

	OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Phone : 02836-271468/469 Fax: 02836-271467
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DIN-20250771ML0000924318		
A	File No.	GEN/ADJ/COMM/336/2025-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KND-CUSTM-000-COM-22-2024-25
C	Passed by	M. Ram Mohan Rao, Commissioner of Customs, Custom House, Kandla
D	Date of Order	29.07.2025
E	Date of Issue	30.07.2025
F	SCN No. & Date	GEN/ADJ/COMM/336/2025-Adjn-O/o Commr-Cus-Kandla dated 10.10.2024
G	Noticee / Party / Importer / Exporter	M/s. OSGL Overseas and M/s. Blue-I store

1. This Order - in - Original is granted to the concerned free of charge.
2. Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench,

2nd Floor, Bahumali Bhavan Asarwa,
Nr. Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad - 380004
3. Appeal shall be filed within three months from the date of communication of this order.
4. Appeal should be accompanied by a fee of Rs.1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs. 10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.
5. 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. Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.
8. An appeal against this order shall lie before the Appellate Authority on payment of 7.5% of the duty demanded wise duty or duty and penalty are in dispute, or penalty wise penalty alone is in dispute.

Brief Facts of the Case:

M/s. OSGL Overseas, Shed No. 2 & 3, Sector-1, Phase-1, Kandla SEZ, Gandhidham, Kutch, Gujarat (herein after referred to as M/s. OSGL for the sake of brevity) is a Partnership firm engaged in the business of Warehousing Services in Kandla Special Economic Zone under Letter of Approval No. 33/2022-21 dated 15.01.2021.

2.1. Whereas, based on a specific information to the effect that M/s. OSGL has filed Bill of Entry No. 1015620 dated 04.10.2022 on behalf of M/s. Blue I Store, Janakpuri, West Delhi having IGM No. 2323437 dated 03.10.2022 for importing mis-declared goods in container no. CBHU8397004 under Bill of Lading No. MAXDXB06612223 dated 01.10.2022. The imported goods are destined for KASEZ and not reached destination. Accordingly, a team of SIIB, Kandla Customs searched the premises of M/s. OSGL under panchnama dated 13.10.2022 & 14.10.2022 in presence of Shri Swaroop Shetty, Partner of M/s. OSGL. During the course of panchnama physical stock of the goods lying in the shed was recorded and verification of the same with the stock ledger of M/s. OSGL revealed that there is shortage of physical stock of 28MTS of Black Pepper which is said to have imported under Bill of Entry No. 1015620 dated 04.10.2022 in container no. CBHU8397004.

2.2. Whereas, at the time of panchnama Shri Swaroop Shetty informed that due to shortage of space at their premises 28MTS of Black Pepper was unloaded at the premises of M/s. Rekha Superfine Exporters, KASEZ.

2.3. Accordingly, the officers of SIIB, Kandla has also carried out simultaneous search of the premises of M/s. Rekha Superfine Exporter, KASEZ, Gandhidham under panchnama dated 13.10.2022. During the course of panchnama the officers found excessive stocks of the goods as detailed under;

Sr. No.	Goods Description	Total No. of Bags	Total Weight (Kgs)
1	Black Pepper	3293	96900
2	Dates	1678	83900
3	Coriander Husk	75	3000
4	Spices Grinding Machines with description '2 in 1 Pulverizer of 7.5HP.'	2 Pieces	--

2.4. Whereas, in respect of excessive goods found at the premises of M/s. Rekha Superfine Exporter, KASEZ, Gandhidham, a statement of Shri Dayashankar Prasad, Partner, M/s. Rekha Superfine Exporter, KASEZ, Gandhidham has also been recorded on 17.10.2022, wherein, Shri Dayashankar Prasad stated that they have entered in an agreement with M/s. OSGL Overseas, KASEZ, Gandhidham to store the entire consignment of Black Pepper imported vide BE No. 1015620 dated 04.10.2022 at their premises. However, the importer had not provided any supporting documents for the same. Therefore, after investigation in respect of the said excessive quantity found at the premises of M/s. Rekha Superfine Exporter, a separate Show Cause Notice has been issued to the said SEZ unit.

2.5. Further, a statement of Shri Swaroop Shetty, Partner, M/s. OSGL Overseas has been recorded on 17.10.2022, wherein, Shri Swaroop Shetty stated that they have entered in an agreement with M/s. Rekha Superfine

Exporter, KASEZ, Gandhidham to offload and store the entire consignment of Black Pepper imported vide BE No. 1015620 dated 04.10.2022 at their premises. However, the importer had not provided any supporting documents for the same.

