

	<p style="text-align: center;"><b>OFFICE OF THE COMMISSIONER</b>  <b>CUSTOM HOUSE, KANDLA</b>  <b>NEAR BALAJI TEMPLE, NEW KANDLA</b>  <b>Phone : 02836-271468/469 Fax: 02836-271467</b></p>	
A	File No.	GEN/ADJ/ADC/634/2024-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ADJ/VS/04/2025-26
C	Passed by	Vishwajeet Singh, Additional Commissioner, Custom House, Kandla
D	Date of Order	24.12.2025
E	Date of Issue	24.12.2025
F	SCN NO. & Date	GEN/ADJ/ADC/634/2024-Adjn-O/o Commr-Cus-Kandla date 08.04.2024
G	Noticee / Party / Importer / Exporter	M/s Dinesh Pouches Pvt. Ltd. (earlier known as "M/s. Dinesh Pouches Ltd.), Unit No. S-101, 201 & 301, Kaveri SDF Complex, Phase-II, Kandla Special Economic Zone, Gandhidham, Gujarat

1. यह मूल आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए- 1-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 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

**“ सीमाशुल्क आयुक्त (अपील),**

**7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”**

**“THE COMMISSIONER OF CUSTOMS (APPEALS),**

**Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,**

**Ashram Road, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days 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 –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्यप्रति जिस पर अनुसूची-1 के अनुसार न्यायालयशुल्कअधिनियम-1870 के मदसं.-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्कया शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) 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: -

M/s Dinesh Pouches Pvt. Ltd. (earlier known as “M/s. Dinesh Pouches Ltd.), (hereinafter referred to as “said SEZ unit”) is a SEZ unit situated at Unit No. S 101, 201 & 301, Kaveri SDF Complex, Phase-II, Kandla Special Economic Zone, Gandhidham, Gujarat. Letter of Approval (LOA) No.014/2013-14 dated 13.02.2014 was granted to said SEZ unit vide F. No. KASEZ/IA/014/2013- 14/11533 by the Development Commissioner, Kandla SEZ under Section 15(9) of the SEZ Act read with Rule 18 of the SEZ Rules, 2006 to operate as a SEZ unit and carry out authorized operations of “Manufacturing activity”.

2. During the scrutiny of the documents for the period 2019- 2021, the Senior Audit Officer (CRA-I) noticed that the unit was undertaking certain un-authorised operations. The said observations were communicated vide HM dated 01.10.2021 and subsequently vide Para 3 of the LAR dated 03.11.2021. During the course of test check of the records, it was noticed that the said SEZ unit had imported consignments of **“Betel Nuts -CTH 0802”** having CIF value lower than the restricted import rate i.e. Rs.251 per KG, resulting in incorrect duty foregone on unauthorized imports. The details of the goods mentioned in the Audit Para were listed in Annexure-A to the Show Cause Notice dated 08.04.2024.

3. The said SEZ unit was granted LoA dated 13.02.2014 to undertaking authorized operations of “Manufacturing activity” of Pan Masala (ITC HS 21069020) and Pan Masala Containing Tobacco-Guthka (ITC HS 24039990), subject to terms and conditions mentioned thereof. The condition No.4 of the said LoA stipulates that the said SEZ Unit was not allowed to import items prohibited under the ITC (HS) Classifications of Export and Import items. The condition No.4 of the LoA reads as:

*“4) You may import or procure from the Domestic Tariff Area all the items required for your authorized operations under this approval, except those prohibited under the ITC (HS) Classifications of Export and Import items”*

3.1 Further, DGFT vide notification no. 20/2015-20 dated 25.07.2018 has amended the import policy for goods falling under Chapter sub- heading 080280 from “Free” to “Prohibited” and the Policy condition is revised to “However, import is free if CIF value is Rs.251/- and above per Kilogram”. Subsequently, DGFT vide notification no. 57/2015-20 dated 14.02.2023 has amended the import policy condition for goods falling under Chapter 0802 to “a) However, import is free if CIF value is Rs.351/- and above per Kilogram; b) MIP conditions, however, will not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ subject to the condition that no DTA sale is allowed” and the import policy is not altered and mentioned as “Prohibited”. Whereas, by virtue of above said notifications the import of goods falling under Chapter sub-heading 080280 stands “Prohibited” and import is subject to MIP mentioned therein. Further, w.e.f. 15.02.2023, the imports into SEZ are exempted from MIP conditions.

**3.2** Further, the audit observations were communicated to the SEZ Unit vide letter dated 13.10.2021 issued from F. No. KASEZA/CUS /D&R/Audit/13/21-22 and requested the unit to pay the entire outstanding amount along with applicable interest or submit reply. In response to aforesaid letter, the SEZ Unit vide their letter dated 07.01.2022 inter-alia, submitted

- that they were an approved unit bearing Letter of Approval for undertaking authorized operations of Manufacturing Activity of Pan Masala, Pan Masala containing tobacco-Guthka, Khaini, Zarda, Chewing Tobacco and Shessa Tobacco.
- that they have been permitted to import areca/ betel nut for

self- consumption and authorized operation by the office of the Development Commissioner.

- that they have been permitted to import any items required for authorized operation except those prohibited under the ITC (HS) Classification of export and import items.
- that they are undertaking the authorized operation in compliance to the letter of approval issued to their unit.
- that the imported areca/ betel nut is being strictly utilized for manufacturing of Pan Masala containing tobacco-Guthka.
- that the final product manufactured out of imported areca/ betel nut is being exported.
- that they are not selling any of items i.e. Betel nut or Guthka in domestic tariff area.
- that the duty payment and interest thereof are not applicable to them as imported areca/ betel nut are not removed in domestic tariff area and imported areca/ betel nut is utilized for manufacturing and export of the finished goods.

