



सीमाशुल्क आयुक्त -IV (निर्यात) का कार्यालय  
OFFICE OF THE COMMISSIONER OF CUSTOMS-IV (EXPORT)  
हवाई माल परिसर, सहार, अंधेरी (पूर्व), मुंबई - ४०००९९  
AIR CARGO COMPLEX, SAHAR ANDHERI (EAST) MUMBAI -99

F.No. GEN/ADJ/COMM/607/2025-Adin  
S/10-10/2025-26/ADJ(X)/ACC

Date of Order: 01.04.2026  
Date of Issue: 01.04.2026

DIN NO. 20260479OE000083028F

Party's Name: M/s. Rivaa Fashions (IEC-CPZPG5700D)  
(SCN No. 03/Commr./HB/Exp.Assmt./2025-26)

Passed by : Shri Hardeep Batra,  
Commissioner of Customs (Export), Air Cargo Complex, Mumbai-III

CAO NO: CC/HB/01/2026-2027 Adj(X) ACC

मूल आदेश /ORDER-IN-ORIGINAL

- यह प्रति उस व्यक्ति के प्रयोग में लाये जाने के लिए निशुल्क दी जाएगी, जिसके लिए इसे जारी किया गया है।  
This copy is granted free of charge for the use of the persons to whom it is issued.
  - यदि कोई व्यक्ति इस आदेश से असन्तुष्ट हो तो वह मांगे गये शुल्क, जहाँ शुल्क या शुल्क और जुर्माना विवादित हों अथवा जुर्माना जहाँ सिर्फ जुर्माना विवादित हो, के 7.5 प्रतिशत भुगतान के बाद सीमाशुल्क अधिनियम 1962 की धारा 129A के तहत उक्त न्यायाधिकरण के सहायक रजिस्ट्रार को संबोधित करते हुए, सीमाशुल्क, उत्पादशुल्क, सेवा कर न्यायाधिकरण, मुंबई (सी ई एस टी ए टी), पश्चिम क्षेत्रीय शाखा, 34 पी डिमेलो मार्ग, मस्जिद (पूर्व), मुंबई ४००००९, के समक्ष अपील दाखिल कर सकता है।  
Any person aggrieved by this order can file an appeal against this order to Customs, Excise, Service Tax Tribunal, Mumbai (CESTAT), Western Zonal Bench, 34, P.D'Mello Road, Masjid Bunder (East), Mumbai 400009, addressed to the Assistant Registrar of the said Tribunal under Section 129A of the Customs Act, 1962 on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
  - अपील जैसा कि सीमाशुल्क (अपील) नियम, 1982 के नियम 6 में बताया गया है, इन नियमों से संलग्न फॉर्म सी. ए. 3 में की जानी चाहिए। अपील चार प्रतियों में निम्नलिखित के साथ होनी चाहिए:-  
The appeal is required to be filed as provided in Rule 6 of the Customs (Appeal) Rules, 1982 in form C.A. 3 appended to these rules. The Appeal should be in quadruplicate and shall be accompanied by:-
    - विरुद्ध अपील आदेशों की चार प्रतियाँ (कम से कम एक प्रति प्रमाणित होनी चाहिए)  
Four copies of the order appealed against (at least one of which should be a certified copy)
    - न्यायाधिकरण शाखा के सहायक रजिस्ट्रार अथवा शाखा से नजदीक स्थित किसी राष्ट्रीय कृत बैंक के पक्ष में उपयुक्त राशि का एक रेखांकित बैंक ड्राफ्ट  
A crossed Bank Draft of an applicable amount as mentioned below in favour of the Assistant Registrar, CESTAT, Mumbai.
- अ) रु. १,०००/- जहाँ शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५ लाख या कम हो  
Where the amount of duty and interest demanded and penalty imposed is five lakh rupees or less, one thousand rupees.
- आ) रु. ५,०००/- जहाँ शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५ लाख से अधिक पर रु. ५० लाख से ज्यादा न हो  
Where the amount of duty and interest demanded and penalty imposed is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees.
- इ) रु. १०,०००/- जहाँ शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५० लाख से अधिक हो  
Where the amount of duty and interest demanded and penalty imposed is more than fifty lakh rupees, ten thousand rupees.
- अपील, इस आदेश की संसूचना की तिथि से 3 माह के भीतर दाखिल की जा सकती है।  
Appeal can be filed within 3 months from date of communication of this order.
  - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क(अपील) नियम 1982, सीमाशुल्क, उत्पादशुल्क एवं सेवा कर अपील अधिकरण(प्रक्रिया) नियम 1982 का संदर्भ लिया जाए।  
For the provisions of Law and Form as referred above and other related matters. Customs Act, Customs (Appeals) Rules, 1982, Customs, Excise, Service Tax Tribunal (Procedure) Rules, 1982 may be referred.

## BRIEF FACTS OF THE CASE

1.1 The office of Air Preventive Unit, Rummaging & Intelligence, ACC, Mumbai (hereinafter referred to as 'APU, R&I') investigated the exports of garments and made up articles by (a) M/s Stargaze Overseas and (b) M/s Prince Enterprises, which were facilitated by two Customs Brokers (hereinafter referred to as "CB"), namely (i) M/s Navalchand A. Mehta & Bros and (ii) M/s K.C.P.J. International Agency. The investigation revealed that both the above named exporters namely (a) M/s Stargaze Overseas and (b) M/s Prince Enterprises had attempted to export the goods by highly overvaluing these goods with the intention to fraudulently avail inadmissible export incentive i.e. drawback, ROSCTL and refund of IGST. The investigation also revealed that the above two CBs were the mastermind behind such fraudulent exports. Therefore, all the exports facilitated by these two CB's firms through Air Cargo Complex, Sahar, Mumbai were taken up for investigation. Investigation revealed that **M/s. Rivaa Fashions (IEC-CPZPG5700D)**, having address at 209, Floor – 2, 11/15, Regal Arcade Bldg, Tata Rd No 2, Roxy Cinema Opera House, Girgaon, Mumbai, Maharashtra – 400004 was one of such exporters, whose exports were facilitated by the CB M/s Navalchand A Mehta & Bros.

1.2 Accordingly, investigation was initiated against the exporter, **M/s Rivaa Fashions (IEC-CPZPG5700D)** and its proprietor Shri Deepak Gurjar. On verification made by the officers of Customs (P) under Panchnama dated 28.01.2020, the declared address of the exporter was found locked and no sign board bearing the name of M/s Rivaa Fashions was available at the said address. On enquiry with local occupants close by and the lifeman, it was found that the said premise was closed since past few years. As such, it is evident that no firm/company in the name of M/s Rivaa Fashions existed in the said premises.

1.3 Further, vide letter dated 05.03.2020, Manager, Union Bank of India, Duncan Rd, Branch 249/251, Maulana Azad Road, Mumbai-400008 was requested to provide the address of the exporter as per bank records, KYC documents submitted by the exporter at the time of opening bank account no. 379801010296875 (IFSC- UBIN0537985) bearing the name of M/s Rivaa Fashions, transaction details of the said bank account during last three years and current available amount in the said bank account.

1.3.1 In response, the Union Bank of India, provided all the requisite documents wherein the above address, i.e. 11/15 Regal Arcade Building, 209, Floor 2, Roxy Cinema, Tata Road 01, Opera House, Girgaon, Mumbai – 400004, Maharashtra was mentioned as the address of the

exporter. As per the Bank Statement, a total balance of Rs. 1,04,70,987/- was shown. Vide another letter dated 30.07.2020, the Bank was requested to freeze the debit transactions in the exporter's Account No. 379801010296875 (IFSC Code UBI0537985).

1.3.2 Vide another letter dated 05.01.2023, the bank was requested to inform, whether the said account is operative or otherwise; the available balance in the account as on date; whether the said bank account has been frozen by any other Govt. agency or otherwise and if seized, the name and communication done with the said agency in last three years and intimating the details thereof.

1.3.3 The Bank vide mail dated 06.01.2023 has informed that the said account is in-operative as on date; that the available balance in the account is Rs. 1,04,70,987/- (which is the same amount as communicated earlier by the bank); that the account has been frozen by other Govt. agency also but name of agency has not been specified; that no debit transaction has been effected from the account in the last three years.

1.4. As M/s Rivaa Fashions (IEC-CPZPG5700D) was a non – existent unit and operating through Air Cargo Complex (ACC), vide letter dated 05.08.2020, Deputy Commissioner of Customs, BRC/Drawback Cell, Air Cargo Complex, Sahar, Andheri (E), Mumbai, was requested to withhold the Drawback and other export incentives payable to the exporter.

