetting the illegal removal of goods, namely areca nuts and black pepper, from the Customs Bonded Warehouse without payment of customs duty amounting to crores of rupees. The said illegal activity was carried out through deliberate use of fictitious IECs obtained on fake addresses, fraudulent procurement and misuse of KYC documents of unsuspecting persons, and intentional manipulation of Customs Bonded Warehouse records. These acts were done knowingly and with full awareness of their illegality, thereby rendering the goods liable to confiscation under the Customs Act, 1962. Accordingly, I hold that Shri Prasad Kurhade, having knowingly concerned himself with goods liable to confiscation, is liable to penalty under Section 112(a), and having knowingly used and caused to be used false and fabricated documents in relation to customs transactions, is also liable to penalty under Section 114AA of the Customs Act, 1962

**Whether or not penalty under Section 112 (a) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Prasad Kurhade.**

- 4.28 Already discussed in preceding paras.

**Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Kirty Raj Singh.**

- 4.29 I find that the SCN has proposed imposition of penalty under Sections 112 (a) and 114AA of the Customs Act, 1962.

**112. Penalty for improper importation of goods, etc.—Any person,—**

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

...

**Section 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.*

4.30 I find that Shri Uday Sharma in his statement recorded under Section 108 of the Customs Act, 1962 on 02.02.2023 and 06.02.2023 has stated that he had taken the work of Customs clearance of Areca nuts related to the importers M/s Altamile Overseas, M/s Maya Enterprises and M/s Highland International and his work was to arrange the customs brokers for getting the goods cleared from Customs and the said work of clearance was given to him by Shri Kirty Raj alias Sanjay Singh who lives in Delhi and belongs to Banaras, Uttar Pradesh. He further stated that he first met Shri Kirty Raj (Mobile Number-+971545990715, Face time id:j8953495465@icloud.com) in June-2022, at Belapur. During the said meeting, Shri Kirty Raj Singh told him that he wanted to import Areca nuts/ Supari at Nhava Sheva Port and he further told him that the said imports were to be done for re- export purposes and the re-export would be done from Kandla SEZ (KASEZ). He also stated that Shri Kirty Raj told him that the Warehousing Bill of Entry would be filed for the said imports of goods on the IECs arranged by Kirty Raj Singh. Shri Kirty Raj Singh told that he would pay Rs. 50,000/- per container for the Customs broker and labour charges to him. Since he was getting around Rs. 25,000/- as his profit per container, he agreed to do the work of customs clearance of the said goods which included arranging the Customs broker and getting the goods examined and cleared for customs bonded warehouse. Shri Kirty Raj Singh said that the requisite documents would be provided by his representatives shortly.

4.31 From the foregoing, I find that Shri Kirty Raj Singh had offered a lucrative consideration of Rs. 50,000 per container to Shri Uday Sharma for arranging the customs clearance of areca nuts, which Shri Uday Sharma accepted. It is noted that, in the prevailing market, customs clearance charges have become relatively nominal due to intense competition among CHAs; therefore, the offer of Rs. 50,000 per container was indeed substantial. However, such remuneration was not without reason. Since the goods were intended to be shifted to the Customs bonded warehouse and subsequently removed clandestinely, there existed an inherent risk of detection by the investigating authorities, a fact fully appreciated by Shri Kirty Raj Singh. Accordingly, the payment of Rs. 50,000 per container was offered as consideration for assuming the associated risk. I further find that Shri Kirty Raj Singh was also responsible for arranging the requisite IECs for filing the Warehousing Bills of Entry for these consignments.

4.32 During the course of investigation, several summonses were issued to the IEC holders; however, no responses were received, and the concerned individuals did not present themselves for inquiry. Further, verifications and field visits conducted by the investigating agency to the registered addresses of the

IECs and IEC holders revealed that the addresses of most IECs were either fictitious or non-existent. In certain instances, some other individuals were residing at the registered address of the IEC holder for several years, while the IEC holder had never resided there. In some cases, the doors of the IEC holder's or firm's premises were found locked, and in others, the individuals had no knowledge that an IEC had been obtained in their name or that it was being used for unlawful activities.

- 4.33 I find that such evidences establish a deliberate scheme to create fictitious IECs using fake addresses and/or KYC documents of unsuspecting persons. In the instant case, Shri Kirty Raj Singh was responsible for arranging these fictitious IECs, which were subsequently used for the import of areca nuts and black pepper that were eventually clandestinely removed from the warehouse. The creation of these fictitious IECs demonstrates a clear intent to evade accountability and facilitate the illegal removal of goods from the Customs bonded warehouse.
- 4.34 The role of Shri Kirty Raj Singh is further corroborated by the statement of Shri Aksh Dilip Bhojne, Partner of M/s OSGL Overseas (SEZ entity), recorded under Section 108 of the Customs Act, 1962 on 02.12.2025. Shri Bhojne stated that he had heard of one Shri "Singh" from Shri Swaroop Shetty, who described him as a politically influential individual engaged in export-import business of carpets and black pepper and belonging to Varanasi, Uttar Pradesh.
- 4.35 I find that Shri Kirty Raj Singh, in his statement recorded under Section 108 of the Customs Act, 1962, acknowledged his acquaintance with Shri Swaroop Shetty, who even acted as a witness in a sale deed executed for the acquisition of a lavish property in Sanpada, Navi Mumbai, by Shri Kirty Raj Singh and his wife. In contemporary times, becoming a witness in a property transaction is generally done by close associates, friends, or relatives, thereby establishing a close association between Shri Kirty Raj Singh and Shri Swaroop Shetty. Given this association, the involvement of M/s OSGL Overseas in importing black pepper through Kandla SEZ appears to be part of a coordinated operation. I find that Shri Kirty Raj Singh and Shri Swaroop Shetty were integral members of a syndicate engaged in importing areca nuts and black pepper, warehousing the goods, and subsequently removing them clandestinely without payment of Customs duty.
- 4.36 I find that all the participants in this conspiracy, including Shri Kirty Raj Singh, acted in a highly sophisticated and premeditated manner, exercising meticulous precautions at every stage to avoid detection. As elaborated by Shri Sagar Bangar in his statement recorded under Section 108 of the Customs Act, 1962, these precautions included frequently changing mobile numbers and devices, restricting communication to encrypted platforms such as WhatsApp and Telegram while avoiding normal calls, conducting transactions in cash, and relocating to different states to evade the investigating agency. The planning and execution of these measures reflect the participants' confidence in evading detection. A glaring example is that the remaining goods, which could not be clandestinely removed

earlier from M/s Allsan Shipping & Logistics Pvt. Ltd. and were seized by the investigating agency, were also removed later on without payment of customs duty. It is a foregone conclusion that the same conspirators who had earlier removed the goods carried out this act, demonstrating their audacity and deliberate intent to flout the law for nefarious purposes.

4.37 In this context, the contention of Shri Kirty Raj Singh that no tangible evidence exists against him reflects his belief that he had successfully insulated himself from detection. However, the investigation has conclusively established his role through corroborative statements of Shri Uday Sharma, Shri Aksh Dilip Bhojne, and Shri Kirty Raj Singh himself. It is evident that no amount of precaution can indefinitely shield a participant from the consequences of unlawful conduct.

4.38 I find that Shri Kirty Raj Singh's submissions primarily hinge on an alleged lack of evidence. In this regard, I find that it is a well-settled legal position that a clear distinction exists between the standards of proof applicable in criminal and civil proceedings. In criminal proceedings, the standard of proof is 'beyond a reasonable doubt', whereas in adjudication proceedings under tax laws, which are civil in nature, the standard is governed by the 'preponderance of probability'. The Revenue is not required to prove its case with mathematical precision; a reasonable threshold of credibility is sufficient for the Revenue to advance its case. In the instant case, that threshold is clearly met by the evidence on record, which are, use of fictitious IECs arranged by Shri Kirty Raj Singh and Shri Kirty Raj Singh's association with two key players who played crucial roles in importing areca nuts and black pepper.

4.39 I find Shri Kirty Raj Singh has also claimed that there have been no recoveries from his possession. In this regard I find that absence of recoveries at his premises does not exonerate him. In organized unlawful operations, masterminds rarely keep incriminating material physically. They deliberately create multiple operational layers around themselves, ensuring that they remain insulated from ground-level activities and the consequent risk of seizure of incriminating material. Such individuals typically function from behind a carefully constructed veil, issuing instructions through trusted intermediaries while avoiding any direct involvement that could leave a tangible evidentiary trail. The investigation's findings indicate that this absence does not in any manner dilute the department's case. The investigation supported by evidences clearly establishes his active involvement in coordination and control of such operations. His name appeared in connection with OSGL Overseas and cross linkages revealed during investigation which gives a conclusive proof that he was actively involved in the syndicate formed to evade duty and clandestinely remove goods.

4.40 I also find that Shri Kirty Raj Singh, in his submissions to the Adjudicating Authority, has requested cross-examination of the other accused persons. In this regard I find that the said request for cross-examination of various co-noticees has been made without specifying any cogent reason whatsoever as to how it is going to help his case, when his role has been clearly established backed by solid evidence.

Therefore, *prima facie* it appeared to me that these efforts are only to subvert the adjudication process. Also, as the noticee has requested for cross-examination of co-noticees. This is not possible as co-noticee cannot be directed to be part of the proceedings that may incriminate him. The same view is also held by High Court in the case of *N.S. Mahesh v. Commissioner of Customs, Cochin* reported in [2016 \(331\) E.L.T. 402 \(Ker.\)](#) wherein it is held as under:

*"ii Cross examination of co-Noticee Sri Reji Cherian:*

*Apart from a broad statement that Noticee No. 2 was seeking cross examination of Shri Reji Cherian for rebutting the allegations of abetting evasion of duty by furnishing false and fabricated incorrect materials, no specific reasons or points have been attributed for seeking his cross-examination. Further Noticee No.2 has not given any specific fact that would emerge in his favour upon the cross-examination of Sri Reji Cherian. Further as Sri Reji Cherian is a co-Noticee, this authority cannot direct him to be present for proceedings that may cause him to incriminate himself and therefore the request for cross-examination of Sri Reji Cherian cannot be acceded to.*

3. *On a perusal of Ext.P5 order, and the reasons given by the respondent to deny the request of the petitioner for cross-examination, I do not find any illegality in the said order that would warrant an interference with the said order in these proceedings under Article 226 of the Constitution of India. The writ petition, in its challenge against Ext.PS order, the ref ore fails, and is accordingly dismissed.*

4.41 Furthermore, I find that Cross-examination is not a matter of right and should be claimed by stating valid reasons which the Shri Kirty Raj Singh in the instant case has failed to do so. This is held by the CESTAT in the case of *Kitti Steels Ltd. v. Commissioner of Cus & C.Ex., Hyderabad-III* reported in 2011 (266) E.L.T. 375 (Tri.-Bang) in which the following was stated:

