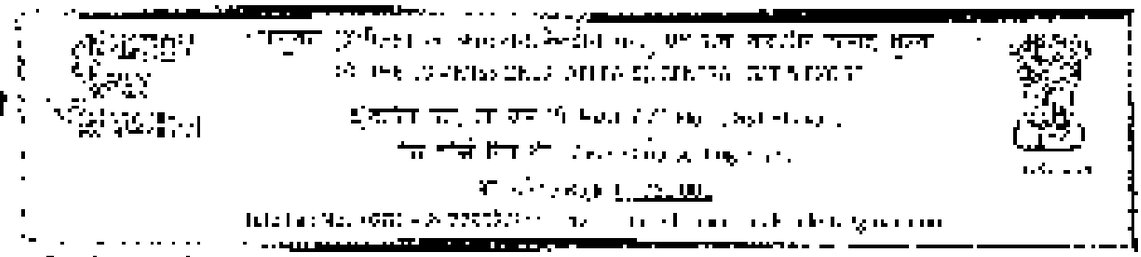

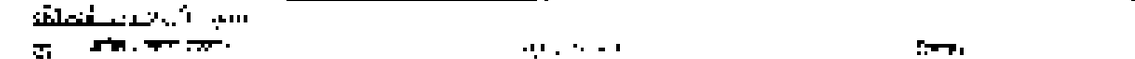

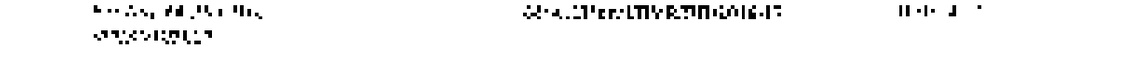

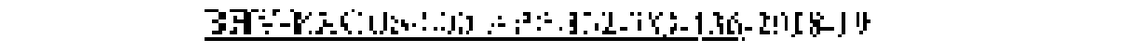

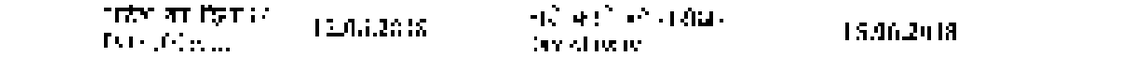

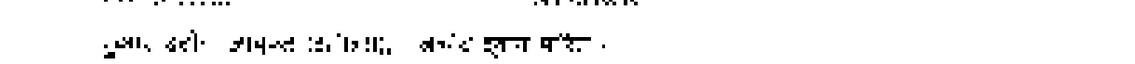

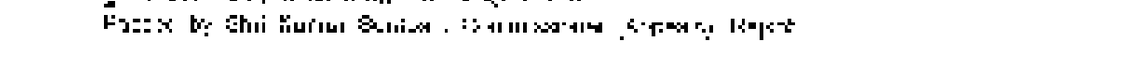

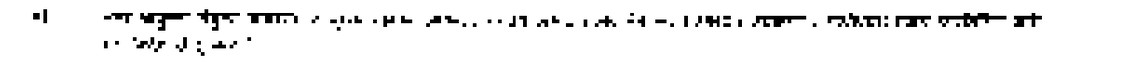

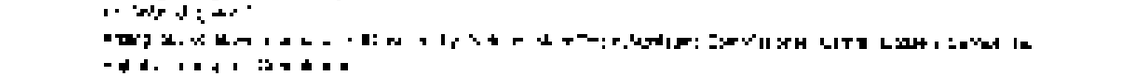

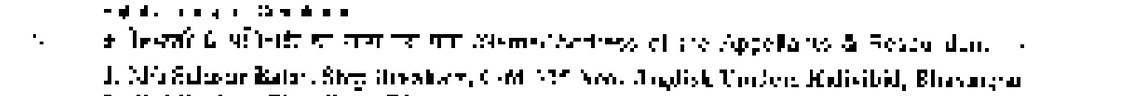

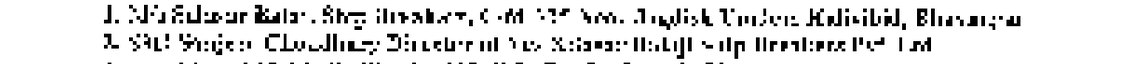

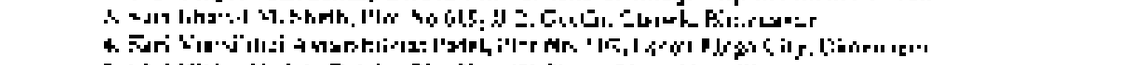

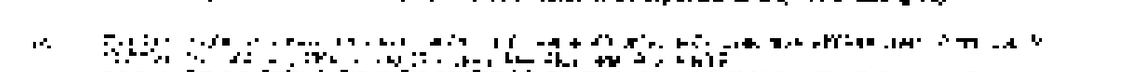

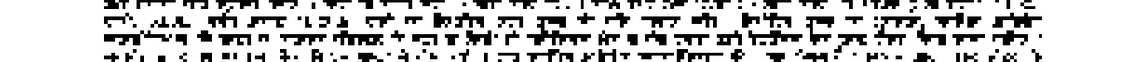

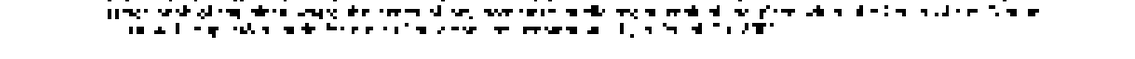

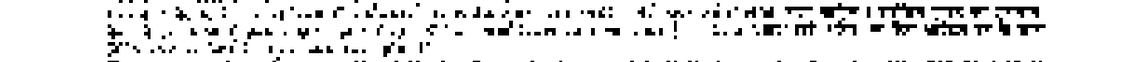

[illegible] (अपील्स) का कार्यालय, केन्द्रीय वस्तु एवं सेवा और उत्पाद शुल्क, राजकोट
O/O THE COMMISSIONER (APPEALS), CENTRAL GST & EXCISE, RAJKOT

[illegible]

[illegible]

[illegible]

[illegible]

रजिस्टर्ड डाक [illegible]

क [illegible]

[illegible]

[illegible]

ख अपील संख्या (अपील No.):

BHV-EXCUS-000-APP-102-TO-136-2018-19

आदेश का दिनांक / Date of Order:	12.06.2018	जारी करने की तारीख / Date of issue:	15.06.2018

कुमार संतोष, आयुक्त (अपील्स), राजकोट द्वारा पारित /
Passed by Shri Kumar Santosh, Commissioner (Appeals), Rajkot

ग [illegible]

[illegible]

घ अपीलकर्ता & प्रतिवादी का नाम एवं पता / Name & Address of the Appellants & Respondent :-

1. M/s [illegible] Balaji Ship Breakers, [illegible], Bhavnagar
2. Shri [illegible] Choudhary, Director of M/s [illegible] Balaji Ship Breakers Pvt. Ltd.
3. Shri Bharat M. Sheth, Plot No [illegible], Bhavnagar
4. Shri [illegible] Patel, Plot No. [illegible], Bhavnagar
5. Shri [illegible] Patel, Plot No. [illegible], Bhavnagar

[illegible]

(A) [illegible]

(i) [illegible]

(ii) [illegible]

(iii) [illegible]

(B) [illegible]

:: ORDER IN APPEAL ::

The present five appeals have been filed by the Appellants (hereinafter referred to as "Appellant No.1 to Appellant No.5") as detailed in the table below against Order In Original No. 64/AC/Rural/BVR/[illegible]/2016-17 dated 31.03.2017 (hereinafter referred to as "the impugned order") issued by the Assistant Commissioner of Central Excise, Rural Division, Bhavnagar (hereinafter referred to as "the lower adjudicating authority"):-

Sr. No.	Appeal No.	Appellant No.	Details of the Appellant
1	V2/[illegible]/BVR/2017	Appellant No.1	M/s. [illegible] Ship Breakers, [illegible] Plot No. [illegible] Ship Breaking Yard, Alang, [illegible] Bhavnagar-[illegible] (Office at: [illegible] Near [illegible], Bhavnagar)
2	V2/[illegible]/BVR/2017	Appellant No.2	Shri [illegible], Partner, M/s. [illegible] Ship Breakers [illegible]
3	V2/[illegible]/BVR/2017	Appellant No.3	[illegible] Plot No. [illegible], [illegible] Road, Bhavnagar [illegible]
4	V2/[illegible]/BVR/2017	Appellant No.4	Shri Vinod [illegible], Plot No. [illegible], [illegible] Vega City, Opp. Victoria Park, Bhavnagar-364002
5	V2/[illegible]/BVR/2017	Appellant No.5	Shri [illegible] Patel, [illegible] Enterprise, Plot No. [illegible], [illegible] Vega City, Opp. Victoria Park, Bhavnagar-364002

2. The brief facts of the case are that officers of the Directorate General of Central Excise Intelligence (hereinafter referred to as "DGCEI" for brevity) conducted search operation at the premises of few [illegible] Bhavnagar and recovered several incriminating documents. Thereafter, another rounds of search operation were conducted at the premises of various [illegible] and transporters and recovered various incriminating documents indicating clandestine removal of dutiable goods and [illegible] by passing of Cenvat credit without actual physical supply of goods, etc.

2.1 Show Cause Notice No. DGCEI/AZU/[illegible]-315/2012-13 dated 19.04.2013 was issued proposing demand and recovery of Central Excise duty of Rs.[illegible] under proviso to Section 11A(1) of the Central Excise Act,1944 (hereinafter referred to as "the Act") alongwith interest under Section 11AA of the Act and imposition of penalty under Section 11AC(1)(a) of the Act read with Rule 25 of the Central Excise Rules, 2002 (hereinafter referred to as "the Rules") upon Appellant No.1. The Show Cause Notice also proposed to impose penalty under [illegible] (1) & (2) of the Rule 26 of the Rules upon appellant No. 2, 3, 4 & 5. The Show Cause Notice was adjudicated by the lower adjudicating authority vide the

impugned order, in which (i) Central Excise duty of Rs. 20,20,021/- was confirmed under Section 11A(1)(A) of the Act along with interest under Section 11AA of the Act and penalty of Rs. 25,60,021/- was imposed under Section 11AC(1)(c) of the Act upon Appellant No. 1; (ii) Penalty of 20,90,021/- under Rule 26(1) of the Rules and penalty of Rs. 2,41,652/- under Rule 26(2) was imposed on Shri Sanjay Choudhary, Authorised Signatory of Appellant No. 1; (iii) Penalty of Rs. 75,777/- and Rs. 2,41,652/- under Rule 26(1) & 26(2) of the Rules, respectively, was imposed upon Appellant No. 3; (iv) penalty of Rs. 45,000/- under Rule 26(2) of the Rules was imposed each on Appellant No. 4 & 5.

