	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,** **CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: adj-mundra@gov.in	
A	फा. सं./ FILE NO.	GEN/ADJ/ADC/491/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/237/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	17-08-2026
E	जारी करने की तिथि DATE OF ISSUE	17-08-2026
F	कारण बताओ नोटिस सं. एवं तिथि SCN NO. & DATE	GEN/ADJ/ADC/491/2025-Adjn dated 20.02.2025
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ IMPORTER	M/s. Rina Brothers (IEC No. 0808014391), Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170

1. यह अपील आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.
2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए 3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

   "सीमा शुल्क आयुक्त (अपील), चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"

   "The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
   Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –
5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

Specific intelligence gathered by the Directorate of Revenue Intelligence (hereinafter referred to as 'DRI') indicated that **M/s. Rina Brothers (IEC: 0808014391)** (hereinafter also referred to as the "Importer") having address as '**Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170**' is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. As per said notification *"Import Policy of Melon Seeds is 'Free' with effect from 01st May 2024 up to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import"*.

2. Acting upon the intelligence, the containers covered under the Bill of Entry No. 5018840 dated 12.08.2024 filed by the importer M/s Rina Brothers at Mundra Custom House were tracked from the official website of M/s CMA CGM SA (https://www.cma-cgm.com/ebusiness/tracking) and primarily it was noticed that there were major discrepancies between the details mentioned in BL of Lading No. PSN0114930 for BE No. 5018840 dated 12.08.2024 and the tracking details downloaded from aforementioned website. Accordingly, the import consignment covered under Bill of Entry No. 5018840 dated 12.08.2024 filed by the importer M/s Rina Brothers lying in the CFS of M/s Ameya Logistics Pvt. Ltd. (Honeycomb CFS), Mundra was put on hold for examination by officers of DRI. The goods covered under Bill of Entry No. 5018840 dated 12.08.2024 were examined by officers of DRI on 07.11.2024 and accordingly a panchnama dated 07.11.2024 was drawn at the CFS of M/s Ameya Logistics Pvt. Ltd. (Honeycomb CFS), Mundra in respect of the same.

3. During the investigation, a search was conducted at the office premise of M/s CMA CGM Agencies (India) Pvt. Ltd. having office situated at 'Office No. 302, 2nd Floor, Plot No. 139, Rayson Arcade, Above Bank of Baroda/HDFC Bank, Oslo Road, Gandhidham, Gujarat-370201' under Panchnama dated 18.09.2024. During the Panchnama proceedings carried out at the said address, some e-mail correspondences relating to present investigation were resumed by the visiting officers of DRI on a reasonable belief that the same were required for DRI investigation.

4. During the course of investigation, statements of concerned persons were recorded under Section 108 of the Customs Act, 1962 and some documents were collected as given below:

4.1 Statement of Shri Shaifullah Jahangir Mayari, Branch Manager of M/s CMA CGM Agencies (India) Pvt. Ltd., having address as 'Office No. 302, 2nd Floor, Plot No. 139, Rayson Arcade, Above Bank of Baroda/HDFC Bank, Oslo Road, Gandhidham, Gujarat-370201', was recorded under Section 108 of the Customs Act, 1962 on 11.09.2024 wherein he inter alia stated that he is working as Branch Manager of M/s CMA CGM Agencies (India) Pvt. Ltd. On being asked about tracking of Container Nos. APHU7265733, CMAU3657673, CMAU7477941 and CMAU7591635 downloaded from website of CMA CGM Shipping Line (https://www.cma-cgm.com/ebusiness/tracking) wherein Shipped-on-Board date is 07.07.2024, he confirmed the same.

4.2 Statement of Shri Malav R. Shah, son of Shri Rajendrakumar Shah, General Manager and Authorized Representative of M/s. Rina Brothers, Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170, was recorded under Section 108 of the Customs Act, 1962 on 17.10.2024 wherein he inter alia stated that his firm M/s Rina Brothers was incorporated in year 1985, his father Shri Rajendrakumar Shah is the proprietor M/s Rina Brothers; that they have imported these containers through an agent Jayesh Doshi who was in contact with supplier from UAE and the supplier from UAE was in contact with supplier from Sudan. He also stated that he is aware know about Notification No. 05/2023 dated 05.04.2024 issued by DGFT that if watermelons seeds had loaded or shipped on board before 30th June 2024 then it will be under 'Free' category, however if goods loaded on ship or shipped on board after 30th June 2024, then it will be under category of restricted. On being shown the container tracking report in respect of all 04 container nos. APHU7265733, CMAU3657673, CMAU7477941 and CMAU7591635 covered under B/L No. PSN0114930 dated 29.06.2024 downloaded from the official website https://www.cma-cgm.com/ebusiness/tracking of M/s CMA CGM Shipping Line, he stated that that he was informed that all 4 loaded containers have

been handed over to Shipping Line on 25th June, 2024 at Sudan Port and shown Bill of Lading showing as issued on 25th June, 2024. He further stated that further details of loading of containers on vessel were not provided to him.

4.3 Statement of Shri Jayesh Ranchhoddas Doshi, son of Shri Ranchhoddas Doshi, (Intermediate Broker for M/s Rina Brothers), having residence address at 55, Navrang Building, Pedder Road, Opp. HSBC Bank, Cumballa Hill, Mumbai, Maharashtra – 400026 was recorded under Section 108 of the Customs Act, 1962 on 20.11.2024 wherein he inter alia stated that he know Shri Malav R. Shah since very long being in business; that Shri Malav R. Shah agreed upon the rates quoted by him after adding his brokerage on the rates provided by his supplier and the subject import was the first import of Watermelon Seeds by M/s Rina Brothers through him; that he charge 10 dollars per MTS of the cargo from buyers. He stated that he has idea about the Notification No. 05/2023 dated 05.04.2024 issued by DGFT which stipulates that before 30.06.2024, the import of watermelon seeds is free and after 30.06.2024 the import of watermelon seeds is Restricted. On being shown container tracking in respect of all 04 containers nos. APHU7265733, CMAU3657673, CMAU7477941 and CMAU7591635 covered under Bill of Lading No. PSN0114930 and Bill of Entry No. 5018840 dated 12.08.2024 which are downloaded from the official website https://www.cma-cgm.com/ebusiness/tracking of M/s CMA CGM Shipping Line, he stated that the supplier was also aware that that all cargo of watermelon seeds needs to be shipped on or before 30th June, 2024; that his supplier had told him that they have handed over containers to Shipping Line on around 27th June, 2024; that he was not aware as why there is no shipped on board date on Bill of lading.

4.4 M/s CMA CGM Agencies (India) Private Limited vide letter dated 12.09.2024 provided copy of BL No. PSN0114930 and screen shots of container tracking details from CMA CGM website.

5. Evidences available on record during investigation :

5.1 Tracking details of containers: The container movement details were tracked from the website of M/s CMA CGM Shipping Line (https://www.cma-cgm.com/ebusiness/tracking) which shows that all the four containers APHU7265733, CMAU3657673, CMAU7477941 and CMAU7591635 covered under Bill of Lading No. PSN0114930 actually loaded on vessel on 07.07.2024. It shows that Bill of Lading No. PSN0114930 dated 25 June, 2024 was issued intentionally without mentioning any 'Shipped on Board' date and the same was submitted for

filing IGM and Bill of Entry at Mundra Custom House. It is evident that Bills of Lading were manipulated/forged to get the 'Restricted' goods cleared that even on 03rd July, 2024, the actual Bill of Lading was not finalized. The Notification No. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category.

5.2 E-mail conversation: The e-mail conversation recovered during search conducted at the office Premise of M/s CMA CGM Agencies (India) Pvt. Ltd. under Panchnama dated 18.09.2024 indicated that various communications were made between officials of M/s CMA CGM, Sudan and Aldawlia Shipping- Port Sudan, which shows that Bill of Lading was in draft stage till 3rd July. A draft Bill of Lading was also recovered during search conducted at the office premise of M/s CMA CGM Agencies (India) Pvt. Ltd. under Panchnama dated 18.09.2024, which having same Bill of Lading No. PSN0114930 with date of issue as 03 July, 2024 and it evident that Bills of Lading were manipulated/forged to get the 'Restricted' goods cleared. It has come to notice that even on 3rd July, BL was RFS BL i.e. Ready for Shipment BL which was changed to BL PSN0114930 with RFS 25 Jun, 2024. Some of the relevant e-mail conversations are mentioned in given below Table:

E-mail Date	**Sender Name, Designation, Firm Name**	**Receivers Name and E-mail IDs**	**Relevant portion of e-mail text**
30.06.2024	Madani Suad, Commercial Manager, M/s Aldawalia Shipping, Sudan (suad@aldwaliashipping.com)	Psn.operations@cma-cg.com & various others of CMA CGM Shipping Line	Dear Sameh, Customer of PSN0114930 is asking if he can destuff his cntrs at this stage. Thanks to advise please. *(marked as page 54 of documents recovered during search at M/s CMA CGM Agencies (India) Pvt. Ltd.)*
02.07.2024	Madani Suad, Commercial Manager, M/s Aldawalia Shipping, Sudan (suad@aldwaliashipping.c	Psn.operations@cma-cg.com & various others of CMA CGM Shipping Line	Dear Sameh, Please note customer of BL No. PSN0114930, accepted RFS BL, but to change to Mundra instead Nhava Sheva and also change the CNEE to be as follows RINA BROTHER SARDAR CHOWK STATION ROAD, UNJHA, INDIA

	om)		*(marked as page 30 of documents recovered during search at M/s CMA CGM Agencies (India) Pvt. Ltd.)*
02.07.2024	EL TANTAWY (cro.seltantawy@cma-cg.com	Madani Suad, Commercial Manager, M/s Aldawalia Shipping, Sudan (suad@aldwaliashipping.com) & various others of CMA CGM Shipping Line	Dear Suad, For PSN0114930 1.POD changed to Mundra 2. Consignee & Notify updated to Rina Brothers Adding Karim & Thaer @CMA CGMEgypt Customer Care to update draft BL PSN0114930 with RFS 25 Jun, 2024 Waiting your urgent outcome regarding the rest of BLs before vessel sailing to avoid any fines/charges *(marked as page 59 & 60 of documents recovered during search at M/s CMA CGM Agencies (India) Pvt. Ltd.)*

The email correspondences referenced above, while not exhaustive, provide sufficient evidence to demonstrate that all parties involved—namely representatives from M/s CMA CGM Shipping Line, Sudan, M/s Aldawalia Shipping, Sudan, and the consignee (importer) — were fully aware of the restrictions on the import of watermelon seeds. Despite being cognizant of the applicable penalties imposed by customs, these entities deliberately concealed the fact that the actual 'Shipped on Board' date was July 7, 2024 for BL No. PSN0114930. Through intentional misrepresentation and manipulation of dates, they sought to facilitate the clearance of restricted cargo in violation of the established regulations.