*"7.1 The first issue before us is whether natural justice was denied to the appellants by the adjudicating authority. The records of this case would speak volumes about the non-cooperation of the party with the adjudicating authority. As we have already noted, no reply to the show-cause notice was filed by KSL despite numerous opportunities having been given and even despite specific directive of the Hon'ble High Court. The Commissioner's repeated offers of personal hearing were also not availed of. The plea of KSL for permission to cross-examine witnesses was duly considered by the Commissioner. KSL wanted to cross examine "all those persons whose statements were relied upon in the show-cause notice". They, however, did not name any of them, nor did they state any reason why they wanted to cross-examine them. The Superintendent of Customs who prepared the punchnama was, in fact, allowed to be cross-examined. It is settled law that cross-examination is not a matter of right. It should be claimed by stating valid reasons. In the present case, the Learned counsel submitted that the appellants could not reply to the show-cause notice as they were not*

*allowed to cross examine the witnesses. That cross-examination of witnesses is a pre-requisite for reply to show-cause notice is an ill-conceived. notion. Where the department has issued a show-cause notice raising allegations against the Noticee and proposing to demand duty, penalty, etc. the Noticee may deny such allegations and plead the necessary facts and circumstances in support of his defence. It is at this stage that disputes arise between the department and the Noticee and the same have got to be adjudicated upon by the jurisdictional officer of the department. Once the case is before the adjudicating authority, the Noticee is at liberty to adduce evidence to support his own defence and/or to disprove the department's allegations. Cross examination of any person whose statement was relied upon by the Revenue in the show-cause notice has to be claimed at this stage and not before. Therefore, we have to reject the counsel's plea that the appellants could not file their reply to the show-cause notice on account of denial of cross-examination. In the facts the circumstances of this case, it can be held that no iota of doubt that the adjudicating authority duly observed the principles of natural justice."*

4.42 Furthermore, I find that Statements under Section 108 have not been retracted by any of the co-noticees. In addition, all the persons whose cross-examination has been sought are members of the same syndicate, in which Shri Kirty Raj Singh holds a prominent position. It is conceivable that he could exercise influence over them to stage a cross-examination in a manner designed to portray himself as innocent. Additionally, I find that several of these persons did not even appear for investigation despite multiple summonses issued by the investigating agency. In such circumstances, the request of the Noticee Shri Kirty Raj Singh for cross-examination does not appear to be based on necessity but on an attempt to delay or dilute proceedings. When evidence spans multiple modalities the absence of cross-examination does not diminish its collective probative value. In view of the above, I am not inclined to accede to the request of the Noticee regarding cross-examination.

4.43 In view of the foregoing, I find that Shri Kirty Raj Singh was a key member of the entire syndicate concerning the import of goods, namely Areca Nuts and Black Pepper, and their subsequent clandestine removal from the warehouse. It emerges from the statement of Shri Uday Sharma that Shri Kirty Raj Singh arranged IECs in the names of firms which were non-existent and coordinated the engagement of CHAs for Customs clearance of the imported goods at a remuneration of Rs. 50,000 per container. Shri Kirty Raj Singh further relied on his close aide, Shri Karan Singh alias Pankaj, during the clandestine removal of the goods. Additionally, Shri Swaroop Shetty, who was known to him, assisted in moving goods through the SEZ at Kandla. I find that for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, he has rendered the said goods liable for confiscation under Section 111, and himself liable for penalty under Section 112(b) of the Customs Act,

1962. I also find that Shri Kirty Raj Singh has also rendered himself liable for penalty under Section 114AA of the Customs Act, 1962, as he arranged fictitious IECs for facilitating import of the said goods and also knowingly and intentionally, along with his co-conspirators, clandestinely removed the goods from the Customs Area and replaced the same with goods having negligible commercial value and he very well knew the fact that the said clandestine removal of the goods without the payment of applicable Customs duty will make the said goods liable for confiscation. Therefore, I find that the penal action against Shri Kirty Raj Singh under Section 112(b) and 114AA of the Customs Act, 1962 is justified.

**Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Karan Singh alias Pankaj.**

- 4.44 I find from the statement of Shri Sanjay Vithoba Sable, Director of M/s Allsan Shipping and Logistics Pvt. Ltd., recorded under Section 108 of the Customs Act, 1962, that Shri Prasad Kurhade introduced him to one Shri Karan Singh alias Pankaj and informed him that Shri Pankaj would coordinate with him in relation to consignments of M/s Highland International and M/s Alpha Industries. Shri Sable further stated that he had never met the importers personally and only knew Shri Prasad Kurhade and Shri Pankaj. He deposed that the goods, i.e., Areca Nuts and Black Pepper, could be pilfered or diverted into the local market by Shri Prasad Kurhade with the assistance of Shri Pankaj and the warehouse keeper, Shri Vinay Mishra. He also confirmed that it was either Shri Prasad Kurhade or Shri Pankaj who collected space certificates from the warehouse office and that Shri Pankaj supervised the unloading of containers on behalf of the importers.
- 4.45 I find from the statement of Shri Anil Sudam Ghadge, warehouse keeper of Allsan Shipping and Logistics Pvt. Ltd., that he was instructed by Shri Sanjay Vithoba Sable to receive and deposit goods of M/s Alpha Industries in coordination with Shri Pankaj, but without recording the entries in the in-bond register, as they were represented to be general cargo. Upon arrival, no containers were found, and Shri Pankaj later came on his two-wheeler accompanying 05 containers. He confirmed that the goods in the white gunny bags were black pepper since a few spilt out occasionally at the time of unloading by the labourers. Shri Anil Sudam Ghadge also stated that the next day, he was asked to reach outside Belapur station with the keys of the godown by Shri Pankaj who arrived on his Activa 2-wheeler along with Shri Vinay Mishra. Sanjay Vithoba Sable had told him that the keys of the godown were required for the purpose of testing the goods by FSSAI. The keys of the godown were returned only the next evening by Shri Pankaj. The keys were taken for a similar purpose either the following day or the next and returned after a day by Shri Pankaj.
- 4.46 Furthermore, I find that in his statement recorded under Section 108 of the Customs Act, 1962 Shri Uday Sharma has stated that he was provided with an invoice, Bill of Lading, packing list, GST copy, IEC

copy, Aadhar card, bank verification letter and PAN card of the IEC holders and other related documents of the importer M/s Highland International by Shri Karan Singh alias Pankaj (Mobile number-9335853438) on the directions of Shri Kirty Raj Singh. Investigation revealed that M/s Highland International was a non-existent entity, with no traceable premises or IEC holders at the stated addresses.

- 4.47 I find that in his statement recorded under Section 108 of the Customs Act, 1962, Shri Musha Kumbhar has stated that he was he was informed by Shri Anil Giri that one Shri Ravindra Shrivastava, Manager of M/s Maya Enterprises, Mobile No. 7039613149, and Shri Pankaj Singh, (Mobile No. 9335853438), Manager of M/s Highland International were the clients and that after a meeting with his superior, Shri Ravi Mishra in-charge with these clients, the job could be finalized. A meeting was held with each, Shri Ravindra Shrivastava and Shri Pankaj Singh in a gap of 10 days by himself, his superior Shri Ravi Mishra and Shri Anil Giri. During the meeting it was agreed that the goods would be subject to first-check and warehousing bills of entry were to be filed and that their agency charges were fixed at Rs.8,000/-.
- 4.48 I find that in his statement recorded under Section 108 of the Customs Act, 1962, Shri Prasad Shantaram Kurhade has stated that Shri Pankaj (alias Karan Singh) approached him for the warehousing of goods, areca nuts and black pepper at Allsan Warehouse. Shri Pankaj told him that there are total 18 Containers which are imported for re-export purposes and the same needs to be warehoused, and later the same will be re-exported. Shri Pankaj told him to arrange a warehouse for the same. In a meeting where he, Shri Sanjay Vithoba Sable and Shri Pankaj were present, Shri Pankaj told them that he wanted to clandestinely remove 4 containers of goods out of 18 containers and later the clandestinely removed goods will be replaced goods with goods having negligible value. Shri Pankaj told them that he would manage replacement goods at the time of export. Shri Pankaj called and told him that he had removed 2 trucks of areca nuts and black pepper and he would give him (Prasad Kurhade) monetary consideration for his role for the arrangement of warehousing of the goods.
- 4.49 From the cumulative statements, I find that Shri Karan Singh alias Pankaj held a prominent position in this act of moving the goods to Customs Bonded Warehouse and later removing the same without paying applicable Customs duty. He was the close aide of Shri Kirty Raj Singh and Shri Prasad Kurhade. His role encompassed providing falsified invoices, Bills of Lading, packing lists, GST and IEC documents, coordinating with Customs Brokers, supervising movement of goods into the warehouse, and clandestinely removing the same without payment of Customs duty. He acted on behalf of the importers though he knew the said IECs were fictitious and non-existent. He had provided documents related to IECs and warehousing to the warehouse manager and CHAs. He used to come along with the trucks/containers when they entered the Allsan Shipping and Logistics Pvt. Ltd. and supervised the offloading and took a copy of the receiving of goods into the warehouse. He also clandestinely removed the goods

from the warehouse.

- 4.50 Notably, despite issuance of multiple summonses during investigation and personal hearing notices during the adjudication proceedings, he deliberately chose not to participate in either the investigation or adjudication process. This persistent non-cooperation, in the face of overwhelming evidence, clearly indicates that his position is indefensible. Therefore, I find that his aforesaid acts of omission and commission in the clandestine removal of the goods having value of Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, have rendered the said goods liable for confiscation under Section 111 and himself liable to penalty under Section 112 (b) of the Customs Act, 1962. I also find that Shri Karan Singh alias Pankaj is liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally facilitated clandestine removal of the goods from the Customs Area and replacing the same with goods having negligible commercial value despite that fact and he very well knew the fact that the said clandestine removal of the goods without the payment of applicable Customs duty will make the said goods liable for confiscation. I also find the penal action against him also warranted for his indulgence in providing documents of fictitious and non-existent IECs which were used for the import of the subject goods. Therefore, I hold Shri Karan Singh alias Pankaj liable for penal action under Sections 112(b) and 114AA of the Customs Act, 1962.

**Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Vinay Mishra.**

- 4.51 I find that in his statements recorded under Section 108 of the Customs Act, 1962, Shri Sanjay Vithoba Sable, Director of Allsan Shipping and Logistics Pvt. Ltd. stated that Shri Vinay Mishra was appointed as warehouse keeper on the reference of Shri Prasad Kurhade who was his (Prasad's) employee. He also stated that brown- coloured powder stuffed in brown-coloured jute bags and greyish-white powder stuffed in white-coloured gunny bags were replacement goods which have been placed inside the warehouse in exchange for the goods which had been clandestinely removed from the warehouse by Shri Prasad Kurhade with the help of their warehouse keeper, Shri Vinay Mishra.
- 4.52 I further find that Shri Sagar Bangar, who succeeded Shri Vinay Mishra as warehouse keeper of M/s Allsan Shipping and Logistics Pvt. Ltd., in his statement recorded under Section 108 of the Customs Act, 1962, stated that Shri Prasad Kurhade had deliberately ensured the appointment of Shri Vinay Mishra as manager/warehouse keeper with the intent of facilitating clandestine removal of goods. He further stated that Shri Vinay Mishra became apprehensive after the clandestine removal of certain consignments and was thereafter unwilling to continue in the said position. Shri Sagar Bangar also stated that Shri Prasad Kurhade informed him that an amount of ₹20,000/- was paid to Shri Vinay Mishra and that he was sent to another State to avoid interception by the Directorate of Revenue Intelligence. He further stated that

Shri Vinay Mishra was a long-standing and trusted employee of Shri Prasad Kurhade, having worked under him since 2016.