**3.3** Based on the Audit objection raised by the CRA team, analysis of import data downloaded from NSDL, SEZ Online data has been carried out. During the analysis of import data, it is observed that, during the subsequent period, the said SEZ Unit continued to indulge in unauthorized import of Areca nuts/ Betel nuts falling CTH 080280 in contravention to MIP conditions stipulated in Import Policy conditions. The details of imports made by the said SEZ Unit in contravention to the MIP conditions, for the period from 2019-2023 (up to 14.02.2023) are tabulated in Annexure-B attached to the SCN. Further, based on the description in the respective Bills of entry mentioned at Sr. No. 108 to 130 in Annexure-B, it was also observed that the said SEZ Unit had mis-classified the imported “Betelnut” under CTH 08029000, which are rightly classifiable under CTH 08028010.

#### **4. Legal Provisions:**

The activities of admission and clearance of goods by SEZ units, having approval granted under Section 15 of the SEZ Act, 2005 and Rule 18 of the SEZ Rules, 2006, are regulated as per the provisions

& procedures contained in the SEZ Act, 2005 and Rules made there under. The following are the legal provisions, which are in general applicable in the present case. The list given herein is indicative and not exhaustive, as the context of legal provisions may otherwise require reference of other legal provisions, reference of which are also to be invited, as and when required:

**4.1 The Customs Act, 1962:**

- 4.1.1 Section 46 of the Customs Act, 1962
- 4.1.2 Section 2(33) of the Customs Act, 1962
- 4.1.3 Section 2(39) of the Customs Act, 1962
- 4.1.4 Section 111(d) of the Customs Act, 1962.
- 4.1.5 Section 111(m) of the Customs Act, 1962.
- 4.1.6 Section 111(o) of the Customs Act, 1962.
- 4.1.7 Section 112 of the Customs Act, 1962
- 4.1.8 Section 114AA of the Customs Act, 1962
- 4.1.9 Section 117 of the Customs Act, 1962

**4.2 SEZ Act, 2005**

- 4.2.1 Section 15(9) of the SEZ Act, 2005
- 4.2.2 Rule 18 of the SEZ Rules, 2006.
- 4.2.3 Rule 26 of the SEZ Rules, 2006.
- 4.2.4 Rule 27 of the SEZ Rules, 2006.

**4.3 Foreign Trade (Development and Regulation) Act, 1992**

- 4.3.1 Section 3(2) and (3) of the FTDR Act, 1992
- 4.3.2 Section 5 of the FTDR Act, 1992
- 4.3.3 Section 11 (1), (2), (3), (8) of the FTDR Act, 1992
- 4.3.4 Section 12 of the FTDR Act, 1992

#### **4.4 Foreign Trade (Regulation) Rules, 1993**

4.4.1 Rule 11 of the FTR, 1993

4.4.2 Rule 14 of the FTR, 1993

4.4.3 Rule 15(3)(a) of the FTR, 1993

4.4.4 Rule 17 of the FTR, 1993

5. Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer and exporter himself by filing a bill of entry or shipping bill, as the case may be. Under self-assessment the importer or exporter has to ensure correct classification, applicable rate of duty, value and exemption notifications, if any, in respect of imported /export goods while presenting bill of entry or shipping bill. Further, Rule 75 of the SEZ Rules, 2006 also provides that unless and otherwise specified in these rules all inward or outward movements of the goods into or from SEZ by the Unit/Developer shall be based on self- declaration made by the Unit/Developer. While importing the subject goods, the said SEZ unit was bound for true and correct declaration, classification and assessment which include importability of the subject goods. As the said SEZ unit was engaged in business of activities related to subject goods, they were fully aware of specifications, characteristics, nature, classification, importability and approvals and other regulatory compliances in respect goods dealt by them in SEZ area. From the above, it is evident that the said SEZ unit willfully mis-classified the imported goods and suppressed the fact that the goods falling under prohibited category and in contravention to the conditions stipulated in their LoA, thereby indulged in unauthorized activity.

6. The assessment of Bills for import of goods by the SEZ unit shall be done on the basis of self-declaration. Whereas, Section

2(33) of the Customs Act, 1962, the prohibited goods include the goods, import of which is subject to any prohibition under the Customs Act, 1962 or any other law for the time being in force. However, it does not include the goods, in respect of which the conditions subject to which the goods are permitted to be imported have been complied with. In the instant case, the goods imported by the said SEZ unit are under “Prohibited” category and the said SEZ Unit has not complied with the conditions for its import as prescribed in the Import policy thereby violating the terms and conditions prescribed in Letter of Approval (LoA) issued by the Development Commissioner, KASEZ. Thus, the goods imported by the said SEZ unit are to be treated as “Prohibited goods” as per Customs Act, 1962 read with DGFT Notification No.20/2015-20 dated 25.07.2018. It is evident that the said SEZ unit has imported subject goods in contravention to the conditions of the LoA. Since the goods so imported by the said SEZ unit are contrary to the prohibition imposed under the Customs Act, 1962 read with SEZ Act, 2005. Therefore, the said goods imported by the said SEZ unit are liable to confiscation under the provisions of Section 111(d) & 111(o) of the Customs Act, 1962 and the said SEZ unit is liable for penalty under Section 112 of the Customs Act, 1962.

**6.1** During the course of analysis of SEZ Online data, it emerged that the said SEZ Unit have mis-classified the goods imported under CTH 08029000 to circumvent the MIP conditions stipulated in Import Policy and conditions stipulated in LoA. Based on the declared description i.e. “Betelnuts”, the actual classification of these goods should be 08028010. Such indulgence and endeavor on the part of said SEZ Unit are in violation of the provisions of Section 46 of the Customs Act, 1962, irrespective of the importability of the impugned goods and other aspects involved in the case, which makes the impugned goods liable for confiscation in terms of Section 111(d), 111(m) and 111(o) of the



Customs Act, 1962 and said SEZ unit is liable for penalty under Section 112 and Section 114AA of the Customs Act, 1962.