6. Seizure:

During the investigation, it was observed as per tracking details available at website of M/s CMA CGM Shipping Line and as per other evidences gathered during investigation that the imported goods i.e. Watermelon Seeds have been loaded on board after 30th June 2024 i.e. on 07th July, 2024 and hence are restricted goods as per Notification no. 05/2023 dated 05.04.2024 issued by the DGFT. Thus, it appears that the goods imported by M/s Rina Brothers, under Bill of Entry No. 5018840 dated 12.08.2024 filed at Mundra

Custom House, appears to have been mis-declared in documents submitted to the Customs. Therefore, there being a reasonable belief that that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated **11.11.2024**.

7. Brief of investigation conducted and liability of imported goods for confiscation:

7.1 Iinvestigation conducted by DRI has revealed that the containers covered under Bill of Entry No. 5018840, dated 12.08.2024, were shipped from Sudan port on 07.07.2024, well beyond the cut-off date of 30.06.2024 specified in DGFT Notification No. 05/2023 dated 05.04.2024. The tracking details on the official website of M/s CMA CGM Shipping Line (https://www.cma-cgm.com/ebusiness/tracking) confirm that the containers were loaded on vessel MV EA Blue Nile (Voyage 295DER) on 07.07.2024, further corroborating the lapse in compliance with the notification's timeline. Moreover, email correspondences and other evidence clearly demonstrate that forged Bill of Lading No. PSN0114930 dated 25.06.2024 was created without mentioning the Shipped-On-Board which was actually 07th July, 2024. This deliberate manipulation of shipping documents was aimed at unlawfully availing the benefits under the DGFT Notification No. 05/2023. The investigation indicates that the importer, in collusion with representatives of M/s CMA CGM Shipping Line, orchestrated the falsification of relevant dates on the Bill of Lading to facilitate the clearance of restricted cargo. By doing so, the importer has failed to adhere to the conditions of DGFT Notification No. 05/2023, thereby violating the provisions of the Foreign Trade Policy 2023. This constitutes a serious breach of regulatory compliance and evidences deliberate intent to mislead customs authorities.

7.2 The facts and evidence discussed above indicate that the Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import". It means that all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order. However, as established in the preceding paras, M/s. Rina Brothers, located at Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170, illegally imported Watermelon Seeds under Bill of Entry No. 5018840 dated 12.08.2024, in violation of

Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board on 07th July 2024 i.e. beyond the permissible date of 30th June 2024 using a forged Bill of Lading. Furthermore, it was revealed during the investigation that the importer deliberately withheld critical information from Customs Authorities, failing to disclose that the goods were shipped on board after the specified date of 30th June 2024. This reflects intentional non-compliance with the DGFT Notification No. 05/2023. Hence, the goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. 5018840 dated 12.08.2024 having total quantity **100** MTs and declared assessable value of **Rs. 1,62,14,060/-** imported by M/s. Rina Brothers are liable for confiscation under confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962.

8. Roles of persons/firms involved:

8.1 Role of the importer M/s Rina Brothers (IEC No. 0808014391) (Proprietor: Shri Rajendrakumar Chhanalal Shah):

Shri Rajendrakumar Chhanalal Shah is Proprietor of M/s. Rina Brothers and being importer, he was well aware of the Import policy and Notification. M/s. Rina Brothers had imported watermelon seeds covered under Bill of Entry No. 5018840 dated 12.08.2024 in by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject Bill of entry is **100 MTs** having declared Assessable value of **Rs. 1,62,14,060/-**. As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under **Section 112 (a) and 112 (b)** of the Customs Act, 1962. By not uploading the original documents as mandated during filing of Bill of Entry, the importer has attempted to mislead the department thereby rendering themselves liable to penalty under **Sec 114AA** of Customs Act, 1962.

8.2 Role of M/s CMA CGM Agencies (India) Pvt. Ltd. i.e. working in India on behalf of M/s CMA CGM Shipping Line:

The facts and evidence gathered during the search, including email correspondences, clearly establish that M/s CMA CGM Agencies (India) Pvt. Ltd. deliberately colluded with representatives of M/s CMA CGM Sudan and Madani Suad, Commercial Manager, M/s Aldawalia Shipping, Sudan, to manipulate the actual dates of the Bill of Lading. This manipulation was intended to facilitate the clearance of restricted cargo in direct violation of established regulations. These actions reflect a blatant disregard for regulatory compliance and an intent to mislead the authorities. The deliberate acts and omissions by M/s CMA CGM Agencies (India) Pvt. Ltd. make them liable for penalties under **Section 112(b)** of the Customs Act, 1962. Furthermore, their involvement in the creation of forged Bills of Lading constitutes a violation that renders them liable to penalties under **Section 114AA** of the Customs Act, 1962.

8.3 Role of Shri Jayesh Ranchhoddas Doshi, Intermediate Broker for M/s Rina Brothers:

During investigation, Shri Jayesh R. Doshi accepted that they used to import goods i.e. Watermelon seeds from Sudan. It was noticed that although Shri Jayesh R. Doshi was handling the import related work as a Broker and used to contact Dubai suppliers in order to finalize the deal with the suppliers of the goods. He used to bargain with foreign suppliers and used to arrange the payment against the subject import goods to the suppliers. It appears that Shri Jayesh R. Doshi had given instructions to the container line through the overseas supplier to change name of consignee in draft Bill of Lading after 30th June, 2024 and knowing that goods have been not been shipped on 30th June, 2024, he managed to change the details in Bill of Lading. The facts and evidence gathered during investigation, clearly establish that Shri Jayesh R. Doshi, acting as broker, deliberately colluded with representatives of container line and suppliers to manipulate the actual date of the Bill of Lading. This manipulation was intended to facilitate the clearance of restricted cargo in direct violation of established regulations. It has also been established that Shri Jayesh R. Doshi was in direct contact with supplier and arranged forged dates from in a manner that would mislead customs and enable the clearance of restricted cargo. These actions reflect a blatant disregard for regulatory compliance and an intent to mislead the authorities. The deliberate acts and omissions by Shri Jayesh Ranchhoddas Doshi, Intermediate Broker for M/s Rina Brothers make him liable for penalties under **Section 112(b)** of the Customs Act, 1962. Furthermore, his involvement in the creation of forged Bills of Lading a violation that renders him liable to penalties under **Section 114AA** of the Customs Act, 1962.

9. Relevant Legal provisions :

9.1 Import of Watermelon seeds falling under HS Code 12077090 was made from "Free" to "Restricted" for vide Notification No. 05/2023 dated 05.04.2024 issued by the Directorate General of Foreign Trade, Ministry of Commerce & Industry under Section 3 and Section 5 of the FT(D&R) Act, 1992 read with Paragraph 1.02 and 2.01 of the Foreign Trade Policy (FTP), 2023 as amended from time to time. The Import of watermelon seeds is subject to Policy condition No. 4 of Chapter 12 of the ITC (HS) Classification.

9.2 Whereas vide Notification No. 05/2023 dated 05.04.2024 issued by the Directorate General of Foreign Trade, Ministry of Commerce & Industry, it has been envisaged that *"Import Policy of Melon Seeds is 'Free' with effect from 01st May 2024 up to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import"*. As a corollary, all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order dated 15.03.2024.

9.3 The other relevant policy provisions pertaining to the import of watermelon seeds along with relevant penalty provisions of the Customs Act, 1962 are as follows:

9.3.1 FTDR Act, 1992 :

Section 3 of the FTDR Act, 1992: ***Powers to make provisions relating to imports and exports***–

(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

Section 5 of the FTDR Act, 1992: ***Foreign Trade Policy—***

The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, inlike manner, amend that policy:
Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.

9.3.2 Foreign Trade Policy, 2023 :

Para 1.02: Amendment to FTP

Central Government, in exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, as amended from time to time, reserves the right to make any amendment to the FTP, by means of notification, in public interest.

Para 2.01: Policy regarding import /Exports of goods

(a) Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', 'Restricted', and STE items can be viewed under 'Regulatory Updates' at https://dgft. gov.in

(b) Further, there are some items which are 'Free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

9.3.3 Relevant Sections of the Customs Act, 1962 :

SECTION 112 of the Customs Acts. Penalty for improper importation of goods, etc.*- Any person, -*

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

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

shall be liable, -

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

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

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

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

SECTION 114AA. Penalty for use of false and incorrect material. *- If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.*

Section 125. Option to pay fine in lieu of confiscation.-

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods... an option to pay in lieu of confiscation such fine as the said officer thinks fit."