- 4.53 I find that in his statements recorded under Section 108 of the Customs Act, 1962, Shri Prasad Shantaram Kurhade has stated that he had referred Shri Vinay Mishra to Shri Sanjay Vithoba Sable for the job of warehouse keeper of Allsan Warehouse. Further, I observe a statement recorded under Section 108 of the Customs Act, 1962 of Shri Anil Sudam Ghadge, who was warehouse keeper of Allsan Shipping and Logistics Pvt. Ltd. prior to the appointment of Shri Vinay Mishra, wherein he has stated that Shri Vinay Mishra accompanied Shri Pankaj while keys of the warehouse were handed over by him to Shri Pankaj outside Belapur station.
- 4.54 From the above statements recorded under Section 108 of the Customs Act, I find that Shri Vinay Mishra was a long-standing employee of Shri Prasad Kurhade and that Shri Prasad Kurhade had deliberately facilitated his appointment as warehouse keeper of M/s Allsan Shipping and Logistics Pvt. Ltd. by referring him to Shri Sanjay Vithoba Sable. The evidence on record establishes that this appointment was made with the intent of enabling clandestine removal of warehoused goods belonging to M/s Highland International and M/s Alpha Industries.
- 4.55 Furthermore, I find that after his appointment, Shri Vinay Mishra actively participated in the clandestine removal of the warehoused goods, namely areca nuts and black pepper, and in replacing the same with sand, dust, and waste powder having negligible commercial value. I also find that the non-functioning of CCTV cameras, non-maintenance of statutory records, and non-segregation of goods within the bonded warehouse were deliberate acts of omission, designed to facilitate unauthorized removal of goods from the Customs bonded warehouse without payment of applicable duty.
- 4.56 I further observe that despite repeated summons issued during investigation and notices issued during the course of adjudication proceedings, Shri Vinay Mishra has failed to appear before the investigating agency to assist in the investigation or participate in the adjudication proceedings to submit his role in the case. Such non-cooperation, in the face of incriminating material on record, further strengthens the findings regarding his involvement in the offence.
- 4.57 I find that for his acts of omission and commission in the clandestine removal of the goods having a value of around Rs. 11.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, Shri Vinay Mishra has rendered the said goods liable for confiscation under Section 111 and himself liable to penalty under Section 112 (b) of the Customs Act, 1962. I find that Shri Vinay Mishra is liable to penalty under Section 114AA of the Customs Act, 1962, as he knowingly and intentionally removed goods from the Customs area and replaced them with goods of negligible commercial value, fully aware that such clandestine removal without payment of applicable Customs

duty would render the goods liable for confiscation. I also find that during his tenure as warehouse keeper of the Customs bonded warehouse of M/s Allsan Shipping and Logistics Pvt. Ltd., Shri Vinay Mishra failed to maintain proper records of goods and vehicles entering and leaving the warehouse, thereby falsifying statutory warehouse records. In view of the foregoing, I hold Shri Vinay Mishra liable for penal action under Section 112(b) and Section 114AA of the Customs Act, 1962.

**Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 4,99,60,326/-, should be imposed on M/s Highland International (IEC- AAMFH8931M).**

- 4.58 I find that during the course of the investigation, verifications/visits were made to verify the genuineness of the registered office premises of M/s Highland International and residential premises of the IEC holders i.e. Shri Shambhu Sharan and Shri Vijay Kumar. During the visit to the registered office address of M/s Highland International, it was observed that the premises were occupied by a different person who has been operating her Orchestra/entertainment business at the said premises from 2020 onwards. She also provided a copy of the rent agreement. Further, I find that summonses dated 30.09.2024, 08.10.2024 and 11.10.2024 issued by the investigating agency were undelivered at the said address.
- 4.59 Furthermore, I find that a visit was made by the officers of DRI, Mumbai alongwith the officers of DRI, Delhi Zonal Unit, at the address of Shri Shambu Sharan, partner of M/s Highland International (IEC holder) on 14.11.2023. During the visit/verification, it was noticed that there was one billboard by the name of M/s Mahar Interiors affixed on the said premises. On enquiry, Shri Mohammad Azhar, present at the address, stated that he is the proprietor of M/s Mahar Interiors and has been using the premises as office space since 2010 on rent. He further stated that he had never come across any person named Shri Shambhu Sharan residing at the premises.
- 4.60 Similarly, a verification was conducted at the residential address of the other partner, Shri Vijay Kumar, where it was observed that Shri Dharampal Gulati and his family were residing. Shri Dharampal Gulati submitted a letter stating that he has been residing at the premises for the past 15-18 months and does not know any person by the name of Vijay Kumar. I also note that despite issuance of summons and personal hearing notices, the IEC holders have not participated in the investigation or adjudication proceedings.
- 4.61 I further find from the statement of Shri Sanjay Vithoba Sable, Director of M/s Allsan Shipping and Logistics Pvt. Ltd., recorded on 05/06.01.2023, that the goods of M/s Highland International were warehoused on the directions of Shri Prasad Kurhade, and that Shri Pankaj coordinated with him on behalf of the importer. Even the CHAs handling customs clearance of this importer had never interacted with the purported importers and were coordinating exclusively with Shri Pankaj and Shri Kirty Raj Singh for all work related to the importer.

4.62 Therefore, on basis of the same, I find that the firm M/s Highland International is a non-existent entity and the IEC holders are also not genuine. The IEC has been created with the sole intention to facilitate the clandestine removal of goods from the Allsan warehouse. Hence, for their acts of omission and commission facilitating the import of goods i.e. areca nuts and black pepper for their eventual clandestine removal of the goods having a value of Rs. 4.99 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, M/s Highland International have rendered the said goods liable for confiscation under Section 111, and themselves liable for penalty under Section 112 (b) of the Customs Act, 1962.

**Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, should be imposed on M/s Alpha Industries (IEC- ABYFA3809L).**

4.63 I find that during the course of the investigation, verifications/visits were conducted by the investigating agency to ascertain the genuineness of the registered office premises of M/s Alpha Industries and residential address of the IEC holders i.e. Shri Rajat Kumar, and Shri Rakesh Yadav. Upon visiting the registered office premises of M/s Alpha Industries situated in Gautam Buddha Nagar it was observed that the building comprised of three floors with a basement. The basement was occupied by M/s Modview Vending Services; the first floor by M/s My Money Mantra; the second floor by two firms M/s S.N. Enterprises and M/s Noitexh World Pvt. Ltd.; and the third floor by M/s Haya Alal Falan Kids and M/s Growvision Finances Services. On enquiry with Shri Sunny Sharma, son of the owner of the building, it was confirmed that no part of the building had been rented out to M/s Alpha Industries. In view of the foregoing, the whereabouts of M/s Alpha Industries at the registered address were found to be non-existent.

4.64 I further find that a visit was conducted to the residential address of Shri Rajat Kumar, partner in M/s Alpha Industries, declared to be situated at House No. 821, Block L2A, Mohan Garden, Uttam Nagar, West Delhi. On verification, it was observed that Block L2A only contains house numbers up to 200. Enquiries with residents of the block confirmed that no person named Shri Rajat Kumar resides there, and the purported house No. 821 does not exist.

4.65 I find that a visit was also made to residential premises of Shri Rakesh Yadav, who was also IEC holder of M/s Alpha Industries alongwith Shri Rajat Kumat, situated at 644, A Block, JJ Colony, Pankha Road, Uttam Nagar, Delhi by the investigating agency. Shri Rakesh Yadav was found at the said address. However, he told the investigating agency that he had given his KYC documents to his friend who later took IEC on the name of M/s Alpha Industries by using his KYC documents. However, he was nowhere concerned with the said IEC of M/s Alpha Industries and never dealt with any import- export. Hence, I

find that that Shri Rakesh Yadav was the dummy partner in the said firm, and he had no idea about any import export activity of M/s Alpha Industries Furthermore, I find that till date even after booking the case and issuing summons and Personal hearing memos, the IEC holders have not joined the investigation or the adjudication proceedings. Therefore, I find that the firm M/s Alpha Industries is also a non-existent entity.

4.66 From the foregoing facts, I find that M/s Alpha Industries is a non-existent and fictitious entity, and that the IEC was fraudulently created by misusing the KYC documents of a dummy individual to conceal the identity of the real persons behind the imports. The declaration of such a fictitious IEC amounts to deliberate misrepresentation of the importer's identity, which is a material particular under the Customs Act.

I find that use of a fake or fictitious IEC strikes at the very foundation of lawful importation and constitutes fraud on the Customs authorities. Such fraudulent declaration renders the imported goods liable to confiscation under Section 111 of the Customs Act, 1962, as the imports were effected by suppression of material facts and use of false particulars.

4.67 I further find that by their acts of commission and omission, including facilitating import of goods valued at ₹6.33 crore, for their clandestine removal from the Customs Bonded Warehouse, M/s Alpha Industries have knowingly and intentionally rendered the said goods liable to confiscation.

Accordingly, I hold that M/s Alpha Industries is liable to penalty under Section 112(b) of the Customs Act, 1962 for their conscious and deliberate involvement in the fraudulent importation and clandestine removal of the goods.

**Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, should not be imposed on M/s Blue I Store (IEC- AVTPB0390E).**

4.68 I find that during the course of investigation, verifications were conducted by the investigating agency to ascertain the genuineness of the registered office premises of M/s Blue I Store as well as the residential premises of its proprietor, Shri Vijay S/o Shri Lakshmi Narayan. On visit to the declared registered premises of M/s Blue I Store situated at Gautam Buddha Nagar, the premises was found locked and non-operational, and no signboard or indication of business activity in the name of M/s Blue I Store was found affixed at the said Unit No. 1133. Enquiries made with nearby office occupants revealed that the said unit had been lying closed for the past approximately six months, and that prior occupants, if any, could not be identified by name. The neighbouring occupants further stated that they could not recall any firm by the name of M/s Blue I Store ever operating from the said address. From these facts, I find that no such firm is presently or was recently functioning from the declared registered address.