3. Being aggrieved with the impugned order, Appellants No.1 to 5 have preferred the appeals on various grounds as under:

<u>Appellant No. 1.</u>

(A) The impugned order is non-speaking and non-reasoned in as much as it has not duly dealt with the issues made by the assessee [illegible] and [illegible] them; that the lower adjudicating authority did not record any findings on the arguments raised before it and mechanically dealt with the [illegible]; that the lower adjudicating authority has shown judicial indiscipline in not abiding by the various judicial pronouncements; [illegible] the impugned order is bad in law.

(B) That the impugned order was issued in violation of principles of natural justice, as the request for cross examination of all transporters [illegible] was not considered and the impugned order was passed confirming the demand and imposing penalty; that no penalty was proposed on all the transporters in the Show Cause Notice which implies that [illegible] under threat, duress and in unfair manner; the cross examination of all the transporters is required as their statements [illegible] and [illegible] for corroborating evidence; that denial of cross examination of the person amounted to violation of principles of natural justice and relied upon judgment in case of Shalimar Agencies reported as 2000 (120) [illegible]; [illegible] Chandramouli reported as 1990 (48) ELT 289 (Tri.); Tuticorin Spinners reported as 2001 (131) ELT 548 (Tri. Del.); Sharma Chemicals reported as 2001 (130) ELT 271 (Tri.-Kolkata).

(C) That there is no any evidence except statements of the transporters and the brokers, which proves that they had clandestinely removed the goods in an

[illegible] as no statements of (i) owners or their drivers (ii) buyers/purchasers of consignees have been recorded by the investigating officers; that no corroborative evidence about receipt of any cash amount is available on record; that charges of clandestine removal are serious charges and cannot be established on the basis of some registers of unverified nature and they rely on judgment in the case of Tejwal Dyestuff Ind. reported as 2007 (216) ELT 310 affirmed by Hon'ble High Court of Gujarat reported as 2009 (234) ELT 242 (Guj.); that apart from the registers of transporters, the investigation did not go to the logical end and there is no trail of the alleged clandestine activities on the part of Appellant No. 1; that the sale/dispatch reports alongwith other documents could have been the starting point of investigation; that for sake of brevity, they reiterated their submissions made at the time of adjudication which may be considered for present appeal also; that the quantification of Central Excise duty confirmed on the basis of Truck/booking registers is wrong and not on the basis of evidences.

(D) That the findings cannot be based on presumptions and conjectures and on assumptions; that the charges of clandestine removal is required to be proved by the Revenue with affirmative, positive and tangible evidence; that no evidence on record to corroborate the charge of clandestine removal is shown in the Show Cause Notice; that charges of clandestine removal cannot be based on diaries of unverified nature and they rely on decision in case of Tejwal Dyestuff Ind. reported as 2007 (216) ELT 310 (Tri.-Ahmd.) affirmed by Hon'ble High Court of Gujarat reported as 2009 (234) ELT 242 (Guj.); that the entry made in the diary recovered from Shri Bharat Sheth during the search is third party evidence; that the Show Cause Notice issuing authority neither produced any list nor relied in the Show Cause Notice in which they have found deciphered large number of encoded entries and names appearing in the pocket diary/note book seized from the brokers; that no evidence of illicit transaction has been produced by the department; that they never admitted clearance of goods clandestinely nor any documentary evidence suggesting that they were involved in clandestine removal of such goods; that no evidence neither documentary nor otherwise available on record regarding the transport of so called illicitly cleared goods from their premises; that no evidence has been gathered by the DGCEI of even one instance where the excisable goods cleared by the them were found to be received by the purchaser without proper invoices; that they did not receive the amount, which has been indicated in the private diaries as paid in cash to

them; that no investigation was extended to any purchaser that they had made any payment on receipt of the clandestinely removed goods to them and whether they received such goods or not; that no corroborative evidence available on record about the receipt of any cash amount; that the department has not produced any evidence regarding enquiry from buyers about such purchase, flow back of funds from the buyers and hence demand alongwith penalty is not sustainable.

(ii) That the demand confirmed on the basis of the investigation in respect of Shri Vinod Patel & Shri Kishor Patel, brokers, they do not want to repeat their arguments made herein above in respect of demand confirmed on the basis of the investigations carried out with Shri Bharat Shah and with the Companies and they rely on their submissions made at the time of adjudication; that as per Indian Evidence Act, burden of proof lies upon the party who asserts something and in the present case burden was not discharged correctly; that the partner of Appellant No. 1 has never stated that they have sold the goods clandestinely; that for data retrieved from the pen drive, Shri Vinod Patel stated that he made a practice of accounting and hence no corroborative or additional evidences have been produced by the Revenue; that the onus to produce such allegation is on the department and not on the appellant; that there is no other evidence on record upon the clandestine manufacture and clearance by the appellant; that the deposition made by different person in their statements are not relevant; that none of the transporter has confessed that the goods cleared by the appellant clandestinely had been transported by them or none of the purchaser has confessed that the said goods were purchased by them or none of the angadias confessed that any amount had been paid to the appellant; that they rely on the judgement in case of Amba Lal reported as 1983 (13) ELT 1321 (S.C.).

(iii) That they had not indulged in undervaluation of the excisable goods and had not evaded Central Excise duty and not received differential payment in cash from their buyers towards the excisable goods cleared by them; that they rely on submission made at the time of adjudication for sake of brevity.

(iv) That as far as passing on fraudulent Cenvat credit by issuing only invoices, they cleared the goods on invoice on payment of duty, that the delivery of the duty paid goods is given to the [illegible] or the brokers representing buyers of

the goods and the payment of price of such goods is received from the buyers by cheque or RTGS; that there is no evidence on record that they were involved with the purchasers through Shri Bharat [illegible] by issuing duty payment documents only; that they refer to the submissions made in detail at the time of adjudication to avoid repetition.

(H) That they were not liable to penalty under Section 11AC of the Act inasmuch as no allegation about commission of any offence are proved; that no evidence was adduced in the Show Cause Notice to establish that the alleged acts or omissions had been committed by the appellant deliberately or contumaciously or in flagrant violation of provisions of law or with intention to evade duty.

(I) The Appellant No. 1 received copy of the impugned order on 01.04.2017 and filed appeal on 25.05.2017 i.e. beyond period of 60 days but within extended period of further 30 days and accordingly filed application for condonation of delay on the reason that their consultant was busy with adjudication proceedings of various authorities due to change of jurisdiction; that the consultant being a chartered accountant firm and they were busy with the reply work of notices issued by the Income Tax department due to demonetization of currency and statutory audit work of nationalized banks and they were also busy with the migration and consulting work of GST and hence they cannot prepare the appeal within time resulting into delay which was not intentional on their part; that if the delay is not condoned, they will suffer irreparable loss/damage and they rely on judgement in case of Mst. Katiji and others reported as 1987 (28) ELT 185 (SC), Milag Singh and Others reported as 1987 (32) ELT 238 (SC), Vedabai @ Vaijayantabai Baburao Patil reported as 2001 (137) ELT 15 (SC), C. D. Steel (P) Ltd reported as 2005 (186) ELT 431 (Tri.-Kolkata); that they had a good prima facie case and delay of 30 days may be condoned.

Appellant No. 2:

(a) That evidence regarding the appellant was [illegible] the [illegible] or the beneficiaries as he is the authorized signatory of Appellant No. 1 and has not acted with any personal motive or benefit and thereby the question of any personal penalty upon him is not proper; that the penalty can be imposed on a person who acquired possession of, or otherwise physically dealt with, any

excisable goods which, according to his belief or knowledge was liable to confiscation; that personal penalty on authorized signatory in addition to the company is not imposable and they rely on the following judgements:

1. Bright Brothers Ltd reported as 2006 (195) ELT 69 (Tri.-Mumbai)
2. National Plastic Ind. Ltd. reported as 2004 (166) ELT 452 (Tri.-[illegible])
3. Sandhya Marketing Pvt Ltd reported as 2008 ([illegible]) ELT 406 (Tri. Del.)
4. Sevakumar Textiles reported as 2005 (188) ELT 354 (Tri.-Chennai)
5. Madhusudan [illegible] Ltd reported as 2003 (156) ELT 311 (Tri. Bangalore)

(b) That penalty cannot imposed under Rule 26(2) of the Rules and the appellant had not made clearance through Green Sheet without the supply of goods mentioned therein facilitating the buyers to avail fraudulent Cenvat credit without actually delivering the goods; that he is not liable to penalty under Rule 26(2) of the Rules.

(c) The Appellant No. 2 received copy of the impugned order on [illegible].2017 and filed appeal on 29.06.2017 i.e. beyond period of 60 days but within extended period of further 30 days and accordingly filed application for condonation of delay by stating reason that their consultant was busy with adjudication proceedings of various authorities due to drive of adjudication; that the consultant being a chartered accountant firm and they were busy with the audit work of [illegible] issued by the [illegible]. The department due to demonetization of currency and statutory audit work of nationalized banks and they were also busy with the information and consulting work of GST and hence they could not prepare the appeal within time resulting in delay which was not intentional on their part; that if the delay is not condoned, they will suffer irreparable loss/damage and they rely on judgement in case of Mst. Katiji and others reported as 1987 (28) ELT 185 (SC), Bhag Singh and Others reported as 1987 ([illegible]) ELT 258 (SC), [illegible] reported as 2001 (102) ELT 13 (SC), S. D. Steel (P) Ltd reported as 2001 (126) ELT 937 (Tri. Kolkata); that they had a good prima facie case and delay of 30 days may be condoned.

Appellant No. 3:

(i) The impugned order is based on surmises and conjectures and upon conjunctures of the adjudicating authority and is against the canon of natural justice as the defense submissions made by him based on facts are

circumstances were not considered. The impugned order is perfunctory and therefore, it is required to be quashed and set aside.