"(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

10. Accordingly, Show Cause Notice dated 20.02.2025 was issued to **M/s. Rina Brothers,** (**IEC No. 0808014391**) having address 'Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat – 384170 wherein they were called upon to show cause in writing to the Additional Commissioner of Customs, Custom House, Mundra as to why:-

(a) The imported goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. **5018840** dated **12.08.2024** having total quantity **100 MTs** and declared assessable value of **Rs. 1,62,14,060/-** should not be confiscated under Section 111 (d),111(m) and 111(o) of Customs Act, 1962;

(b) Penalty should not be imposed on **M/s. Rina Brothers**, under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962;

(c) Penalty should not be imposed on **M/s. CMA CGM Agencies (India) Pvt. Ltd.** under section 112(b) and 114AA of the Customs Act, 1962;

(d) Penalty should not be imposed on **M/s. Shri Jayesh Ranchhoddas Doshi** under Section 112(b) and Section 114AA of the Customs Act, 1962.

11. After considering the submissions of the noticees and personal hearing conducted in the impugned matter, the Order-in-Original No. MCH/ADC/ZDC/452/2025-26 dated 20.12.2025 was issued as follows:

> *" **i.** I order to absolute confiscation of impugned goods i.e. **100 MTS "Watermelon Seed"** imported vide Bill of entry no. 5018840 dated 12.08.2024 having value Rs. **1,62,14,060/- (One Crore Sixty-Two Lakh Fourteen Thousand and Sixty only)** under Section 111 (d),111(m) & 111(o) of the Customs Act, 1962.*
>
> ***ii.** I impose penalty of **Rs. 8,00,000/- (Rupees Eight Lakh only)** on the importer M/s Rina Brothers under Section 112 (a)(i) of the Customs Act, 1962.*
>
> ***iii.** I refrain from imposing penalty on the importer M/s Rina Brothers under Section 112(b) of the Customs Act, 1962.*
>
> ***iv.** I impose penalty of **Rs. 2,00,000/- (Rupees Two Lakh only)** on the importer M/s. Rina Brothers under Section 114AA of the Customs Act, 1962.*

v. *I impose penalty of* ***Rs. 2,00,000/- (Rupees Two Lakh only)*** *on M/s. CMA CGM (India) Pvt. Ltd. under Section 112 (b)(i) of the Customs Act, 1962.*

vi. *I impose penalty of* ***Rs. 1,00,000/-(Rupees One Lakh only)*** *on the M/s. M/s. CMA CGM (India) Pvt. Ltd. under Section 114AA of the Customs Act, 1962.*

vii. *I impose penalty of* ***Rs. 25,000/- (Rupees Twenty Five Thousand only****) on Shri Jayesh Doshi, Intermediate Broker for M/s. Rina Brothers under section 112(b) of the Customs Act, 1962.*

viii. *I impose penalty of* ***Rs. 25,000/- (Rupees Twenty Five Thousand only****) on Shri Jayesh Doshi, Intermediate Broker for M/s. Rina Brothers under section 114AA of the Customs Act, 1962."*

12.1 Being aggrieved by Order-in-Original No. MCH/ADC/ZDC/452/25-26 dated 20.12.2025 (hereinafter referred to as "the said OIO"), the importer **M/s. Rina Brothers**, along with eight other similarly placed importers involved in identical facts and issues, preferred appeals before the Commissioner of Customs (Appeals), Ahmedabad. The said appeals were disposed of vide a common Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 (hereinafter referred to as "the OIA"), passed by the Commissioner of Customs (Appeals), Ahmedabad.

12.2 Vide the OIA, the learned Commissioner (Appeals), Ahmedabad, after condoning the delay in filing of the appeals, examined the submissions made by the appellants, including the contention regarding the option of redemption extended by the undersigned in the case of M/s. Shreeshiv Agri Impex LLP vide Addendum dated 10.02.2026 to Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026, passed in compliance with the directions of the Hon'ble High Court of Gujarat vide Common Oral Order dated 29.01.2026 in SCA Nos. 17295, 17314, 17325, 17402 and 17988 of 2025. The learned Commissioner (Appeals) observed that the impugned order did not contain any detailed examination or findings on the legal submissions, judicial precedents, and contentions raised by the appellants in their defence reply, and accordingly set aside the said OIO and remanded the matter to the undersigned for de novo adjudication under Section 128A(3) of the Customs Act, 1962. The relevant observations of the learned Commissioner (Appeals) are reproduced below for ready reference:

"5.6 I find that the impugned order does not contain any detailed examination or findings on the aforesaid legal submissions, judicial precedents, and contentions raised by the appellants as detailed in their defence reply. Since these issues have a direct bearing on the

present cases, I am of the considered view that they require proper examination and adjudication by the original adjudicating authority.

5.7. Accordingly, in the interest of justice and in order to ensure compliance with the principles of natural justice, I deem it appropriate to remand the matters to the adjudicating authority under Section 128A(3) of the Customs Act, 1962. In this regard, reliance is placed upon the judgment of the Hon'ble Gujarat High Court in Medico Labs [2004 (173) E.L.T. 117 (Guj.)], the judgment of the Hon'ble Bombay High Court in Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)], and the decisions of the Hon'ble Tribunal in Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del.)], wherein the appellate authority's power to remand under Section 128A(3) of the Customs Act, 1962 has been recognized.

5.8. In view of the foregoing discussion, ***the impugned orders are set aside and the matters are remanded to the adjudicating authority for de-novo adjudication in accordance with law****. It is expressly clarified that no opinion or views have been expressed on the merits of the cases."*

12.3 I find it pertinent to mention that the observation of the learned Commissioner (Appeals) at Paras 5.5 & 5.6 of the said OIA, that the said OIO did not contain any examination of the contention regarding redemption, has to be viewed in the context that the judicial precedent on this aspect was not a settled one at the time of passing of the said OIO on 20.12.2025. The said OIO dated 20.12.2025 was passed after affording due opportunity of personal hearing to the noticees, in compliance with the principles of natural justice. The Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026 in the case of M/s. Shreeshiv Agri Impex LLP, being subsequent in time to the said OIO, had itself ordered absolute confiscation without extending any option of redemption. It was only pursuant to the Common Oral Order dated 29.01.2026 of the Hon'ble High Court of Gujarat, and the Addendum dated 10.02.2026 issued thereto, that the option of redemption came to be extended in the case of M/s. Shreeshiv Agri Impex LLP. The said development, being subsequent to the said OIO, was not available for consideration at the time of issuance of earlier OIO dated 20.12.2025, and the same now falls for consideration in the present de novo adjudication.

12.4 Further, in order to ascertain the correct scope and applicability of the said Order-in-Appeal, a letter bearing F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 was addressed to the Commissioner of Customs (Appeals), Ahmedabad, seeking clarification as to whether the setting aside of the impugned Orders-in-Original and the consequential remand for de-novo adjudication under Section 128A(3) of the Customs Act, 1962, is restricted

only to the appellants specifically named in the said Order-in-Appeal, or whether the said Orders-in-Original stand set aside in their entirety, including in respect of all other noticees, if any, covered under the respective Orders-in-Original.

In response thereto, the Office of the Commissioner of Customs (Appeals), Ahmedabad vide their letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 has clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal and the issues arising from their respective appeals.

12.5 RRA Section, Mundra Customs vide their email dated 24.07.2026, has informed that the said OIA dated 07.07.2026 has been accepted by the Committee of the Principal Commissioner/Commissioner(s) on 24.07.2026.

13. WRITTEN SUBMISSIONS OF NOTICEES

13.1 SUBMISSION OF 1ST NOTICEE i.e. M/s. Rina Brothers.:

13.1.1 Noticee-1 through their authorised representative submitted their earlier written submission dated 11.04.2025 that the entire case is made upon specific intelligence gathered by DRI regarding importer importing Watermelon Seeds in contravention to the DGFT Notification No. 05/2023 dated: 05.04.2024 and some tracking of containers online on the official website of CMA CGM. In due course of investigation, a search was conducted at the premises of M/s CMA CGM Agencies (India) Pvt Ltd. located at Plot No 139, Rayson Arcade, Above Bank of Baroda / HDFC Bank, Oslo Road, Gandhidham, Gujrat - 370201. The Panchnama records that one Shri Saifullah Mayari was present during the Panchama at the premises and he admitted that he is the branch manager however the import related work is looked after by their Ahmedabad Office for the shipments meant for Mundra Port and their back office is situated at Thane, Maharashtra which looks after the work related to uploading of documents, BL Issuing and other documentation. Thereafter during search, it was found that in this above-mentioned premises of Paramount Sealink Pvt Ltd there were total six employees and on being asked Shri Saifullah informed the officers that they are using following email ids viz. knd.smayari@cma-cgm.com, knd.risingh@cma-cgm.com, knd.kshaji@cma-cgm.com, knd.1sharma@cma-cgm.com, knd.vavk@cma-cgm.com, knd.pnair@cma-cgm.com, knd.msanghar@cma-cgm.com for all the conversations relating to all the work being done at their premises . The officers asked Shri. Saifullah to

produce all the documents and communications pertaining to import of watermelon seeds at Mundra Port. Shri Saifullah then again explained officers that since import related work is being handled by Ahmedabad Office he does not have those documents and communications and needed to enquire the same with Ahmedabad Office. Then Shri Saifullah requested their Ahmedabad office for the relevant documents which were received after a while. The printouts of the said emails were taken and were placed in made-up file marked as No.1 having pages 1 to 62. The show Cause Notice brings out that during this search some emails were 'resumed'. However, it would be factually incorrect to state that these emails were resumed from the premises of CMA-CGM as these emails were not available in printed format when the search was conducted. Instead, the printouts of these emails were taken during the Panchnama by the officers themselves and in gross violations of provisions laid down under section 138C of the Customs Act 1962. The section 138C of Customs Act mandates that when such copies of any digital form are being recovered from any electronic device which is then to be relied or admitted as evidence during any proceedings under Customs Act it has to be done under a certain procedure and a certificate or statement certifying as to what has been recovered and what does the recovered document means has to be obtained from the one who is in regular possession of the device.