4.69 I further find that a verification was conducted at the declared residential address of Shri Vijay S/o Shri Lakshmi Narayan, proprietor of M/s Blue I Store, situated at A-1/62, Vijay Enclave, Delhi. On visit, it was observed that the ground floor of the premises housed a commercial complex comprising seven shops, while the first and second floors consisted of six residential apartments rented out to various tenants. Enquiries conducted with the tenants revealed that no person by the name of Shri Vijay S/o Shri Lakshmi Narayan resided in any of the said apartments. The tenants provided the contact details of the owner of the premises, Shri Sachin Agarwal (Sonu), who, upon being contacted, categorically stated that he had never rented any apartment to a person named Shri Vijay S/o Shri Lakshmi Narayan. Further enquiries with the shop owners on the ground floor also confirmed that no such person had ever resided in the building, nor had they heard of any firm named M/s Blue I Store operating there. Accordingly, I find that both the declared residential address of the proprietor and the business address of M/s Blue I Store are fictitious.

4.70 I further note that despite issuance of summons under Section 108 of the Customs Act, 1962 and service of personal hearing notices, the IEC holder/proprietor has failed to participate in the investigation or adjudication proceedings. Such non-cooperation, when viewed in conjunction with the field verification results, clearly establishes that M/s Blue I Store is a non-existent and fictitious entity, created only on paper.

4.71 I therefore find that M/s Blue I Store, an SEZ client, was fraudulently used for import of goods into Kandla SEZ, and thereafter for facilitating the clandestine removal of the imported goods from the Allsan warehouse. The acts of importing goods in the name of a non-existent firm, removing the goods from the Customs Area, and replacing them with goods of negligible commercial value, amount to deliberate misrepresentation and suppression of material facts.

4.72 I hold that such acts of commission and omission, resulting in the clandestine removal of goods having a value of ₹6.33 crore, have knowingly and intentionally rendered the goods liable to confiscation under Section 111 of the Customs Act, 1962. Consequently, I find that the persons operating through the fictitious IEC of M/s Blue I Store are liable to penalty under Section 112(b) of the Customs Act, 1962 for their conscious involvement in the fraudulent importation and improper removal of the goods.

**Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Sanjay Vithoba Sable.**

4.73 I find that in his statements recorded under Section 108 of the Customs Act, 1962, Shri Sanjay Vithoba Sable, Director of Allsan Shipping and Logistics Pvt. Ltd., has categorically admitted that he was strictly responsible for pilferage/diversion of goods from his customs bonded warehouse, thereby grossly

violating the conditions of the warehouse license. He admitted that entries of the consignments were not made in the prescribed registers, that no records of vehicles used for movement of goods in and out of warehouse were maintained, that stock records were not maintained either manually or digitally as mandated under the licensing conditions, and that Monthly Transaction Returns (MTRs) for November and December had not been filed. He further admitted that although around twelve (12) space certificate NOCs had been issued, no official records were maintained for the same.

- 4.74 He further stated that the goods imported in the name of M/s Highland International and M/s Alpha Industries were warehoused on the directions of Shri Prasad Kurhade, who introduced him to Shri Pankaj, stating that Shri Pankaj would coordinate all matters relating to the said consignments. He admitted that he never interacted with the actual IEC holders and dealt exclusively with Shri Prasad Kurhade and Shri Pankaj. He further stated that it was either Shri Prasad Kurhade or Shri Pankaj who used to come to collect space certificates from their office. He stated that Shri Vinay Mishra was appointed as the warehouse keeper on reference of Shri Prasad Kurhade. He further admitted that he instructed Shri Anil Sudam Ghadge not to make entries of the consignments related to M/s Alpha Industries and M/s Highland International in the said register in the bond register on the pretext that the goods were "general cargo", despite being fully aware that general cargo is not permitted to be warehoused.
- 4.75 On being shown the copies of Space Certificates NOC No. ASLPL/01/22-23 dated 01.11.2022 and NOC No. ASLPL/02/22-23 dated 03.11.2022 covering quantities of 1680 bags and 1687 bags of black pepper respectively, issued in the name of importer M/s Alpha Industries along with endorsements on the bond-to-bond transfer documents indicating receipt of goods in the Allsan Shipping & Logistics Ltd., he stated that the said goods were intended to be warehoused. He further stated that the goods were not duty-paid and were not general cargo, contrary to the statement made by Shri Pankaj.
- 4.76 Upon perusal of the copy of Space Certificates NOC No. ASLPL/06/22-23 dated 07.12.2022 1800 bags of dried Areca nuts and NOC No. ASLPL/07/22-23 dated 07.12.2022 for 1585 bags of black pepper issued in respect of Importer M/s Highland International, he stated that the goods were also warehoused. He further stated that the brown- coloured powder stuffed in brown-coloured jute bags and greyish-white powder stuffed in white-coloured gunny bags goods were replacement goods having nil commercial value. According to him, these replacement goods had been placed inside the warehouse in exchange for the original goods, which had been clandestinely removed from the warehouse by Shri Prasad Kurhade with the assistance of the warehouse keeper, Shri Vinay Mishra.
- 4.77 I further find that Shri Anil Sudam Ghadge, in his statement dated 06.01.2023 recorded under Section 108 of the Customs Act, 1962, corroborated the above facts by stating that he was instructed by Shri

Sanjay Vithoba Sable to hand over space certificates relating to consignments of M/s Alpha Industries to Shri Prasad Kurhade and thereafter coordinate receipt of goods with Shri Pankaj, while deliberately not entering the details in the bond register. He further stated that he was instructed to delete mobile numbers of Shri Pankaj and Shri Vinay Mishra after the DRI raid and that the CCTV footage of the warehouse was under the live control of Shri Sanjay Vithoba Sable.

4.78 I observe that it is cardinal law that '*What is accepted need not to be proved*'. In the present case, Shri Sanjay Vithoba Sable has voluntarily admitted serious and fundamental breaches of warehousing obligations, including non-maintenance of records, issuance of space certificates without documentation, non-filing of MTRs, and permitting warehousing of non-permissible goods. He has further admitted that he was strictly liable for the pilferage/diversion of goods from the bonded warehouse.

4.79 Given that the present proceedings heavily rely upon statements recorded under Section 108 of the Customs Act, 1962, I deem it necessary to reiterate the settled legal position that such statements constitute substantive and admissible evidence. It has been held by various judicial fora 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. It has been affirmed that the statement given before the Customs officers is a material piece of evidence and certainly can be used as substantive evidence, among others, as held in the following cases:

- i. *Asst. Collector of Central Excise, Rajamundry v. 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
- ii. In 1996 (83) E.L.T. 258 (S.C.) in the case of *Shri Naresh J. Sukawani v. Union of India* : “  
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.*”
- iii. 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).
- iv. There is no law which forbids acceptance of voluntary and true admissional 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.

- v. Hon'ble Supreme Court in the case of Kanhailal Vs. UOI, 2008 (1) Scale 165 observed: “*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.*”
- vi. 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*”.
- vii. 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 admission and binding on the person.-”
- viii. The Hon'ble Supreme Court in the case of Badaku 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.
- ix. In the case of Bhana Khalpa Bhai Patel Vs. Asstt. Collr. of Customs, Bulsar [1997 (96) E.L.T. 211 (SC)], the Hon'ble Apex Court at Para 7 of the judgment held that :-“ *It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Romesh Chandra v. State of West Bengal, AIR 1970 S.C. 940 and K.I. Pavunny v. Assistant Collector (H.Q.), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C.) = (1997) 3 S.C.C. 721.*”
- x. In the case of Raj Kumar Karwal Vs. UOI & Others (1990) 2 SCC 409, the 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.*

- xi. Hon. Supreme Court's decisions in the case of Romesh Chandra Mehta Vs. the State of West Bengal (1969) 2 S.C.R. 461, A.I.R. 1970 S.C. 940. The provisions of Section 108 are judicial provisions within statement has been read, correctly recorded and has been made without force or coercion. In these circumstances there is not an iota of doubt that the statement is voluntary and truthful. The provisions of Section 108 also enjoin that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence
- xii. Jagjit Singh vs State of Punjab And Another, Hon'ble Punjab and Haryana High Court in Crl. Appeal No.S-2482-SB of 2009 Date of Decision: October 03, 2013 held that : *The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in Ram Singh vs. Central Bureau of Narcotics, 2011(2) RCR (Criminal) 850.*

4.80 I find that there is neither any retraction of the statements made by Shri Sanjay Vithoba Sable, nor there is any allegation of coercion or duress. Accordingly, the statements recorded under Section 108 of the Customs Act, 1962 carry full evidentiary value and are relied upon. The only issue for determination is whether the admitted lapses were mere negligence or part of a deliberate and conscious design.

4.81 I find that the Noticees Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha in their common submission have contended that they were under the impression that the goods being stored were general duty paid cargo and not goods under Bond and as such, there is no reason for the Noticees to either enter the said goods in their Bond Register or to treat the same as imported duty not paid goods. I find that the answer to this contention lies in the statement of Shri Sanjay Vithoba Sable recorded on 23.05.2023 wherein on being shown the copies of Space Certificates NOCs No. ASLPL/01/22-23 dated 01.11.2022 and ASLPL/02/22-23 dated 03.11.2022 for 1680 bags and 1687 bags of black pepper respectively, issued in the name of importer M/s Alpha Industries alongwith endorsements on the bond-to-bond transfer documents indicating receipt of goods in the Allsan Shipping & Logistics Ltd., Shri Sanjay Vithoba Sable categorically admitted that the goods were meant to be warehoused, were not duty-paid, and were not general cargo. Hence, the said contention is rejected as untenable.

4.82 I further find the statement of Shri Prasad Kurhade dated 12.02.2025 recorded under Section 108 of the Customs Act, 1962 to be highly incriminating, wherein he stated that in a meeting attended by him, Shri

Sanjay Vithoba Sable and Shri Pankaj, it was decided that four containers would be clandestinely removed and subsequently replaced with goods of negligible value. This statement clearly establishes prior knowledge, planning and concurrence of Shri Sanjay Vithoba Sable in the illegal scheme. Thus, his plea of ignorance is clearly an afterthought.

4.83 I further find that Shri Sanjay Vithoba Sable appointed Shri Vinay Mishra as warehouse keeper on the recommendation of Shri Prasad Kurhade, who later played an instrumental role in the clandestine removal of goods. The role of Shri Sanjay Vithoba Sable in the removal of the goods clandestinely from Allsan Shipping and Logistics Pvt. Ltd. is further illuminated by the appointment of Shri Sagar Bangar who had dubious history of facilitating removal of goods from Akshay Logistics working as warehouse keeper there. The deliberate disabling of CCTV systems, despite live access being available to Shri Sanjay Vithoba Sable, further demonstrates conscious facilitation of the offence. His actions clearly go beyond negligence and amount to active abetment.