3.1. Whereas, summons dated 23.01.2023, 13.03.2023 and dated 02.09.2024 have been issued to M/s. Blue I Store, Janakpuri, West Delhi for recording of statement and submission of relevant records with respect to the impugned consignment of Black Pepper imported vide warehouse BE No. 1015620 dated 04.10.2022; however, the summons were not responded by the said company.

3.2. Whereas, summons dated 13.03.2023, 27.09.2023 and 02.09.2024 have been issued to M/s. OSGL have filed warehouse BE No. 1015620 dated 04.10.2022 for recording of statement and submission of relevant records with respect to the impugned consignment of Black Pepper imported vide warehouse BE No. 1015620 dated 04.10.2022; however, the summons were not responded by the said company.

4.1. In view of the above discussed facts, it appears that the goods found at the premises of M/s. Rekha Superfine Exporter are not related to the goods imported vide BE No. 1015620 dated 04.10.2022 filed by M/s. OSGL Overseas on behalf of M/s. Blue I Store, Janakpuri, West Delhi. Further, it also appears that the said goods have never been warehoused at the premises of M/s. OSGL and same have been cleared clandestinely/diverted by M/s. OSGL Overseas in the domestic market.

4.2. Whereas, the details of the value and duty involved on the said goods i.e. Black Pepper imported vide warehouse BE No. 1015620 dated 04.10.2022 is as under:

(amount in Rs.)

BE No. & Date	Description of Goods	Quantity of Goods	Valuation of goods	Duty Rate	Duty Involved
1015620 dated 04.10.2022	Black Pepper CTH- 09041130	28MTS	1,67,35,421/-	BCD @70% SWS @10% IGST @5%	81,17,152/-

4.3. Whereas, in terms of Rule 33 of the Special Economic Zone Rules, 2006 M/s. OSGL is supposed to brought the imported goods into the premises of unit, whereas, in the instant case goods were not found at the premises of M/s. OSGL, hence, it appears that M/s. OSGL failed to comply with the Rule 33 of the SEZ Rules, 2006 read with Rule 34 of the SEZ Rules, 2006, as M/s. OSGL failed to use the goods for carrying out the authorized operations. Further, M/s. OSGL have neither disclosed the facts to the jurisdictional customs authority regarding movement of the impugned goods nor they have provided any records of the movement during the course of investigation. Therefore, it appears that the goods admitted are utilized for purposes other than for the authorized operations with mala-fide intension and to evade applicable duties involved on the said goods. Moreover, M/s. OSGL fails to account for the goods valued at Rs. 1,67,35,421/- as provided under these rules, therefore, customs duties amounting to Rs. 81,17,152/- is required to be recovered from them under Section 28(4) of the Customs Act, 1962 along with appropriate interest under Section 28AA of the Customs Act, 1962. Moreover, for the contravention of the provisions of the SEZ Act, 2005 and rules made thereunder read with

the provisions of Customs Act, 1962 and rules made thereunder, the importer rendered themselves for penal action under Section 114A of the Customs Act, 1962.

4.4. Whereas, the M/s. OSGL has filed Bill of Entry No. 1015620 dated 04.10.2022 on behalf of M/s. Blue I Store, Janakpuri, West Delhi having IGM No. 2323437 dated 03.10.2022 for importing goods in container no. CBHU8397004 under Bill of Lading No. MAXDXB06612223 dated 01.10.2022. M/s. Blue I Store, West Delhi appears to be engaged in the incidence of importing of goods and clandestine clearance/deviation of the said goods in the guise of warehousing. M/s. Blue I Store, Janakpuri, West Delhi has provided his IEC for import and did not respond to the summons issued during the investigation to provide the details of the goods imported on behalf of them. Therefore, it appears that M/s. Blue I Store, Janakpuri, West Delhi rendered themselves for penal action under Section 117 of the Customs Act, 1962. Further, the IEC holder was supposed to file Ex-bond Bill of Entry for clearance/re-export of the impugned goods, however, being involved in the clandestine clearance/deviation of the said goods in the guise of warehousing, it appears from the records available that they have not filed any ex-Bond Bill of Entry for the said goods. Therefore, the importer M/s. Blue I Store, Janakpuri, West Delhi has made themselves liable for penal action under Section 112(a) (ii) of the Customs Act, 1962.