(ii) The adjudicating authority did not supply the relied upon documents alongwith the SCN. It was not proper and legal, but supplied some copies of document after request made by him. There were many documents relied upon, which were mainly in the form of recorded statements. For preparing defense reply, each and every document was required to be studied by comparing the contentions contended in the statements of the respective persons namely [illegible] Patel whose statements had been discussed in the SCN. This important work could not be done from the relied upon documents supplied to CD. Therefore, it is clearly established that the adjudicating authority has grossly violated the principle of natural justice. He relied upon the settled case law of Secure Industries Ltd. [2003 (153) ELT 559 (CESTAT)], wherein it has been held that "adjudication order passed when copies of documents relied upon were not supplied to assessee even if he was given opportunity one month prior to hearing, to take photo copies. It was held that department was obliged to supply documents. Otherwise, there is violation of principle of natural justice". In the case of R&B Processor [2003 (152) ELT 25], the Hon'ble Divisional Bench of High Court, Rajasthan has held that "As a matter of course copies of documents relied upon are required to be supplied. Mere opportunity to inspect the documents and to obtained photo copy thereof is not sufficient". In the present case, the adjudicating authority has failed to supply the complete set of relied upon documents though requested. Therefore, the impugned order is not proper and legal, but deserves to be set aside.

(iii) The duty of excise has been determined on the basis of such entries found written in the seized diaries by taking into consideration of the trip registers maintained by the Transport Agency as well as such entries of the vehicles found written in gate pass register maintained by GMB; that charges of clandestine removal of goods without payment of Central Excise duty have been framed and confirmed on the basis of the third party's evidences without corroborative evidences.

(iv) The adjudicating authority erred in confirming the duty of Central Excise on the allegation of undervaluation confirmed on the basis of the inquiry conducted by Central Excise department with the various Consignees; that the Sub Rule (1) of Rule 26 is pertaining to the circumstances under which

circumstances such penalty is imposable. In the provisions, it has been specified that whenever any person is concerned in transportation, removing, depositing, keeping, concealing, selling or purchasing any excisable goods which he knows or has reason to believe are liable to confiscation under the Act or Rules framed there under. In the present case, no such charge of confiscation had been made in the SCN. Therefore, it is clearly established that the adjudicating authority has wrongly and without authority of law has imposed penalty under Sub Rule (1) of Rule 26 of the CER. Sub Rule (2) of Rule 26 provides two sub clauses as (2) (i) and 2 (ii) of the CER. The Sub clause (i) is pertaining to a person who is issuing excise duty invoice without delivery of goods or any person abetted in making such invoice. But in the present case, it is admitted fact that, only his name in the invoice appears to had been written as "broker" though he was not a broker under the definition as provided in the section 2 (e) of the Act. Department has not proved that the so called Central Excise invoice had been prepared under his presence or under his instruction. Further, it is also an admitted fact, the so called Central Excise invoice, if any, used to be issued by the respective manufacturers i.e. Ship Breaking unit situated at SBY Alang (Gujarat). Whereas, the Sub clause (ii) provides for imposition of penalty in the circumstances when a person uses any documents or abetted in making such documents, or which cause the user of the said unit or documents is likely to take ineligible benefit under the Act or the Rules made there under like claiming of Cenvat credit. Such penalty, under this clause, is imposable a penalty not exceeding the amount of such benefit or five thousand Rupees, which is greater. In the present case, the adjudicating authority has failed to prove that for which documents, the unit had benefited as well as by whom such unit had received such benefit. Without taking the base of Central Excise Record, maintained by the unit, such penalty is not imposable. In the present case, these aspects are silent. In addition to this, no such findings have been given by the adjudicating authority with regard to how many amount has been received in so called transaction. Therefore, it is clearly established that the adjudicating authority has wrongly and without authority of law has imposed penalty under Sub Rule (1) and (2) of Rule 26 of the CER.

(vi) The impugned order is not self contained order. In the findings, the adjudicating authority has mainly repeated the facts narrated in the SCN. To sustain such charges of clandestine removals, such Central Excise records would have been verified. In the present case, no such verification has been there on record. Only on the basis of such statements, such clandestine removal cannot

[illegible]. Therefore, the impugned order is not correct [illegible] in absence of such verification of the statutory records pertaining to the Act and Rules framed thereunder. The sales details submitted by the unit, such clandestine removal cannot be sustain on the basis of the above sales [illegible] without corroborative evidences with reference to Central Excise records. Therefore [illegible] not proved to sustain the charge of clandestine removal. Further, he had acted a limited role to recognize the buyer and seller to each other and fixed the price of the goods on the basis of the market rate prevailing at the material time. He was not used to go the unit to the ship breaking units for managing loading of the dutiable goods. He had not remained present at the time of preparation of Central Excise Invoice and at the time of removal of the dutiable goods from the factory premises of the unit. Nowhere in the findings of the impugned order, has it been held that he was present at the time of removal of such dutiable goods clandestinely etc. Further, it was also the fact that the freight charges appears to have been paid by the buyer of the so called goods. Therefore, he was not at all involved in any way as provided in the Rule 26 (1) & (2) of the CER.

(x) The adjudicating authority has simply narrated the events mentioned in the SCN, but failed to establish the charges framed in the SCN. The adjudicating authority has simply proved the charge by [illegible] the facts and circumstances narrated in the SCN and not given his own findings which are required to be given being a quasi judicial authority.

(xi) Further, no such signature of the appellant was taken in token of having the information shown in the said Annexure was correct and genuine. Therefore, the impugned order is not sustainable in the eyes of law in the circumstances when the worksheet of demand of SCN appears had been prepared on the basis of such particulars mentioned in the seized diaries which were the records pertaining to the business carried out by him and not pertaining to the business carried out by the unit against whom the charge of clandestine removal was framed.

(xii) It is observed that the subject SCN had been issued on the basis of the say and submissions made by Shri Manish Patel, especially with regard to the use of name of such party in 'short name'. But such provisions is silent about any coded or secret data, if any, mentioned in the Diary are decided whether the

said person under provisions. This "uploaded" explained by said Sh. Manish Patel had not been demonstrated before the unit or before the authorised person of unit. Therefore, the way of the investigation carried out by the DGCEI is appear to be doubtful. Without sanctioned such decoded data by the law, such order is not tenable within the eyes of law.

(ix) The present case is covered under provisions of the Act which is an Act for collection of Tax i.e. Central Excise duty. Therefore, for proving such allegation of evasion of Central Excise duty, a document showing the illicit manufacture of excisable goods and document proving the illicit removal of excisable goods without payment of duty are to be produced by the department. In the present case, only the seized Diaries had been taken as evidence for demanding such duty. But these Diaries cannot be said as a "legal document" to frame charge of the evasion of duty unless and until it is corroborated by any of the Central Excise documents prescribed under provisions of CER. Therefore, the impugned order deserves to be set aside.

(x) He further submitted that the buyer was always been deploying their man known as Chhatiwala for loading of the required Re-rollable goods to the concerned unit ship breaking units. But, though the Chhatiwala was the key person to state whether the goods under question had been removed clandestinely or not, there is no mention in this regard. Therefore, the finding of the adjudicating Authority that the disputed goods had been removed clandestinely is not correct and legal.

(xi) In the SCN, it was also stated that the Angadias have played key role in the issue under reference. However, no SCN had been issued to the Angadias. The Angadias have been found to have been involved in cash transaction as alleged in the SCN. But no any specific evidence has been placed with reference to particular consignment/Central Excise Invoice for which the so called transaction had taken place. Therefore no direct specific evidence was there in the SCN. Therefore, the findings given by the adjudicating authority are not correct.

(xii) From the above submissions, and from the facts and circumstances of the case, he has proved that:

(a) He is not liable to any penal action under Rule 26 (1) & (2) of the

much as no such allegation or charge of confiscation of the so called clandestine removal of the excisable goods had been framed in the SCN. The penal action under the Rule 26 can be imposed only when the so called goods has been charged for confiscation. This legal position has been accepted in the case of M.H. Shah- 2008 (232) ELT 110 (CESTAT).

(b) Without having direct material evidences, the adjudicating authority has wrongly and without authority of law has imposed penalty on him, as much as there was no charge of confiscation. There was no any material evidences that he was concerned in transportation of goods illicitly. He had not looked any documents of the unit. The department has failed to prove that he was aware of clandestine manufacture and removal.

(c) The so called clandestine removal of the excisable goods has not been proved on basis of the material evidences. For each consignment, as mentioned in the SCN, it is required to be independently proved. But in the present case, the same has been done on the general. This is not correct.

(d) The so called cash transaction has not been proved with each and every consignment as mentioned in the SCN.

(xiii) No such evidence has been produced regarding seizure of incriminating documents from the factory premises of the unit in proof of the so called charge of clandestine removal reported to have been made by the unit. Therefore, it is clearly established that the subject case had been made out on the assumption presumption ground only. He had not contended the case vehemently as contended in the impugned order. The findings of the impugned order appear to have been made without any corroborative evidence with reference to each and every so called consignments cleared clandestinely by the unit. Since, the case against the unit appears not to have been proved with material evidence, the Co-Noticee i.e. the appellant was also not liable for penal action as provided vide the impugned order.

(xiv) The adjudicating authority has failed to consider the various case laws as relied upon by him and mentioned in the above mentioned written submission dated 27.01.2015. Again, he is relying upon the said case laws which are reproduced here under as the same are squarely applicable to the present case:-

a) Maruti [illegible] - 2007 (218) ELT 120

b) [illegible] – 2007 (212) ELT 340

c) Vimal Raj – 2007 (215) ELT 135

d) S.K. Jhunjhunwala – 1996 (11?) ELT 094

e) S.L. Bhusan – 1993 (66) ELT 533 (Bom. HC); 1997 (94) ELT A248 (SC).

f) Suman Borase – 2007 (217) ELT 367 (Cus. AT)

g) Amrit Foods Co. Ltd. – 2005 (190) ELT 433 (Tri. Del.)

h) Om Aluminium Pvt. Ltd. – 2011 (271) ELT 254 (Tri. Ahd)

i) Order No. A/11033-11034/2015 dated 7.07.2015 CESTAT Ahmedabad

j) Order-in-Original No. SUR-EXCUS-000-COM-002-16-17 dated 25.05.2017 passed by the Commissioner, Central Excise, Surat.

(xvi) Appellant No. 3 filed application for condonation of delay stating that he was required to pay pre-deposit of Rs. 73,770/- before filing the appeal as his financial position was very weak and therefore, he could not make the mandatory pre-deposit within time limit of 60 days; that the grounds of late filing were beyond his control and he requested to condone the delay of 24 days as per proviso of Section 35(1) of CEA.