4.84 Furthermore, I find that Shri Sanjay Vithoba Sable is an experienced person in the field of warehousing having plenty of relevant experience under his belt. He must be fully aware of all the procedures related to customs bonded warehousing. He knew it very well, what non-maintenance of records pertaining to warehoused goods means. Furthermore, he knew very well that the goods areca nuts and black pepper are sensitive goods by virtue of high import duty imposed upon them. In normal course, he would have exercised extra caution. However, in the instant case, since he was a partner in illegal act, he did not bother to meet the actual IEC holders. Instead, he preferred to deal with Shri Prasad Kurhade and Shri Pankaj on their behalf. He knew very well that Shri Prasad Kurhade and Shri Pankaj were not the actual IEC holders. Such a lackadaisical approach could only happen as he was taken on board for the illegal act of clandestinely removing goods i.e. areca nuts and black pepper from Customs Bonded warehouse without payment of Customs duty. Furthermore, I find that Customs Bonded warehouse license was granted to Allsan Shipping and Logistics Pvt. Ltd. in October, 2022 and within a few months, goods were removed clandestinely from it without paying customs duty amounting to crores of rupees. This fact when seen in light of long acquaintance of Shri Sanjay Vithoba Sable with the mastermind Shri Prasad Kurhade, makes me believe that the sole intention of obtaining Customs Bonded Warehouse License in Allsan Shipping and Logistics Pvt. Ltd. was to facilitate the clandestine removal of goods without payment of customs duty. I find that by his act of allowing storage of goods in warehouse without making entry of the same in the Bond register and allowing them to be clandestinely removed from the warehouse by his negligence, Shri Sanjay Vithoba Sable rendered himself liable for penal action under the Customs Act, 1962. I also find that Shri Sanjay Vithoba Sable has failed to abide by the conditions imposed in the said license and grossly failed to fulfil his duties as a warehouse Licensee. The entire modus operandi of Shri Prasad Kurhade and his accomplices would have not materialized had Shri Sanjay Vithoba Sable done his duties diligently. Therefore, for the act of omissions and commissions

committed by Shri Sanjay Vithoba Sable, he has abetted the syndicate members in removing the goods clandestinely from the said warehouse and diverting them to the local market, in gross violation of the warehousing provisions and the provisions of Customs Act, 1962. I find that the act of illegal removal of goods i.e. areca nuts and black pepper accomplished with full co-operation extended by Shri Sanjay Vithoba Sable has rendered the impugned goods liable for confiscation under Section 111 of the Customs Act, and Shri Sanjay Vithoba Sable by his said acts has rendered himself liable for confiscation under Section 112(b) of the Customs Act, 1962. Furthermore, I find that according to Licensing Rules, Shri Sanjay Vithoba Sable was duty bound in respect of the warehoused goods to maintain records properly in accordance of the law. Despite this, he manipulated the records by failing to maintain any documentation for the warehoused goods, with the intention of facilitating their clandestine removal. His non-maintenance of records has been accepted by him in his statement recorded under Section 108 of the Customs Act, 1962. Therefore, I find that invocation of penal action under Section 114AA against Shri Sanjay Vithoba Sable is justified. In view of the same, I hold Shri Sanjay Vithoba Sable liable for penal action under Section 112(b) and 114AA of the Customs Act, 1962.

- 4.85 I find that the Noticees Shri Sanjay Vithoba Sable and Shri Allwyn Saldanha in their submission have further contended that the clandestine removal of the goods while being in the custody of the Customs Authorities has not been blamed on anyone which clearly shows that the Noticees have no role to play in the alleged clandestine removal of the said goods, which in any case were removed from the custody of the Customs Authorities when the Noticees were not at all in picture. I find that following the commencement of the investigation into the clandestine removal of goods i.e. areca nuts and black pepper from Customs Bonded Warehouse, the goods lying at Allsan Shipping and Logistics Pvt. Ltd. were examined under panchnama proceedings during 13.07.2023-14.07.2023 and it was found that out of total quantity 108 MTs of areca nuts and 183.52 MTs black pepper only 55.5MTs of areca nuts and 23.3 MTs of black pepper remained in the Allsan Shipping and Logistics Pvt. Ltd. while the balance quantity had already been clandestinely removed. The remaining goods i.e. 55.5MTs of areca nuts and 23.3 MTs of black pepper were seized under panchnama dated 14.07.2023. However, subsequently these seized goods were also removed clandestinely from Allsan Shipping and Logistics Pvt. Ltd. whose investigation is being carried out by Bond Section (JNCH), CIU (JNCH) and also Panvel City Police Station. The theft of the seized is not part of the Show Cause Notice under consideration. Therefore, the contention of the Noticees *that clandestine removal of the said goods while being in the custody of the Customs Authorities has not been blamed on anyone which clearly shows that the Noticees have no role to play in the alleged clandestine removal of the said goods*, is pre-mature at best. Only upon the conclusion of investigations by the Bond Section (JNCH), CIU (JNCH), and Panvel City Police will the culprits behind the removal of the seized goods be identified. Consequently, the Noticees' contention does not hold merit and is liable to be rejected in view of the available facts.

**Whether or not penalty under Section 112(b) and Section 114AA of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 11,32,81,926/-, should be imposed on Shri Allwyn Saldanha.**

- 4.86 I find that it is an undisputed fact that Shri Allwyn Saldanha was the manager of the firm M/s Allsan Shipping and Logistics Pvt. Ltd. which was managing M/s Allsan Shipping and Logistics Pvt. Ltd. (NSA 1U 168). Shri Allwyn being a director of the Customs Bonded Warehouse, was duty bound to personally monitor all activities in the warehouse and ensure compliance with the rules and regulations governing the warehouse. Upon grant of the Customs Bonded Warehouse license, they became custodians of government revenue in respect of warehoused goods to be stored without payment of Customs duty.
- 4.87 I find that in the instant case, the protectors became perpetrators by forming a nexus with Shri Prasad Kurhade and his associates, facilitating the illegal removal of goods, namely areca nuts and black pepper, without payment of Customs duty amounting to crores of rupees. As per his statement recorded under Section 108 of the Customs Act, 1962, I find that Shri Allwyn Saldanha was aware that they had been granted license under certain conditions to be followed as mentioned in Annexure-‘A’ to the license. As per the terms and conditions of the license, they were strictly responsible for the safe custody of the warehoused goods and they shall maintain stocks of warehouse goods and submit to the Import Bond Section a monthly statement in the prescribed format. However, despite the same, he never bothered to follow the same. I find that Shri Allwyn Saldanha has tried to shrug off his responsibilities by projecting that Shri Sanjay Vithoba Sable looked after day-to-day activities of the warehouse. Even if it is assumed to be true, that does not absolve Shri Allwyn Saldanha of his responsibilities being the other Director of Allsan Shipping and Logistics Pvt. Ltd. He rarely visited the warehouse and in those rare occasions too, he never cared to inspect whether the records are being maintained or not, whether the CCTVs are operational or not. By adopting such arm-chair approach he turned a blind eye to the situation prevailing in the warehouse which was made ripe for clandestine removal of warehoused goods.
- 4.88 I find that Shri Allwyn Saldanha was not an amateur person, he was a veteran in the warehousing business having years of experience under his belt. He was very much aware that not maintaining proper record in customs Bonded warehouse, storing goods in haphazardly without proper demarcation could mean in context of warehoused goods. Yet, he chose to turn a blind eye to all the things which were going in Allsan Shipping and Logistics Pvt. Ltd. The only inference which can be drawn is that Shri. Allwyn Saldanha like the other Director Shri Sanjay Vithoba Sable was also taken on board by Shri Prasad Kurhade in his illegal activity of clandestine removal of goods from Customs Bonded warehouse without payment of Customs duty worth crores of rupees. I find that the entire modus operandi used by Shri Prasad Kurhade and his accomplices would have not been possible at the first instance if Allwyn Valerian Saldanha had diligently done his duties. Therefore, I find that for the act of omissions and commissions committed by Shri Allwyn Valerian Saldanha, has abetted the syndicate members in

removing the goods clandestinely from the said warehouse and diverting them to the local market, in gross violation of the warehousing provisions and the provisions of Customs Act, 1962. I find that the act of illegal removal of goods i.e. areca nuts and black pepper accomplished with full co-operation extended by Shri Allwyn Saldanha has rendered the impugned goods liable for confiscation under Section 111 of the Customs Act, and Shri Allwyn Saldanha by his said acts has rendered himself liable for confiscation under Section 112(b) of the Customs Act, 1962. Furthermore, I find that according to Licensing Rules, Shri Allwyn Saldanha was duty bound in respect of the warehoused goods to maintain records properly in accordance of the law. Despite this, he manipulated the records by failing to maintain any documentation of the warehoused goods, thereby facilitating their clandestine removal. Therefore, I find that invocation of penal action under Section 114AA against Shri Allwyn Saldanha is justified. In view of the same, I hold Shri Allwyn Saldanha liable for penal action under Section 112(b) and 114AA of the Customs Act, 1962.

**Whether or not penalty under Section 112 (b) of the Customs Act, 1962, in respect of the goods of M/s Highland International clandestinely removed and having value Rs. 4,99,60,326/-, should be imposed on Shri Uday Sharma.**

4.89 I find that Shri Uday Sharma in his statement recorded under Section 108 of the Customs Act, 1962 on 02.02.2023 and 06.02.2023 stated that he had taken the work of Customs clearance of Areca nuts related to the importers M/s Altamile Overseas, M/s Maya Enterprises and M/s Highland International. His role was to arrange the customs brokers for getting the goods cleared from Customs, a task assigned to him by Shri Kirty Raj alias Sanjay Singh who lives in Delhi and belongs to Banaras, Uttar Pradesh. Shri Uday Sharma further stated that he first met Shri Kirty Raj (Mobile Number- +971545990715, Face time id:j8953495465@icloud.com) in June-2022, at Belapur. During the said meeting, Shri Kirty Raj told him that he wanted to import Areca nuts/ Supari at Nhava Sheva Port and said imports were for re- export purposes which would be done from Kandla SEZ (KASEZ). Shri Uday Sharma also stated that Shri Kirty Raj told him that the Warehousing Bill of Entry would be filed for the said imports of goods on the IECs arranged by Kirty Raj Singh. Shri Kirty Raj told that he would pay Rs. 50,000/- per container for the Customs broker and labour charges to him. Since he was getting around Rs. 25,000/- as his profit per container, he agreed to do the work of customs clearance of the said goods which included arranging the Customs broker and getting the goods examined and cleared for customs bonded warehouse. Shri Kirty Raj said that the requisite documents would be provided by his representatives shortly.

4.90 I find that during investigation, it was revealed that M/s Highland International was fictitious and non-existent, firm created using fabricated addresses which was utilized for affecting imports of Dried Areca nuts and black pepper which were removed clandestinely from Allson Shipping & Logistics Pvt. Ltd. The documents regarding import by this entity were provided to Shri Uday Sharma by Shri Pankaj on the directions of Shri Kirty Raj Singh. Shri Uday Sharma through his associate Shri Anil Kumar Goswami

alias Anil Giri handed these documents including KYC documents to the CHA M/s Peejaycee & Co. representative Shri Musha Dawood Kumbhar.