5. Legal Provisions applicable:

5.1. Whereas, Rule 33 of the Special Economic Zone Rules, 2006 reads as under;

"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, namely:-

- (i) *the goods imported or procured from Domestic Tariff Area shall be brought into the premises of Unit;*
- (ii) *the goods, which require frequent entry into and exit from the Zone and which are not required for carrying out authorized operations shall be allowed into or out of the Special Economic Zone on the basis of general permission of the Specified Officer, who shall record the reasons for such permission;*
- (iii) *hazardous goods may be admitted into specially designated area or installation of Special Economic Zone subject to such safeguards as may be specified by Specified Officer;"*

5.1. Whereas, Rule 33 of the Special Economic Zone Rules, 2006 reads as under;

Utilization of goods. – The goods admitted into a Special Economic Zone shall be used by the Unit or the Developer only for carrying out the authorized operations but if the goods admitted are utilized for purposes other than for the authorized operations or if the Unit or Developer fails to account for the goods as provided under these rules, duty shall be chargeable on such goods as if these goods have been cleared for home consumption:

Provided that in case a Unit is unable to utilize the goods or services imported or procured from Domestic Tariff Area, it may, -

- (i) *export the goods; or*

- (ii) *sell the same to other Unit or to an Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park or Bio Technology Park, without payment of duty; or*
- (iii) *sell to an Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park or Bio Technology Park – (a) on payment of Integrated Goods and Services Tax as applicable under section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017); and (b) without payment of duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and additional duty, if any, leviable thereon under sub-sections (1), (3) and (5) of section 3 of the said Act and such sale shall also be made without payment of integrated tax and compensation cess leviable thereon under sub-sections (7) and (9) of section 3 of the said Act as per notification issued by the Department of Revenue and such exemptions, as applicable;*
- (iv) *dispose of the same in the Domestic Tariff Area on payment of applicable duties or taxes on the basis of an import licence submitted by the Domestic Tariff Area buyer, wherever applicable.]*

5.3. Whereas, Section 30 of the Special Economic Zone Act, 2005 reads as under;

“30. Subject to the conditions specified in the rules made by the Central Government in this behalf:-

- (a) *any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to duties of customs including anti-dumping, countervailing and safeguard duties under the Customs Tariff Act, 1975, where applicable, as leviable on such goods when imported; and*
- (b) *the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.”*

5.4. Whereas, Section 28(4) of the Customs Act, 1962 reads as under;

“Section 28 Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded

(1)....

(2)...

(3)...

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

(a) collusion; or

(b) any willful mis-statement; or suppression of facts,

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

.....

.....”

5.5. Whereas, Section 28AA of the Customs Act, 1962 reads as under;

“Section 28AA. Interest on delayed payment of duty

1. Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. And not exceeding thirty-six per cent. Per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.”

5.6. Whereas, Section 112 (a)(ii) of the Customs Act, 1962 reads as under:

112. Penalty for improper importation of goods, etc.

- Any person,-

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

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

(i).....;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees whichever is the greater;

(iii).....

(iv).....

(v).....

5.7. Whereas, Section 117 of the Customs Act, 1962 reads as under:

“Section 117. Penalties for contravention, etc., not expressly mentioned.

- Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one lakh rupees.

6. Show Cause Notice:

6.1. Now, therefore, M/s. OSGL Overseas, Shed No. 2 & 3, Sector-1, Phase-1, Kandla SEZ, Gandhidham, Kutch, Gujarat is hereby called upon to Show Cause within 30 days to the Commissioner of Customs, Kandla at his office situated at First Floor, Customs House, Kandla, Kutch, Gujarat, as to why;

i. Duty amounting to Rs. 81,17,152/- should not be recovered from them under Section 28(4) of the Customs Act, 1962 for contravention of the provisions of Rule 33 of the SEZ Rules, 2006 read with Rule 34 of the SEZ Rules, 2006.

ii. Interest on the duty amounting to Rs. 81,17,152/- at appropriate rate should not be recovered from them under Section 28(AA) of the Customs Act, 1962.

iii. Penalty under Section 114A of the Customs Act, 1962 should not be imposed upon them.