1.5. As no live consignment for export was available/examined but from the investigation, it is revealed that M/s Rivaa Fashions (IEC-CPZPG5700D) is a non-existent firm engaged in fictitious exports for fraudulently availing the export incentives. Therefore, vide letters dated 22.07.2022, 24.08.2022 and 17.10.2022 EDI Section, ACC, Sahar, Andheri (E), Mumbai was requested to provide the details of Shipping Bills filed by the said exporter for the period from 01.04.2017 to 22.07.2022 and the benefits availed thereon viz., IGST, Drawback, ROSL, MEIS etc.

1.6 As per information provided by the EDI, M/s Rivaa Fashions (IEC-CPZPG5700D) had fraudulently made exports of goods namely garments and made up articles etc. by filing 156 Shipping Bills from Air Cargo Complex, Mumbai during the period from 2017-18 to 2021-2022 and had claimed export incentives viz., Drawback, ROSCTL and IGST, totally amounting to Rs. 6,06,02,018/-. However, export incentives viz., IGST amounting to Rs. 51,95,301/- and Drawback amounting to Rs. 52,67,567/- for the year 2019-2020 only, was disbursed to the exporter in respect of 156 Shipping bills having total declared FOB value of Rs.

38,70,22,215/- of goods. The details of 156 Shipping bills and export incentives claimed viz. Drawback, ROSCTL and IGST is enclosed with Annexure 'A' to the Show Cause Notice. The summarized year-wise position is as below:

Sr No	Total I no. of S/Bs	Total FOB Amount (in Rs.)	Year	Total Claimed Amount (in Rs.)			Year	Total Disbursed Amount (in Rs.)		
				Drawbac k	IGST	ROSCT L		Drawbac k	IGST	ROSCT L
1	156	38,70,22,215	2019-20	55,52,049	5,08,56,495	41,93,474	2019-20	52,67,567	51,93,301	-----
	Total amount of export incentives claimed			Rs. 6,06,02,018/-				Total amount of export incentives disbursed		Rs. 1,04,62,868/-

1.7. The exporter, M/s Rivaa Fashions was disbursed the drawback under Customs and Central Excise Duty Drawback Rules, 2017. As per Rule 18 sub-Rule (1)(2) of and Central Excise Duty Drawback Rules, 2017, the exporter is under obligation to produce evidence to show that the sales proceeds (Foreign exchange) in respect of the goods exported have been realized within the time limit prescribed under the Foreign Exchange Management Act, 1999.

1.8. As mentioned in above paras, M/s Rivaa Fashions was found to be a non-existent firm and even the summons dated 18.09.2020 and 13.10.2022 sent at the declared address of M/s Rivaa Fashions were returned undelivered by the Postal Authority with remarks as, "incomplete address". As a result, no evidence as regards realization of export proceeds was submitted either by the exporter or the Custom Brokers.

1.9 Further, from the e-BRC status on DGFT website and the data retrieved from ICES 1.5 (RUD-3), it is noticed that the foreign exchange inward remittance involved in the goods exported under the said Shipping Bills, has not been realized by the exporter even after expiry of the prescribed time-limit or any extended period granted by the Reserve Bank of India at the request of the exporter. There is no document on record that the exporter did seek any such extension from the Reserve Bank of India.

1.10 Moreover, in response to Summons issued on 30.11.2022 to the Customs Broker, M/s Navalchand A Mehta & Bros, no one in person attended. However, the Customs Broker replied vide their letter received in section on 09.12.2022 that they submitted all the documents vide Panchnama on 04.01.2020 and all original documents/KYC/Statement were taken by the department. They further added that if there are any requirement for the document of all the

parties it can be get from their forwarder M/s Prime Cargo Movers having office at : - Kukreja Concorde, 608, 6<sup>th</sup> floor, Plot No 66A, Next to Dikap College, Near Vijaya Bank, Sector 11, CBD Belapur, Navi Mumbai, Maharashtra 400614. Further, there was no company found in the name of M/s Rivaa Fashions on the address mentioned in IEC during address verification done by the officers. Therefore it appears that the Customs Broker, M/s Navalchand A Mehta & Bros did not verify the KYC details of the exporter, M/s. Rivaa Fashions (IEC CPZPG5700D) as mandated under the Customs Broker Licensing Regulation, 2018 and they were consciously and intentionally involved in assisting the fraudulent exports with FOB value of Rs. 38,70,22,215/- in the name of bogus exporter's firm to claim ineligible IGST refund, Drawback and other export benefits in violation of Section 50 of the Customs Act, 1962. Rule 10 (n) of the Customs Broker Licensing Regulations, 2018 mandates the obligations of Customs Broker to verify correctness of Importer- Exporter Code (IEC) number, Goods and Service Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. The verification of the address of the IEC holder is necessary for the Customs Brokers and failing to perform these duties is a violation of the above provisions and would attract action under Customs Broker Licensing Regulations, 2018.

1.11 In terms of Boards Circular No. 5 of 2009 Customs dated 02.02.2009 vide F. No. 609/167/2003-DBK, the exporter is required to submit the proof of export realization to the Custom House within the stipulated time-limit. However, the exporter in the subject has not submitted such documents showing the realization of the export proceeds.

1.12. As the exporter had not made declaration truthfully in the said 156 Shipping Bills as mentioned above, they have violated the provisions of Section 50(2) of the Customs Act, 1962. Hence, it appears that there was a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods, on the part of the exporter with mala-fide intention to claim undue export incentives. The collective FOB value of all the 156 Shipping Bills is Rs 38,70,22,215/-, and claimed export incentives amount is Rs. 6,06,02,018/- . Thus, it appears that the said goods were exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the Custom Authorities. These acts of omission and commission on part of the exporter have rendered the said goods liable for confiscation in terms of the provisions of Section 113(i),

113(i)(a) and 113 (ja) of the Customs Act, 1962 and Shri Deepak Gurjar, Proprietor of M/s. Rivaa Fashions has rendered himself liable for penal action under Section 114(iii) of the Customs Act, 1962.

1.13 Shri Deepak Gurjar, Proprietor of M/s. Rivaa Fashions has knowingly & intentionally caused to sign & used the declaration, documents which are false & incorrect with respect to value of the goods with malafide intent to avail undue export incentives amounting to Rs. 6,06,02,018/-. Consequently, Shri Deepak Gurjar, Proprietor of M/s. Rivaa Fashions has rendered himself liable for penal action under Section 114 AA of Customs Act, 1962.

1.14 The Customs Broker, M/s Navalchand A Mehta & Bros has failed in its obligation to verify identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. The verification of the address of the IEC holder is necessary for the Customs Brokers and failing to perform these duties is a violation of the above provisions and would attract action under Customs Broker Licensing Regulations, 2018. It also appears that the Customs Broker was involved in the subject fraudulent exports and they masterminded the whole conspiracy. Therefore, M/s Navalchand A Mehta & Bros appears to be liable for penalty under Section 114(iii) and 114AA of the Customs Act 1962 read with Rule 10(n) of the Customs Broker Licensing Regulations, 2018 for causing loss to the government exchequers by way of refund of IGST and other export rewards benefits.

1.15 On the basis of above facts, Show Cause Notice No. CUS/ASS/MISC/333/2023-Exp-Assmt SD/INT/APU/MISC-05/2019-20 - SD/TNT/APU/01/Pt-04/2023-24 was issued issued to :-

1.15.1 M/s. Rivaa Fashions and its proprietor Shri Deepak Gurjar, calling upon them to show cause before the Commissioner of Customs (Export), Air Cargo Complex, Sahar, Mumbai as to why:

- i) The impugned goods having total FOB value of ₹38,70,22,215/- covered under 156 Shipping Bills as mentioned above, should not be held liable for confiscation under Section 113(i), 113(i)(a) and 113 (ja) of the Customs Act, 1962 and Redemption Fine should not be imposed under Section 125 of the Customs Act, 1962.
- ii) The drawback amount of Rs. 55,52,049/- claimed for the goods covered under 156 Shipping Bills, should not be rejected and recovered as per the provisions of Section 75 of the Customs Act, 1962 and Rule 18 of the Customs, Central Excise Duty Drawback Rules, 2017 on the grounds of export realization not received.