- 4.91 I find that Shri Uday Sharma is the proprietor of the CHA firm M/s Alka Logistics. Being engaged in the CHA business, he was expected to be fully aware that areca nuts and black pepper are sensitive items for import, by virtue of the high Customs duty levied thereon. Prior to undertaking the Customs clearance of these goods, he ought to have exercised due diligence, including verifying the KYCs of the IECs and their holders, and meeting with the actual importer. It is evident that he was aware that the goods belonged to Shri Kirty Raj Singh and Shri Prasad Kurhade, and not to the purported IEC holders.
- 4.92 Notwithstanding this knowledge, Shri Uday Sharma was taken on board by Shri Kirty Raj Singh in the act of importing the said goods and subsequently removing them from the Customs bonded warehouse, in return for an offer of Rs. 50,000 per container. Upon becoming a participant in this scheme, he facilitated Shri Kirty Raj Singh by arranging Customs brokers, preparing Customs-related documents, and coordinating with Customs authorities for clearance of the goods into the bonded warehouse. Therefore, I find that for his acts of omission and commission, Shri Uday Sharma has aided in import of the goods having value Rs. 4.99 Cr. which were eventually removed clandestinely from the Customs Area and replaced with goods having negligible commercial value and thereby rendering the said goods liable for confiscation under Section 111 and himself liable to penalty under Section 112 (b) of the Customs Act, 1962.
- 4.93 I find that Shri Uday Sharma, in his written submissions, has sought to minimize his role in the matter, contending that merely arranging a Customs broker for any importer on a commission basis does not warrant imposition of penalty under Section 112(b) of the Customs Act, 1962, which requires the commission of acts such as "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 find that this contention is wholly untenable and overlooks the factual matrix of the case. From his statement recorded under Section 108 of the Customs Act, 1962, it is evident that Shri Kirty Raj Singh offered Shri Uday Sharma Rs. 50,000 per container for arranging CHA services. In the present market, where numerous CHAs are readily available, the unusually high remuneration should have immediately alerted Shri Uday Sharma to the suspicious nature of the arrangement. Furthermore, the fact that Shri Kirty Raj Singh and his associate Shri Pankaj were not the actual IEC holders, coupled with the sensitivity of the goods and the high Customs duty applicable, should have raised immediate red flags.
- 4.94 It is apparent that the arrangement of a CHA in this case was not a routine commercial engagement but rather to secure a CHA willing to facilitate the illegal import of goods and their subsequent clandestine

removal from the Customs bonded warehouse without payment of Customs duty amounting to crores of rupees. The offer of Rs. 50,000 per container was specifically intended to procure such a risk-taking CHA. However, I also observe that Mr. Uday Sharma did not play any role in subsequent clandestine removal of goods from the bonded warehouse, In light of the above, I find that Shri Uday Sharma knowingly dealt with the subject goods, which were clandestinely removed from the Customs bonded warehouse, by arranging their Customs clearance. Consequently, the ingredients of Section 112(b) of the Customs Act, 1962, are satisfied in respect of Shri Uday Sharma.

**Whether or not penalty under Section 117 of the Customs Act, 1962, in respect of the goods which were attempted to be removed and having value Rs. 3,60,06,856/-, should be imposed on Shri Sagar Bangar.**

4.95 I find that Shri Sagar Bangar in his statements recorded under Section 108 of the Customs Act, 1962 has admitted that he was appointed as the manager of the warehouse at Allsan Shipping and Logistics Pvt. Ltd. unofficially by Shri Prasad Kurhade, with whom he had a longstanding acquaintance since childhood. Sagar Bangar deposed that Shri Prasad Kurhade informed him that consignments of areca nuts and black pepper would be warehoused, and that following their unloading, the goods were to be clandestinely removed and sold in the open market. Shri Prasad Kurhade offered him Rs. 50,000/-per container in consideration of facilitating the clandestine removal of the goods, which Shri Sagar Bangar accepted. He further stated that, prior to this, he had received Rs. 30,000 per container from Shri Akshay Phadale while working at Akshay Logistics warehouse, managed by Nibha World Pvt. Ltd., where he had participated in similar clandestine removals. Shri Sagar Bangar further deposed that after Shri Vinay Mishra resigned from his role as warehouse keeper at Allsan Shipping and Logistics Pvt. Ltd., Shri Prasad Kurhade repeatedly persuaded him to assume the position of warehouse manager/keeper. Shri Sagar Bangar ultimately agreed to the proposal and unofficially joined on around 20.12.2022. He was provided with the warehouse keys and instructed that a portion of M/s Highland International Ltd.'s consignments had already been clandestinely removed, and that his role was to facilitate removal of the remaining consignments when the importer's lorries and labour arrived at the warehouse.

4.96 I observe that it is a cardinal principle of law that "*what is admitted need not be proved.*" In the instant case, Shri Sagar Bangar himself has detailed the circumstances under which he assumed the role of warehouse keeper at Allsan Shipping and Logistics Pvt. Ltd. He was approached by Shri Prasad Kurhade for the position following the resignation of Shri Vinay Mishra, who had previously aided in clandestine removals and vacated the post out of fear. Shri Sagar Bangar accepted the role in December 2022, with the understanding that he would receive Rs. 50,000 per container for facilitating the removal of remaining consignments of areca nuts and black pepper. Previously, he had received Rs. 30,000 per container at Akshay Logistics warehouse, where he had participated in multiple clandestine removals. Notably, there is nothing on record to suggest that Shri Sagar Bangar has retracted his statement recorded

under Section 108 of the Customs Act, 1962.

4.97 I find that during the investigation into the clandestine removal of areca nuts and black pepper from Allsan Shipping and Logistics Pvt. Ltd., panchnama proceedings conducted on 13–14.07.2023 revealed that out of 108 MTs of areca nuts and 183.52 MTs of black pepper, only 55.5 MTs and 23.3 MTs respectively remained. These remaining goods were seized under panchnama dated 14.07.2023. Subsequently, even these were clandestinely removed. However, this theft is under investigation by Bond Section (JNCH), CIU (JNCH), and Panvel City Police and is not part of the present Show Cause Notice. However, it is a foregone conclusion that Shri Sagar Bangar must have played crucial role in the clandestine removal of the remaining goods which were seized under panchnama by the investigating agency after all he was appointed for accomplishing that particular task only. However, since the theft of the remaining seized under panchnama dated 14.07.2023 from Allsan Shipping and Logistics Pvt. Ltd. is being investigated by Bond Section, JNCH, CIU, JNCH and also Panvel City Police Station, and has not been dealt with, in the subject Show Cause Notice, I do not want the pre-empt the investigation which is being carried out by the said agencies and therefore, I stop short from holding Shri Sagar Bangar responsible for it.

4.98 I find that even though no goods covered under the Show Cause Notice under consideration were replaced during the tenure of Shri Sagar Bangar, however for his acts of omission and commission in the attempt to clandestinely remove the goods from the Customs Area having value of Rs. 3,60,06,856/-, seized under seizure memo dated 14.07.2023 read with Panchnama proceedings dated 14.08.2023-18.08.2023, I hold Shri Sagar Bangar liable for penalty under Section 117 of the Customs Act, 1962.

**Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods of M/s Highland International clandestinely removed of and having value Rs. 4,99,60,326/-, should be imposed on Peejaycee and Co. (CHA License No. 11/2509 and whether action should be taken against them under Customs Broker Licensing Regulations, 2018**

4.99 I find that M/s Peejaycee and Co. acted as the Customs Broker (CHA) in relation to the import of goods on behalf of M/s Highland International. During the investigation, it was revealed that Shri Musha Dawood Kumbhar, proprietor of M/s Peejaycee and Co., was approached by Shri Anil Giri, an employee of Shri Uday Sharma, who requested him to undertake the Customs clearance of the said imports. Thereafter, the imported goods of M/s Highland International were put on hold by CIU, JNCH and subsequently warehoused at M/s Allsan Shipping and Logistics Pvt. Ltd., from where they were clandestinely removed.

4.100 I find that during investigation, it was revealed that M/s Highland International was fictitious and non-existent, firm created using fabricated addresses which was utilized for affecting imports of Dried Areca

nuts and black pepper which were removed clandestinely from Allson Shipping & Logistics Pvt. Ltd. The documents regarding imports by this entity were provided to Shri Uday Sharma by Shri Pankaj on the directions of Shri Kirty Raj Singh. Shri Uday Sharma through his associate Shri Anil Kumar Goswami alias Anil Giri handed these documents including KYC documents to the CHA M/s Peejaycee & Co. representative Shri Musha Dawood Kumbhar. These documents were eventually utilized to affect the import of goods on behalf of M/s Highland International. In this case, as enumerated above, the Customs Broker failed to comply with the Customs Act, 1962 as well as CBLR Regulations.

4.101 I find that by virtue of the responsibilities cast upon them by Customs Broker Licensing Regulations, 2018, the CHA M/s Peejaycee and Co. were duty bound to do due diligence in verifying the KYC documents including address verification of the importer of whom they were handling customs related work. Furthermore, since the underlying goods areca nuts and black pepper are sensitive items for import by virtue of high Customs duty imposed upon them, the responsibility was even greater. However, I find that M/s Peejaycee and Co. failed in its due diligence, as it did not verify the authenticity of M/s Highland International, and instead dealt with Shri Pankaj, who was acting under the coordination of Shri Kirty Raj Singh and Shri Prasad Kurhade, despite clear indications that they were not the actual importers. This failure enabled the import, storage at Allsan Shipping and Logistics Pvt. Ltd., and eventual clandestine removal of the goods without payment of applicable Customs duty. Had the CHA M/s Peejaycee and Co. done their duties properly, the nefarious act of import and shifting to Allsan Shipping and Logistics Pvt. Ltd. of black pepper and areca nuts by M/s Highland International for its eventual clandestine removal at the later date would have never materialized. However, since full cooperation was extended by M/s Peejaycee and Co., Shri Prasad Kurhade and his accomplice were able import and shift the goods i.e. areca nuts and black pepper to Allsan Shipping and Logistics Pvt. Ltd. and later remove the same clandestinely without payment of applicable customs duty. To support my view, I rely on the following judgments:

4.102 The Hon'ble Madras High Court in case of M/s Cappithan Agencies Versus Commissioner of Customs, Chennai-Viii, [2015(326) ELT 0150 Mad.], had held that:

*“13. The very purpose of granting a licence to a person to act as a Customs House Agent is for transacting any business relating to the entry or departure of conveyance or the import or export of goods in any customs station. For that purpose, under Regulation 9 necessary examination is conducted to test the capability of the person in the matter of preparation of various documents determination of value procedures for assessment and payment of duty, the extent to which he is conversant with the provisions of certain enactments, etc. Therefore, the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as CHA,*

*it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such position by the CHA will have far reaching consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed.*