Appellant No. 4 & 5:

Being aggrieved with the impugned order, the appellant No. 4 & 5 filed appeal on the following grounds:

1. Both the appellant argued that the impugned order was issued in violation of principle of natural justice in as much as the department has not supplied the relied upon documents so as to file defense reply; that they are receiving so many Show Cause Notice as well as various types of letters of personal hearing and [illegible] is also busy with adjudication drive of the Department; that they had not received relied upon documents and the lower adjudicating authority has to record in his findings regarding receipt issued by the appellants; that it is also recorded that they ask for hard copy of documents thereby frustrating the attempts of the department to complete the proceedings; that whoever makes an allegation, has to supply the necessary ingredients to support that charge.

2. They further contend that they are not liable to penalty under Section 26 of the Rules in as much as they always cooperated with the

investigation and never provided evasive replies and appeared before the investigation officers and gave true statements as they never indulged in any illicit activities and no such evidence was bought by the investigations officers that no evidence produced by the department of alleged illicit transaction and burden of proof is lying on the department and they deny all the findings recorded against them; that no penalty was proposed on Shri Mahendra Rana, Partner of M/s. Maruti Metal Industries in Show Cause Notice, which implies that the statement was recorded under threat, duress and with compulsion in unfair manner; that the DGCEI officers might have promised Shri Mahendra Rana, Partner of M/s. Maruti Metal Industries that if he would give his statement against the appellant as per their will & say at office of DGCEI which are far from truth, they will not be penalized and accordingly, the penal action on Shri Mahendra Rana, Partner of M/s. Maruti Metal Industries was not proposed in the Show Cause Notice; that they refer to the submissions made in detail vide their reply to Show Cause Notice submitted to the adjudicating authority and reiterate the same for the purpose of present appeal; that no evidence either documentary or otherwise available on record regarding transport of goods cleared by the ship breaker to their customer's premises.

3. That denial of cross-examination of the persons amounted to violation of principles of natural justice and as such clandestine removal of the goods based on the statement of that persons did not stand proved and they relied following judgments:

- Shalimar Agencies reported as 2000 (120) ELT 194 (Tri.).
- [illegible] reported as 1990 (48) ELT 255 (Tri.).
- Tanshiva Spinners reported as 2001 (131) ELT 568 (Tri. Delhi).
- Sharma Chemicals reported as 2001 (130) ELT 271 (Tri.-Kolkata).

4. That on reading Rule 26 of the Rules, their case is not covered under sub-rule (1) of Rule 26, as they had not dealt with excisable goods in any manner whatsoever; that the pre-condition for a penalty on any person under the above rule is that either he has acquired possession of any excisable goods with the knowledge or belief that the goods are liable to confiscation under the Act or Rule or he has

been in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing or has in any other manner dealt with any excisable goods with such knowledge or belief; the acquisition of possession of goods is indisputably a physical act and so is each of the various ways of dealing with goods, specifically mentioned in the rule; that they rely on the decision in case of Godrej Boyce Mfg. Co. reported as 2002 (148) ELT 161 (T), A. M. Kulkarni reported as 2007 (56) RLT 773 (CESTAT-Mum.) and Ram Nath Singh reported as 2003 (151) ELT 451 (Tri. Del.).

5. Both the appellant filed application for condonation of delay by stating that there is a delay of only 30 days as they received the impugned order on 04.04.2017 and they filed appeal on 05.07.2017; that their consultant was busy with the adjudication proceedings of various authorities due to dates of adjudication; that their consultant being a Chartered Accountant firm and they are busy with the reply work of notices issued by Income Tax department due to demonetization, statutory audit work of nationalized banks and litigation and consulting work of GST and hence they could not prepare the appeal in time leading to delay in filing appeal; that there was no intention on their part to delay and if the delay will not condoned, they will suffer irreparable loss/damage; that they rely on the decision of Katiji & Others reported as 1987 (28) ELT 185 (SC), Bhag Singh & Others reported as 1967 (12) LLJ 255 (SC), Vedabai reported as 2001 (132) ELT 13 (SC), C.M. Steel (P) Ltd. reported as 2008 (156) ELT 954 (Tri.-Kolkata).

4. Personal Hearing in the matter was attended by Shri M. N. Vekaria, Chartered Accountant on behalf of Appellant No. 1 & 2 who reiterated grounds of appeals and submitted written submission for both the appellants requesting that their appeals may be allowed by setting aside the impugned order.

4.1 In addition to the above, Appellant No. 1 stated that they rely on the defense filed for Show Cause Notice since the lower adjudicating authority had not recorded any finding on the arguments raised by them; that they requested for cross examination of Shri Mahendra [illegible], Partner of M/s. [illegible] Steel Industries which had not been allowed by the lower adjudicating authority; that investigation failed to show any amount received by appellant No. 1 in respect

of alleged clandestinely cleared goods without any corroborative/tangible evidence from the consignee or the transporters; that they rely on following judgements:

1. Shree Industries Ltd. reported as 2010 (261) ELT 800 (Tri.-Ahmd.)
2. A. Rajagopal reported as 2007 (219) ELT 420 (Tri. Ahmd.)
3. T. R. Ind. reported as 2007 (215) ELT 242 (Tri.-Del.)
4. Pole Star Industries Ltd. - 2007 (216) ELT 757 (Tri. Ahmd.)
5. Renu Sugama Papers Ltd reported as 2004 (168) ELT 494 (Tri. Del.)
6. Motabhai Iron & Steel Ind. reported as 2015 (316) ELT 374 (Guj.)
7. Ratan Fireworks reported as 2005 (182) ELT 352 (Tri.)
8. Amplus Dung Jung reported as 2005 (9) SCC 763
8. Kuber Tobacco Products P Ltd reported as 2013 (290) ELT 545 (Tri.-Del.)
9. Gopi Synthetics Ltd. reported as 2009 (236) ELT 721 (T)
10. Ambika Textile Mills Pvt Ltd reported as 2010 (255) ELT 687 (Guj.)

Undervaluation:

4.1.1 Appellant No. 1 submitted that except the statements of M/s. Shodrates, M/s. Major L. Kishor and M/s. Along Bose Information Co., there was no other evidence on record to indicate the undervaluation of the excisable goods, which corroborates the facts of under valuation of the goods with a view to evade excise duty; that the same has been made on presumptions and assumptions basis in absence of cash flow as well as non investigation or inquiry at customers end as well; that they rely on judgement of Alfa Ceramics Ind. - 2002 (146) ELT 454 (T); Tirwands Pvt Ltd - 2005 (184) ELT 558 (T); Sharon Veneers - 2002 (140) ELT 658 (Tri.); G. Vandutty - 1996 (90) ELT 259 (SC); Jewel Glass - 1995 (77) ELT 205, Weedman Ind. - 2004 (164) ELT 375 (Tri.);

4.1.2 The Appellant No. 1 contended that they are not liable for penalty under the provisions of Section 11AC of the Act and Rule 25 of the Rules as no evidence was adduced in the Show Cause Notice to establish that the alleged acts or omissions had been committed by them; that no penalty was imposable when there was no mala fide intention to evade payment of duty; that there are no incriminating documents on record except statements of the consignees which are not relevant as the same have not been corroborated by independent evidences; that the judgements relied upon by the lower adjudicating authority are not relevant with the facts of this case.

4.1.3 Appellant No. 2 in written submission made at the time of personal hearing stated that department has no case that he had a belief or knowledge that the goods were liable to confiscation and hence Rule 26 of the Rules was not invokable against him; that personal penalty on authorized signatory in addition to the company/firm is not imposable and relied upon judgment in case of Bright Brothers reported as 2005 (189) ELT 69 (Tri.-Mumbai), National Plastics Industries - 2004 (166) ELT 468 (Tri.-Mumbai), Randeep Marketing Pvt. Ltd. - 2004 (169) ELT 208 (Tri. Del.), Shri Sakthimurugan Traders - 2005 (188) ELT 344 (Tri.-Chennai); that he is not liable for penalty under Rule 26(1) of the Rules; that he did not knowledge in passing on illegal Cenvat credit as he issued only invoices; that sale of duty paid MS scrap was made ex-factory and goods delivered at the factory gate and transportation of the MS scrap from the factory to the buyer's premises was not their responsibility; that they rely on judgment of [illegible] reported as 2008 (229) ELT 218, 2010 (251) ELT 105 and A. K. [illegible] Pvt. Ltd. final order No. A/458-459/05 dated 17.07.2015.

4.2 Appellant No. 3 vide letter dated 19.05.2016 has submitted that appeal may be decided on the basis of the grounds of appeals alongwith further following grounds:

4.2.1 Being only a middle man between buyer and seller, he may not be considered as broker as defined in Section 2 of the Act; that the department has not produced any evidence that he made written agreement/condition how and under what manner he has dealt with the Appellant No. 1 and helped the Appellant No. 1 for evading payment of Central Excise duty; that department has not provided copies of relied upon documents with Show Cause Notice; that CD containing copies of relied upon documents is not the material evidence and he could not file effective defence reply in absence of physical documents; that confessional statements recorded on the basis of private records viz. seized diaries pertaining to the business carried out by him for the limited purpose, registers, private records maintained by Angadias etc. were not alone to establish such charges as alleged; that department failed to establish with material evidence that by which truck and who dutiable goods had been transported from the registered premises of Appellant No. 1 and hence the charge of removal of dutiable goods without payment of duty is not proved; that the seized diaries under reference had been written by him only for his purpose

only and not for other purpose; that he was not concerned in transporting, removing, depositing, keeping, selling or purchasing; that he was not involved in the matter of non issuance of Central Excise invoices; that the adjudicating authority wrongly imposed penalty under Rule 26(1) & (2) of the Rules; that so called financial transaction taken base from the particulars shown in the seized diaries cannot be proved without any corroborative evidence; the Department has made the allegation on assumption, presumption ground and not with accordance with each and every so called consignment shown in the worksheet attached to Show Cause Notice; that the adjudicating authority failed to appreciate case laws cited by him; that no statements of concerned person or rerolling units/ furnace units connected have been recorded; that there is no conclusive evidence regarding the receipt of so called clandestine removals; that he rely on Order-in-Appeal No. BHV-EXCUS-000-APP-273 TO 275-16-17 dated 30.01.2017 wherein lenient view has been taken by Commissioner Appeals; that he also relied upon order No. A/12077-12497/2017 dated 25.12.2017 passed by Hon'ble CESTAT, Ahmedabad; that he pray to grant permission for condonation of delay in filing this appeal.