- iii) The drawback amount of Rs. 52,67,567/- already disbursed should not be demanded as ineligible drawback availed, in terms of Section 75 of the Customs Act, 1962 read with the Rule 18 of Customs, Central Excise Duty Drawback Rules, 2017.
- iv) Interest should not be demanded under Sec. 75A(2) of the Customs Act, 1962 against the ineligible drawback availed by the exporter.
- v) The claimed ROSCTL of Rs. 41,93,474/- for goods covered under the said 156 Shipping Bills, should not be denied and rejected as per the CBIC Circular No. 43/2016 Cus dated 31<sup>st</sup> August 2016, read with the Customs, Central Excise Duty Drawback Rules, 2017.
- vi) The Undisbursed IGST amounting to Rs. 4,56,61,194/- should not be withheld under Rule 96(4)(b) of the CGST Rules, 2017 on the grounds of export of goods in violation of the provisions of the Customs Act, 1962.
- vii) Penalty should not be imposed on Shri Deepak Gurjar, Proprietor of M/s. Rivaa Fashions for the various acts of omission and commission under Section 114(iii) and 114AA of the Customs Act, 1962, read with Section 7 & 11 of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11, 12, 14 of the Foreign Trade (Regulation) Rules, 1993.
- viii) The amount recoverable from M/s Rivaa Fashions and its Proprietor, Shri Deepak Gurjar should not be appropriated from the balance Rs. 1,04,70,987/- available in exporter's Account No. 379801010296875 (IFSC Code UBIN0537985).

**1.15.2** Customs Brokers M/s. Navalchand A Mehta & Bros (11/96) was called upon to show cause before the Commissioner of Customs(Export), Air Cargo Complex, Sahar, Mumbai as to why:

- i. Penalty should not be imposed on M/s Navalchand A Mehta & Bros. for the various acts of omission and commission under Section 114(iii) and 114AA of the Customs Act, 1962, read with Rule 10(n) of the Customs Broker Licensing Regulations, 2018.

**1.15.3** Further, I observe that, pursuant to the corrigendum dated 02.02.2026 issued under Section 154 of the Customs Act, 1962 to the Show Cause Notice No. 03/Commr./HB/Exp. Assmt./2025-26 dated 07.07.2025, para 13(v) of the said Show Cause Notice stands corrected. Accordingly, the contents of para 13(v) are to be read as under:

In place of the original proposal that the claimed ROSCTL amount of Rs. 41,93,474/- in respect of goods covered under 156 Shipping Bills should not be denied or rejected in terms of CBIC Circular No. 43/2016-Cus dated 31.08.2016 read with the Customs and Central Excise Duties Drawback Rules, 2017. it was clarified that the ROSCTL benefit amounting to Rs. 41,93,474/- claimed in the said 156 Shipping Bills should not be denied or rejected in terms of CBIC Circular No. 43/2016-Cus dated 31.08.2016, read with CBIC Circular No. 10/2019-Cus dated 12.03.2019, CBIC Notification No. 77/2021-Customs (N.T.) dated 24.09.2021, Ministry of Textiles Notification No. 14/26/2016-IT (Vol. II) dated 07 & 08.03.2019, Ministry of Textiles Notification No. 12015/11/2020-TTP dated 13.08.2021, and CBIC Circular No. 22/2021-Cus dated 30.09.2021, further read with the Customs and Central Excise Duties Drawback Rules, 2017. Section 75 of the Customs Act, 1962, and Regulation 8 of the Electronic Duty Credit Ledger Regulations, 2021.

## **2. Legal Provisions:**

### **2.1 Regulation 3(1) of Foreign Exchange Management (Export of Goods and Services) Regulation, 2000-**

#### **3. Declaration of exports: -**

*(1) In case of exports taking place through Customs manual ports, every exporter of goods or software in physical form or through any other form, either directly or indirectly, to any place outside India, other than Nepal and Bhutan, shall furnish to the specified authority, a declaration in one of the forms set out in the Schedule and supported by such evidence as may be specified, containing true and correct material particulars including the amount representing –*

*(i) the full export value of the goods or software; or*

*(ii) if the full export value is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions expects to receive on the sale of the goods or the software in overseas market, and affirms in the said declaration that the full export value of goods (whether ascertainable at the time of export or not) or the software has been or will within the specified period be, paid in the specified manner.*

### **2.2 Regulation 9 of Foreign Exchange Management (Export of Goods and Services) Regulation, 2000-**

#### **9. Period within which export value of goods/software/ services to be realized :-**

*(1) The amount representing the full export value of goods / software/ services exported shall be realized and repatriated to India within nine months or within such period as may be specified by the Reserve Bank, in consultation with the Government, from time to time, from the date of export, provided*

### **2.3 Rule 14 of the Foreign Trade (Regulation) Rules, 1993**

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

*(1) 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.*

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

#### 2.4 Rule 11 of the Foreign Trade (Regulation) Rules, 1993

##### *11. Declaration as to value and quality of imported goods. –*

*On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.*

#### 2.5 Section 11 of Foreign Trade (Development and Regulation) Act, 1992 as amended in 2010-

##### *11. Contravention of provisions of this Act, rules, orders and foreign trade 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 foreign trade policy for the time being in force.*

#### 2.6 Section 7(1) of Foreign Exchange Management Act, 1999

##### *7. Export of goods and services.—*

*(1) Every exporter of goods shall—*

*(a) furnish to the Reserve Bank or to such other authority a declaration in such form and in such manner as may be specified, containing true and correct material particulars, including the amount representing the full export value or, if the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in a market outside India;*

*(b) furnish to the Reserve Bank such other information as may be required by the Reserve Bank for the purpose of ensuring the realisation of the export proceeds by such exporter.*

#### 2.7 Section 50(2) and 50(3) of Customs Act, 1962-

##### *50. Entry of goods for exportation-*

.....

*(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.*

*(3) The exporter who presents a shipping bill or bill of export under this section 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.*

**2.8 Proviso to Section 75(1) of the Customs Act, 1962-**

.....

*PROVIDED FURTHER that where any drawback has been allowed on any goods under this sub-section and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), such drawback shall except under such circumstances or such conditions as the Central Government may, by rules specify, be deemed never to have been allowed and the Central Government may, by rules made under sub-section (2), specify the procedure for the recovery or adjustment of the amount of such drawback.*

**2.9 Section 75 A (2) of the Customs Act, 1962-**

*Section 75(A)- Interest on drawback*

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

**2.10.1 Proviso (ii) of Rule 3 (1) of the Customs and Central Excise Duties Drawback Rules, 2017: "No drawback shall be allowed"**

*(i) if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid.*

**2.10.2 Rule 17 of the Customs and Central Excise duty Drawback Rules, 2017-**

*17. Repayment of erroneous or excess payment of drawback and interest. –*

*Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962).*

**2.11 Rule 18 (1) and (2) of the Customs and Central Excise duty Drawback Rules, 2017-**

*18. Recovery of amount of Drawback where export proceeds not realized. –*

*(1) Where an amount of drawback has been paid to an exporter or a person authorized by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realized by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered in the manner specified below:*

*Provided that the time-limit referred to in this sub-rule shall not be applicable to the goods exported from the Domestic Tariff Area to a special economic zone.*

*(2) If the exporter fails to produce evidence in respect of realization of export proceeds within the period allowed under the Foreign Exchange Management Act, 1999, or any extension of the said period by the Reserve Bank of India, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be, shall cause notice to be issued to the exporter for production of evidence of realization of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within thirty days of the receipt of the said order: Provided that where a part of the sale proceeds has been realised, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of drawback paid which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds.*

## 2.12 Section 113(i), (ia) and (ja) of the Customs Act, 1962-

### *113. Confiscation of goods attempted to be improperly exported, etc.*

*(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;*

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

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

## 2.13 Section 114(i) and 114(iii) of the Customs Act, 1962-

### *114. Penalty for attempt to export goods improperly, etc.*

*Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, 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 not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is greater;*

*(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is greater.*

## 2.14 Section 114AA of the Customs Act, 1962-

### *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, shall be liable to a penalty not exceeding five times the value of the goods.*

## 2.15 Rule 96B of the Central Goods & CGST Tax Rules, 2017-

**96B. Recovery of refund of unutilized input tax credit or integrated tax paid on export of goods where export proceeds not realized. –**

*(1) Where any refund of unutilized input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realized, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realization of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50;*

## 2.16 Rule 96 4(b) of the Central Goods & CGST Tax Rules, 2017-

**96. Refund of integrated tax paid on goods [or services] exported out of India:**

*(4) The claim for refund shall be withheld where, -  
(a) A request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or*

*(b) The proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.*

## 3. PERSONAL HEARING AND WRITTEN SUBMISSIONS

Following the Principle of Natural Justice, Personal Hearing was granted to the Noticees M/s. Rivaa Fashions, Shri Deepak Gurjar, (Proprietor of M/s. Rivaa Fashions) and M/s. Navalchand A Mehta & Bros (Customs Broker) on 13.11.2025, 16.12.2025 and 21.01.2026. Further, In view of the Corrigendum to the Show Cause Notice dated: 02.02.2026, Personal Hearings were also granted on 10.2.2026 and 16.2.2026. However, no one appeared for hearing on any of the said dates. Also, no written submissions in response to the Show Cause Notice was received from any of the noticees.