14. *In view of the above discussions and reasons and the finding that the petitioner has not fulfilled their obligations under above said provisions of the Act, Rules and Regulations, the impugned order, confirming the order for continuation of prohibition of the licence of the petitioner is sustainable in law, which warrants no interference by this Court. Accordingly, this writ petition is dismissed."*

4.103 Further, I rely upon the judgment of Hon'ble CESTAT Delhi in case of M/S. Rubal Logistics Pvt. Ltd. Versus Commissioner of Customs (General) wherein in para 6.1. Hon'ble Tribunal held as under:

*"Para 6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advise the client accordingly. Though the CHA was accepted as having no mensrea of the noticed mis-declaration /undervaluation or mis-quantification but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CH definitely has committed violation of the above mentioned Regulations. These Regulations caused a mandatory duty upon the CHA, who is an important link between the Customs Authorities and the importer/exporter. Any dereliction/lack of due diligence*

*since has caused the Exchequer loss in terms of evasion of Customs Duty, the original adjudicating authority has rightly imposed the penalty upon the appellant herein."*

4.104 I rely on the judgment of Hon'ble Supreme Court in the case of Commissioner of Customs Versus M/s K M Ganatra & Co as reported in 2016 (2) TMI 478 - SUPREME COURT held as under:

*"15. In this regard, Ms. Mohana, learned senior counsel for the appellant, has placed reliance on the decision in Noble Agency v. Commissioner of Customs, Mumbai 2002 (142) E.L.T. 84 (Tri. - Mumbai) wherein a Division Bench of the CEGAT, West Zonal Bench, Mumbai has observed:-*

*"The CHA occupies a very important position in the Custom House. The Customs procedures are complicated. The importers have to deal with a multiplicity of agencies viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the Government Agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations. ..."*

*We approve the aforesaid observations of the CEGAT, West Zonal Bench, Mumbai and unhesitatingly hold that this misconduct has to be seriously viewed."*

4.105 I also place reliance in the precedence laid down by the CESTAT Hyderabad while highlighting the criticality of the role of Customs Broker, in the case of Shakelly Venkat Chand Vs Commissioner of Customs, Vijayawada arising out of Customs Appeal No. 31287 of 2018 wherein it has been held that

*"7. The moot question for deciding in this Appeal is whether in the facts of the case, the Appellant viz., Shri Shakelly Venkat Chand was acting in good faith, exercising due diligence or there was any mala fide intent in tacitly helping the importer to clear the consignment, which was found to be grossly mis declared. The role of **the Customs Broker is very crucial in the process of clearance of goods as they are required to do due diligence before facilitating filing of relevant documents for clearance of goods. As a regular Customs Broker, it is not expected that he would accept any document including KYC in a mechanical manner.** He is expected to exercise due diligence to satisfy about the bonafide of the importer and the documents submitted by him. The employee of the Customs Broker in the instant case has in fact noted and admitted that there was some kind of impersonation and that should have alerted him and he should have brought to the notice of the Customs Authority immediately, instead he remained*

*silent. This is the admitted position in the statement given by the Appellant and the Appellant is also not denying this fact nor giving any substantive reason about him being silent about the impersonation in the first place. He is responsible for the act of his employee also who is misrepresenting the CHB before the Customs Authorities.....”*

4.106 In the nutshell, I find that M/s CB M/s Peejaycee and Co. who attended to Customs Clearance on behalf of importer M/s Highland International have failed in discharging their duties and despite knowing or having reason to believe that the impugned goods imported are liable to confiscation under section 111 of the Customs Act, 1962 and aided the importer M/s Highland International in clearing the impugned goods. Therefore, I find that M/s Peejaycee and Co. rendered itself liable for penal action under Section 112(b) of the Customs Act, 1962 in respect of the goods having a value of Rs. 4.99 Cr. which were clandestinely removed from the Customs area without the payment of Customs duty by doing the Customs Clearance work for M/s Highland International without due diligence.

4.107 Furthermore, I find that the CHA occupies a very important position in the Customs House, as the customs procedures are complex and involve interaction with multiple agencies such as carriers, custodians like BPT, and Customs authorities. It would be practically impossible for an importer to clear goods through these agencies without expending considerable time and effort. The CHA is, therefore, expected to act as a vital link and to safeguard the interests of both the importers and the Customs. A high degree of trust is reposed in the CHA by importers/exporters as well as by Government agencies. To ensure proper discharge of this trust, the relevant regulations have been framed. Customs Broker Licensing Regulations, 2018 clearly prescribes the obligations to be fulfilled by the CHA. Any contravention of these obligations, even in the absence of mala fide intent, is sufficient to attract penal consequences as provided under the Regulations. This position was also held by Hon'ble CESTAT, Mumbai in the case of Noble Agency Versus Commissioner of Customs, Mumbai [2002 (142) E.L.T. 84 (Tri. - Mumbai)], wherein it was held that a CHA is expected to act with utmost diligence and that negligence itself is sufficient to invite action taken. Same has also been affirmed by the Hon'ble Supreme Court in Commissioner of Customs v. K.M. Ganatra & Co. reported in 2016 (332) E.L.T. 15 (S.C.) [14-01-2016]. In the instant case, I find that M/s Peejaycee and Co. failed in its due diligence, as it did not verify the authenticity of M/s Highland International, and instead dealt with Shri Pankaj, who was acting under the coordination of Shri Kirty Raj Singh and Shri Prasad Kurhade, despite clear indications that they were not the actual importers. Therefore, I find that action under Customs Broker Licensing Regulations, 2018 is warranted against M/s Peejaycee and Co.

**Whether or not penalty under Section 112(b) of the Customs Act, 1962, in respect of the goods clandestinely removed and having value Rs. 6,33,21,600/-, liable for confiscation under Section 111(j) of the Customs Act, 1962, should be imposed on M/s OSGL Overseas, SEZ entity at Kandla**

**SEZ and its partner Shri Swaroop Shridhar Shetty.**

4.108 I find that M/s OSGL Overseas was an SEZ entity which was used, for the purpose of bringing the said goods from outside of India into Kandla SEZ and subsequently, M/s OSGL Overseas deemed exported the said goods to the local buyer and then the said importer exported the goods from SEZ to Public Bonded Warehouse under Section 46(13) of SEZ Rules, 2006, into Allsan Shipping and Logistics Pvt. Ltd. I find that M/s OSGL had two partners Shri Akash Dilip Bhojne and Shri Swaroop Shridhar Shetty.

4.109 I find that during his statement recorded under Section 108 of the Customs Act, 1962, Shri Akash Dilip Bhojne stated that he didn't know anything about M/s OSGL Overseas (IEC- AAHFO4006B) and he didn't know anything about the import-export activity being done by this company. He didn't know about the fact that he was a partner in the company M/s OSGL Overseas (IEC- AAHFO4006B). He also stated that in the month of October 2021, his childhood friend Shri Swaroop Shetty told him that he (Swaroop) wanted to start an export company. He then told that to open the said export company he had to make another partner of 1% share and told him (Akash) that it is legally required to make a partner. He then asked him (Akash) to become a partner in the said company. After his repeated requests, he (Akash) accepted the offer as he (Swaroop) was his childhood friend. Then Shri Swaroop Shetty took his KYC documents i.e. Aadhar Card, PAN Card and photo. He never shared the company name to him (Akash) which was to be opened. After giving the documents, he (Swaroop) never told that any company was opened in their partnership or not and he (Akash) thought that the company was not opened. From the above statement of Shri Akash Dilip Bhojne, I find that his KYC documents have been misused by Shri Swaroop Shridhar Shetty to make him partner of M/s OSGL Overseas, albeit, only on paper. All the work of M/s OSGL Overseas was handled by Shri Swaroop Shridhar Shetty only. I find that during investigation, it was informed by Deputy Commissioner of Customs, Kandla SEZ, also that Shri Swaroop Shetty, Partner of M/s OSGL Overseas, was the concerned person who approached for examination and fulfilling other customs procedures for the import of M/s OSGL Overseas at Kandla SEZ.

4.110 Shri Akash Dilip Bhojne further stated under Section 108 that Shri Swaroop Shetty frequently mentioned a person named Shri 'Singh', describing him as politically well-connected and engaged in the export-import business of carpets and black pepper. Investigation revealed that Shri Swaroop Shetty was closely associated with Shri Kirty Raj Singh, a key figure in the clandestine removal of goods from the Allsan bonded warehouse. This close association is evidenced by Shri Swaroop Shetty acting as a witness in a property sale deed of Shri Kirty Raj Singh and his wife, which demonstrates a significant personal and professional link.

4.111 Considering the above, it is clear that M/s OSGL Overseas was part of a coordinated scheme involving Shri Swaroop Shetty and Shri Kirty Raj Singh to import black pepper and areca nuts through Kandla SEZ, which were then transferred bond-to-bond to Allsan Shipping and Logistics Pvt. Ltd. for clandestine

removal from the Customs area. Despite repeated summonses, personal hearing memos, and investigation visits, Shri Swaroop Shridhar Shetty failed to appear, suggesting an unwillingness to defend his position.

4.112 In view of the same, I find that Shri Swaroop Shridhar Shetty created a firm which was instrumental in import of goods through Kandla SEZ, and later the same goods were bond to bond transferred from Kandla SEZ to Allsan warehouse. Further, I find that Shri Swaroop Shridhar Shetty was working in close co-ordination with Shri Kirty Raj Singh who was involved in the clandestine removal of the goods from Allsan warehouse. Therefore, I find that Shri Swaroop Shridhar Shetty, was involved in the whole conspiracy of import of goods from Kandla SEZ and their later clandestine removal from Allsan warehouse. Therefore, their acts of omission and commission in the clandestine removal of the goods having a value of Rs. 6.33 Cr. from the Customs Area and replacing the said goods with goods having negligible commercial value, have rendered the said goods liable for confiscation under Section 111, and in doing so M/s OSGL Overseas and its partner Shri Swaroop Shridhar Shetty have made themselves liable for penalty under Section 112 (b) of the Customs Act, 1962.

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

### **ORDER**

- i. I order confiscation of the goods having value of Rs. 11,32,81,926/- (Rupees Eleven Crore, Thirty-two Lacs, Eighty-one Thousand, Nine Hundred and Twenty-six only) under Section 111(j) of the Customs Act, 1962 (as detailed in Table-14 above) which were removed clandestinely from the customs area and replaced with the goods having negligible value. However, in lieu of confiscation, I impose a redemption fine of Rs. 3,00,00,000/- (Rs. Three Crore only) on Shri Prasad Kurhade under Section 125(1) of the Customs Act, 1962.
- ii. I confirm demand and order recovery of the customs duty amounting to Rs. 5,91,38,223/- (Rupees Five Crore, Ninety-one lacs, Thirty-eight Thousand, Two Hundred and Twenty-three only) under Section 28(4) read with Section 72(1) (wherever applicable) of the Customs Act, 1962 along with the applicable interest under section 28AA of the Customs Act, 1962, from Shri Prasad Kurhade, in respect of the goods of M/s Highland International, which were clandestinely removed from M/s Allsan Shipping and Logistics Pvt. Ltd warehouse (NSA 1U 168) as per Table No.15 above.
- iii. I confirm demand and order recovery the customs duty amounting to Rs. 5,43,61,594/- (Rupees Five Crore, Forty-three lacs, Sixty-one Thousand, Five Hundred and Ninety-four only) under Section 28(4) read with Section 72(1) (wherever applicable) of the Customs Act, 1962, along with the applicable interest under section 28AA of the Customs Act, 1962 from Shri Prasad Kurhade, in respect of the

goods of M/s Alpha Industries, which were clandestinely removed from M/s Allsan Shipping and Logistics Pvt. Ltd warehouse (NSA 1U 168) as per Table No.15 above.