4.4 Personal hearing for appellant No. 4 & 5 was also attended by Shri Madhav Vadodariya, Advocate who reiterated grounds of appeals and submitted written submission explaining that penalty under Rule 26 is not imposable on them as ingredients of Rule 26 are not fulfilled in these cases; he requested to set aside penalty imposed on each of them.

4.5 In additional written submission, Appellant No. 4 & 5 stated that they sought copies of relied upon documents and Annexure-B to the Show Cause Notice which was not provided to them; that they were denied opportunity of filing reply as well as personal hearing; that they asked for cross examination of Shri Mahendra Bansal, Partner of M/s. Maruti Metal Industries and Shri Mukesh Agrawal, Partner of M/s. Maruti Metal, Mandi which was not allowed by the lower adjudicating authority; that the department is not sure whether appellant No. 4 was duly involved in so called fraudulent transaction or both appellant No. 4 and 5 were involved; that the only evidence for alleged clandestine removal is seized diaries; that no investigation was carried out with factory involving physical movement involving vehicles and other entities; that penalty can be imposed under Rule 26 of the Rules if a person knowingly deals with any goods which he knows are liable for confiscation; that appellant No. 4 and 5 neither

purchased from them with the goods knowingly that these were liable to confiscation and as such no penalty is imposable on both of them; that appellant No. 4 and 5 never arranged supply of goods clandestinely cleared by the ship breaker as alleged in the Show Cause Notice and had nothing to do with the sale of the excisable goods; that there is no evidence on record that appellant No. 4 and 5 in any way conspired or colluded the ship breaker to facilitate the evasion of excise duty as they had nothing to do with the issue of invoice; that they rely on judgment of Sarthej Agro & Mfg. Co. – 2002 (148) ELT 161 (T), A.K. Gupta – [illegible] ELT 243 (CESTAT-Mum.), Ram Nath Singh – 2003 (151) ELT 451 (Tri.-Del.); that the judgments relied upon by the adjudicating authority are not relevant with the facts of this case.

Findings:

5. I have carefully gone through the facts of the case, the impugned order and written as well as oral submissions made by the Appellants. The issue to be decided is whether the impugned order, in the facts of this case, confirming demand and imposing penalty on Appellant No. 1 to Appellant No. 5 is correct or otherwise.

5.1 I find that all five Appellants filed appeals beyond period of 60 days but within further period of 30 days by stating reason that their consultant was busy with the work related to adjudication proceedings of various authorities; that their consultant being chartered accountant was busy with the work related to reply to notices of income tax department, work related to demonetisation of currency and statutory audit nationalized banks as well as migration and consulting of GST work. Since the appeals have been filed within further time of 30 days prescribed under the Act, I condone delay in filing appeals.

6. I find that the officers of DGCEI, Ahmedabad conducted coordinated searches at the places of various brokers and transporters, from where various incriminating documents like diaries, files, loose papers, compact disc, pen drive, etc. and lorry receipts, booking / trip registers etc. were recovered. Further, searches were also conducted at the premises of ship breaking units and rolling mills.

6.1. It is contended by the appellants that the adjudicating authority while passing the impugned order has completely ignored the submissions made by them. On perusal of the impugned order, I find that the adjudicating authority

has discussed detailed defense submissions of the Appellants at various sub-para(s) of the impugned order and then formulated his findings.

6.2 I find that it is a fact that while recording the statement of Appellant No.7 (Authorised person of Appellant No.1), the documentary evidences recovered from the premises of Appellants No.1, 3, 4 & 5 were placed before him; that he has seen Panchnamas drawn at the premises of Appellants No.1, 3, 4 & 5 and the statements given by Appellant No.3 and Shri Manish Patel, Accountant of Appellant No.3, Appellant No. 4 & 5; the Appellant No. 7 was given opportunity to peruse the same before giving testimony about correctness thereof. It is seen that the statements of Shri Manish Patel, Accountant of Appellant No.3 that the documents were in the form of diary maintained by him for and on behalf of Appellant No.3. Thus, Appellant No.2 was given opportunity to examine various documentary evidences duly corroborated by the oral evidences of Appellant No.3, his accountant as well as Appellant No. 4 & 5. At the time of recording statement of Appellant No.2, he was also shown Panchnamas and statements given by Appellant No.3, accountant of the Appellant No.3, Appellant No. 4, 5, Angadias, transporter etc. also. He was also shown annexures prepared on the basis of investigation conducted in respect of records seized from Appellant No.1, 3, 4 & 5 showing details of transactions carried out through Appellant No.3, 4 & 5 by Appellant No.1. I find that from the documentary evidences in form of seized diary of Appellant No.3, 4 & 5 and statements of Angadias and Transporters, it has been proved by investigation that Appellant No.1 had removed the goods clandestinely with the help of Appellant No.3, 4 & 5. These transactions have tallied with the records of Appellant No.3, 4 & 5 which are in consonance with the record of invoices issued by Appellant No. 1, Angadias and transporters, who have also admitted the transfer of cash amount as well as excisable goods. These are substantial evidence in the form of documentary and oral evidences resumed from the firm and persons indulged in transaction with the Appellant No.1. I find that the investigation has corroborated evidences as regards evasion of Central Excise duty by Appellant No.1. It has been proved beyond doubt that Appellant No.1 evaded Central Excise duty of Rs.22,63,021/- as detailed in relevant Annexure (s) of the Show Cause Notice. The records show that Appellant No.3 and his accountant, Appellant No. 4 & 5 whose statements were perused by Appellant No.7 before giving his own statements, have never retracted his statement at any point of time. Therefore, all these evidences substantiate the charges against the

appellants are valid, admissible and legal evidences.

6.3 It is on record that DGCEI proved the authenticity of records seized from Appellant No. 3 and duly corroborated the same with records seized from other locations. Para 10.7 of the Show Cause Notice has illustrated the example. It is mentioned that based on the investigation of records seized from Appellant No. 3, Appellant No. 1 had supplied plates including clandestine supply to M/s. Patel Steel Industries & Re-Rolling Mills, Mehsana. The search at M/s. Patel Steel Industries on 30.09.2011 also led to recovery of various incriminating documents and based on such documents follow up searches were carried out on 27.01.2012 at the premises of buyers including M/s. JDK Decorative Steels, Vadodara. The scrutiny of records seized from M/s. JDK revealed that they made cash payment to Appellant No. 3 on behalf of M/s. Patel Steel Industries through Angadia, which corroborated the details mentioned in the seized records of Appellant No. 3. During the course of investigation, M/s. Patel Steel Industries revealed that they had purchased plates from different ship breaking units clandestinely without invoices through Appellant No. 3 and manufactured finished goods out of such illicitly procured plates and cleared them to the buyers clandestinely. The Note Book bearing No. 1 of the Panchnama dated 27.01.2012 recovered from M/s. JDK contained the details of receipt of finished goods clandestinely from M/s. Patel Steel Industries and details regarding payment of huge cash amount on behalf of M/s. Patel Steel Industries. These incriminating, irrefutable and cogent evidences gathered by DGCEI proved that M/s. Patel Steel Industries used to receive plates from different ship breaking units through Appellant No. 3 and other brokers of Bhavnagar clandestinely without issuance of Central Excise Invoices. M/s. Patel Steel Industries manufactured finished goods from illicit receipt of plates and cleared the same clandestinely to their buyers on cash basis and cash received from the buyers were transferred to respective ship breaking units through Appellant No. 3. In this case, the cash amount was directly transferred by M/s. JDK, Vadodara to Appellant No. 3 on behalf of M/s. Patel Steel Industries. Thus, this is corroboration of records seized by DGCEI.

6.3.1 It is on record that DGCEI proved the authenticity of records seized from Appellant No. 3 and duly corroborated the same with records seized from other premises. Para 10.1.1(a) of the Show Cause Notice has illustrated the example by mentioning that based on the investigation of records seized from Appellant No. 3, Appellant No. 1 had sold 10.340 MT of scrap on [illegible] @ [illegible] per

MT to M/s. Shreeji Steel Industries, Sihor, Bhavnagar. Para 10.1.1(b) of the Show Cause Notice has illustrated the scan image of Page No. 107-100 of seized diary marked as "A/R 3" containing transactions made on 25.06.2006 that in said scan image, on the top left side, in the first column "24N 3?" is mentioned, which 24N refers to plot number of ship breaking unit i.e. Appellant No. 1, "1?" refers to size of scrap; 1,400 are the rate that 15300 is mentioned which is rate of goods cleared; buyer is required to make the payment to the said ship breaking units at Rs. 15300/- per MT but has to obtain payment from buyers @ 15800/- per MT; that next to rates, mention of "Patel (CN)" refers to M/s. Patel Steel Rolling Mill Industries, Vediyasan, Mehsana (M/s. C. N. Steel, Bhavnagar, a trader); that mentioning names of two units like above refers to diversion of goods i.e. the actual goods were cleared to M/s. Patel Steel Rolling Mill Industries, Vediyasan, Mehsana and its corresponding sale invoice in the said transaction was issued to M/s. C. N. Steel, a traders in Bhavnagar; that on the left bottom side of the scan images shows payments received from various rolling mills including M/s. Patel Steel Rolling Mill Industries, Vediyasan, Mehsana on that particular day whereas on the right bottom side of the scan image shows details of payment made to various ship breakers including Appellant No. 1 and in the middle portion of the scan image shows cash payments made to angadia "RK" i.e. R. Ratan, Angadia on that particular day.

4.4 I find that Appellant No. 1 has, intentionally adopted unlawful means to evade payment of excise duty. The evasive mind and conduct of Appellant No. 1 is clearly established. Therefore, I hold that the removal of excisable goods in this case was of clandestine nature, which removal with pure intention to evade payment of excise duty. In view of above, I hold that Appellant No. 1 is liable to pay Central Excise duty of Rs. 25,63,071/- under the provision of erstwhile sub-section (1) of Section 11A (Now Section 11A(4)) of the Act [illegible] and is required to be paid along with interest at applicable rate under the provisions of erstwhile Section 11AB of the Act. By resorting to this act, Appellant No. 1 is liable to penalty equal to the duty under Rule 25 of the Rules read with Section 11AC of the Act.