**6.2** Further, Section 46(4A) of the Customs Act, 1962, the importer, who is presenting the bill of entry should ensure the accuracy and completeness of the information given therein viz. classification, description, value etc., the authenticity and validity of any document supporting it; and compliance with the restriction or prohibition, if any, relating to the goods under the Customs Act, 1962 or under any other law for the time being in force. Apparently, it appears the said SEZ unit have violated the provisions of Section 46(4A) by way of importing the said goods, falling under Prohibited category, in contravention to conditions stipulated in their LoA. Such indulgence and endeavour on the part of their part are in violation of the provisions of Section 46 of the Customs Act, 1962 makes the impugned goods liable for confiscation in terms of Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 and the said SEZ unit is liable for penalty under Section 112, 114AA and section 117 of the Customs Act, 1962.

**7.** Further, Para 9.41 of the FTP, "Prohibited" indicates the import/export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted. In the instant case, as per the DGFT Import policy the import of subject goods is Prohibited and is not permitted by the LoA issued by the Development Commissioner, KASEZ. Whereas, Section 3 (2) of the FTDR Act, 1992 empowers the Central Government to issue order, making provisions for prohibiting, restricting or otherwise regulating, the import of goods. As per Section 3(3) of the FTDR Act, 1992, all goods to which the order under Section 3(2) applies shall be deemed to be goods the imports of which has been prohibited under Section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly. Whereas,

Section 5 of the FTDR Act, 1992 empowers the Central Government to formulate and announce by notification the foreign trade policy and also empowered to amend the policy in like manner. Whereas, Section 8 of the FTDR Act, 1992, the DGFT or any other officer authorized by him empowered to pass order for suspension or cancellation of the IEC Number of a person, who has contravened any of the provisions of the FTDR Act, 1992 or any rules or orders made thereunder or the FTP or any other law for the time being in force relating to Customs or has committed any other economic offence under any other law for the time being in force. Whereas, Section 11(1) of the FTDR Act, 1992 provides that no import shall be made by any person except in accordance with the provisions of the FTDR Act, 1992, the rules and orders made thereunder and in accordance with the FTP for the time being in force. Penal provisions are also prescribed vide Section 11(2) of the FTDR Act, 1992. As per Section 11(8) of the FTDR Act, 1992, the offending goods are liable to confiscation. **Whereas, Section 12 of the FTDR Act, 1992 prescribes that the penalty imposed or confiscation made under the FTDR Act, 1992 shall not prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force.** Whereas, Rule 11 of the FTDR, 1993 provides that on importation of any goods, the owner of the goods has to file Bill of Entry as prescribed under the Customs Act, 1962, stating the value, quantity, quality and description of such goods to be best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry. Whereas, Rule 14 of the FTR, 1993 prohibits making, signing, using or cause to be made, signed or used any declaration, statement or documents for importing any goods, knowing or having reason to believe that such declaration, statement or document is false in any material particular. Employing any corrupt or fraudulent

practice in importing the goods have also been prohibited.

**8.** Therefore, the said SEZ Unit, i.e. M/s. Dinesh Pouches Pvt. Ltd. (IEC-1395008337) were called upon to show cause as to why:

- i.** The declared classification i.e.08029000 of the goods imported vide bills of entry mentioned at Sr. No.108 to 130 of Annexure-B having declared assessable value of **Rs.20,21,06,457/-** (Rupees Twenty Crores Twenty-One Lakh Six Thousand Four Hundred and Fifty-Seven Only) should not be rejected and should not be re-classified under Custom tariff Item 08028010 and should not be confiscated under Section 111(d), 111 (m) & 111(o) of the Custom Act, 1962;
- ii.** The goods imported vide Bills of Entry as detailed in 'Annexure-B' having declared assessable value of **Rs.124,72,60,282/-** (Rupees One Hundred and Twenty-Four Crores Seventy-Two Lakh Sixty Thousand Two Hundred and Eighty-Two only) should not be confiscated under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 for contravening the Import Policy conditions and conditions stipulated in the LoA;
- iii.** Penalty should not be imposed on them separately under each of the provisions of Section 112(b), 114AA of the Customs Act, 1962 for the reasons discussed above;
- iv.** Bond-cum-Legal Undertaking in form-H executed by the said SEZ Unit should not be enforced towards its above liabilities.

**9. Defense Reply:-** The said SEZ Unit, i.e. M/s. Dinesh Pouches Pvt. Ltd. (IEC-1395008337) have submitted their detailed defense reply from Para No.2.0 to Para 8 of their letter dated 01.07.2024 wherein

they submitted that

**“2.0** At the outset the M/s. denies the allegations and averments made in the show cause notice as these are ex-facie incorrect and without any cogent evidence, unsustainable in law as well as on facts. M/s. Dinesh submits the following submission which are independent and without prejudice to each other.

**3.0** M/s. Dinesh Pouches is situated in Kandla Special Economic Zone. A Letter of Approval (LOA) No.014/2013-14 A Letter of Approval (LOA) No.014/2013-14 dated 13.02.2014 was granted to the SEZ unit, vide F. No. KASEZ/IA/014/2013-14 by the Development Commissioner, Kandla SEZ under Section 15(9) of the SEZ Act read with Rule 18 of the SEZ Rules, 2006, to operate as a SEZ unit and carry out authorized operations of 'manufacturing activity'. viz., Pan Masala (ITC HS 21069020) and Pan Masala Containing Tobacco Gutka (ITC HS 24039990).

**4.0** Betel Nut falling under ITS (HS) 0802 is a one of the raw materials for manufacturing of Pan Masala. M/s. Dinesh Pouches has been allowed to import areca/ betel nut for self-consumption. The final product manufactured out of the imported areca/ betel nut is being exported. There is no DTA sale by the unit any of the items, like, Betel nut OR Guthka.