## 4. DISCUSSION AND FINDINGS:

4.1 I have carefully gone through the Show Cause Notice, Relied upon documents, evidence/material on record, facts of the case, and accordingly, proceed to decide the case on merit.

4.2 I find that in the instant case, in compliance of provisions of Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, three Personal Hearings (PHs) were granted to the Noticee and PH intimation letters were issued to the registered address via speed-post and via available e-mail id. However, the noticee neither appeared before me in the three PH granted to them nor submitted any letter or email in response to the PH intimation letter. Also, no written submission in defense to the allegations made in the SCN has been made by the noticee till date. From the aforesaid facts, it is observed that sufficient opportunity has been given to the Noticees but they chose not to join the adjudication proceedings. It is observed that the PH letters were sent on the address given in the SCN. If there was any change of address, the Noticees should have informed the Department, so that said PH letters could have been served to them on that address. Considering the aforesaid scenario, there is no option left for me but to proceed with the adjudication proceedings ex-parte in respect of the noticees - M/s. Rivaa Fashions, , Shri Deepak Gurjar, Proprietor of M/s. Rivaa Fashions and M/s. Navalchand A Mehta & Bros (Customs Broker) in terms of merit of the case. With regard to proceeding to decide the case ex-parte, support is drawn from the following case law-

(i) Hon'ble High Court of Allahabad in its decision in the case of *Modipon Ltd. vs CCE, Meerut reported in 2002 (144) ELT 267 (All.)* effectively dealt with the issue of natural justice and personal hearing. The extract of the observations of Hon'ble Court is reproduced herein below for reference.

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

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

4.2.1 It is further observed that the Noticees did not participate in the adjudication proceedings in spite of the fact of service of letters for personal hearings in terms of Section 153 of Customs Act. Section 153 of the Customs Act 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: —*

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*(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*  
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Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that PH letters were duly served to the Noticees, but they did not respond as it appears that they did not have anything to submit in their defense.

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

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

4.3 The SCN alleges that the firm M/s. Rivaa Fashions, found to be non-existent at its declared address, fraudulently exported goods valued (FOB) at Rs. 38,70,22,215/- through 156 Shipping Bills from 2017-18 to 2021-22 to claim undue export incentives amounting to Rs. 6,06,02,018/- which includes - IGST refund, Drawback and ROSCTL benefits. The investigations revealed that no foreign exchange realization was made for the exports and the

Customs Broker M/s. Navalchand A. Mehta & Bros., failed to verify the exporter's credentials, thereby abetting the fraud. The notice proposes recovery of ineligible incentives with interest, confiscation of goods (though not available) and imposition of penalties on the exporter/proprietor and the Customs Broker under relevant provisions of the Customs Act, 1962, Drawback Rules, FEMA and Foreign Trade Laws.

4.4 Following issues are to be decided in this case:

- a) Whether **M/s. Rivaa Fashions (IEC-CPZPG5700D)** was a genuine and functioning exporter during the relevant period or a non-existent/fictitious entity created for the purpose of fraudulent exports.
- b) Whether the 156 Shipping Bills filed in the name of the exporter M/s. Rivaa Fashions, having FOB value of Rs. **Rs. 38,70,22,215/-**, represent genuine exports of goods or were fictitious/overvalued exports to claim inadmissible export incentives and thereby whether the exporter fraudulently claimed or availed - Drawback of Rs. 55,52,049/-(claimed) Rs. 52,67,567/- (disbursed), ROSCTL of Rs. 41,93,474/-(claimed) and IGST refund of Rs. 5,08,56,495/- (claimed) Rs. 51,95,301/- (disbursed) and whether these amounts are liable to be **denied/withheld/recovered** under the Customs Act, Drawback Rules, and CGST Rules.
- c) Whether the goods covered under the 156 Shipping Bills are liable for **confiscation** under Section 113(i), 113(ia), and 113(ja) of the Customs Act, even though they are not physically available.
- d) Whether the ineligible or erroneously paid Drawback, ROSCTL, and IGST refunds are recoverable along with **interest** under relevant provisions of the Customs Act, 1962, Drawback Rules, FEMA, CGST Rules and Foreign Trade Laws.
- e) Whether penalty is imposable on Shri Deepak Gurjar, proprietor of M/s. Rivaa Fashions under Section 114(iii) and 114AA of the Customs Act, 1962 as proposed in the SCN.
- f) Whether the Customs Broker M/s. Navalchand A. Mehta & Bros is liable for penalty under Sections 114(iii) and 114AA of the Customs Act, 1962 read with Rule 10(n) of the CBLR, 2018 as proposed in the SCN.

4.5 **Genuineness and existence of the exporter M/s. Rivaa Fashions**

4.5.1 The investigations conducted by the **Air Preventive Unit, Rummaging & Intelligence, ACC, Mumbai** revealed that M/s. Rivaa Fashions(IEC-CPZPG5700D) was one of the exporters whose exports were facilitated by certain Customs Brokers involved in a wider network of **fraudulent and overvalued exports** aimed at availing inadmissible export incentives such as **Drawback, ROSCTL, and IGST refund**. Verification of the address declared in the Importer Exporter Code (IEC) and KYC records having registered address at

209, Floor – 2, 11/15, Regal Arcade Bldg, Tata Rd No 2, Roxy Cinema Opera House, Girgaon, Mumbai, Maharashtra – 400004 was carried out by the Customs officers under a **panchanama** dated 28.01.2020. On verification made by the officers of Customs (P) under Panchnama dated 28.01.2020, the declared address of the exporter was found locked and no sign board bearing the name of M/s Rivaa Fashions was available at the said address. On enquiry with local occupants close by and the liftman, it was found that the said premise was closed since past few years. As such, it is evident that no firm/company in the name of M/s Rivaa Fashions existed in the said premises. The inquiry thus established that no firm by that name existed at the declared address.

4.5.2 Further, during investigation, the **Union Bank of India**, Kazi Sayed Street Branch, was requested to provide the KYC records and transactional details of the account bearing No. 379801010296875 (IFSC- UBIN0537985) in the name of M/s. Rivaa Fashions. The bank, vide its letter dated 05.03.2020, confirmed the same address as mentioned above. However, subsequent correspondence vide email dated 06.01.2023 has informed that the said account is in-operative as on date; that the available balance in the account is **Rs. 1,04,70,987/-** (which is the same amount as communicated earlier by the bank); that the account has been frozen by other Govt. agency also but name of agency has not been specified; These facts further indicate that while a bank account had been opened, no genuine or regular business operations were found to exist.

4.5.3 Summons issued to M/s. Rivaa Fashions and its Proprietor on 18.09.2020, 13.10.2020 were all **returned undelivered** with the postal remark “**Incomplete address**”, establishing that the firm was **untraceable at its declared address**. No authorized representative appeared before the department or furnished any explanation or documentation to establish the firm’s genuineness. Moreover, all the intimation letters for the Personal Hearings scheduled during adjudication proceedings were returned by the postal authorities with remarks such as – ‘Not Known’ / ‘Left’ / ‘No such person in the address’.

4.5.4 The Customs Broker, who had facilitated exports in the name of the said firm, in their written communication dated 09.12.2022 in response to Summons issued on 30.11.2022 stated that all relevant documents had been handed over earlier to the APU, R&I officers under Panchanama dated 04.01.2020. However, they failed to produce any verifiable evidence of having **physically verified the existence or operational status** of M/s. Rivaa Fashions, as required under **Regulation 10(n) of the Customs Broker Licensing Regulations, 2018**. This

failure further corroborates the finding that the firm was fictitious and created for fraudulent export activity.

4.5.5 From the above sequence of verifications and evidences, it clearly emerges that M/s. Rivaa Fashions, **did not exist at its declared premises** during the relevant period of exports and had **ceased to function long before the investigation**. No business activity was found to have been carried out from the said address, no responsible person was traceable, and all communications returned undelivered. The absence of any legitimate documentation or explanation from the exporter, coupled with the findings of overvaluation and fraudulent claim of export incentives, lead to the inescapable conclusion that **M/s. Rivaa Fashions was a non-existent/fictitious exporter** created solely for the purpose of claiming ineligible export benefits.