4.5 Regarding demand of duty based on booking register of the transporter, it has been contended by the appellant that department has not adduced evidence with regard to quantity of goods and buyer of the goods. They have also raised question regarding authenticity of the register maintained by GMB at the gate of

ship breaking yard. In this regard, I find that out of [illegible]89 entries found in the booking register of the transporter, Appellant No. 1 had issued invoices except for 36 entries. Thus, authenticity of the booking register is beyond doubt. During investigation, statements of authorized signatory of Appellant No. 1 were recorded and he admitted to have cleared goods without issue of Central Excise invoices. Regarding register maintained by the GMB at the gate of ship breaking yard, I find that such register provides corroborative evidence to establish that the truck number mentioned in the booking register of the transporter actually entered the premises of ship breaking yard on the given date and time. Though it has been contended by the appellant that the truck might have gone to some other plot for loading, they have not challenged the fact that only after finalization of deal, the trucks are engaged in order to save money pertaining to cancellation or booking of truck. Therefore, there is no doubt that both the records, viz. booking register of the transporter as well as register maintained by GMB are authentic. Regarding buyer of such goods, it is seen that the booking register does not show name of the buyer. It shows only destination for which truck was hired. Therefore, no investigation could have been conducted at the end of buyer. It is settled law that in cases of clandestine removal, department is not required to prove the case with mathematical precision as held by the Hon'ble Apex Court in the case of D. Bhoormull – 1983 (13) ELT 1546 (SC).

6.[illegible] In view of the above, I find that the department has adduced sufficient evidences to show that the appellant was engaged in clandestine removal of the goods and therefore, the case laws relied by the appellant are of no help to them, as facts of the present case clearly show evidences that the appellant was engaged in evasion of duty by way of clandestine removal of their goods.

7. Regarding demand of duty on the basis of diaries recovered from brokers Shri Bharat Manharlal Sheth, Shri Vinod Amarshibhai Patel and Shri Kishore Amarshibhai Patel, it has been contended by the appellants that the demand made and penalty imposed on the basis of third party documents are not sustainable. I find that in the diaries maintained by the brokers, licit and as well as illicit transactions are recorded. It is found that for many transactions, invoices were issued by the supplier. Thus, the authenticity of the diaries and other records recovered from the brokers is established. Further, the brokers have admitted to have received the goods from the Appellant without invoices and passed on the same without invoices. They have also admitted that in many

cases, in order to pass on Cenvat credit fraudulently, they had supplied invoice to one party and the goods of that invoice were sent to another party. Thus, the case is based not only on third party documents but duly corroborated by other evidences. The authorised signatory of the appellants has, in his respective statements admitted that they had cleared the goods without issue of Central Excise invoices. Such statements have never been retracted and hence have evidentiary value. The combined study of all such evidences reflects that the evasion has taken place and appellants have indulged in it. So, in this case third party evidences are admissible. The contention made by Shri Manish Patel were confirmed by Shri Bharat Mohanlal Sheth and never been retracted. It is on record that the transactions were recorded in ciphered / coded manner, and the case was made out after deciphering and accepting the same by the Shri Vinod Amarshibhai Patel and Shri Kishor Amarshibhai Patel, who cooperated during inquiry. The transactions recorded in diaries and storage devices seized from Shri Bharat Mohanlal Sheth and Shri Vinod Amarshibhai Patel and Shri Kishor Amarshibhai Patel were further corroborated with relevant records. Therefore, these are vital and crucial evidences as per the Indian Evidence Act, 1872 and are sufficient to prove the case against the Appellants.

7.1 Regarding allegation of undervaluation, it has been contended that they were selling the scrap at the price which was fixed based on material emerging from breaking of the ship and thus the valuation was dependent on many factors like age of ship, quality of material etc. and therefore the price published by M/s. Major and Minors cannot be taken for the purpose of assessment based on transaction value. The department has not proved receipt of money from buyers over and above invoice value. I find that statements of various angadias were recorded, wherein it is clearly transpired that the transactions of unaccounted cash over and above the invoice value took place. Thus, department has proved receipt of money over and above invoice value. I find that in order to be just and fair, the investigation has allowed variation upto 4% in the price published by Major and Minors. Thus, I find that it is not a case where flow back of money or receipt of consideration over and above invoice value is not established. It is but natural that in a case where assessee is engaged in clandestine clearance as well as undervaluation of goods produced by them, one-to-one correlation of the goods sold and payments received in cash or through angadia can't be established. In my view, sufficient evidences have been unearthed from the records recovered from brokers, cash transactions between various trading

mills/furnace units and the appellant through brokers. Therefore, I find that the rejection of transaction value and redetermination of the same by the price prevailing is correct in view of Valuation Rules as well as Section 4 of the Act.

7.2 In view of above, I find that Appellant No. 1 has evaded payment of Central Excise duty by way of clandestine removal of goods as well as by undervaluation of the goods.

7.3 Appellants No. [illegible] to 5 have argued that demand of duty cannot be confirmed on the basis of diaries and records recovered from the third party like brokers Shri Sharat [illegible] (Appellant No. 3), Shri Vinod Patel (Appellant No. 4) and Shri Kishor Patel (Appellant No. 5) and hence, demand made on the basis of third party documents is not sustainable. I find that the diaries maintained by the brokers have recorded both, as well as detail transactions of Appellant No. 1. I also find that many transactions recorded in private records tallied with invoices were actually issued by Appellant No. 1. Thus, truthfulness of diaries/ ledgers and other private records recovered from the brokers during search is clearly established, also because all brokers have admitted to have dealt with the goods belonging to Appellant No. 1 without invoices and also sold such goods without invoices. Notwithstanding above, I also find that demand has been computed on the basis of documents based on the searches carried out at the premises of brokers as well as the premises of Appellant No. 1. I also find that all links involved in the case, i.e. brokers, Appellant No. 1, transporters and Angadias etc. have corroborated evidences gathered during searches and therefore, demand cannot be said to be based upon third party evidences only. The case in fact, is not based only on third party documents but duly corroborated by host of other evidences also. I find that multiplicity of party within itself negate the concept of third party. In the instant case, the evidences of clandestine removal have been gathered by the investigating officers successfully from many places and therefore, it cannot be termed third party evidences but corroborated and supporting evidences.

7.4 Appellant No. 2 (Director of Appellant No. 1) has in his statement dated 08.12.2017 recorded during final part of the investigation, on being confronted with vital documentary and oral evidences along with duty calculation Annexures TR-1, TR-2, [illegible], BS-1, BS-2, BS-3, BS-4, VCP-1 and VP-1, admitted that they cleared [illegible] goods without payment of duty and [illegible] Central Excise invoices

raised for such transactions. This statement of Appellant No. 2 dated [illegible] 12 2017 has not been retracted and hence, has sufficient evidentiary value, which cannot be belittled. The combined consideration of all and corroborative evidences reflects that Central Excise duty evasion has indeed taken place and Appellant No. 1 has indulged in it. I, therefore, find that all these are required to be considered vital and hard evidences and are sufficient to prove the case against the Appellants. In this regard, I also rely upon the decision of the Hon'ble CESTAT in the case of Om Prakash Agarwal reported in 2017 (349) E.L.T. 425 (Tri. Del.) wherein it has been held as under :-

"5. I note that in both the proceedings almost identical set of facts were involved. The allegation was that based on evidence collected from the suppliers' side, unaccounted receipt and further manufacture of dutiable items by the appellant was sought to be sustained. Admittedly, the case is not only based on the material evidence collected from the supplier's end and also as corroborated by the responsible persons of the supplier's end. The receipt and use of the said unaccounted raw materials for further manufacture has apparently been admitted by the appellants and the duty short paid has also been discharged during the course of investigation itself. The appellants great emphasis on non-availability of the further corroboration by way of details of transport, money receipt, etc. In the present case, the evidence collected from the supplier's site is categorical and cannot be disputed. The private records of the suppliers have been corroborated and admitted for the correctness of their contents by the persons who were in-charge of the supplier's units. When such evidence was brought before the person of the appellant's unit, he categorically admitted unaccounted clearance of dutiable items. However, he did not name the buyers to whom such products were sold. In such situation, it is strange that the appellant has taken a plea that the department has not established the details of buyers and transport of the finished goods to such buyers. It is seen that the records maintained by the suppliers, which were affirmed by the person in-charge cannot be brushed aside. It is not the case of the appellant that the suppliers maintained such records only to falsely implicate the appellant. In fact, the supply of unaccounted raw materials has been corroborated by the partner of the appellant's firm. In such situation, it is not tenable for the appellant to, now at the appeal stage, raise the point of requirement of cross examination, etc. Admittedly, none of the private records or the statements given have been retracted or later objected for their authenticity. In the appeal before the Tribunal, the appellant is making a belated allegation that the statement by the partner of the appellant-firm is not voluntary. Various case laws relied upon by the appellants are not of any support in the present case. In the cases involving unaccounted manufacture, the evidence of each case are to be appreciated for conclusion. As noted already, the third party's records on the supplier's side as affirmed by the person in-charge

and further corroborated by the appellant cannot be discredited only on the ground of further evidence like transportation and receipt of money has not been proved. In a clandestine removal case each and every stage of operation cannot be established with precision. On careful consideration of the grounds of appeal and the findings in the impugned order, I find no reason to interfere with the findings recorded by the lower authorities. Accordingly, the appeals are dismissed."

Emphasis supplied

7.6 I find that the facts of the case are different from the judgments relied upon by the appellants inasmuch as the documents [illegible] analysis thereof and data storage devices have been corroborated by the statements of Appellant No. 2, 3, Shri [illegible] Patel, Accountant of Appellant No. 3, statements of Appellant No. 4 & 5, statements of transporters, angadia and records obtained from GST authorities. I also find that the statements have never been retracted. The persons involved in this case have clearly maintained, arranged and managed all affairs of clandestine clearances made by Appellant No. 1. I find the following case laws relevant for this case:

(a) The statements of the accused, if not retracted, the same is legal and valid in the eyes of law and the same can be considered as corroborative evidence and no further evidence is required as held in the case of Naresh J. Sukhawani [1996 (83) ELT 258 (SC)] and Rajesh Kumar Garg [2016 (331) ELT 321 (Tri.-Delhi)]

(b) The evidence of statement through admission or confession is a substantial piece of evidence, which can be used against the maker of it as held in the case of Alex Industries [2008 (230) ELT 073 (Tri. Mumbai)], M/s. Divine Solutions [2006 (206) ELT (Tri. Chennai)] and M/s. Karam Engg. Works [2004 (163) ELT 373 (Tri. Delhi)]

(c) Statement of director and authorized persons of assessee admitting clearance of goods without payment of Central Excise duty and without issuing invoices, inculpatory and specific and never retracted later on is admissible as held in the case of Hi Tech Abrasives Ltd. reported as 2018 (346) ELT 606 (Tri. Del.)