**5.0** The DGFT has issued vide Notification No.20/2015-2020 dated 25.07.2018, in exercise of power conferred under Section 3 of the FT (D&R) Act, 1992, read with Para 1.02 and 2.01 of Foreign Trade Policy, 2015-2020 amended the import policy of areca nut, which reads as under:

S.O. (E): In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 201 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby, in supersession of Notification No.35/2015-2020 dated 17<sup>th</sup>

January, 2017, amends the Import Policy of areca nut under Exim Code 0802 80 of Chapter 8 of ITC (HS) 2017, Schedule 1 (Import Policy) as under:-

<b>Exim Code</b>	<b>Item Description</b>	<b>Policy</b>	<b>Revised Policy</b>	<b>Existing Policy Conditions</b>	<b>Revised Policy Conditions</b>
	<b>Areca Nuts:</b>				
08028010	Whole	Free	Prohibited	Provided CIF value is Rs.251/- and above per Kilogram	However, import is free if CIF Value is Rs.251/- and above Kilogram

**5.1** Thus, the DGFT has imposed conditions wherein the import is permissible provided the GIF Value is Rs. 251/- per kg and above. However, M/s. Dinesh has imported the areca nuts on transaction value which is below to the value indicated in the above policy notification. According to the department, the bills of entry filed by M/s. Dinesh do not reflect that the conditions imposed in the impugned notification dated 25.07.2018 is fulfilled, and therefore, liable to be confiscated treating the same to be a prohibited goods.

**5.2** It was submitted that above notification is issued in exercise of the powers conferred under Section 3 of the FT (D&R) Act, 1992 read with Paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020 in the form of an amendment made by the Central Government, imposing the policy conditions which is issued by the DGFT. The impugned notification clearly indicates that the areca nuts/ betel nuts is freely importable under the Foreign Trade Policy, 2015-2020, subject to the conditions that the CIF Value is Rs.251/- and above per kg.

**5.3** It is submitted that Section 3 of the FT (D&R) Act empowers the Central Government to formulate and announce the export and import policy with further power to amend it and not DGFT who is responsible for carrying out the policy. The DGFT can only advise the Central Government in formulation of the Foreign Trade Policy and, therefore, is not bestowed with any power either to formulate or amend the same. It

is submitted that though Section 6 (3) of the FT (D&R) Act authorises the DGFT to exercise the power of the Central Government by Order published in the Official Gazette but excludes the power to be exercised by the Central Government under Section 3, 5, 15, 16 & 19 of the said Act. Thus, the power to formulate and amend the export & import policy cannot be delegated to the DGFT by the Central Government in view of the clear embargo created under Section 6(3) of the FT (D&R) Act.

**5.4** In support of above submission, M/s. Dinesh relies upon the judgment of Hon'ble High Court of Gujarat in the case of **ALSTOM INDIA LTD Vs UNION OF INDIA** & ANR reported in 2014-TIOL-223-HC-AHM-EXIM, wherein Hon'ble court has held that:

***31.....We have already pointed out that according to Section 6 of the FTDR Act, the Respondent No.2 or C/SCA/11031/2013 CAV JUDGEMNT the officer subordinate to him cannot usurp the power under Sections 3, 5, 15, 16 and 19 of the FTDR Act. According to Section 3, it is for the Central Government which may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports. 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 or services or technology. According to sub-section (3) of section 3 all goods to which any Order under sub- section (2) of the said section applies should be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly. According to section 5, it is for the Central Government which may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy.***

***The proviso to the said section provides 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.***

*(emphasis added)*

**5.5** Hon'ble Court has further held in above cited case that-

***“33. We, thus, find that although specifically prohibited under section 6 of the Act, the DGFT has been illegally vested with the power to intervene in the subject-matters coming within the purview of Sections 3, 5, 15, 16 and 19 in clear violation of sub-section 3 of Section 6 of the FTDR Act. In other words, what is specifically prohibited by the FTDR Act, by taking aid of the HOP, the DGFT has assumed such power in colourable exercise of the power conferred upon it.”***

*(emphasis added)*

In the above case law, the respondent No.2 is DGFT.

**5.6** The impugned notification depicts that an amendment to the Foreign Trade Policy, 2009-2014 is made in exercise of the power under Section 3 of the FT (D&R) Act by the DGFT in contravention to the provisions contained under Section 6 of the said Act. It is further submitted that in the case of **Bimal Kumar Modi V. Union of India** reported in 2014 (306) E.L.T. 97 (Cal) Hon'ble court has held that wherein it is held that the Government and DGFT do not have any power under section 5 of the Foreign Trade Act as well as the Foreign Trade Policy to fix and prescribe MIP for any goods imported in India and that such price fixation and notification issued for that purpose were unconstitutional.

**5.7** In the case of **S. Mira Commodities Pvt. Ltd. Vs Union of India & Another** reported in 2009 (235) ELT 423(Mad) wherein Hon'ble Madras High Court has held that such notification offends Section 6(3) of the FT (D&R) Act. The aforesaid judgment was relied on and applied by the Kerala High Court in case of **Global Industries Vs Union of India reported in 2011 (263) ELT 517**. The conjoint reading of Paragraph 1.2 and 2.1 of the Foreign Trade Policy, 2015-2020 postulates the import and export to be free except regulated as per ITC (HS) with certain restrictions indicated in Paragraph 2.6 thereof. The restriction imposed under imposing the policy conditions which is issued by the DGFT. The impugned notification clearly indicates that the areca nuts/betel nuts is freely importable under the Foreign Trade Policy, 2015-2020 subject to the conditions that the GIF Value is Rs. 251/-.

**5.8** M/s. Dinesh refers to the provisions contained under Section 3 (2) of the FT (D&R) Act, and submits that such power of prohibition, restriction and otherwise regulating is within the exclusive domain of the Central Government which cannot be delegated to the DGFT in view of the embargo created under Section 6 (3) of the FTDR Act. Such prohibition and/ or restriction can only be regulated by an Order which is required to be placed before each house of the Parliament for approval as required under Section 19 (3) of the FT (D&R) Act. The conditions imposed for import of the areca nuts, when the policy says, it is freely importable, amounts to a restriction which can only be made by an Order under Section 3 (2) of the FT (D&R) Act provided the procedure incorporated therein are adhere to. If a thing is required to be done in a certain manner, it should be done in such manner and not at all as held in case of **Nazir Ahmed Vs. King Emperor** reported in AIR 1936 PC 253.