6.2. Now, therefore, M/s. Blue I Store, Janakpuri, West Delhi is hereby called upon to Show Cause within 30 days to the Commissioner of Customs, Kandla at his office situated at First Floor, Customs House, Kandla, Kutch, Gujarat, as to why;

i. Penalty under Section 112(a)(ii) of the Customs Act, 1962 should not be imposed upon them.

ii. Penalty under Section 117 of the Customs Act, 1962 should not be imposed upon them.

7. PERSONAL HEARING-

Opportunities of personal hearing were provided to the notices on 10.07.2025, 17.07.2025, 21.07.2025 and 28.07.2025. However, they neither appeared for personal hearing nor made any submission during the course of adjudication proceedings.

8. Defense Submission-

Neither M/s OSGL Overseas, Kandla SEZ, Gandhidham nor M/s. Blue I Store, Janakpuri, West Delhi have filed any written submissions/defense reply in response to the above referred SCN dated 10.10.2024 issued to them.

9. DISCUSSION AND FINDINGS:

9.1 I have carefully perused the contents of the Show Cause Notice No. GEN/ADJ/COMM/336/2025-Adjn-O/o Commr-Cus-Kandla dated 10.10.2024 along with the Relied upon Documents and the documents/evidences available on record.

9.2. I find that the noticees have failed to submit any written reply to the above referred show cause notice dated 10.10.2024, though it was specifically mentioned in the said show cause notice itself to submit such reply within 30 days of receipt of the same. It was also specifically mentioned in Para No. 8 of the Show cause notice dated 10.10.2024 that if no reply to the notice is received from them within 30 days of receipt of the notice or if they failed to appear for the personal hearing on the date and time intimated to them, the case would be decided on the basis of available evidences and merits, without any further reference to them.

9.3. I further find that despite providing sufficient time for submission of documentary evidences and ample opportunities of personal hearing being provided to the noticees as discussed in the foregoing paragraphs, neither any written submission/defense reply has been filed by them nor have they appeared on the dates on which personal hearing was scheduled by the undersigned in plain observance of the Principles of Natural Justice. I also hold that adjudication proceedings, being a time sensitive process can't be kept pending for long, especially when there is blatant lack of cooperation on part of the noticee. Hence, under the circumstances and in light of the above facts, I am left with no option but to decide the Show Cause Notice on the basis of records/documentary evidences available on file.

9.4. Therefore, in view of the discussions made in the foregoing paragraphs and peculiar circumstances of the case, I rely on various decisions of Hon'ble Supreme Court, High Courts and Tribunals wherein the ex parte decisions of the adjudicating authority have been upheld, which are as under:-

(a) Hon'ble Apex Court in Jethmal Vs. U.O.I.-1999 (110) E.L.T. 379 (S.C.).

"Our attention was also drawn to a recent decision of this court in A.K. Kripak Vs. Union of India -1969(2) SSC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of "audi alteram partem" and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality."

(b) United Oil Mills Vs. C.C.& C.E., Cochin -2000 (124) E.L.T (Ker.)

"Natural Justice- Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence – principles of natural justice not violated."-

- (c) Kumar Jagdish Ch. Sinha Vs. CCE, Calcutta-2000 (124) E.L.T. 118 (Cal.)
- (d) Saketh India Ltd. Vs. U.O.I.-2002 (143) E.L.T 274 (Del.)
- (e) Devi Dayal Vs. U.O.I.-2002 (144) E.L.T. 502 (Del.) maintained in 2003 (151) E.L.T. A288 (S.C.)
- (f) Gopinath Chem. Tech Ltd Vs. C.C.E., Ahmedabad-II-2004(171) E.L.T.412 (Trib. Mumbai)
- (g) F N Roy Vs. C.C., Calcutta-1983 (13) E.L.T. 1296 (S.C.).

10. I find that M/s. OSGL filed a Bill of Entry No. 1015620 dated 04.10.2022 on behalf of M/s. Blue I Store, Janakpuri, West Delhi having IGM No. 2323437 dated 03.10.2022 for importing mis-declared goods in container no. CBHU8397004 under Bill of Lading No. MAXDXB06612223 dated 01.10.2022. The imported goods were destined for KASEZ however the said goods never reached destination.

11. I find that a team of SIIB, Kandla Customs searched the premises of M/s. OSGL under panchnama dated 13.10.2022 & 14.10.2022 in presence of Shri Swaroop Shetty, Partner of M/s. OSGL. During the course of panchnama physical stock of the goods lying in the shed was recorded and verification of the same with the stock ledger of M/s. OSGL revealed that there was shortage of physical stock of 28MTS of Black Pepper which was said to have imported under Bill of Entry No. 1015620 dated 04.10.2022 vide container no. CBHU8397004.