13.1.2 In the instant case there is no record as to who was in the continuous use and possession of the devices from which the printouts of these emails were recovered. It is also necessary to highlight a fact that when Sri Saifullah had informed the officers very explicitly that the import related work especially for the consignments imported at Mundra Port is being handled at the Ahmedabad office, even then the officers have neither visited and searched the Ahmedabad Office nor was any statement of any employee looking after import related work at Ahmedabad Office was recorded or brought on record.

13.1.3 It is submitted that these printouts taken in the gross violation of section 138C cannot be relied as evidence as they are inadmissible because of non-following of the procedure laid down by the statute which is mandatory to bring out the legitimacy and truthfulness of the documents reliance in this case is placed in the following cases:

i. In Arjun Pandit Rao v. Kailash Kushanrao 2020 (7) SCC 1 (Civil Appeal No. 20825-20826 of 2017). It was held by Supreme Court regarding the contents of the 'Certificate' as: *"The certificate submitted under this provision constitutes particulars of those electronic records and identity inclusive of authorized signature of a*

person having official responsibility in relation to the management and operation of the relevant device."

ii. The Supreme Court in the case of Anvar P.V. v. P.K. Basheer and Others (2014) 2017 (352) ELT 416 (SC) have held in the case of similarly worded provision of Section 65B Indian Evidence Act 1872 that such certification is an essential requirement for making any of such printouts admissible as evidence. *"Electronic Evidence - Admissibility of - Speeches, songs and announcements recorded using other instruments and by feeding them into a computer, CDs made therefrom and* ***produced in court, without due certification*** *- Such CDs produced by way of secondary evidence,* ***not admissible in evidence, mandatory requirements of Section 65B of Indian Evidence Act, 1872 being not satisfied*** *-* ***Whole case set up*** *regarding corrupt practice using songs, announcements and speeches* ***fails."***(Highlighting Supplied)

iii. Further Reliance is placed on case of Jeen Bhavani International Versus Commissioner of Customs, Nhava Sheva-III (2023) 6 Centax 11 (Tri.-Bom) where in Para 12 it was held that:

*"12.2.....****No certificate whatsoever, as required under the provisions of Section 138C (2) was obtained****. It is settled proposition of law that if a certain act is to be done by a certain authority, in a particular manner, the same should be done in the manner in which it is ordained. There are no short cuts in investigation.* ***Without fulfilling the statutory requirements, subjecting the computer to forensic analysis is of no help and would not help the cause of Revenue. Therefore, we are of the considered opinion that the emails/documents etc retrieved in the instant case are not reliable evidence for the reasons cited above****.*

12.3 With regard to seizure of CPU and alleged data retrieved there from, the department has concluded that there was parallel set of invoices for the 21 Bills of Entry, wherein the actual invoice values have been shown, which were less than the declared invoice values. ***We find that the procedures laid down under section 138C have not been observed by the department, in addition to non mentioning of the details of the CPU, the place of installation in the premise, custodian of the CPU etc****. Therefore, we find that as per the ratio laid down in the above referred judgments,* ***the documents retrieved, lost their evidentiary value and cannot be relied upon*** *for upholding the charges of undervaluation of goods and demand of the differential duty."* (Highlighting Supplied)

This case was further upheld by Hon'ble Supreme Court in Commissioner of Customs, Nhava Sheva-III Versus Jeen Bhavani International (2023) 6 Centax 14 (S.C.)/2023 (385) E.L.T. 338 (S.C.) wherein the appeal of the revenue was dismissed on merits after condonation of delay.

iv. Further reliance is placed on Junaid Kudia Versus Commissioner of Customs, Mumbai Import-II (2024) 16 Centax 503 (Tri.-Bom) wherein in Para 10 it was held: *"**10.** Upon perusal of the judgment of the Hon'ble Supreme Court in the case of Anvar P.V. (supra), we note that the Apex Court has categorically laid down the law that unless the requirement of Section 65B of the Evidence Act is satisfied, such evidence cannot be admitted in any proceedings.* ***We note that the Section 138C of the Customs Act is parimateria to Section 65B of the Evidence Act****.* ***Consequently, the evidence in the form of computer printouts, etc., recovered during the course of investigation can be admitted in the present proceedings, only subject to the satisfaction of the sub-section (2) of Section 138C ibid.*** *This refers to the certificate from a responsible person in relation to the operation of the relevant laptop/computer. After perusing the record of the case,* ***we note that in respect of the electronic documents in the form of computer printouts from the seized laptops and other electronic devices, have not been accompanied by a certificate as required by Section 138C(2) ibid as above. In the absence of such certificate****, in view of the unambiguous language in the judgment of the Hon'ble Supreme Court (supra),* ***the said electronic documents cannot be relied upon*** *by the Revenue for confirmation of differential duty on the appellant. In the present case, the main evidence on which, Revenue has sought to establish the case of undervaluation and misdeclaration of the imported goods is in the form of the computer printouts taken out from the laptops and other electronic devices in respect of which the requirement of Section 138C(2) ibid has not been satisfied.* ***On this ground, the impugned order suffers from uncurable error and hence, is liable to be set aside****"* (Highlighting Supplied)

This case was further upheld by Hon'ble Supreme Court in case of Commissioner of Customs, Mumbai Import-II Versus Junaid Kudia (2024) 16 Centax 504 (S.C.)/2024 (388) E.L.T. 529 (S.C.) where in the Hon'ble Supreme Court after condoning the delay and hearing the Ld. ASG has dismissed the appeal of department and upheld the order of CESTAT, Mumbai.

13.1.4 A statement of Shri Malav R Shah Authorized Representative of M/s Rina Brothers was recorded at Gandhidham wherein in Q5 he was asked to produce the import related documents called under summons in answer to which he had produced Invoice, Swift Copy, B/L, Copy of License, along with other import related documents for the present consignment. These documents submitted by him are neither relied in the SCN nor are brought on record as annexure to his statement.

13.1.5 Further in Q6 he was shown the tracking details of all 04 containers in the present consignment and the statement of Shri Saifullah. After going through the tracking details and the statement he stated that he has imported the goods through intermediate broker Shri Jayesh Doshi who was in contact with UAE based supplier and UAE based supplier was in contact with Sudan based Supplier i.e. exporter. He further stated that as per terms and conditions with broker it was clearly mentioned that the goods are to be loaded only if they can be loaded on or before 30.06.2024. He also submitted that according to information received by him the empty containers were received by exporter on 05th June and were stuffed and handed over to shipping line on 25th June 2024 and in conformation to the same B/L dated 25th June 2024 was also received by us. He also stated that he has no information with regards to the containers shipping after 30.06.2024 and he has not instructed any person including CMA-CGM employees to amend the Bill of Lading.

13.1.6 Further statement of Shri Saifullah Branch Manager of CMA-CGM was recorded wherein in Q4 he was shown the tracking report downloaded from the official website of CMA-CGM in answer to which he stated that it appears from the tracking report, the said containers were ship on board on 07.07.2024. Further in Q6 he was asked to produce the B/L issuance details and details of Vessel from Sudan to Mundra to which e answered that he does not have the requisite information and documents and he will produce the same next day. Further from Q8 and Q9 it was abundantly clear that neither Shri Saifullah nor anyone from his office have ever contacted anyone from M/s Rina Brothers as he has himself reiterated time and again that all the import related work is taken care at Ahmedabad Office and he will procure and submit the desired information and documents. These essential documents submitted by Shri Saifullah like B/L details of Vessel from Sudan Port and Tracking of Vessel etc., have not been brought on record as relied upon documents. However, the Investigation is silent on this aspect as to what the tracking reports submitted by Shri Bharat Parmar reveals.

13.1.7 It appears that a deliberate attempt to get it admitted that the B/L has been manipulated / forged has been made by the investigators

since Shri Saifullah during the panchnama has revealed that he is the Branch Manager and all import related work is looked after at Ahmedabad Office especially for import consignments at Mundra Port which is also brought out in the statement. However, it appears that no documents submitted by him after procuring from Ahmedabad Office is relied upon nor any summons were issued for statements to people at Ahmedabad Office looking after import or search was carried out the Ahmedabad Office.

13.1.8 It is not a case where two Bs/L for one consignment have been found / recovered. The investigating officer / agency has not taken the efforts / pain to even write an email to the office of shipper at Port of Loading or to the exporter asking them about the details as to on which vessel the consignment has left and on what date the containers were handed over to the shipping line by the exporter to prove the case of department.

13.1.9 Further statement of Shri Jayesh Doshi was recorded wherein in Q7 he was shown the B/L along with statement of Shri Saifullah of CMA-CGM and Shri Malav Shah of M/s Rina Brothers along with tracking details of the containers after perusing the same he has answered that the foreign supplier was very well made aware that the consignments are to be shipped on or before 30.06.2024 and that his foreign supplier had assured him that the consignments were handed over to shipping line around 27.06.2024. He further stated that all other details such as no mention of 'Ship on Board' date on B/L can be confirmed from Shipping Line only.