**5.9** The prohibition can also be relatable to Section 11 of the Customs Act which empowers the Central Government to prohibit either



absolutely or subject to conditions for importation of the goods under Sub-Section 2 thereof. Since, the impugned notification is not issued under Section 11 of the said Act, the importation of the areca nuts at a lesser price than indicated in the impugned notification does not partake the character of the prohibited goods defined under Section 2 (33) of the Customs Act.

**5.10** It is further submitted that the impugned notification cannot withstand on the anvil of the provisions of Section 14 of the Customs Act which provides that the price at which the goods are sold at the time of importation is the value of goods for assessment, i.e., the transaction value. It is further submitted that Rule 3(1) and 4 (1) of the Customs Valuation (Determination of value of Imported goods) Rules, 2007, further provides the value of the imported goods to be transaction value. Thus, if the authorities have reason to believe that the value is not correctly stated and there is under invoicing, it would amount to violation of the conditions for import/ export. Thus, it is submitted that the DGFT cannot arbitrarily fixed a price which has no nexus to the transaction value in invocation of the powers under Section 5 of the FT (D8&R) Act. The impugned notification cannot withstand as the price fixation is a legislative function and beyond the competence of the DGFT as held by the Hon'ble Apex Court in case of **Union of India Vs Cynamide India Limited & Anr** reported in (1987) 2 SCO 720.

**5.11** It is further submitted that if such conditions are imposed to protect the domestic producers, then Section 8B and Section 9A of the Customs Tariff Act, 1975, provides the imposition of safeguard duty and anti-dumping duty to protect the domestic producers subject to the compliance of the conditions incorporated therein.

**5.12** It is further submitted that the Kerala High Court in case of Global Industry **Global Industries Vs Union of India** reported in 2011 (263) ELT 517, accepted and applied the proposition of law laid down

by the Madras High Court in case of S. Mira Commodities Pvt. Ltd; (supra) in these words:

*"6. Reading of these Sections shows that it is only the Central Government which can formulate export and import policy and amend the said policy. It also is evident that the power conferred on the Central Government under Section 5 cannot be delegated to the Director General of Foreign Trade appointed under Section 6 of the Act. If this be the position, and as admittedly the notification has been issued by the Director General of Foreign Trade, it has to be concluded that the notification is issued without jurisdiction.*

*7. Learned counsel for the petitioners has also made available before me judgment of the Madras High Court in S. Mira Commodities Pvt. Ltd. -v- Union of India [2009 (235) ELT 423 (Mad)], wherein the Madras High Court has quashed Ext. PI notification on the very ground itself.*

*8. Therefore, in view of the statutory provision referred above and in the light of the judgment of the Madras High Court, the Notification dated 4-6-2008 issued by the Director General of Foreign Trade is illegal and is to be set aside and I do so."*

(emphasis added)

**5.13** In view of the above, it is submitted that the Notification No.20/2015-2020 dated 25.07.2018, issued by the DGFT under Section 3 of the FT (D&R) Act, 1992, read with Para 1.02 and 2.01 of Foreign Trade Policy, 2015-2020 is invalid in light of catena of judgments of Hon'ble High Court as discussed supra. Therefore, MIP fixed by the DGFT has also not have locus standi. Therefore, the proposal of confiscation in the notice should be dropped in the interest of justice. Hence, proposal of penalty proposed under the Show Cause Notice should also be dropped.

**6.0** Without prejudice to above, it is further submitted that the term "import" is defined in different manner under FT (D&R) Act, 1992 as well as under SEZ Act, 2005. The definition of the term "import" provided under both the Acts reads as under:

**Definition of "import" under FT(D&R), 1992:**

"2. Definitions. —In this Act, unless the context otherwise requires,

—  
"(e) "import" and "export" means,—

- (I) in relation to goods, bringing into, or taking out of, India any goods by land, sea or air;"

**Definition of "import" under SEZ Act. 2005:**

"2 In this Act, unless the context otherwise requires,

(o) "import" means-

- (i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise;

**6.1** From plain reading of definition of "import" provided in the FT (D&R) Act, 1992 means to bring the goods into India, whereas, as per SEZ Act, 2005, "import" means to bring the goods in SEZ, by a unit from a place outside India. Thus, the term "import" by a unit in SEZ is not akin with the "import" in India in accordance with the FT (D&R) Act, 1992.

**6.2** It is further submitted that the SEZ Act, 2005, and its section 26 (i)(a) specifically provides that all goods imported into the SEZ, to carry out authorised operation in SEZ, shall be exempted. Question of applicability of Minimum Import Price (MIP) arises only when there is levy of customs duty on the impugned areca nut/ betal nut imported in SEZ. However, in the instant case the areca nuts were imported in the SEZ unit for self-consumption and that too after manufacturing the Gutkha the same was exported out of India. There is no DTA sale by M/s. Dinesh.

**6.3** Further, it is submitted that in terms of section 51 of the SEZ Act, 2005, shall have overriding effect over all provisions of any

other law for the time being in force and it is settled legal principle that any rule or notification cannot override the Act. Otherwise also the issue involved herein is no longer res integra in view of the decision of the Tribunal in the matter of **EON Kharadi Infrastructure Pvt. Ltd. vs. CCE, Pune III 2015 (39) STR 267 (Tri-Mumbai)**, it is held that:

"4.1 I note that the SEZ Act, 2005, under Section 26(i)(e), provides that all services imported into the SEZ to carry on authorized operations in SEZ shall be exempted. Further Section 51 of this Act gives overriding effect over other Acts."

(emphasis added)

**6.4** In view of the above submission, it is submitted that when "import" made in SEZ is not akin with the "import" as per FT (D&R) Act; Section 26 (i)(a) of the SEZ Act, 2005, specifically provides exemption to all goods imported into the SEZ, to carry out authorised operation, and, further Section 51 of the SEZ Act, 2005, is titled 'Act to have overriding effect'. It provides that the SEZ Act will have effect notwithstanding anything contained in any other law for the time being in force or in any other instrument. It has overriding effects over any other law and in case of conflict; the SEZ Act is to prevail, therefore, the restrictions imposed vide Notification No. 20/2015-2020 dated 25th July 2018, issued under Section 3 of the FT (D&R) Act, 1992 shall not be applicable to SEZ units.