4.5.6 Accordingly, it is **held and concluded** that M/s. Rivaa Fashions(IEC-CPZPG5700D) **was not a genuine or functioning exporter** during the period under reference but a **non-existent entity** that was used as a front to file fraudulent Shipping Bills and to claim undue export incentives in contravention of the provisions of the **Customs Act, 1962, the Foreign Trade (Development and Regulation) Act, 1992, and allied rules.**

#### 4.6 Overvaluation of Exports and Non-Realization of Foreign Exchange

4.6.1 I find that although the exporter filed shipping bills for declared FOB value of Rs. 38,70,22,215/- for the 156 shipments of garments and made-up articles, the exporter failed to realize any foreign exchange against the said exports. In the absence of realization of export proceeds, the incentives claimed or availed viz. Drawback of Rs. 55,52,049/-(claimed) Rs. 52,67,567/- (disbursed), ROSCTL of Rs. 41,93,474/-(claimed) and IGST refund of Rs. 5,08,56,495/-(claimed) Rs. 51,95,301/- (disbursed) constitute undue benefits drawn from the Government exchequer. In view of the non-realization of export proceeds, the exports in question stand vitiated for non-fulfilment of the statutory requirements under Section 50(2) of the Customs Act, 1962 read with Section 11(1) of the Foreign Trade (Development & Regulation) Act, 1992 and Rule 11 of the Foreign Trade Rules, 1993, as the exporter furnished declarations to Customs which were not borne out by subsequent compliance with export obligation formalities.

4.6.2 Thus, the overall pattern of conduct surrounding the exports raises indicators commonly associated with overvalued or non-genuine export transactions. Under established

jurisprudence and Board instructions, non-realization of foreign exchange against export declarations is treated as a material circumstance suggesting that the declared values may not reflect genuine transactional prices but rather may have been inflated to maximize the accrual of export-linked incentives such as Drawback, IGST refund, and ROSCTL. Further, the fact that substantial government incentives amounting to Rs. 6,06,02,018/-, of which Rs. 1,04,62,868/- has already been disbursed were claimed and obtained without any corresponding inward remittance strengthens the inference that the export declarations may have been inflated for the purpose of securing undue benefits. In legitimate export operations, the commercial viability of such high-value consignments necessarily requires receipt of sale proceeds from foreign buyers. The absence of such realization, despite repeated opportunities, therefore aligns with established risk parameters applied in detecting overvalued or fictitious exports. Viewed cumulatively, these circumstances namely, declared FOB values, zero realization of export proceeds, and substantial incentive claims constitute factors that are indicative of overvaluation during exports.

4.6.3 As per Rule 18 sub-Rule (1) (2) of the Central Excise Duty Drawback Rules, 2017, the exporter is under obligation to produce evidence to show that the sales proceeds (Foreign Exchange) in respect of the goods exported have been realized within the time limit prescribed under the Foreign Exchange Management Act, 1999. In terms of Board's Circular No. 5 of 2009 Customs dated 02.02.2009 vide F.No. 609/167/2003-DBK, the exporter is required to submit evidence of export realization within the period allowed under the FEMA, 1999 or as extended by the Reserve Bank of India (RBI). However, the exporter in the instant case has not submitted such documents showing the realization of the export proceeds.

4.6.4 During investigation, the verification of e-BRC data on DGFT portal and ICES 1.5 system revealed that no foreign exchange realization had occurred for the 156 Shipping Bills filed by M/s. Rivaa Fashions. No request for extension of time for realization was made to the Reserve Bank of India, as permitted under Regulation 9 of the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000. This establishes that no genuine export transaction took place, and the incentives availed are inadmissible and recoverable.

#### 4.7 **Liability to confiscation and imposition of redemption fine:**

4.7.1 The investigation established that M/s. Rivaa Fashions(IEC-CPZPG5700D) was a non-existent/fictitious entity, which had purportedly exported goods through the Air Cargo

Complex, Mumbai under 156 Shipping Bills during 2017–18 to 2021–22, declaring a total FOB value of Rs. 38,70,22,215/- and claiming export incentives including Drawback, ROSCTL, and refund of IGST amounting to Rs. 6,06,02,018/-. The verification at the declared premises of the exporter revealed that no such firm existed there. Further, no evidence of realization of export proceeds was produced, and e-BRC data confirmed that foreign exchange remittances against the said exports were not received within the time prescribed under FEMA, 1999. These facts indicate that the exports were not genuine, and the exporter had made false declarations with mala fide intention to fraudulently avail export incentives.

4.7.2 Now, I proceed to examine the liability for confiscation under Section 113(i) of the Customs Act, 1962. Section 113(i) of the Customs Act, 1962 reads as under:

*“(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77”*

4.7.3 Section 113(i) of the Customs Act, 1962 is pressed into service when export goods do not conform with the declaration made by the exporter in respect of value or any material particular with the entry made under the Customs Act. This sub-section is operational when there is either mis-declaration of value or any other material particular in relation to entry made by the exporter. Entry has also been defined in the Act in Section 2(16) which reads as under;

*“(16) “entry” in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes the entry made under the regulations made under section 84.”*

4.7.4 I find that at the time when the goods are sought to be exported, they are undoubtedly export goods within the meaning of Section 2(19) of the Customs Act, 1962. Hence, any goods can be held liable to confiscation under Section 113 of the Customs Act, 1962. In this context, I rely upon the following case laws:

(i) In the case of *The Commissioner of Customs vs M/s. Kamalabhai* reported in 2015 (324) E.L.T. 70 (Mad.) Hon'ble High Court Madras held that *“An order by the proper officer permitting clearance and loading of the goods under Section 51 of the Customs Act does not affect the position. We have earlier noticed that under Section 113 of the Customs Act export goods incur the liability to confiscation at the stage when they are attempted to be exported. The attempt to export necessarily precedes actual export. At the time of attempting to export the goods contrary to prohibition, the liability of the goods to confiscation arises and at that point of time when the liability to confiscation arises, the goods are goods which are to be taken out of India to a place outside India and are, undoubtedly, export goods within the meaning thereof as defined in Section 2(19) of the Act. Actual export of the goods, as a result*

*of the attempt succeeding subsequent to the stage of the attempt, is not indeed of any material consequence. The goods are export goods as defined in Section 2(19) of the Customs Act, 1962 at the time the goods incur the liability to confiscation under Section 113 of the said Act"*

(ii) In the case of Euresian Equipment and Chemicals Ltd. and Others Vs Collector of Customs and Others reported in 1980 (6) E.L.T. 38 (CAL.) Hon'ble High Court Calcutta held that "Export goods' - Connotation of - Section 2(19) and 113 of the Customs Act, 1962. - When the goods incur the liability to confiscation under Section 113 of the Customs Act, 1962, they become 'export goods' as defined in Section 2(19) of the Customs Act 1962 and actual export of the goods as a result of the attempt succeeding subsequent thereto is not of any material consequence. [para 26]"

4.7.5 By submitting false declarations in the Shipping Bills and claiming ineligible export incentives, the exporter has violated Section 50(2) and Section 50(3) of the Customs Act, 1962, which mandate truthful declaration of all particulars at the time of export. The exporter also contravened Rule 11 and 14 of the Foreign Trade (Regulation) Rules, 1993, by making false and fraudulent declarations in export documents. These acts of willful misstatement and suppression were carried out with clear knowledge that the goods either did not exist or were grossly overvalued, thus amounting to deliberate fraud. Thus, I find that the exporter had knowingly mis-declared the same with *mala fide* intention to claim export benefits which were not legitimately available to them, causing loss to the Government Exchequer. Hence, goods exported by M/s. Rivaa Fashions are liable for confiscation under Section 113(i) of the Customs Act, 1962.

4.7.6 Section 113(ia) of the Customs Act, 1962 reads as under:

*"(ia) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;]*

In the present case, the exporter declared fictitious values and made false declarations in the Shipping Bills to claim undue drawback and other export incentives. Accordingly, I hold that the goods are liable to confiscation under Section 113(ia) of the Customs Act, 1962, as these goods were entered for exportation under claim of drawback, however, they did not conform to the declared material particulars.