"7.4. On careful consideration of the facts and circumstances of the case and findings above, I find that the statement of Director is the basis for the demand. The statement is inculpatory and is specific. The Director clearly admitted that

the documents/private records recovered by the officers contained details of procurement of raw materials as well as clearance of finished goods with and without payment of duty. This fact is further strengthened by the observation that many entries in the private documents are covered by the invoices issued by the assessee on which duty stands paid. The Director has clearly admitted the truth of the entries as well as the clandestine clearance of goods covered by the entries in the private notebooks which are not covered by the invoices. Such statement is admissible as evidence as has been held by the Apex Court in the case of Systems & Components Pvt. Ltd. [supra]. The activities of clandestine nature is required to be proved by sufficient cogent evidence. However, the facts presented in each individual case are required to be scrutinized and examined independently. The department in this case has relied upon the confessional statement of the Director which is also supported by the mentioned entries in the private records. There is no averment that the statement has been taken under duress. The assessee also does not appear to have taken the cross-examination during the process of adjudication.

15. In view of the foregoing, I find that the Commissioner (Appeals) has erred in taking the view that there is not enough evidence of clandestine removal of goods. Even though the statement of Shri Sanjay Rajgarhia, who is said to be the author of the private records recovered has not been recorded, it stands admitted by Shri [illegible]. Director about the truth of the contents of the private notebooks. Consequently, I find no reason to interfere this plea of Revenue.

16. The evidence of clandestine clearance has been brought on record only as a result of investigation undertaken by the department. The evidences unearthed by the department are not statutory documents and would have gone undetected but for the investigation. Therefore this is a clear case of suppression of facts from the department and invoking the extended period of limitation is invocable in this case and hence the demand cannot be held to be time-barred."

(d) The penalty on director of company is imposable, when he was directly involved in the evasion of Central Excise duty as held in the case of R.S. Singhal [2011 (271) ELT 10 (Guj.)]

(e) It is settled legal position that once the case of clandestine removal of excisable goods is established as has been done in the instant case, it is not necessary to prove the same with mathematical precision. [Lalit Saroha Ltd.

reported as [illegible] ELT 1545 (SC)] and Aafloat Textiles (India) Pvt. Ltd. reported as 2009 (235) ELT 587 (SC).

(f) I also rely on a decision in the case of Haryana Steel & Alloys Ltd reported as 2017 (355) ELT 451 (Tri. Del.) wherein it has been held that notebooks (diaries) seized from the possession of appellant's employee at the time of search showing receipts [illegible] as well as unaccounted goods which have been explained in detail and disclosed by GM of the factory tally with investigation [illegible] [illegible] statement of employee running into several pages and containing detailed knowledge to be considered reliable. I also rely on the decision in the case of Ram [illegible] Pvt. Ltd. reported as 2014 (302) ELT [illegible] (S.C.) wherein similar view has been adopted by the Hon'ble Apex Court.

7.6 [illegible] of the view that [illegible] facts need not be proved as has been held by CESTAT in the cases of Alex Industries reported as 2008 (230) ELT [illegible] (Tri-Mumbai), M/s. Divine Solutions reported as 2006 (206) E.L.T. 1005 (Tri-Chennai) that Confessional statements would hold the field and there is no need to search for evidence. Hon'ble CESTAT in the case of M/s. Karori Engg. Works reported as 2004 (166) E.L.T. 373 (Tri. Del.) has also held that Admission/Confession is a substantial piece of evidence, which can be used against the maker. Therefore, Appellant's reliance on various case laws relating to corroborative evidences are [illegible] [illegible] applicable in light of the positive evidences available in the case as discussed in the findings of the impugned order.

7.7 Hon'ble CESTAT in the case of M/s. Surya Sungold [illegible] reported as 2015 (329) ELT 650 (Tri-Del) has held that it is established principle of law that fraud and justice never dwell together as under:

> "15. Evidence gathered by Revenue unambiguously proved that the dealer [illegible] were [illegible] to cause evasion of Customs duty [illegible] the Department [illegible] it is established principle of law that fraud and justice never dwell together. Therefore, revenue deserves consideration and it should be allowed to prove fraud.
>
> 16. It is settled law that Revenue need not prove its case with mathematical precision. Once the evidence gathered by investigation brings out preponderance of [illegible] and there is nexus between the [illegible] of the respondent with the goods in dealt, [illegible] movement of goods from origin to destination is [illegible] to be comprehended. It cannot be ruled out that circumstantial evidence equally play a role in the present case. It is not only the [illegible] that was used against the respondents, there are other credible and cogent documentary evidence, circumstantial evidence [illegible] [illegible]

evidence as well as expert's report went against the respondents for which stand of Revenue cannot be criticized. The cost accountant which demonstrate the modus operandi beginning from finding of unaccounted goods to the journey till packing of clandestinely removed goods and also threw light on the intention behind suppression of production which was established and corroborated by recording of higher quantity after search, the respondents made futile exercise in their defence.

17. Apart from the statements of the parties the other evidences gathered by investigation were not ignored at all. That directly brought out threads of the respondents in the evasion committed. When the respondents failed to rebut the <u>other evidence adduced</u> by investigation, those equally <u>became relevant to corroborate</u> the case of Revenue.

18. There is no reference to the proposition in Apex Court decisions cited by respondents that the probative value of other evidence could not be taken note by them. That leads to the conclusion that those were not strangers to the case but are judgments decided upon issues for themselves. Therefore, the respondents fails to get any benefit out of those judgments. When the handwriting examiner found that the signatures contained in the photocopy were of the directors, absence of the originals by the respondents mischief ever cannot be ruled out. Accordingly, stand of the respondent that photocopies are inadmissible in evidence in the present case fails to sustain.

19. For the clear case of evasion cases by cogent and credible evidence came on record, dealing with the other citations made by respondents is considered to be mere academic exercise. It may be stated that fruits of a fraudulent tree is always fraudulent."

(Emphasis supplied)

9.5 Hon'ble CESTAT in the case of M/s. R.B. Sponge P Ltd reported as 2017 (350) ELT 459 (Tri-Del) has held that when preponderance of probability was against the Appellant, absence of no statements recorded from buyers, no excess electricity consumption found, no raw material purchase found unaccounted and no inputs-output ratio prescribed by law is of no use. The relevant portion of the decision is reproduced below:

"19.1 Recovery of the loose sheets and pencil written ledger from the premises of the Appellant in the course of search proved the entries therein as representative of the clandestinely removed goods which were well within the knowledge of the Appellant. Active involvement of appellant in that regard came to record since these materials were in the custody of the Appellant. It is common sense that the materials having come to the possessor thereof are only possessed by him. He proves ownership thereof and is answerable to the contents therein. Entries in such incriminating materials demonstrated clandestine clearance of 466.730 MT of Sponge Iron and 457.505 MT of such goods respectively well explained by Appellant. That also proved clandestine removal of 81.940 MT of Dolochar by the Appellant. Such removals were further proved from the records seized from the transporters M/s. Parasnath Road Carriers and M/s. Global Roadlines. The materials recovered from transporters brought out the evidence of clandestine removal of 55.195 MT of Sponge Iron and 35.835 MT of such goods respectively. These removals were not accompanied by excise invoices. When certain entries in the seized incriminating ledger matched with the Central Excise invoices, and other entries did not match, the unmatched entries, however, testimony of clandestine removals not supported by invoices. Accordingly, such clearances became subject matter of

> *allegation in respect of removal of 687.590 M.T. of Sponge Iron without payment of Excise duty. Similarly, the loose sheets when evaluated, also proved removal of excisable goods without payment of duty to the extent of aforesaid quantity of goods.*
>
> *10.2 The statement recorded from shift supervisors by the authority cannot be brushed aside because they were the persons under whose surveillance goods were manufactured and cleared. Their evidence was believable, cogent and credible for the reason that they clearly described methodology of production.*
>
> *10.3 Added to the above, the Director admitted clandestine removal of the goods not supported by Excise invoices, that resulted in loss of revenue. He therefore admitted to make payment of the duty evaded without controverting the Revenue's allegation of [illegible] recovered from possession of Appellant during search. Entire pleading of the appellant, therefore, [illegible] of the Appellant [illegible] record. Clandestine removal was well within the knowledge of the shift supervisors, accountant, Director, transporters and commission agent. Each other's evidence corroborated [illegible] and established unaccounted goods cleared without payment of duty. The most likely evidence of [illegible] brought the Appellant company to the root of allegation. All of them established inextricable link of evasion. [illegible] evidence [illegible] all the persons involved in the chain of clandestine clearance without their attachment.*
>
> *10.4 Preponderance of probability was against the Appellant. Pleading of no [illegible] or excess electricity consumption found, no raw material shortage found [illegible] by [illegible] of no use to it. Revenue discharged its onus of proof bringing out the [illegible] of the case [illegible] that the Appellant [illegible] failed to discharge its burden of proof [illegible].*
>
> *10.5 It is not only the evidence, but [illegible] of the Appellant [illegible] proved its [illegible]. Therefore, Appellant fails on all counts. Revenue's case [illegible] established.*
>
> (Emphasis supplied)

8 Appellant No. 2 has contended that the lower adjudicating authority failed to establish as to how he has abetted evasion of Central Excise duty and thus wrongly imposed penalty on him under Rule 26(1) as well as Rule 26(2) of the Rules. I find that he was the key person of Appellant No. 1 and was directly involved in clandestine removal of the finished goods as well as underproduction of the finished goods manufactured by Appellant No. 1. Appellant No. 2 was also looking after day-to-day working of Appellant No. 1 and [illegible] concerned himself in all matters related to excisable goods cleared clandestinely including manufacture, storage, removal and selling of such goods. Also, he was knowing that these were liable to confiscation under the Act and the Rules made there under. Appellant No. 2 was, therefore, directly involved when Appellant No. 1 cleared goods clandestinely on which Central Excise duty of Rs. 28,60,021/- was not paid by Appellant No. 1 and therefore, imposition of penalties on him under

Rule 26(1) & 26(2) of the Rules in the impugned orders is proper and justified.