**7.** In view of above submission, the areca nuts imported by M/s. Dinesh in the SEZ for authorized operation is not a prohibited goods, as the Notification No.20/2015-2020 dated 25.07.2018, issued by the DGFT under Section 3 of the FT (D&R) Act, 1992, read with Para 1.02 and 2.01 of Foreign Trade Policy, 2015-2020 is invalid. Further, Section 26 (i)(a) of the SEZ Act, 2005, provides

exemption to all goods imported into the SEZ to carry out authorised operation, and Section 51 of the SEZ Act, 2005, have overriding effect, therefore, proposal of confiscation under Section 111(d), 111(m) and 111(o) *ibid* is also not sustainable. Hence, it is liable to be dropped.

8. As the confiscation of the goods is not sustainable, the penalty proposed under Section 112(b), 114AA of the Customs Act, 1962, is also not sustainable. Further, proposal of enforcing of Bond-cum-Legal Undertaking in form-H executed by the M/s. Dinesh requires to be dropped.

## **10. RECORD OF PERSONAL HEARING**

Opportunity of personal hearing was provided to the noticee on **01.12.2025** and Shri Dewang Mehta, consultant appeared before the adjudicating authority and Shri Dewang Mehta, consultant reiterated on their submission dated 01.07.2024. He denied the allegations and averments made in the show cause notice and said that they are only permitted to do re-export and no DTA is allowed. He submitted that the cargo is 100% self-consumed for exports only. Since, SEZ is treated as foreign territory and import laws are applicable only when DTA sale is executed and, in their case, cargo is 100% re-exported.

## **DISCUSSION AND FINDINGS-**

11. I have carefully gone through the show cause notice dated 08.04.2024, written submission dated 01.07.2024 and all the evidences placed on record.

12. M/s Dinesh Pouches Pvt. Ltd., the SEZ unit, were granted Letter of Approval (LOA) No.014/2013-14 dated 13.02.2014 by the Development Commissioner, Kandla SEZ under Section 15(9) of the SEZ Act read with Rule 18 of the SEZ Rules, 2006 to operate as a SEZ unit and carry out

authorized operations of “Manufacturing activity”.

**13.** During the scrutiny of the documents for the check period, the Senior Audit Officer (CRA-I) noticed that the unit is undertaking certain unauthorised operations. During the course of test check of the records, it was noticed that the said SEZ unit had imported consignments of “Betel Nuts - CTH 0802” having CIF value lower than the restricted import rate i.e. Rs.251 per KG, resulting in incorrect duty foregone on unauthorized imports.

**14.** The said SEZ was granted LoA dated 13.02.2014 to undertake authorized operations of “Manufacturing activity” of Pan Masala (ITC HS 21069020) and Pan Masala Containing Tobacco- Guthka (ITC HS 24039990), subject to terms and conditions mentioned thereof. The condition no. 4 of the said LoA stipulates that the said SEZ Unit is not allowed to import items prohibited under the ITC (HS) Classifications of Export and Import items. The condition no. 4 of the LoA reads as:

***“4) You may import or procure from the Domestic Tariff Area all the items required for your authorized operations under this approval, except those prohibited under the ITC (HS) Classifications of Export and Import items”***

**15. DGFT vide notification no. 20/2015-20 dated 25.07.2018 has amended the import policy for goods falling under Chapter sub-heading 080280 from “Free” to “Prohibited” and the Policy condition is revised to “However, import is free if CIF value is Rs.251/- and above per Kilogram”.**

**16.** Subsequently, DGFT vide notification no. 57/2015-20 dated 14.02.2023 has amended the import policy condition for goods falling under Chapter 080280 to “a) However, import is free if CIF value is Rs.351/- and above per Kilogram; b) MIP conditions, however, will not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ subject to the condition that no DTA sale is allowed” and the import policy is not altered and mentioned as **“Prohibited”**.

**17.** By virtue of above said notifications the import of goods falling under Chapter sub- heading 080280 stands “Prohibited” and import is subject to MIP mentioned therein. Further, w.e.f. 14.02.2023, the imports into SEZ are exempted from MIP conditions subjected to fulfillment of the conditions stipulated therein.

**18.** Further, the show cause notice has alleged that based on the description in the respective Bills of entry mentioned Sr. No. 108 to 130 in Annexure-B, it is also observed that the said SEZ Unit had mis-classified the imported “Betelnut” under CTH 08029000, which are correctly classifiable under CTH 08028010.

**19. The issues to be decided before me are the following:-**

- (i) **Whether the SEZ Unit had engaged in carrying out un-authorized operations;**
- (ii) **Whether the imported goods were prohibited in terms of MIP conditions imposed vide DGFT notification no. 20/2015-2020 dated 25.07.2018;**
- (iii) **Whether the goods were liable for confiscation under Section 111 of the Customs Act, 1962.**
- (iv) **Whether penalties under Sections 112 and 114AA are attracted in the instant case;**

**Whether the SEZ Unit has engaged in Un-authorised operations-**

**20.** Before proceeding further, relevant sections of SEZ Act, 2005 are reproduced below:-

**2(c) "authorised operations"** means operations which may be authorised under sub- section (2) of section 4 and sub-section (9) of section 15.

**4(2)** After the appointed day, the Board may, authorise the Developer to undertake in a Special Economic Zone, such operations which the Central Government may authorise.

**15(9)** The Development Commissioner may, after approval of the proposal referred to in sub-section (3), grant a letter of approval to the person concerned to set up a Unit and undertake such operations which the Development Commissioner may authorise and every such operation so authorised shall be mentioned in the letter of approval.