4.7.7 Now, I proceed to discuss the liability for confiscation under Section 113(ja) of the Customs Act, 1962. Section 113(ja) of the Customs Act, 1962 reads as under:

*“Any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of Customs Act, 1962 or any other law for the time being in force.”*

As discussed *supra*, the 156 Shipping Bills filed in the name of M/s. **Rivaa Fashions** do not represent genuine exports but were **fictitious/overvalued transactions** undertaken to **illegitimately claim refund of IGST and other export incentives**. Accordingly, I hold that the goods are liable to confiscation under Section 113(ja) of the Customs Act, 1962, as these goods were entered for exportation under claim of remission or refund of IGST in contravention of the provisions of Customs Act, 1962.

4.7.8 Summarizing the above, I hold that the exported goods having declared FOB value Rs. 38,70,22,215/- exported under said 156 shipping bills are liable to confiscation under Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.

4.7.9 The fact that the goods are not physically available does not absolve their liability for confiscation. The Hon'ble CESTAT and various judicial authorities have consistently held that once the goods are found liable for confiscation, such finding is sustainable even if the goods are not available for physical seizure, as the adjudication on liability is independent of actual availability. The absence of goods only precludes the physical act of confiscation but not the declaration of their liability thereto.

4.7.10 In the present case, the goods do not correspond in material particular with information furnished by the exporter and wrongly declared themselves eligible for export incentives. However, the goods are not physically available. In terms of Section 125 of the Customs Act, 1962 there is an option to pay fine in lieu of confiscation. Section 125 is reproduced below for the sake of brevity:

*(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:*

*Provided that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.*

(2) *Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.*"

4.7.11 Section 125 of the Customs Act provides that when any goods are liable to confiscation, the adjudicating authority *may* give an option to pay fine in lieu of confiscation. Importantly, the liability to confiscation arises from the act of contravention itself. Physical availability of goods is not a precondition for such liability. If goods were permitted to be exported, it cannot nullify the statutory consequence of confiscation under Section 113. In *Weston Components Ltd. vs. CC, New Delhi* [2000 (115) ELT 278 (SC)], the Supreme Court clearly held that *redemption fine can be imposed even where the goods are released and not physically available for confiscation*. The principle being that redemption fine is a civil liability attached to the offending goods. *Weston Components* remains good in law and has not been overruled. Thus, redemption fine is legally imposable even if the goods are not available. Redemption fine acts as a deterrent against exporters/importers violating statutory restrictions and ensures they do not unjustly enrich themselves from exports made in contravention. Denying redemption fine solely because the goods are not physically available defeats the deterrent object of Section 125.

(i) Hon'ble Supreme Court in the case of **Weston Components Ltd. Vs. Commissioner of Customs, New Delhi** 2000 (115) E.L.T. 278 (S.C.).

The Hon'ble Supreme Court there noted that the goods were released on the application by the appellant and appellant executed a bond. The court then observed that in these circumstances, if subsequently it is found that the import was not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods, *then the mere fact that the goods were released on bond being executed, would not take away the power of the customs authorities to levy redemption fine*. The contention therefore, of the appellants there that the redemption cannot be imposed because the goods were not available for custody of the respondent authorities was rejected.

(ii) Further, as per the judgment in the case of **Visteon Automotive Systems India Limited Vs CESTAT, Chennai** 2018(9) G.S.T.L. 142 (Mad.) the Hon'ble High Court of Madras has held that **availability of goods is not necessary for imposing 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 111 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 from Section 111 only. Hence, the payment of 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.

(iii) The Hon'ble High Court, Madras dealing the case of *Venus Enterprises Vs. Commissioner of Customs 2006 (199) E.L.T. 405(Mad.)* which has attained finality before the Hon'ble Supreme Court and thus became law of land has held that once the goods are held liable to confiscation, fine can be imposed even if the goods are not available and cleared for home consumption.

4.7.12 I find that the above judgements are squarely applicable in the present case. Accordingly, I observe that the present case also merits imposition of redemption fine under Section 125 of the Customs Act, 1962 despite goods are not available for confiscation. Thus, I hold that the impugned goods, although not physically available for confiscation, are liable for redemption fine in lieu of confiscation under Section 125 of the Customs Act, 1962.

#### **4.8 Recovery and Denial of Export Incentives Due to Non-Realization of Export Proceeds and Fictitious Exports**

4.8.1 The CBIC Circular No. 05/2009-Cus dated 02.02.2009 and multiple judicial pronouncements have held that non-realization of export proceeds or fictitious exports dis-entitles exporters from export incentives. The purpose of export benefits is to encourage genuine trade and foreign exchange inflow, not to reward fraudulent transactions. Hence, any claim made on fictitious or overvalued exports is void ab initio and recoverable under law. Considering the evidence on record i.e. a non-existent exporter, non-realization of proceeds, and fraudulent intent, it is conclusively held that the 156 Shipping Bills filed in the name of **M/s. Rivaa Fashions do not represent genuine exports but were fictitious/overvalued transactions undertaken to illegitimately claim export incentives.**

4.8.2 Rule 17 of the Customs and Central Excise Duty Drawback Rules, 2017 provides that any drawback amount paid erroneously or in excess must be repaid by the claimant on demand, failing which it shall be recovered under Section 142(1) of the Customs Act. Further, Rule 18

of the Customs and Central Excise Duty Drawback Rules, 2017 stipulates that drawback paid in cases where export proceeds are not realized within the period prescribed under FEMA must be recovered after issuance of notice and opportunity to furnish proof of realization, and if the exporter fails to produce such evidence, the drawback is recoverable in full or proportionately to the extent of unrealized sale proceeds. The proviso to Section 75(1) of the Customs Act, 1962 explicitly provides that where export proceeds are not realized within the period permitted under FEMA, any drawback granted on such goods shall be deemed never to have been allowed and must be recovered or adjusted in the manner prescribed by rules.

**4.8.3** Further the Proviso (ii) of Rule 3 (1) of the Customs and Central Excise Duties Drawback Rules, 2017: provides that No drawback shall be allowed if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid.

**4.8.4** Section 75A(2) of the Customs Act, 1962 provides that when drawback is erroneously paid or becomes otherwise recoverable, the claimant must repay it along with interest at the rate specified under Section 28AA, calculated from the date of payment of the drawback until its recovery, and such repayment must be made within two months of the demand.

**4.8.5** In view of the above statutory provisions, it is clear that drawback becomes inadmissible in cases where export proceeds are not realized within the period prescribed under the Foreign Exchange Management Act, 1999. Thus, I find that since the exporter **M/s. Rivaa Fashions** has failed to furnish any evidence of realization of export proceeds within the permitted period or any duly extended period, the drawback availed in respect of the impugned exports stands rendered not only recoverable under Rule 17 and Rule 18 of the Customs and Central Excise Duty Drawback Rules, 2017, but is also deemed never to have been allowed by virtue of the proviso to Section 75(1) of the Customs Act, 1962. Accordingly, I deny and reject the entire amount of drawback claimed by the exporter amounting to **Rs. 55,52,049/-** of which an amount of **Rs. 52,67,567/-** which has already been disbursed and hold that the ineligible drawback amount of **Rs. 52,67,567/-** which is already disbursed, be recovered along with applicable interest.

**4.8.6** Rule 96B of the Central Goods & CGST Tax Rules, 2017 provides that if export sale proceeds are not realized within the period prescribed under the Foreign Exchange Management Act, 1999, any refund of unutilized Input Tax Credit or IGST paid on such exports

must be returned proportionate to the unrealized amount within thirty days, failing which it shall be recovered with interest as an erroneous refund under Sections 73 or 74 of the CGST Act. Rule 96B of the CGST Rules, 2017 falls squarely under the jurisdiction of the Central GST authorities (or the proper officer under the CGST/IGST Act) who are empowered to demand, recover, and initiate proceedings for refund recovery when export proceeds are not realized, treating such refunds as *erroneous refunds* under Sections 73 or 74 of the CGST Act.

4.8.7 Rule 96(4)(b) of the CGST Rules, 2017 provides that a refund of IGST paid on exported goods shall be withheld if the proper officer of Customs determines that the goods were exported in violation of the Customs Act, 1962.

4.8.8 I find that the IGST amount of Rs. 5,08,56,495/- claimed by the exporter M/s. Rivaa Fashions is required to be withheld and denied. However, an amount of Rs. 51,95,301/- has already been sanctioned and disbursed. In view of the above, I hold that the IGST refund claim pertaining to the said export consignments shall stand withheld under Rule 96(4)(b) of the CGST Rules, 2017, and the matter concerning recovery of any IGST refund already disbursed, on account of non-realization of export proceeds, shall be referred to the jurisdictional CGST authorities for action under Rule 96B read with Sections 73/74 of the CGST Act, 2017.