- iv. I impose penalty of Rs. 1,00,00,000/- (Rupees One Crore only) under Section 112 (a) of the Customs Act, 1962 and penalty of Rs. 33,00,00,000/- (Rupees Thirty-three Crore only) under Section 114AA of the Customs Act, 1962 on Shri Prasad Kurhade, in respect of the goods having value of Rs. 11,32,81,926/-, which were clandestinely removed.
- v. I impose penalty of Rs.1,00,00,000/- (Rupees One Crore only) under Section 112 (b) of the Customs Act, 1962 and penalty of Rs. 25,00,00,000/- (Rupees Twenty-five Crore only) under Section 114AA of the Customs Act, 1962, on Shri Kirty Raj Singh in respect of the goods having value of Rs. 11,32,81,926/- which were clandestinely removed.
- vi. I impose penalty of Rs. 75,00,000/- (Rupees Seventy-five lacs only) under Section 112 (b) of the Customs Act, 1962 and penalty of Rs. 10,00,00,000/- (Rupees Ten Crore only) under Section 114AA of the Customs Act, 1962 on Shri Karan Singh alias Pankaj, in respect of the goods having value Rs. 11,32,81,926/- which were clandestinely removed.
- vii. I impose penalty of Rs. 25,00,000/- (Rupees Twenty-five lacs only) under Section 112 (b) of the Customs Act, 1962 and penalty of Rs. 5,00,00,000/- (Rupees Five Crore only) under Section 114AA of the Customs Act, 1962 on Shri Vinay Mishra, in respect of the goods having value Rs. 11,32,81,926/- which were clandestinely removed.
- viii. I impose penalty of Rs. 10,00,000/- (Rupees Ten lacs only) under Section 112 (b) of the Customs Act, 1962 on M/s Highland International (IEC- AAMFH8931M) in respect of the goods having value Rs. 4,99,60,326/-, which were clandestinely removed.
- ix. I impose penalty of Rs. 15,00,000/- (Rupees Fifteen Lacs only) under Section 112 (b) of the Customs Act, 1962 on M/s Alpha Industries (IEC- ABYFA3809L), in respect of the goods having value Rs. 6,33,21,600/-which were clandestinely removed.
- x. I impose penalty of Rs. 15,00,000/- (Rupees Fifteen Lacs only) under Section 112 (b) of the Customs Act, 1962 on M/s Blue I Store (IEC- AVTPB0390E), in respect of the goods having value Rs. 6,33,21,600/- which were clandestinely removed.
- xi. I impose penalty of Rs. 50,00,000/- (Rupees Fifty lacs only) under Section 112 (b) of the Customs Act, 1962 and penalty of Rs.10,00,00,000/- (Rupees Ten crore only) under Section 114AA of the Customs Act, 1962 on Shri Sanjay Vithoba Sable, in respect of the goods having value of Rs. 11,32,81,926/-

which were clandestinely removed.

- xii. I impose penalty of Rs. 25,00,000/- (Rupees Twenty-five lacs) under Section 112 (b) of the Customs Act, 1962 and penalty of Rs. 5,00,00,000/- (Rupees Five crore only) under Section 114AA of the Customs Act, 1962 on Shri Allwyn Saldanha, in respect of the goods having value Rs. 11,32,81,926/-, which were clandestinely removed.
- xiii. I impose penalty of Rs. 2,00,000/- (Rupees Two lacs only) under Section 112 (b) of the Customs Act, 1962, on Shri Uday Sharma, in respect of the goods having value Rs. 4,99,60,326/- of M/s Highland International which were clandestinely removed.
- xiv. I impose penalty of Rs. 4,00,000/- (Rupees Four lacs only) under Section 117 of the Customs Act, 1962 on Shri Sagar Bangar, in respect of the goods having value Rs. 3,60,06,856/- which were attempted to be removed.
- xv. I impose penalty of Rs. 2,00,000/- (Rupees Two lacs only) under Section 112(b) of the Customs Act, 1962 on Peejaycee and Co. (CHA License No. 11/2509), in respect of the goods having value Rs. 4,99,60,326/-, of M/s Highland International which were clandestinely removed.
- xvi. I order action against Peejaycee and Co. (CHA License No. 11/2509) to be taken under Customs Broker Licensing Regulations, 2018.
- xvii. I impose penalty of Rs. 15,00,000/- (Rupees Fifteen Lacs only) under Section 112 (b) of the Customs Act, 1962 on M/s OSGL Overseas, SEZ entity at Kandla SEZ, in respect of the goods having value Rs. 6,33,21,600/- which were clandestinely removed.
- xviii. I impose penalty of Rs.30,00,000/- (Rupees Thirty lacs only) under Section 112 (b) of the Customs Act, 1962 on Shri Swaroop Shridhar Shetty, Partner of M/s OSGL Overseas, SEZ entity at Kandla SEZ, in respect of the goods having value Rs. 6,33,21,600/- which were clandestinely removed.

This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/ firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

**(यशोधन अरविंद वनगे /Yashodhan Arvind Wanage)**  
**प्रधान आयुक्त सीमा-शुल्क/ Pr. Commissioner of Customs**  
**एनएस-1, जेएनसीएच / NS-1, JNCH**

To,

1. Shri Prasad Kurhade, Sadhguru Sparsh Building, Room No. 202, Plot No. 268,  
Sector-6, Nerul (West), Mumbai- 400706.  
Mobile No.-9372452259, Email [Id-pkurahade@gmail.com](mailto:Id-pkurahade@gmail.com).
2. Shri Kirty Raj Singh S/o Prof Daya Shanker Singh,  
N9/36 D, Lion Nagari,  
Newada, Sunderpur, Varanasi,  
Uttar Pradesh-221005
3. Shri Karan Singh alias Pankaj,  
House no 1/12, B-11 Nagwa Lanka,  
Gangotri Vihar Colony,  
Varanasi, Hindu Vishvavidhyalaya,  
UP-221005
4. Shri Vinay Mishra  
Room 463 Indranagar, Turbhe,  
MIDC, Navi Mumbai, Juinagar-400705
5. Shri Vinay Mishra  
Town Village Sikatia, Anchal, Maharajganj,  
District Siwan, Bihar-841244
6. M/s Highland International (IEC-AAMFH8931M)  
Office No. 208, Plot No-26, 2nd Floor,  
Vikas Royal Arcade, Road No-44, Community Center Pitampura,  
North West Delhi, Delhi-110034.

7. M/s Highland International (IEC-AAMFH8931M)  
Office No. 36, Block-A,  
Pocket-1, Sector-7, Rohini, New Delhi.  
Registered Mobile No.- 9818015473. Registered Email Id- highlandinternational314@gmail.com
8. M/s Alpha Industries (IEC-ABYFA3809L),  
Office No-27-L, Block A, Sector 16, Noida,  
Gautam Buddha Nagar, Uttar Pradesh, 201301
9. M/s Alpha Industries (IEC-ABYFA3809L),  
Office no. 111, Vardhaman Seven Eleven Plaza,  
LSC II, Rohini, Sector-7, Delhi-110086  
Registered Mobile No.- 8130829531, 9205046810  
Registered Email id- [info.alphaindustries.info@gmail.com](mailto:info.alphaindustries.info@gmail.com)
10. M/s Blue I Store (IEC-AVTPB0390E),  
Lower Ground Floor, WZ-13-D/3,  
Shop No. 2, Asalatpur,  
Janakpuri, New Delhi, West Delhi, Delhi-110058.
11. M/s Blue I Store (IEC-AVTPB0390E),  
Unit 1133, Tower-B, Plot No.-1, Alphathum,  
Noida World One, Sector- 90, Noida,  
Gautam Buddh Nagar UP-201305  
Registered Mobile No. 8130620337, 8808359394  
Registered Email id- blueistore4@gmail.com
12. Shri Sanjay Vithoba Sable (Director of M/s Allsan Shipping and Logistics Pvt Ltd)  
Building No-2, Room No. 203,  
Mangesh Apartment, Sector-16,  
New Panvel, Raigad- 410206.  
Mobile Phone No. 9987318321,  
E-mail ID: [sanjay@Allsanlogistics.in](mailto:sanjay@Allsanlogistics.in)
13. Shri Allwyn Saldanha (Director of M/s Allsan Shipping and Logistics Pvt. Ltd)  
507, Bhawani Peth, Harkanagar, Pune-411002

Mobile No.- 9970092527, Email Id- allwyns2007@rediffmail.com.

14. Shri Uday Sharma,  
Building No.-111, Flat no. 103,  
K.K. Solitior, Ulwe, Sec-20, Targhar, Raigarh, Maharashtra-410206.  
Phone no. Phone No. 8169868321, 9892033089, 9321406068
15. Shri Sagar Bangar,  
Flat No 203, Deepjyot CHS Ltd.,  
Plot No.- 25, Sector-19, Ulwe,  
Navi Mumbai-410206.
16. Shri Sagar Bangar,  
At Post Pimpalgaon Khadki, Taluka Ambegaon,  
District Pune
17. Peejaycee and Co. (CHA License No. 11/2509),  
Room No. 46, 2nd floor,  
Fancy Building, Masjid Bunder, Old Mumbai -400002.  
Phone no. 9322235096, Email id-mushkumbharcargo@gmail.com
18. M/s OSGL Overseas,  
Shed No. 2, 3 CPWD Type, Phase-1, Sector 1, KASEZ, Kachchh,  
Gandhidham, Gujarat 370230  
Registered Phone no.- 9725460969. Registered email id- overseasosgl@gmail.com
19. Shri Swaroop Shridhar Shetty,  
Shetty House, Shetty Estate,  
Opp Cigarette Factory Chakala,  
Sahar Road, Mumbai-99

**Copy to:**

1. The Addl. Commissioner of Customs, Group II(AB), JNCH
2. AC/DC, Chief Commissioner's Office, JNCH
3. AC/DC, Centralized Revenue Recovery Cell, JNCH
4. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.

5. Customs Broker Section, New Customs House, Ballard Estate., Mumbai-400001
6. ADG, DRI, MZU
7. AC/DC, CIU, JNCH
8. AC/DC, Bond Section, JNCH
9. Office Copy