**21.** Further, relevant rules of SEZ Rules, 2006 are reproduced below:-

**9.** *Grant of Approval for Authorized Operations-* The Developer shall submit in Form C7 to the Development Commissioner who within a period of fifteen days, shall forward it to the Board with his recommendations, the details of operations proposed to be undertaken in the Special Economic Zone for obtaining authorization under subsection (2) of section 4 at the time of seeking approval for setting up of Special Economic Zone or thereafter.

**10.** *Permission for procurement of items -* The Approval Committee may permit goods and services to carry on the operations authorized under rule 9:

**23.** *Supplies from the Domestic Tariff Area to a Unit or Developer for their authorized operations shall be eligible for export benefits as admissible under the Foreign Trade Policy.*

**33.** *Admission of goods-* Any goods imported or procured from Domestic Tariff Area, required for authorized operations, shall be admitted into the Special Economic Zone subject to the following conditions.

**22.** On perusal of the above provisions, I find that authorised operation is the operation or activity required to be carried out by the SEZ unit as approved by the Development Commissioner (Board in case of Developer) and it is clearly outlined in the Letter of Approval granted by the Development Commissioner. However, it is important to note that importing or procuring goods/ services from DTA is not synonymous with the authorised operations. However, the said goods are required to be utilized in authorised operations.

**23.** In the instant case, the authorised operation of the SEZ unit i. e. M/s. Dinesh Pouches Pvt. Ltd. was 'manufacturing activity of Pan Masala and Pan Masala containing Tobacco-Guthka'. As per condition no. 4 of LoA, in order to carry out the said authorised operation, they were allowed to either import or procure the raw material (Betel Nuts) from DTA. I find that they have imported Betel Nuts and after carrying out the manufacturing activity of Pan Masala, they have exported the finished goods. Even if they have engaged in importing Betel Nuts below Minimum Import Price, they have carried out authorised operation of manufacturing of 'Pan Masala'. From the LOA, it is further evident that authorized operation was *Manufacturing*



activity of Pan Masala (ITC HS 21069020) and Pan Masala Containing Tobacco-Guthka (ITC HS 24039990). It is further worth noting that the goods were allowed to be imported into SEZ and then finished goods were allowed to be exported at the material time by the KASEZ customs.

**24.** Thus, it is clear that they have engaged in un-authorised operation as alleged in the show cause notice.

**Whether the imported goods were prohibited in terms of MIP conditions imposed vide DGFT notification no. 20/2015-2020 dated 25.07.2018**

**25.** The legal framework of MIP requires discussion here. MIP is governed by Section 3 and Section 5 of the FTDR Act. Section 3 empowers the Central Government to issue orders making provisions for the development and regulation of foreign trade by facilitating imports and increasing exports. It also empowers the Central Government to issue orders make provision for prohibiting, restricting or otherwise regulating inter alia any goods, subject to exceptions. Section 5 empowers the Central Government to formulate and announce the foreign trade policy (FTP) and make amendments to said policy.

**26.** In exercise of above powers, the Government has issued the Foreign Trade Policy and Indian Trade Classification (Harmonised System) 2022 (ITC(HS)). The ITC(HS) is a compilation of codes for all merchandise/goods for export/import classified based on their group or sub-group at 2/4/6/8 digits. It is aligned at 6-digit level with international Harmonized System goods nomenclature (HSN) maintained by the World Customs Organization (WCO). Schedule 1 of ITC (HS) contains the Import Policy regime of India which mentions the import conditions against each tariff item at 8-digit level. Generally, the import condition mentioned against the tariffs items is 'free' which means that goods falling under those tariff items can be freely imported into India without any conditions, unless prohibited or restricted under any other law. Whenever the Government wants to impose MIP on a product, it generally amends the import policy conditions for the goods falling under the relevant tariff items mentioned in Schedule 1 of ITC (HS) from 'free' to 'restricted/prohibited' with the condition that import shall remain 'free' if the CIF value of that item is above a particular price.

**27.** In the instant case, the DGFT vide Notification No. 20/2015-2020 dated 25.07.2018 amended the import policy for goods falling under Chapter sub-heading 080280 from "Free" to "Prohibited" and the Policy

condition is revised to “*However, import is free if CIF value is Rs.251/- and above per Kilogram*”. During the import undertaken by M/s. Dinesh Pouches Pvt. Ltd., the said Notification dated 25.07.2018 was in existence, therefore, Betel Nuts imported by them into SEZ was in violation of the condition of MIP laid down in the said Notification.

**28.** Further, I find that DGFT vide notification no. 57/2015-20 dated 14.02.2023 amended the import policy condition for goods falling under Chapter 080280 to “a) However, import is free if CIF value is Rs.351/- and above per Kilogram; b) ***MIP conditions, however, will not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ subject to the condition that no DTA sale is allowed.*** However, there is no indication contained in notification that the said policy change would be having any retrospective effect. Thus, it is clear that on the date on which the imports were made, the goods were clearly in the “prohibited” category for having not met the MIP criteria.

**29.** I find that DGFT vide Notification No. 5/2015-2020, dated 25.04.2018 amended para 1.05b of Foreign Trade Policy 2015-2020, wherein, inter alia, it has been indicated that whenever Government brings out a policy change of a particular item, the change will be applicable prospectively (from the date of notification) unless otherwise provided for. This amendment has been carried forward in Para 1.05 of Foreign Trade Policy, 2023.

**30.** In view of clear position stated in the EXIM policy, any policy change has to be given prospective effect only and therefore the exemption from MIP criteria for SEZ Unit in respect of Areca nut cannot be extended till the time the revised notification was issued on 14.02.2023. There is no ambiguity in the wordings of notification and therefore there is no need to look for intent or interpret the notification.

**31.** In this regard, I rely on the Hon’ble Supreme Court’s judgment in the case of **Commr. of Cus. (Import), Mumbai Vs Dilip Kumar and Company [2018 (361) ELT 577 (SC)]** to put forth the argument that where the words in the statute are clear, plain and unambiguous and only one meaning can be inferred, Courts are bound to give same meaning irrespective of conclusions.