13.1.10 It is submitted that the entire case is built upon the assumptions and presumptions of Shri Saifullah the Branch Manager of CMA-CGM who have allegedly admitted that the Shipped-on-Board date is 07.07.2024. Hence, it is of essence to cross-examine them so as to confirm if the said statements are the true and voluntary and if so why is there no Shipped on Board date on B/L and how can B/L dated 25.06.2024 be issued for goods which were loaded on 07.07.2024 as the said B/L was received by CMA-CGM Ahmedabad Branch on e-mail and it is not the case that importer or CHA or Broker has supplied them the alleged manipulated copy of B/L. The reliance in this case is placed on:

i. Andaman Timber 2015 (324) E.L.T. 641 (S.C.), where in the Hon'ble Apex Court has laid down the law in Para 6 held that:

*"**6.** According to us, not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was*

adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the statements and wanted to cross-examine, the Adjudicating Authority did not grant this opportunity to the assessee. ***It would be pertinent to note that in the impugned order passed by the Adjudicating Authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the Adjudicating Authority. As far as the Tribunal is concerned, we find that rejection of this plea is totally untenable. The Tribunal has simply stated that cross-examination of the said dealers could not have brought out any material which would not be in possession of the appellant themselves to explain as to why their ex-factory prices remain static.*** *It was not for the Tribunal to have guess work as to for what purposes the appellant wanted to cross-examine those dealers and what extraction the appellant wanted from them."* (Highlighting Supplied)

ii. Mahek Glazes Pvt Ltd. 2014 (300) E.L.T. 25 (Guj.) Para 6

"6. *Having heard learned counsel for the parties, we are inclined to interfere on the short ground of serious breach of principles of natural justice in the process of passing final order of adjudication. We say so because the adjudicating authority, though categorically informed by the representative of the petitioners that the petitioners are serious about exercise of their right to cross-examination and further that any meaningful participation in the adjudicating proceedings can take place only after such cross-examination is granted, the authority proceeded to decide such request only along with the final order of adjudication. Whether the petitioners had a right to seek cross-examination in the facts of the present case, is not our brief at the moment. We, therefore, refuse to comment on the petitioners' insistence for cross-examination or authority's reluctance to grant it.* ***What we, however, find is that the petitioners had at least a right to be told whether such application is being granted or refused before final order was passed. When the petitioners prayed for cross-examination and reasonably expected that the same would be granted, they cannot be expected to participate in the adjudicating proceedings up to the final stage. In other words, without dealing with and disposing of the petitioners' application for cross-examination, the adjudicating authority could not have finally adjudicated the issues. If he was of the opinion that the***

request for cross-examination was not tenable, by giving reasons, he could have rejected it. We wonder what would have happened, if he was inclined to accept such a request. In such a situation, he himself could not have finally disposed of the show cause notice proceedings. In either case, the petitioners had a right to know the outcome of their application.” (Highlighting Supplied)

It is a settled law that the cross-examination has to be granted to the noticee even in quasi-judicial adjudications and as ratio laid down by the Hon’ble Apex Court in Andaman Timer (supra) it is not for the quasi-judicial authority to have ‘guess work’ as to for what reasons the cross-examination is being sought. However, from the reasons cited above the need for cross-examination becomes evident as it is the only pathway to obtain the answers to the series of unknowns left in the investigation.

13.1.11 It is submitted that although the statements to the extent of admission of saying that it ‘appears’ someone has manipulated the B/L have been recorded and brought out in the investigation no piece of evidence on record has been brought to establish as to who has manipulated the B/L and on whose instruction such act was performed. Therefore, solely based on some statements based on assumptions and presumptions which were got recorded no liability can be brought out on the noticee and thus the SCN is liable to be dropped.

13.1.12 It is submitted that the noticee is called upon to Show cause as to why the goods should not be confiscated u/s 111(d), (m) and (o) and penalties should not be imported u/s 112(a), (b) and 114AA of the Customs Act, 1962.

i. The goods were imported with due compliance of law and in compliance of the DGFT policy stating that the melon seeds are freely importable if Shipped on Board Date is before 30.06.2024.

ii. It is submitted that the goods so imported by the importer are neither in contravention to any Act within India nor are prohibited for import under Customs Act or any other Act. Hence, no provisions of 111(d) can be said to have been violated by the importer.

iii. It is submitted that there is not even allegation of the goods imported to be mis-declared in any form i.e. quantity, description, quality, etc. brought out in entire proceedings or in the SCN. Hence, no confiscation liability can be arrived at u/s 111(m) of the Customs Act.

iv. It is also submitted that the only condition of importing 'melon seeds' under free category was laid down in the DGFT Circular which stated that if the 'Ship on Board' date on the B/L is on or before 30.06.2024 then the import of 'Melon Seeds' is to be treated as free. The only documents including B/L found with the importer is the one which was submitted to the Customs Authorities and is dated as well as has 'Ship on Board' date prior to 30.06.2024. Hence there exists no reason to bring in confiscatory provision of Section 111(m) of Customs Act.

v. Therefore, there being no violation of any of the provisions of the Customs Act, 1962 there arises no reason to arrive at confiscation under any of the provisions of Section 111 as proposed in the SCN and the imported goods placed under seizure are liable to be released and allowed to be cleared from the Customs.

13.1.13 The Noticee submits that penalty u/s 112(a) cannot be imposed on the noticee as no act, omissions or commission on the part of the noticee has been brought out in the SCN which would render the goods liable for confiscation under Section 111 of the Customs Act, 1962. Also, Penal liability u/s 112 (b) cannot be brought on to the importer as the goods are still lying in the custody of the customs and hence there was no possession, carrying, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with imported goods by the importer or any other person.

The noticee further submits that there can be no penalty imposed / mulcted on the noticee as proposed in the SCN since no confiscation can be arrived at in the view of the submissions (supra) and there is no violation of provisions of Section 112(a) and or 112(b) of the Customs Act, 1962.

13.1.14 As regards proposition of penalty u/s 114AA of the Customs Act, 1962 it is submitted that the issue was well clarified under 27th report of the Parliamentary Committee whereby it was specified that Section 114AA is being specifically introduced to battle with the increased bogus exports to gain the incentives and benefits under various schemes by exporters and that this section is not being incorporated to deal with the cases of imports.

Reliance in this case is placed upon:

i. SRI KRISHNA SOUNDS AND LIGHTINGS 2019 (370) E.L.T. 594 (Tri. - Chennai) where in the Hon'ble Tribunal has found and held:

*"**6.** The Ld. AR has submitted that the Commissioner (Appeals) has set aside the penalty under Section 114AA for the reason that penalty has been imposed by the adjudicating authority under Section 112(a) and therefore there is no necessity of further penalty under Section 114AA. I find that this submission is incorrect for the reason that in the impugned order in paras 7 and 8, the Commissioner (Appeals) has discussed in detail the provision with regard to Section 114AA. It is seen stated that **as per the Taxation Laws (Amendment) Bill, 2005, introduced in Lok Sabha on 12-5-2005, the Standing Committee has examined the necessity for introducing a new Section 114AA**. **The said Section was proposed to be introduced consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border.** The said Section envisages enhanced penalty of five times of the value of the goods. The Commissioner (Appeals) has analyzed the object and the purpose of this Section and has held that in view of the rationale behind the introduction of Section 114AA of the Customs Act and the fact that penalty has already been imposed under Section 112(a), the appellate authority has found that the penalty under Section 114AA is excessive and requires to be set aside. Thus, the penalty under Section 114AA is not set aside merely for the reason that penalty under Section 112(a) is imposed. After considering the ingredients of Section 114AA and the rationale behind the introduction of Section 114AA, the Commissioner (Appeals) has set aside the penalty under Section 114AA.*

***7. On appreciating the evidence as well as the facts** presented and after hearing the submissions made by both sides, **I am of the view that the Commissioner (Appeals) has rightly set aside the penalty under Section 114AA since the present case involves importation of goods and is not a situation of paper transaction.** I do not find any merit in the appeal filed by the department and the same is dismissed. The cross-objection filed by respondent also stands dismissed."(Highlighting Supplied)*

ii. Arun Kumar Kuwar Versus Principal Commissioner of Customs, New Delhi (2024) 20 Centax 123 (Tri.-Del) (Principal Bench) where in it was held:

*"13 ..... **The purpose behind introduction of Section 114 AA was to punish those people who availed export benefits without exporting anything which according to the learned Counsel for the appellant is not the case here**. The provisions of section 114 AA provides for imposition of penalty on a person who knowingly or*

intentionally make, sign, uses or causes to be made any declaration, statement or documents, which is false or incorrect in any material particular in the transaction of any business for the purpose of the Act. From the statement of Shri Ravinder Singh (as quoted above), we find that the manipulation in the documents were done by the Dubai Branch of the shipping line at the behest of the actual supplier. ***There is no evidence to link the appellant with the said manipulation done at Dubai office****. The shipping line has not been roped in the present proceedings. The revenue has not substantiated the charge of connivance of the appellant with the illegal import rather he was instrumental in ascertaining the correct valuation of the impugned goods.* ***We, therefore, do not find any justification for imposition of penalty under section 114AA of the Act****."* (Highlighting Supplied)

iii. A.V. Global Corporation Pvt. Ltd. Versus Commissioner of Customs, (Import & General), New Delhi (2024) 25 Centax 37 (Tri.-Del) wherein it was held:

*"**7.** Coming to the penalty imposed under 114 AA the objective of section 114AA as was subsequently incorporated, is apparent from 27th report of the Standing Committee on Finance (2005) which proposed this new section consequent to the deduction of several cases of fraudulent export where the exports were shown only on paper and no goods crossed the Indian boarder. The Committee opined introducing provisions of levying penalty upon 5 times the value of goods as a right deterrent* ***the Constitution Bench of Hon'ble Supreme Court in the case of Kalpana Mehta v. Union of India in Civil Writ Petition No.558 of 2012 has held that the Parliamentary Committee Report is to be considered to see the purpose for which a statutory provision has been brought in. Since provision 114 AA is against the fraudulent exporters we hold that the same is wrongly invoked for penalizing the Customs House Agent****. We draw our support from the decision of this Tribunal in the case of* ***World-Wide Cargo v. CCE, Bangalore reported in 2022 (379) E.L.T. 120 (Tri.-Bang).*** *In the light of the above discussion,* ***we hold that penalty even under 114AA has wrongly been imposed upon the appellant-CHA, same is liable to be set aside.****"* (Highlighting Supplied)

Therefore, in view of the above no penalty u/s 114AA of Customs Act, 1962 can be imposed on the noticee.