8.1 Shri Bharat Ambalal [illegible] Sheth (Appellant No. 3) has contended that his role was limited as middleman and he was not concerned with the goods and therefore, penalty under Rule 26 of the Rules is not imposable upon him. I find that as admitted by Shri Manish Patel, he was the key person who arranged sale and purchase of clandestinely cleared goods without cover of invoices and without payment of Central Excise duty. He and his accountant recorded all these transactions in the diary maintained by him, which contained the details of cash payments received from buyers and given to the respective ship breaking units. He was the person who supplied bills to the units to facilitate availment of fraudulent Cenvat credit and supplied the goods to other units without Central Excise invoices and his role has been elaborately discussed in the impugned order. I find his role very crucial in clandestine removal of the finished goods as well as facilitating fraudulent availment of Cenvat credit. As per Annexure B-2 to Show Cause Notice clearly shows that Appellant No. 3 facilitated Appellant No. 1 in clandestine clearance of goods involving Central Excise duty of Rs. [illegible] based on records seized from Appellant No. 3 and invoices issued by Appellant No. 1. Therefore, Appellant No. 3 is liable for penalty under Rule 26(1) of the Rules. As discussed and [illegible] at Para 10 of the Show Cause Notice, Appellant No. 1 through Appellant No. 3 have cleared goods to rolling mills and issued invoices without actual/physical supply of the goods. The role of Appellant No. 3 has elaborately been discussed in the Show Cause Notice and therefore, penalty under Rule 26(1) and Rule 26(2) of the Rules are correctly imposed upon him and there is no justification to interfere with the impugned order in this regard.

8.2 Shri Vinod Amrutbhai Patel and Shri Rohan [illegible] Patel, brokers i.e. Appellant No. 4 & 5, have contended that they have not dealt with the goods in the manner prescribed under Rule 26 of the Rules and therefore, they are not liable to penalty. I find that the diary maintained by Shri Vinod Amrutbhai Patel in coded language contained details of [illegible] illicit clearances of the appellant firm. When asked about the same, he provided evasive replies that the accounts were imaginary, that he was practising [illegible] [illegible]. He also never co-operated the investigation and the coded data got decoded by DGCEI due to excellent investigation and the whole chapter of clandestine removal [illegible] revealed. The decoded data matched with the data maintained

in electronic form including those transactions for which invoices were issued. This authenticity of the data maintained by Shri Vinod Amershibhai Patel. Shri Kishor Amarshibhai Patel was handling business of registered dealer and was involved in facilitating clandestine removal through his dealer firm. The records show cash transactions with various buyers and were in their handwriting.

6.3 Appellant No. 4 & 5 in their submissions contended that they had not indulged themselves into clandestine activities but accounts found in Pen Drive/ Computer Hard Disk/ Computer were entries for learning accounting/software etc. I find that they had indulged themselves in abetting Appellant No. 1 in clandestine removal of their finished excisable goods.

6.4 Appellants No. 4 & 5 also contended that they had given all explanations for documents to the investigating officers during search itself whereas it is on record that Appellants No. 4 & 5 had not co-operated with the investigation and had given evasive replies to mislead the investigation. Further evidence VCP-1 to VCP-C/ ... shows involvement of Appellant No. 4 & 5 in abetting Appellant No. 1 for clandestine removal of goods involving Central Excise duty. Therefore, I find that penalty under Rule 26 of the Rules and penalty imposed on each of them in the impugned order is proper and there is no need to interfere with the same.

6.5 I find that no statement has been retracted by any person and facts recorded in Panchnama and contents of seized records were accepted by Appellant No. 1, 2, 3, 4 & 5 in their statements. It is not a case that a single statement has been recorded and relied upon but various statements of Appellant No. 2, 3, 4 & 5 establishing clandestine removal of final products by Appellant No. 1. In the circumstances, I am of the view that the statements recorded at different time and of different persons are not recorded under duress or threat. Facts of the statements have been independently corroborated by the facts and contents of Panchnamas recorded at the time of search. Therefore, I am of the considered view that denial of cross examination by adjudicating authority does not violate principles of natural justice in the given facts of this case. My views are supported by Hon'ble Bombay High Court's judgment in the case of M/s.Sharad Ramdas Sangle reported as 2017 (347) ELT 413 (Bom) wherein it has been held that where director has himself admitted the facts and the statement has not been retracted, there is no question of cross examination and denial of same

does not to give rise to any substantial question of law. Relevant [illegible] of the judgment is reproduced below:-

"[illegible] The Tribunal recorded following reason :

"[illegible] As regards the denial of cross-examination of Shri [illegible] and Shri Ashok Kumar [illegible] and whether the [illegible] denial has caused any prejudice to the Appellants, it is seen from the records that the entries made in the private records were corroborated by Shri [illegible] Sawant, Director of the appellant firm and Shri [illegible], Proprietor of M/s. Ambika Soap [illegible] through whom the clandestinely removed goods were sold whereby they had admitted that the entries [illegible] and [illegible] to the unaccounted production, purchase of raw materials without accounting [illegible] of the finished goods in cash without payment of duty. Further from the [illegible] it is seen that about sixteen buyers (referred to in para [illegible] of the impugned order), who purchased the finished goods from the Appellants without payment of duty have also confirmed that they had received these goods without the cover of proper excise documentation and without payment of duty. Similarly, two scrap suppliers, Mr. [illegible] Ahmed Shaikh and Mr. [illegible] have also confirmed that they have supplied the MS scrap, which is the raw materials for the manufacture of these goods without the cover of documents and they have received consideration for sale of such scrap in cash. Considering these evidences available on record, we hold that the denial of cross-examination of the authors of the private records has not caused any prejudice to the Appellants. In fact none of the statements recorded have been retracted or disputed. In such a scenario, when the [illegible] is not disputed, cross-examination of the party is not necessary. The Hon'ble Apex Court in the case of Kanungo Company - [illegible] (S.C.) and the Hon'ble High Court of Andhra Pradesh in the case of [illegible] Steels Ltd. [illegible] have held that there is no absolute right for cross examination and if sufficient corroborative evidences exist, cross examination of the deponent of the statement is not necessary. In view of the above we hold that the denial of cross-examination of Shri [illegible] and Shri Ashok Kumar [illegible] who maintained the private records has not caused any prejudice to the Appellants."

From the above conclusions, we are also of the view that this was not a case which required cross examination. The Directors themselves admitted the guilt. No denial of allegations stood proved [illegible] the statements recorded were not retracted or disputed. Learned counsel for the Appellants submitted that he can succeed in showing that these appeals should be admitted for deciding following question, which according to him is substantial question of law :

"Whether denial of cross-examination of witnesses caused any prejudice to the Appellants?"

We are not inclined to accept the submission of [illegible]. In these appeals, there was no question of cross-examination and therefore, denial of the same would not give rise to any substantial question of law. We perused the judgment of the Tribunal and find the same is quite [illegible]. It is not necessary to interfere in it."

8.6 [illegible] Hon'ble CESTAT in the case of M/s. Shalini Steel [illegible] Ltd reported as 2010 (259) E.L.T. 5[illegible] (Tri. - Bang.) has held that evidentiary value of the documents could not be lost in absence of cross examination of [illegible]. Therefore, for denial of opportunity of the Cross Examination, this case is [illegible] for

the same. I find that the lower authority has not thought fit to accord the opportunity of cross examination to the appellants. While denying the request of cross examination made by the appellants, the adjudicating authority has discussed the issue at length and relied upon the various judicial case-laws as is seen from relevant paras of the impugned order. In this regard, I find that it is prerogative of the adjudicating authority to grant or decline this opportunity depending on the exigencies of the facts and circumstance of the case. Here, this case being a case of clandestine removal, ably supported by the host of oral and documentary evidences, if the lower authority has found it fit to deny this opportunity, I find that interest of the appellants does not seem to be compromised. Further, the most crucial fact here is that none of the deponents have retracted their statement. Therefore, the provisions of Section 9D of the Act is not relevant in this case as the same deals with prosecution for an offence also. Therefore, I do not find any infirmity in the action of the lower authority in denying the cross examination to the appellants, especially when no specific reason for seeking cross-examination has been set out by the appellants.

9. In view of above, I uphold the impugned order and reject all appeals.

९.१ अपीलकर्ताओं द्वारा दर्ज की गई अपीलों का निपटारा उपरोक्त तरीके से किया जाता है।

9.1 The appeals filed by the Appellants are disposed off in above terms.

सत्यापित / [illegible]

[illegible]

आयुक्त (अपील्स)

By RPAD

To,

1	M/s. Salasar Balaji Ship Breakers Pvt. Ltd., Plot No. 67 (24N), Ship Breaking Yard, Alang, Dist. Bhavnagar-364150 (Office at: Unit 15, Near Madhav Store, [illegible], Bhavnagar)	मेसर्स सलासर बालाजी शिप ब्रेकर्स प्राइवेट लिमिटेड, प्लॉट संख्या 67 (24N), [illegible]
2	Shri Sanjay Choudhary, Director M/s. Salasar Balaji Ship Breakers Pvt. Ltd.	श्री संजय चौधरी, डायरेक्टर, मेसर्स सलासर बालाजी शिप ब्रेकर्स प्राइवेट लिमिटेड, [illegible]

[illegible]	Shri [illegible] Sheth, Broker, Plot No. 61, B-2, [illegible] Chowk, Jain Derasar Road, Bhavnagar-364001	[illegible]
[illegible]	Shri Vipul [illegible] Patel, Plot No. 102, Excel Mega City, Opp. Victoria Park, Bhavnagar - 364002	श्री [illegible], प्लॉट [illegible], एक्सेल मेगा सिटी, [illegible] पार्क के सामने, भावनगर - [illegible]
7	Shri Kishor [illegible] Amarshibhai Patel, Proprietor of [illegible] Enterprise, Plot No. 102, Excel Mega City, Opp. Victoria Park, Bhavnagar 364002	श्री [illegible], [illegible] के सामने, भावनगर - [illegible]

Copy for information and necessary action to:

1) The Chief Commissioner, GST & Central Excise, Ahmedabad Zone, Ahmedabad for his kind information.
2) The Commissioner, GST & Central Excise, Bhavnagar Commissionerate, Bhavnagar.
3) The Additional Commissioner, GST & Central Excise, Bhavnagar Commissionerate, Bhavnagar.
4) The Assistant Commissioner, GST & Central Excise Division-II, Bhavnagar.
5) The Superintendent, GST & Central Excise, Range [illegible], Bhavnagar.
6) Guard File.
7) F. No. V2/[illegible]/BVR/2017 (5) F. No. V2/294/BVR/2017 (9) F. No. V2/[illegible]/BVR/2017 (10) V2/327/BVR/2017.