**32.** In view of the above discussion and findings, I hold that the goods are liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962.

**33.** Further, I find that goods imported vide Bills of Entry mentioned at Sr. No. 108 to 130 in Annexure-B, have been mis-classified under CTH 08029000 and the same requires classification under CTH 08028010. The

show cause notice has alleged that the mis- classification was done to circumvent the MIP conditions. I find that such mis-classification has rendered the goods liable for confiscation and since the said goods were imported in contravention of MIP conditions as laid down in the notification, the said goods are liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962.

**34.** In the instant case, it is undisputed that the noticee had imported Areca nuts for the purpose of carrying out authorised operations of manufacturing activity of Pan Masala and Pan Masala containing tobacco-Guthka and exported the finished goods out of India in compliance of Letter of Approval dated 18.09.2013.

**35.** Further, in terms of Section 26(1) of the SEZ Act, 2005, it is apparent that the SEZ unit is entitled to exemptions, drawbacks and concessions of Customs duty on goods imported into SEZ to carry on the authorised operations by the SEZ unit. This shows that, as long as the goods are utilized for authorised operations, the goods are entitled for exemption from the duties of customs irrespective of the value of goods. Thus, the argument of the noticee that they were under the bona fide belief that the imported goods being utilized for authorised operations for the purpose of export in terms of LOA granted to them were not covered under MIP conditions has merit.

**36.** However, the goods are liable for confiscation, if the goods are improperly imported even if there is no malafide on the part of the importer. For the imported goods to be confiscated under Section 111 of the Customs Act, 1962 mensrea is not required.

**37.** Since the goods are not available for confiscation, I find that **Redemption fine** can be imposed in terms of **Section 125** in light of the decision of **Visteon Automotive Systems India Limited v. CESTAT, Chennai 2018 (9) G.S.T.L. 142 (Mad.)** and **Synergy Fertichem Pvt. Ltd v. State of Gujarat 2020 (33) G.S.T.L. 513 (Guj.)** to hold that the availability of the goods is unnecessary for imposing the redemption fine.

**38.** With regard to penal action under **Section 112** of the Customs Act, 1962, I find that the goods have been imported in violation of conditions of the Notification which has rendered the goods liable for confiscation and also certain goods have been mis-classified and imported in violation of MIP conditions, rendering the goods liable for confiscation, thus attracting penalty under Section 112 of the Customs Act, 1962.

**39.** With regard to penal action under **Section 114AA** of the Customs

Act, 1962, I find that w.r.t the mis-classification of goods imported (mentioned at Sr. No. 108 to 130 in Annexure-B to the SCN) the SEZ unit has filed Bills of Entry for bringing the goods into SEZ by filing incorrect classification, thus attracting penal action under Section 114AA of the Customs Act, 1962.

**40.** In view of the above discussion and findings, I hereby pass the following order:-

**i)** I reject the declared classification i.e.08029000 of the goods imported vide bills of entry mentioned at Sr. No. 108 to 130 in Annexure-B having assessable value of **Rs.20,21,06,457/- (Rupees Twenty Crores Twenty-One Lakh Six Thousand Four Hundred and Fifty-Seven Only)** and order to re-classify the same under Custom tariff Item 08028010 and hold that the goods are liable for confiscation under Section 111(d), 111 (m) & 111(o) of the Custom Act, 1962 for such mis-classification and import without following MIP conditions.

Since the goods are not available for confiscation, I impose Redemption fine of **Rs.25,00,000/- (Rupees Twenty-Five Lakhs Only)** under Section 125 of the Customs Act, 1962.

**ii)** I hold that the goods imported vide bills of entry mentioned at Sr. No. 108 to 130 in Annexure-B having declared assessable value of **Rs.124,72,60,282/- (Rupees One Hundred and Twenty-Four Crores Seventy-Two Lakh Sixty Thousand Two Hundred and Eighty-Two only)** are liable to confiscation under Section 111(d), 111 (m) and 111(o) of the Custom Act, 1962 for contravening the Import Policy conditions and conditions stipulated in the LoA;

Since the goods are not available for confiscation, I impose Redemption fine of **Rs.31,18,15,071/- (Rupees Thirty-One Crore Eighteen Lakh Fifteen Thousand Seventy-One Only)** under Section 125 of the Customs Act, 1962.

**iii)** I impose penalty of **Rs.31,18,15,071/- (Rupees Thirty-One Crore Eighteen Lakh Fifteen Thousand Seventy-One Only)** under Section **112(b)** of the Customs Act, 1962 for the reasons discussed above.

**iv)** I impose penalty of **Rs.31,18,15,071/- (Rupees Thirty-One Crore Eighteen Lakh Fifteen Thousand Seventy-One Only)** under Section **114AA** of the Customs Act, 1962 for the reasons discussed above.

**v)** I order to enforce the Bond-cum-Legal Undertaking in form-H executed by the said SEZ Unit towards its above-mentioned liabilities.

**41.** This order is issued without prejudice to any action that can be taken against the SEZ unit or any other person under this Act or any other law for the time being in force.

**(VISHWAJEET SINGH)**  
**Additional Commissioner,**  
**Custom House, Kandla**

F. No. GEN/ADJ/ADC/634/2024/-Adjn-O/o Commr-Cus-Kandla  
By Speed Post/Courier

To  
M/s Dinesh Pouches Pvt. Ltd.  
(earlier known as "M/s. Dinesh Pouches Ltd.),  
Unit No. S-101, 201 & 301, Kaveri SDF Complex,  
Phase-II, Kandla Special Economic Zone,  
Gandhidham, Gujarat

Copy to:-

- (i) The Chief Commissioner, Gujarat Customs Zone, Ahmedabad.
- (ii) The Commissioner, Custom House, Kandla
- (iii) The Development Commissioner, Kandla SEZ, Gandhidham, Kutch.
- (iv) The Deputy Commissioner, KASEZ, Gandhidham.
- (v) Guard file.