13.2 Pursuant to the remand, M/s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of **M/s. Rina Brothers**

and the other similarly placed noticees/importers (excluding M/s. CMA CGM Agencies (India) Pvt. Ltd. and Shri Jayesh Ranchhoddas Doshi), vide letter dated 17.07.2026, has, inter alia, submitted as under:-

13.2.1 That consequent upon the OIA dated 07.07.2026 setting aside the said OIO and remanding the matter, there subsists, as on date, no order of confiscation or penalty against the importer, while the goods continue to remain confiscated and uncleared at Mundra Port since the year 2024.

13.2.2 That Watermelon Seeds are not "prohibited goods" under the Customs Act, 1962 or any other law for the time being in force, and are, at the highest, "restricted" goods post 30.06.2024, entitled to release/redemption, relying upon the judgment of the Hon'ble Punjab & Haryana High Court in *Shree Balaji Industries v. Additional/Joint Commissioner of Customs* [2024 (387) E.L.T. 294 (P&H)] and the judgment of the Hon'ble Supreme Court in *Commissioner of Customs v. Atul Automations Pvt. Ltd.* [2019 (1) SCC, Civil Appeal No. 1057 of 2019].

13.2.3 That in the identical case of M/s. Shreeshiv Agri Impex LLP — involving the same goods, the same DGFT Notification No. 05/2023 dated 05.04.2024, the same Mundra Custom House and the same Adjudicating Authority — the Hon'ble High Court of Gujarat, vide Common Oral Order dated 29.01.2026, had directed reconsideration of the matter, pursuant to which the option of redemption was extended vide Addendum dated 10.02.2026, restricting the redemption fine to approximately 10% of the value of the goods, and the goods in that case have accordingly been released. It was contended that M/s. Rina Brothers deserves similar treatment.

13.2.4 That the goods, being an edible agricultural commodity, have been lying uncleared for nearly two years and are deteriorating in quality, moisture content and marketability, exposing them to fungal infestation and total loss, warranting expeditious disposal in terms of Section 110(1A) of the Customs Act, 1962, failing which M/s. Rina Brothers would continue to suffer crippling losses on account of mounting demurrage, detention and ground rent charges, for which, it was contended, the Department's own delay in adjudication was responsible.

13.2.5 The Authorised Representative has accordingly prayed for immediate release of the goods on terms identical to those extended in the case of M/s. Shreeshiv Agri Impex LLP, and for conclusion of the de novo adjudication in a time-bound manner.

RECORD OF PERSONAL HEARING

14. The Authorised Representative of M/s Rina Brothers vide letter dated 17.07.2026, has categorically stated that they "***do not want any personal hearing and issues may be decided on merit,*** *on urgent basis to avoid*

further delay and loss to impugned importers given the nature of the goods and the mounting daily losses.".

DISCUSSION AND FINDINGS

15. I have carefully gone through the facts of the case, the Show Cause Notice dated 20.02.2025, the noticees' written submissions, the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 passed by the Commissioner of Customs (Appeals), Ahmedabad, and the fresh submission dated 17.07.2026. The authorized representative of the importer vide letter dated 17.07.2026 has requested for waiver of personal hearing in the matter. Thus, I find that the principles of natural justice have been duly complied with, and I now proceed to examine, de novo, the issues involved in the present case in the light of the available records, statutory provisions, applicable law, judicial precedents, and the specific directions contained in the OIA dated 07.07.2026.

15.1 I have gone through the letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 issued by the Office of the Commissioner of Customs (Appeals), Ahmedabad, whereby, in response to this office's letter F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 seeking clarification on the scope of the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026, it has been clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal dated 07.07.2026 and the issues arising from their respective appeals. Since M/s Rina Brothers is one of the appellants specifically named in the said Table-I, the impugned Order-in-Original stands set aside only in respect of M/s Rina Brothers and not in respect of any other noticee covered under the said Order-in-Original No. MCH/ADC/ZDC/452/2025-26 dated 20.12.2025. Accordingly, the matter is required to be adjudicated de-novo only qua M/s Rina Brothers, in accordance with the directions of the Hon'ble Appellate Authority.

15.2 I now proceed to decide the issues framed in the instant SCN, which, on remand, stand at large before me. On careful perusal of the SCN, the case records, the said OIO, the OIA and the fresh submission, I find that the following issues require determination:-

(i) Whether the imported goods i.e. “Water Melon Seed” are liable for confiscation under section 111(d), 111(m) and 111(o) of the customs Act, 1962 or otherwise;

(ii) Whether the penalties should not be imposed on M/s. Rina Brothers, under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962 or otherwise;

16. After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually for analysis in light of facts, submissions, circumstances of the case, provisions of the Customs Act, 1962 and nuances of various judicial pronouncements.

17. Confiscation of Goods under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962:

17.1 I find that M/s. Rina Brothers (Importer) imported Watermelon seed in four containers under Bill of entry no. 5018840 dated 12.08.2024, Bill of Lading no. PSN0114930. Based on intelligence gathered by DRI, Gandhidham that importer is indulged into illegal import of Watermelon Seeds (Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, hold the subject consignment. The proceedings of the examination were recorded under panchnama dated 07.11.2024 drawn at M/s. Ameya Logistics Pvt. Ltd. (Honeycomb CFS), Mundra.

17.2 I observed that the tracking details of the vessel EA BLUE NILE with Voyage No. 295DER, obtained from the official website of CMA CGM SA (https://www.cma-cgm.com/ebusiness/tracking), shows that it shipped from Port Sudan on 07.07.2024 whereas upon perusing Bill of Lading no. PSN0114930 for the vessel "EA BLUE NILE" (Voyage no. 295DER), It was noted that issue date mentioned as 25.06.2024; no 'shipped on board' date was mentioned on the bill of lading. These contradictory facts demonstrate that the Bill of Lading (BL) was manipulated or forged to obtain undue benefit under Notification No. 05/2023, dated 05.04.2024, issued by the DGFT in order to clear the restricted goods.

17.3 I also find upon perusing of e-mail conversation which recovered during search conducted at the office Premise of M/s CMA CGM Agencies (India) Pvt. Ltd. under Panchnama dated 18.09.2024 indicated that that the Bill of Lading remained in the draft stage till July 3rd. Further, a draft Bill of Lading was recovered during a search of the office premises of M/s CMA CGM Agencies (India) Pvt. Ltd., conducted on 18.09.2024 which bearing the same Bill of Lading No. PSN0114930 (Voyage No. 24010) with date of issue as 03 July, 2024. It has come to notice that even on 3rd July; BL was RFS BL i.e. Ready for Shipment BL which was changed to BL PSN0114930 with

RFS 25 Jun, 2024. In view of the same, it is evident that the Bills of Lading were manipulated/forged to facilitate the clearance of 'Restricted' goods.

17.4 I find that Shaifullah Jahangir Mayari, Branch Manager of M/s CMA CGM Agencies (India) Pvt. Ltd in his voluntary statement dated 11.09.2024 before DRI, admitted to the Shipped on Board date 07.07.2024 after being shown tracking of Container Nos. APHU7265733, CMAU3657673, CMAU7477941 and CMAU7591635 downloaded from website of CMA CGM Shipping Line (https://www.cma-cgm.com/ebusiness/tracking).

17.5 I consider statements of notices/relevant persons as material evidence in this case. It is relevant here to refer to some landmark judicial pronouncements on the issue of acceptability and evidentiary value of statements recorded under provisions of section 108 of the Act.

i. The Hon'ble Supreme Court in the case of **Romesh Chandra Mehta** and in the case of **Percy Rustomji Basta** has held "*that the provisions of Section 108 are judicial provisions within which a statement has been read, correctly recorded and has been made without force or coercion. The provisions of Section 108 also enjoin that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence".*

ii. The Hon'ble Supreme Court in the case of **Badaku Jyoti Svant** has decided that "*statement to a customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct".*

iii. Hon'ble Punjab and Haryana High Court in the case of **Jagjit Singh** has decided that *"It is settled law that Customs Officers were not police officers and the statements recorded under Section 108 of the Customs Act were not hit by Section 25 of the Evidence Act. The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in the matter of Ram Singh, in which it is held that recovery of opium was from accused by officers of Narcotic Bureau. Accused made confession before said officers. Officers of Central Bureau of Narcotics were not police officers within the meaning of Section 25 and 26 of the Evidence Act and hence, confessions made before them were admissible in evidence".*

17.6 In view of the foregoing discussion, I find that the statements recorded by DRI under the provisions of Section 108 of the Act form reliable evidence

in the case supporting the charge of mis-declaration of import documents and submission of forged/manipulated Bills of lading.

17.7 <u>Cross Examination sought by the Noticees:</u>

(i) I find that M/s. Rina Brothers (Noticee no. 1) through their advocate have requested for cross-examination of Shri Saifullah, Branch Manager of CMA-CGM.

(ii) I find that each noticee was given ample opportunity to present their defense, access all relied-upon documents (RUDs), and participate in personal hearings. The noticees were afforded full opportunity to defend themselves during hearings, this satisfied principles of audi alteram partem. I find that their request for cross-examination is baseless and devoid of legal or procedural merit.