4.8.9 CBIC Circular No. 43/2016-Cus dated 31.08.2016 issued vide File No. F.No.605/42/2016-DBK (Pt.II) provides that under ROSCTL scheme, rebate is allowed subject to the receipt of sale proceeds within time allowed under the Foreign Exchange Management Act, 1999 failing which such rebate is deemed never to have been allowed on the same lines as Duty Drawback, and any other cause that also affects the Drawback is deemed to have the similar effect on the rebate. Further, Ministry of Textile's Notification No. 14/26/2016-IT (Vol II) dated 7<sup>th</sup> March, 2019 read with Notification No. 77/2021-Customs (N.T.) dated 24<sup>th</sup> September, 2021 also mandate that - If export proceeds are not realized within the prescribed or extended FEMA period, the corresponding duty credit must be re-paid with interest, failing which it is treated as never allowed and recovered under section 142 of the Customs Act, 1962. In view of the foregoing findings, I deny the claimed ROSCTL amount of Rs. 41,93,474/- covered under the said 156 Shipping Bills filed by M/s. Rivaa Fashions and reject the ROSCTL amount of Rs. 41,93,474/- and hold that the same is ineligible.

#### 4.9 Role of the Exporter and its Proprietor and imposability of Penalty under Section 114(iii) and 114AA of the Customs Act, 1962 as proposed in the SCN.

4.9.1 Investigation has revealed that M/s. Rivaa Fashions (IEC-CPZPG5700D) had filed 156 Shipping Bills at the Air Cargo Complex, Mumbai during 2017-18 to 2021-22 declaring export of readymade garments and made-ups with an aggregate declared FOB value of Rs. 38,70,22,215/- and claimed export incentives amounting to Rs. 6,06,02,018/- including drawback, ROSCTL and refund of IGST. Verification at the declared address revealed that the declared address of the exporter was found locked and no sign board bearing the name of M/s Rivaa Fashions was available at the said address. On enquiry with local occupants close by and the liftman, it was found that the said premise was closed since past few years. As such, it is evident that no firm/company in the name of M/s Rivaa Fashions existed in the said premises and had never operated there. Summons issued to the said address were returned undelivered with the remark "Not Known". Further, examination of bank details showed that the account in the name of M/s. Rivaa Fashions was inoperative, with the balance amount already lien-marked by GST authorities. No export proceeds were realized against any of the said 156 Shipping Bills, nor was any request for extension under FEMA 1999 made to the Reserve Bank of India. From the above, it stands established that the exporter was a non-existent or fictitious entity, created solely for the purpose of obtaining fraudulent export benefits.

4.9.2 The proprietor of M/s. Rivaa Fashions (IEC-CPZPG5700D), Shri Deepak Gurjar was the person responsible for filing the Shipping Bills and making declarations under Section 50(2) of the Customs Act, 1962. He knowingly made false declarations regarding the genuineness of export with intent to obtain wrongful monetary benefits from the Government in the form of drawback, ROSCTL and IGST refund. By these deliberate acts of misdeclaration and fabrication of documents, the exporter and its proprietor abetted and committed acts which rendered the goods liable for confiscation under Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.

4.9.3 Section 114 provides for penalty for attempt to export goods improperly or for abetting such acts. Clause (iii) thereof states that—

*"Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 113, or abets the doing or omission of such an act, shall be liable -in the case of any other goods, to*

*a penalty not exceeding the value of the goods as declared by the exporter or the value as determined under this Act, whichever is greater."*

4.9.4 In the present case, M/s Rivaa Fashions, through its proprietor Shri Deepak Gurjar, filed the 156 Shipping Bills containing **false declarations** and claimed ineligible export incentives. These acts directly rendered the goods liable for confiscation under Section 113. Accordingly, in terms of Section 114(iii), the exporter-firm/ proprietor is **liable to penalty**, as they were the principal offenders and beneficiaries of the fraudulent export scheme.

4.9.5 A proprietorship concern is not a separate legal entity distinct from its proprietor. In law, the firm and its proprietor are one and the same person i.e. the business has no independent juristic personality apart from the individual who owns it. Hence, any act or omission of the proprietorship concern is deemed to be the act or omission of the proprietor himself. Accordingly, a single penalty can be imposed either in the name of the firm or the proprietor, but not on both simultaneously for the same violation, as that would amount to double punishment for one offence. Thus, I hold that Shri Deepak Gurjar, Proprietor of M/s. Rivaa Fashions has rendered himself liable for penal action under Section 114(iii) of the Customs Act, 1962.

4.9.6 Section 114AA stipulates:

*"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."*

4.9.7 In the instant case, Shri Deepak Gurjar, as the Proprietor of M/s. Rivaa Fashions prepared and signed false export documents to obtain inadmissible incentives. These acts constitute **knowingly making and using false declarations and documents** in connection with export transactions governed by the Customs Act. Therefore, penalty under Section 114AA is squarely attracted in this case.

**4.10 Role of the Customs Broker (CB) M/s. Navalchand A Mehta & Bros and Imposability of Penalty under Section 114(iii) and 114AA of the Customs Act, 1962 as proposed in the SCN.**

4.10.1 Investigation into the export activities of M/s Rivaa Fashions, which were facilitated by the Customs Brokers M/s Navalchand A. Mehta & Bros The investigation established that exporter had attempted to export garments and made-up articles at highly inflated values with

the intent to fraudulently avail ineligible export incentives such as drawback, ROSCTL, and IGST refunds. Further, the investigation revealed that the said Customs Broker played a key and deliberate role in orchestrating these fraudulent exports and were, in fact, the mastermind behind the scheme.

**4.10.2** The role of **M/s. Navalchand A. Mehta & Bros**, the Customs Broker who facilitated these exports, is also of grave concern. The Broker was under a statutory obligation as per **Regulation 10(n) of the Customs Broker Licensing Regulations, 2018**, to verify the correctness of the Importer-Exporter Code (IEC), Goods and Services Tax Identification Number (GSTIN), and functioning of their client at the declared address using reliable and independent documents.

**4.10.3** However, the investigation revealed that the Broker had not carried out any such verification. The address furnished by the exporter was found fictitious, yet export documents were filed and processed through the Broker's credentials. Despite the non-existence of the exporter, the Customs Broker facilitated export documentation, implying that the CB had failed to verify the genuineness and functioning of its client as required under **Regulation 10(n) of the CBLR, 2018**. This deliberate failure demonstrates **gross negligence and collusion**, as no prudent or compliant Customs Broker would process shipping bills for a non-existent entity without conducting due diligence. The Custom Broker's failure to undertake due diligence and KYC verification amounts to gross negligence and violation of its statutory obligations.

**4.10.4** Summons were issued to the Customs Broker on 30.11.2022 requiring appearance and submission of relevant documents. The CB did not appear in person and only replied that all documents had been handed over earlier to APU & R&I under Panchanama dated 04.01.2020. They further suggested that any additional records could be obtained from their forwarder, M/s. Prime Cargo Movers. Such evasive response and non-cooperation in investigation demonstrate lack of bona fides and disregard for statutory procedure.

**4.10.5** It is also seen that the Customs Broker M/s. Navalchand A Mehta & Bros has not just facilitated the bogus export but was a mastermind for such fraudulent export. Therefore, the *mensrea* of the Customs Broker is no less than the exporter, as his role was not just to facilitate the export but to play a very active role in the whole scheme of things with a clear intention of getting undue benefit from the Government. Thus, it is clear that the Customs Broker did not act merely as a service provider but actively facilitated the fraudulent exports by filing shipping

documents on behalf of a fictitious entity, thereby aiding and abetting the commission of acts rendering the goods liable to confiscation under Section 113(i), (ia) and (ja) of the Customs Act, 1962.

4.10.6 In terms of Section 114(iii) of the *Customs Act, 1962*, any person who abets an act or omission rendering the goods liable to confiscation is also liable to penalty up to the value of the goods. The CB's conscious facilitation of export documentation without verifying the existence and functioning of the exporter, coupled with the use of false declarations, squarely attracts penal consequences under Section 114(iii) of the Customs Act, 1962.

4.10.7 Further, by knowingly signing and using false declarations, the CB has also rendered itself liable to penalty under Section 114AA of the *Customs Act, 1962*. The Broker's actions facilitated the fraudulent availment of government incentives and caused **substantial loss to the exchequer**.

4.10.8 The Customs Broker failed to discharge its obligations under the **Customs Brokers Licensing Regulations (CBLR), 2018**, in particular, Regulation 10(n) of the CBLR, 2018-

10. **Obligations of Customs Broker-**  
*A Custom Broker shall-*

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

4.10.9 Accordingly, M/s. Navalchand A. Mehta & Bros, Customs Broker is held liable for penal action under Sections 114(iii) and 114AA of the *Customs Act, 1962* read with **Regulations 10(n)** of the *Customs Broker Licensing Regulations, 2018*.