(iii) Further, it is a settled position that proceedings as to which request of cross examination to be allowed in the interest of natural justice. I also rely on following case-laws in reaching the above opinion:-

a. **Poddar Tyres (Pvt) Ltd. v. Commissioner - 2000 (126) E.L.T. 737**:- wherein it has been observed that cross-examination not a part of natural justice but only that of procedural justice and not 4 'sine qua non'.

b. **Kamar Jagdish Ch. Sinha Vs. Collector - 2000 (124) E.L.T. 118 (Cal H.C.)**:- wherein it has been observed that the right to confront witnesses is not an essential requirement of natural justice where the statute is silent and the assessee has been offered an opportunity to explain allegations made against him.

c. **Shivom Ply-N-Wood Pvt. Ltd. Vs Commissioner of Customs & Central Excise Aurangabad- 2004(177) E.L.T 1150(Tri.-Mumbai)**:- wherein it has been observed that cross-examination not to be claimed as a matter of right.

d. Hon'ble Andhra Pradesh High Court in its decision in **Sridhar Paints v/s Commissioner of Central Excise Hyderabad** reported as 2006(198) ELT 514 (Tri-Bang) held that: ..... denial of cross-examination of witnesses/officers is not a violation of the principles of natural justice, We find that the Adjudicating Authority has reached his conclusions not only on the basis of the statements of the concerned persons but also the various incriminating records seized. We hold that the statements have been corroborated by the records seized (Para 9)

e. Similarly in **A.L Jalauddin v/s Enforcement Director reported as 2010(261)ELT 84 (mad) HC** the Hon High court held that; ".....Therefore, we do not agree that the principles of natural justice have been violated by not allowing the appellant to cross-examine these two persons: We may refer to the following paragraph in AIR 1972 SC 2136 = 1983 (13) E.L.T. 1486 (S.C.) (Kanungo & Co. v. Collector, Customs, Calcutta)".

f. In the case of *Patel Engg. Ltd. vs UOI* reported in 2014 (307) ELT 862 (Bom.) Hon'ble Bombay High Court has held that;

g. "Adjudication — Cross-examination — Denial of—held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances — Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors — Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated." [para 23]

h. In the case of *Suman Silk Mills Pvt. Ltd. Vs. Commissioner of Customs & C.Ex., Baroda* [2002 (142) E.L.T. 640 (Tri.-Mumbai)], Tribunal observed at Para 17 that—

"Natural Justice — Cross-examination — Confessional statements — No infraction of principles of natural justice where witnesses not cross-examined when statements admitting evasion were confessional."

i. In the case of *Commissioner of Customs, Hyderabad v. Tallaja Impex* reported in 2012 (279) ELT 433 (Tri.), it was held that—

"In a quasi-judicial proceeding, strict rules of evidence need not to be followed. Cross-examination cannot be claimed as a matter of right."

j. Hon'ble Tribunal in the case of *P. Pratap Rao Sait v/s Commissioner of Customs* reported as 1988 (33) ELT (Tri) has held in Para 5 that:

"The plea of the learned counsel that the appellant was not permitted to cross-examine the officer and that would vitiate the impugned order on grounds of natural justice is not legally tenable."

Upon comprehensive review of the record, including the established facts, the corroborated documentary evidence presented, I find that request for cross-examination is devoid of legal or procedural merit. Accordingly, the application requesting to conduct of cross-examination is hereby denied.

17.8.1 I find that in the written submissions, the Noticee -1 contended that the printouts of emails were obtained during panchnama is "gross violation" of Section 138C of the Customs Act, 1962.

In this context, relevant section 138C(4) of the Customs Act, 1962 is reproduced below:

> *(4)In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,-*
> *(a)identifying the document containing the statement and describing the manner in which it was produced;*
>
> *(b)giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;*
>
> *(c)dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.*

17.8.2 I further relied upon a landmark ruling of the Supreme Court in case of "**Additional Director General Adjudication, Directorate of Revenue Intelligence v. Suresh Kumar and Co. Impex Pvt. Ltd. & Ors.** (2025 INSC 1050) dated 20.08.2025":

> *"Keeping the aforesaid in mind, we are of the view and, more particularly, considering the Record of Proceedings duly signed by the respondents, including the various statements of the respondents recorded under Section 108 of the Act, 1962, that there was due compliance of Section 138C(4) of the Act, 1962.*
>
> *When we say due compliance, the same should not mean that a particular certificate stricto senso in accordance with Section 138C(4) must necessarily be on record. The various documents on record in the form of record of proceedings and the statements recorded under Section 108 of the Act, 1962 could be said to be due compliance of Section 138C (4) of the Act, 1962".*

17.8.3 In this context, I find that printouts of email communications were taken on-site printing and under panchnama dated 18.09.2024 wherein Shri Shaifullah Mayari, Branch Manager of M/s. CMA CGM (India) Pvt. Ltd. was present during the entire process of panchnama. He acknowledged and affixed his signature on every single page of one made-up file (62 pages) before investigating officers and independent panchas. In view of the above, in this case, the mandatory requirement of authentication under section 138C (4) has been substantially complied with.

17.9.1 I find that the Noticee, in their written submission, alleged that the entire case is built upon the assumptions and presumptions of Shri Shaifullah Mayari, Branch Manager of M/s. CMA CGM (India) Pvt. Ltd. Further, I find that the Noticee has relied upon various case laws in their detailed written submissions, however, I find that the **Hon'ble Supreme Court of India in case of Ambica Quarry Works vs. State of Gujarat & Others [1987(l) S.C. C. 213]** observed that *"the ratio of any decision* must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it."

17.9.2 Further in the case of **Bhavnagar University vs. Palitana Sugar Mills (P) Ltd. 2003 (2) SCC 111, the Hon'ble Apex Court** observed *"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."*

17.9.3 I rely upon following judgments from various courts:-

The **Hon'ble Supreme Court in CC Madras V/s D Bhuramal – [1983 (13) ELT 1546 (SC)]** has held that "The department is not required to prove the case with mathematical precision but what is required is the establishment of such a degree of probability that a prudent man may on its basis believe in the existence of the facts in issue." Further in the case of **K.I. International Vs Commissioner of Customs, Chennai reported in 2012 (282) E.L.T. 67 (Tri. - Chennai)** the Hon'ble CESTAT, South Zonal Bench, Chennai has held as under: -

> *"Enactments like Customs Act, 1962, and Customs Tariff Act, 1975, are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives. Evidence Act not being applicable to quasi-judicial proceeding, preponderance of probability came to rescue of Revenue and Revenue was not required to prove its case by mathematical precision. Exposing entire modus operandi through allegations made in*

the show cause notice on the basis of evidence gathered by Revenue against the appellants was sufficient opportunity granted for rebuttal. Revenue discharged its onus of proof and burden of proof remained un-discharged by appellants. They failed to lead their evidence to rule out their role in the offence committed and prove their case with clean hands. No evidence gathered by Revenue were demolished by appellants by any means".

17.10 As per my findings in Para 17.2, 17.3 and 17.4 above, the impugned goods did not fulfill the condition outlined as per the provisions of notification no. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category. However, evidence suggests that the importer intentionally submitted manipulated/forged Bills of Lading in a deliberate attempt to facilitate the customs clearance of restricted goods unlawfully.

17.11 I have also examined the other grounds recorded in said Order-in-Appeal dated 07.07.2026, to the extent relevant to the facts of the present case. As regards the contention that the panchnama proceedings are vitiated, I find that the panchnama(s) drawn in the present case were conducted in accordance with the procedure prescribed under the Customs Act, 1962, duly witnessed and signed, and no specific infirmity therein has been demonstrated on record; a bald allegation of vitiation, without more, cannot invalidate the seizure or the consequent proceedings. As regards the contention that the shipping line's own tracking data supports the noticee and has been selectively ignored by the Department, I find that it is this very tracking data, read together with the other documentary evidence discussed in the preceding paragraphs, that forms the very foundation of the finding of manipulation of the Bill of Lading; the said evidence has, therefore, been duly relied upon and not ignored. As regards the contention that the investigation is incomplete for want of verification from overseas offices of the supplier/shipping line, I find that the evidence on record — the carrier's own tracking data, documents recovered during search, and voluntary statements recorded under Section 108 of the Customs Act, 1962 — is direct and sufficient to establish the charge, and no material has been placed on record to show how any overseas verification would alter this finding. As regards the contention founded on the IGM having been filed in conformity with the Bill of Lading, and non-invocation of Section 30 of the Customs Act, 1962 against the shipping line, I find that the IGM, having itself been filed on the strength of the very Bill of Lading found to be manipulated, cannot be relied upon to validate that document, and the correctness of a Bill of Entry cannot be tested merely by its conformity with

an equally tainted IGM. As regards the contention that the Department's case rests on an unproved assumption regarding the actual date of loading, I find, for the reasons discussed in the preceding paragraphs, that the said date stands established on the basis of documentary evidence and admissions on record, and not on mere assumption. Accordingly, I find that none of the aforesaid common grounds urged in the batch of connected appeals detracts from the findings recorded in this order.

17.12 I also find that it is a fact that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011; 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Provisions of the Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make proper & correct entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962) the Bill of Entry shall be deemed to have been filed and after self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

17.13 From the above, I find that the Noticee has violated Sub-Section (4) and 4(A) of Section 46 of the Customs Act as they have mis-declared and mis-classified the goods and evaded the payment of applicable duty. I find that the Noticee was required to comply with Section 46 which mandates that the importer filing the Bill of Entry must make true and correct declarations and ensure the following:

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

17.14 I find that the Show Cause Notices propose confiscation of goods under the provisions of Section 111 (d), 111(m) and 111(o) of the Customs Act, 1962. Provisions of Sections are re-produced herein below:

111. Confiscation of improperly imported goods, etc.- goods are liable for confiscation:-

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(m) any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54]

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

In the present case, the importer failed to comply with the condition of DGFT notification no. 05/2023-Cus dated 05.04.2024, which rendered the subject goods prohibited, hence, contravened the provisions of Section 46 of the Customs Act, 1962. I find that Bills of lading provided were forged /manipulated to meet the requirement of notification no. 05/2023-Cus dated 05.04.2024. This deliberate manipulation confirms malafide intention of noticees. These acts of omission and commission on the part of the importer rendered the goods liable for confiscation under the provisions of Section 111 (d), 111(m) and 111(o) of the Customs Act, 1962.

18. Option of redemption under Section 125 of the Customs Act, 1962:

18.1 I find that vide the said OIO No. MCH/ADC/ZDC/452/2025-26 dated 20.12.2025, the impugned goods i.e. Watermelon Seeds imported by M/s. Rina Brothers under Bill of Entry No. 5018840 dated 12.08.2024 were

ordered to be absolutely confiscated under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962, without extending any option of redemption under Section 125 of the Customs Act, 1962.

18.2 Being aggrieved, the importer preferred an appeal before the Commissioner of Customs (Appeals), Ahmedabad, who, vide the OIA, remanded the matter for de novo adjudication, specifically on the ground that the said OIO did not contain any examination or findings on the contention regarding the option of redemption, particularly in light of the outcome in the case of **M/s. Shreeshiv Agri Impex LLP**. This is the specific aspect on which the matter has been remanded, and on which the noticees have placed reliance.

18.3 I find that in the case of **M/s. Shreeshiv Agri Impex LLP**, the Hon'ble High Court of Gujarat, vide Common Oral Order dated 29.01.2026 passed in SCA Nos. 17295, 17314, 17325, 17402 and 17988 of 2025, directed the undersigned to reconsider the matter in light of the judgment of the **Hon'ble Punjab & Haryana High Court in Shree Balaji Industries**, and pass appropriate orders. The relevant portion of the said order dated 29.01.2026 is reproduced below for reference:

> *"3. Prima facie we are of the considered opinion that the said order runs contrary to the decision of the Punjab and Haryana High Court. The petitioners in their reply have categorically referred to the various decisions including the decision in the case of Shree Balaji Industries (supra) however, the respondent authorities have still proceeded with proceedings of confiscation of goods.*
>
> *4. While passing the order dated 17.12.2025, a statement was made before this Court that the auction of the goods, which was scheduled to be held tomorrow i.e. on 18.12.2025, is postponed and the same will be held on 15.01.2026. The matter was thereafter listed on 08.01.2026. In the order dated 08.01.2026, a statement of learned Senior Standing Counsel was recorded that auction will be conducted till 30.01.2026. Thus, during pendency of the writ petition, the respondents have proceeded further by passing order of confiscating the goods, which appears to be prohibited and not restricted.*
>
> *5. Hence, we direct that till further orders are passed by this Court, no auction proceedings shall be held. We also further direct the respondent to reconsider the matter in light of the judgement of the Punjab and Haryana High Court and pass appropriate orders and place the same on record by the next date of hearing."*

18.4 I find that the Hon'ble Punjab & Haryana High Court, in **Shree Balaji Industries v. Additional/Joint Commissioner of Customs** [2024 (387) E.L.T. 294 (P&H)], vide order dated 06.06.2023, has directed release of watermelon seeds. The relevant portion of that order is reproduced below for reference:

"23. In the present case, the Watermelon seeds are restricted goods but they cannot be treated as prohibited goods and in the absence of any permission/authorization for DGFT, provisional release can be done as per the judgment of the Hon'ble Supreme Court passed in Commissioner of Customs's case (supra). Moreover, during the pendency of this writ petition, report from Plant and Quarantine Department has come in favour of the petitioner as regards Watermelon Seeds and in the case of Red Kidney Beans, they have been ordered to be released provisionally subject to conditions as per order dated 23.02.2023 (Annexure P-1). The order with the same conditions can be passed in this case as well as the Watermelon Seeds do not fall under the "prohibited" category and they fall under the "restricted" category as per notifications dated 26.04.2021 and 21.06.2022. The provisional release can be ordered subject to final decision taken by the Adjudicating Authority under Section 105 of the Customs Act, 1962.

24. Keeping in view the above observations, writ petition is allowed and order dated 23.02.2023 (Annexure P-1) is set aside qua Watermelon Seeds with direction to the respondent to pass provisional release order of Watermelon Seeds as per conditions imposed in the case of "Red Kidney Beans" under order dated 23.02.2023, within a period of one week."

18.5 In compliance with the aforesaid directions of the Hon'ble High Court of Gujarat, vide Addendum dated 10.02.2026 to Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026 issued to M/s. Shreeshiv Agri Impex LLP, the option of redemption of the confiscated goods was extended under Section 125(1) of the Customs Act, 1962, specifically observing that the issue therein was related to the violation of the DGFT Notification governing import of watermelon seeds by producing a forged Bill of Lading, but the goods were declared correctly as Watermelon Seed, and accordingly the goods were allowed to be redeemed on payment of redemption fine.

18.6 I find that the facts of the present case are similar to the case of M/s. Shreeshiv Agri Impex LLP. Accordingly, I allow the importer M/s. Rina Brothers to redeem the confiscated goods of Bill of Entry No. 5018840 dated 12.08.2024 i.e. Watermelon Seeds, on payment of redemption fine under Section 125 of the Customs Act, 1962.

19. Penalties on M/s. Rina Brothers:

19.1 I find that the Show Cause Notices propose penalties on M/s. Rina Brothers under the provisions of Section 112(a), 112(b) and 114AA of the Customs Act, 1962. Provisions of Sections are re-produced herein below:

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

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

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

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

***SECTION: 114AA. Penalty for use of false and incorrect material.**--If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.*

19.2 Role and culpability of M/s. Rina Brothers.:

I observed that M/s. Rina Brothers was well aware of the Import policy and Notification No. 05/2023 dated 5th April, 2024 issued by the DGFT. M/s. Rina Brothers had imported watermelon seeds under Bill of Entry No. 5018840 dated 12.08.2024 by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry.

The total quantity of the said goods covered under the subject Bill of Entry is **100MTs** having Assessable value of **Rs. 1,62,14,060/-.** As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to

confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. I find that the evidences clearly indicating malafide intention on their part in respect of the imported goods warranting imposition of penalty under Section 112 (a) (i) as the fact of non-compliance of conditioned outlined in the Notification No. 05/2023-Cus dated 05.04.2024 issued by DGFT. Result is that proposal to impose penalty under Section 112 (a) (i) is correct and sustainable in law.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty; therefore, I refrain from imposition of penalty on M/s. Rina Brothers under Section 112(b) of the Customs Act, 1962.

I find that the SCN proposed imposition of penalty on the Importer under Section 114AA of the Customs Act, 1962. I find that in spite of well aware of import policy and conditioned outlined in the notification no. 05/2023-Cus dated 05.04.2024 issued by DGFT. As it is the obligation of the firm to ensure that proper and correct documents are maintained and as forged Bill of Lading was created which constitutes the violation, thus renders themselves liable to penalty under Sec 114AA of Customs Act, 1962. These acts of omission and commission on the part of importer made the provisions of Section 114AA invokable. Therefore, I agree with the proposal of imposition of penalty on the Importer under Section 114AA *ibid*.

20. I find it pertinent to mention that the present de novo adjudication is confined to M/s. Rina Brothers alone, since the appeal culminating in the OIA dated 07.07.2026 was filed by the importer, M/s. Rina Brothers, against Order-in-Original No. MCH/ADC/ZDC/452/2025-26 dated 20.12.2025. The penalties imposed vide the said Order-in-Original on M/s. CMA CGM Agencies (India) Pvt. Ltd. and Shri Jayesh Ranchhoddas Doshi are not affected by the OIA.

21. In view of the above facts of the case and findings on record, I pass the following order:-

ORDER

(i) I order to confiscate the impugned goods i.e. **100 MTS "Watermelon Seed"** imported vide Bill of Entry No. 5018840 dated 12.08.2024 having value **Rs. 1,62,14,060/-** (Rupees One Crore Sixty-Two Lakh Fourteen Thousand and Sixty only) under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962. However, I give an option to the importer, M/s. Rina Brothers, to redeem the confiscated goods on payment of redemption fine of **Rs. 16,00,000/-** (Rupees Sixteen Lakhs Only) under Section 125 of the

Customs Act, 1962. In terms of Section 125(3) of the Customs Act, 1962, the option for redemption shall be exercised within a period of one hundred and twenty days from the date of receipt of this order, failing which the said option shall become void, unless an appeal against this order is pending.

(ii) I impose penalty of **Rs. 8,00,000/-** (Rupees Eight Lakh only) on the importer M/s Rina Brothers under Section 112 (a)(i) of the Customs Act, 1962.

(iii) I refrain from imposing penalty on the importer M/s Rina Brothers under Section 112(b) of the Customs Act, 1962.

(iv) I impose penalty of **Rs. 2,00,000/-** (Rupees Two Lakh only) on the importer M/s. Rina Brothers under Section 114AA of the Customs Act, 1962.

22. This order is passed in compliance with Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 and is issued without prejudice to any other action which may be contemplated against the importer or any other person under the provisions of the Customs Act, 1962 and the rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

23. The Show Cause Notice bearing no. GEN/ADJ/ADC/491/2025-Adjn dated 20.02.2025 stands disposed of in the above terms qua M/s. Rina Brothers.

Digitally signed by Dipakbhai Zala
Date: 17-08-2026 16:12:26

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra

F.No.: GEN/ADJ/ADC/491/2025-Adjn-O/o Pr. Commr- Cus-Mundra

To,

M/s. Rina Brothers,
Sardar Chowk, Station Road, Unjha, Mahesana,
Gujarat - 384170 (IEC No. 0808014391)

(Proprietor: Shri Rajendrakumar Chhanalal Shah)
(e-mail: ***rinabrothers@gmail.com***)

Copy to:

1. The Additional Director, Directorate of Revenue Intelligence, Ghandidham.
2. The DC/AC, (RRA/TRC/EDI), Mundra Customs.
3. Guard File