5. In view of the above discussions and findings, I pass the following order: -

**ORDER**

- (i) I order to confiscate the impugned goods having total FOB value of Rs.38,70,22,215/- (Rupees Thirty-Eight Crore, Seventy Lakhs, Twenty Two Thousand, Two Hundred and Fifteen only) covered under 156 Shipping Bills as mentioned in Annexure-A to the SCN under Section 113(i), 113(i)(a) and 113(ja) of the Customs Act, 1962. However, as the goods are not physically available, I, in exercise of the powers conferred under Section 125 of the Customs Act, 1962, impose Redemption Fine of Rs. 3,80,00,000/- (Rupees Three Crore, Eighty Lakh only) in lieu of confiscation of exported goods, under Section 125 of the Customs Act, 1962.
- (ii) I deny and reject the drawback amount of Rs. 55,52,049/- (Rupees Fifty-Five Lakhs Fifty-Two Thousand and Forty-Nine Only) claimed for the goods covered under 156

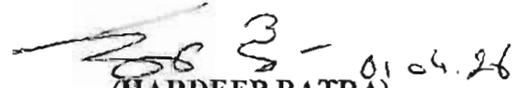
Shipping Bills mentioned in the SCN under the provisions of Section 75 of the Customs Act, 1962 Read with proviso (ii) of Rule 3(1) Rule 17 and Rule 18 of the Customs, Central Excise Duty Drawback Rules, 2017 on the grounds of export realization not received.

- (iii) I confirm the demand of ineligible drawback of **Rs. 52,67,567/- (Rupees Fifty-Two Lakhs, Sixty-Seven Thousand, Five Hundred and Sixty-Seven only)** already disbursed for the said goods and order to recover it from the exporter M/s. Rivaa Fashions, as per the provisions of Section 75 of the Customs Act, 1962 Rule 3(1) read with Rule 17 and Rule 18 of the Customs, Central Excise Duty Drawback Rules, 2017.
- (iv) I order that the interest against the ineligible drawback amount availed by the exporter M/s. Rivaa Fashions as specified in (iii) above, be recovered from the exporter under the provisions of Section 75A(2) of the Customs Act, 1962.
- (v) I deny and reject the ROSCTL amount of **Rs. 41,93,474/- (Rupees Forty-One Lakh, Ninety-Three Thousand, Four Hundred and Seventy-Four only)** claimed by the exporter M/s. Rivaa Fashions in terms of CBIC Circular No. 43/2016 Cus dated 31.08.2016, read with Ministry of Textile's Notification No. 14/26/2016-IT (Vol II) dated 7<sup>th</sup> March, 2019 and Customs Notification No. 77/2021-Customs (N.T.) dated 24<sup>th</sup> September, 2021 read with CBIC circular No. 10/2019-Cus dated 12.03.2019 & MoT's Notfn. No. 12015/11/2020-TTP dated 13.08.2021, CBIC Circular No. 22/2021-Cus. Dated 30.09.2021, further read with Customs, Central Excise Duty Drawback Rules, 2017, Section 75 of the Customs Act, 1962 and Regulation 8 of Electronic Duty Credit Ledger Regulations, 2021.
- (vi) The IGST amount of **Rs. 5,08,56,495/- (Rupees Five Crores Eight Lakhs Fifty-Six Thousand Four Hundred and Ninety-five only)** claimed by the exporter M/s. Rivaa Fashions is required to be withheld and denied. However, an amount of **Rs. 51,95,301/- (Rupees Fifty-One Lakhs Ninety-Five Thousand Three Hundred and One only)** has already disbursed as per table above, therefore, the concerned jurisdictional GST authority may be requested to take necessary action for rejection and recovery of the said IGST amount. Further, I order that the undisbursed IGST amounting to **Rs. 4,56,51,194/-** be withheld under the provisions of Rule 96(4)(b) of the CGST Rules, 2017 on the grounds of export of goods being in violation of the provisions of the Customs Act, 1962.
- (vii) I impose penalty of **Rs. 4,00,00,000/- (Rupees Four Crore only only)** on Shri Deepak Gurjar Proprietor of M/s. Rivaa Fashions under Section 114(iii) of the Customs Act, 1962 read with Section 7 & 11 of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11, 12, 14 of the Foreign Trade (Regulation) Rules, 1993.
- (viii) I impose penalty of **Rs. 5,00,00,000/- (Rupees Five Crore only)** on Shri Deepak Gurjar, Proprietor of M/s. Rivaa Fashions under Section 114AA of the Customs Act, 1962 read with Section 7 & 11 of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11, 12, 14 of the Foreign Trade (Regulation) Rules, 1993.
- (ix) I impose penalty of **Rs. 3,00,00,000/- (Rupees Three Crore only)** on M/s. Navalchand A Mehta & Bros, Customs Broker under Section 114(iii) of the Customs Act, 1962 read with Rule 10(n) of the Customs Broker Licensing Regulations, 2018.

(x) I impose penalty of Rs. 4,00,00,000/- (Rupees Four Crore only) on M/s. Navalchand A Mehta & Bros, Customs Broker under Section 114AA of the Customs Act, 1962 read with Rule 10(n) of the Customs Broker Licensing Regulations, 2018.

(xi) I order that the amount recoverable from M/s Rivaa Fashions and its Proprietor, Shri Deepak Gurjar, be appropriated from the balance Rs. 1,04,70,987/- available in exporter's Account No. 379801010296875 (IFSC Code UBIN0537985) in Union Bank of India, Mumbai.

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

  
(HARDEEP BATRA)

Commissioner of Customs (Export)  
Air Cargo Complex, Mumbai Zone-III

To,

1. **M/s. Rivaa Fashions (IEC-CPZPG5700D)**,  
209, Floor-2, 11/15, Regal Arcade Building,  
Tata Rd. No. 2, Roxy Cinema Opera House,  
Girgaon, Mumbai,  
Maharashtra-400 004.
2. **M/s. Rivaa Fashions**,  
Shop No-5, F/F, WZ-97, Jwala Heri, Vill,  
Matke Wali Gali, Paschim Vihar, Delhi-110063.
3. **Shri Deepak Gurjar,,**  
Proprietor of M/s. Rivaa Fashions,  
209, Floor-2, 11/15, Regal Arcade Building,  
Tata Rd. No. 2, Roxy Cinema Opera House,  
Girgaon, Mumbai,  
Maharashtra-400 004.
4. **M/s. Navalchand A Mehta & Bros**  
RM 3, 1 FL, Pokar Niketan, Gandhi Nagar,  
LBS Rd, Ghatkopar- W, Mumbai 400 086.  
*e-mail -info@namb.in*
5. **M/s. Navalchand A Mehta & Bros**  
No. 321, Loha Bhavan, P Dmello Road,  
Masjid Bunder, Mumbai 400 009.

Copy to:

1. The Pr. Chief Commissioner of Customs, Mumbai Zone III.

2. The Commissioner of GST, Mumbai South, Division IV, Range I, 13<sup>th</sup> and 14<sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai 400 021 (*with request to take appropriate action under CGST Act, 2017 und Rule 96, 96A and 96B of CGST Rules, 2017 for rejecting and recovery of IGST amount as claimed/availed by M/s. Rivaa Fashions*)
3. The Addl Commissioner of Customs (Export), ACC, Mumbai III.
4. The Dy./Asstt. Commissioner of Customs(Drawback), to take necessary action in terms of Notfl. 77/2021-Cus dtd. 24.9.2021 & CBIC Circular No. 43/2016-Cus dated 31.08.2016 issued vide File No. F.No.605/42/2016-DBK (Pt.II).
5. The Dy./Asstt. Commissioner of Customs, IGST Refund for taking necessary action for withholding and co-ordinate with GST, Mumbai Sourth Division to recover the IGST disbursed.
6. The Dy./Asstt. Commissioner of Customs, Export Assessment Section .... for taking appropriate action to safeguard Government Revenue
7. The Asstt. Commissioner of Customs, APU, R & I, ACC, Mumbai.
8. The Asstt. Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Zone-I.
9. The Dy./Asstt. Commissioner of Customs, TRC (Export), ACC, Mumbai-III.
10. The Supdt/CHS, Air Cargo Complex, Mumbai-III.... for display on Notice Board.
11. DC/EDI Section.... for uploading on website of ACC, Mumbai-III.
12. Office Copy.