12. I find that at the time of panchnama Shri Swaroop Shetty informed that due to shortage of space at their premises 28MTS of Black Pepper was unloaded at the premises of M/s. Rekha Superfine Exporters, KASEZ.

13. I find that the officers of SIIB, Kandla carried out a simultaneous search of the premises of M/s. Rekha Superfine Exporter, KASEZ, Gandhidham under Panchnama dated 13.10.2022. During the course of Panchnama, the following excessive stocks of the goods were found;

Sr. No.	Goods Description	Total No. of Bags	Total Weight (Kgs)
1	Black Pepper	3293	96900
2	Dates	1678	83900
3	Coriander Husk	75	3000
4	Spices Grinding Machines with description '2 in 1 Pulverizer of 7.5HP.'	2 Pieces	--

14. I find that in respect of excessive goods found at the premises of M/s. Rekha Superfine Exporter, a statement of Shri Dayashankar Prasad, Partner, M/s. Rekha Superfine Exporter was also recorded on 17.10.2022, wherein, Shri Dayashankar Prasad stated that they have entered in an agreement with M/s. OSGL Overseas, KASEZ, Gandhidham to store the entire consignment of Black Pepper imported vide BE No. 1015620 dated 04.10.2022 at their premises. However, the importer had not provided any supporting documents for the same. Therefore, after investigation in respect of the said excessive

quantity found at the premises of M/s. Rekha Superfine Exporter, a separate Show Cause Notice was issued to M/s. Rekha Superfine Exporter.

15. I find that a statement of Shri Swaroop Shetty, Partner, M/s. OSGL Overseas was recorded on 17.10.2022, wherein, Shri Swaroop Shetty stated that they have entered in an agreement with M/s. Rekha Superfine Exporter, KASEZ, Gandhidham to offload and store the entire consignment of Black Pepper imported vide BE No. 1015620 dated 04.10.2022 at their premises. However, the importer had not provided any supporting documents for the same.

16. I find that summons dated 23.01.2023, 13.03.2023 and dated 02.09.2024 were issued to M/s. Blue I Store, Janakpuri, West Delhi for recording of statement and submission of relevant records with respect to the impugned consignment of Black Pepper imported vide warehouse BE No. 1015620 dated 04.10.2022; however, the summons were not responded by the said company.

17. I find that summons dated 13.03.2023, 27.09.2023 and 02.09.2024 were issued to M/s. OSGL have filed warehouse BE No. 1015620 dated 04.10.2022 for recording of statement and submission of relevant records with respect to the impugned consignment of Black Pepper imported vide warehouse BE No. 1015620 dated 04.10.2022; however, the summons were not responded by the said company.

18. I find that the goods found at the premises of M/s. Rekha Superfine Exporter were not related to the goods imported vide BE No. 1015620 dated 04.10.2022 filed by M/s. OSGL Overseas on behalf of M/s. Blue I Store, Janakpuri, West Delhi. Further, I find that the said goods were never warehoused at the premises of M/s. OSGL and same have been cleared clandestinely/diverted by M/s. OSGL Overseas in the domestic market.

19. I find that the details of the value and duty involved on the said goods i.e. Black Pepper imported vide warehouse BE No. 1015620 dated 04.10.2022 is as under:

(amount in Rs.)

BE No. & Date	Description of Goods	Quantity of Goods	Valuation of goods	Duty Rate	Duty Involved
1015620 dated 04.10.2022	Black Pepper CTH-09041130	28MTS	1,67,35,421/-	BCD @70% SWS @10% IGST @5%	81,17,152/-

20. As per Rule 33 of the Special Economic Zone Rules, 2006 M/s. OSGL was supposed to bring the imported goods into the premises of unit, whereas, in the instant case goods were not found at the premises of M/s. OSGL, hence, I find that M/s. OSGL has failed to comply with the Rule 33 of the SEZ Rules, 2006 read with Rule 34 of the SEZ Rules, 2006, as M/s. OSGL failed to use the goods for carrying out the authorized operations. Further, I find that M/s. OSGL had neither disclosed the facts to the jurisdictional customs authority regarding movement of the impugned goods nor they had provided any records of the movement during the course of investigation. Therefore, I find that the goods admitted were utilized for purposes other than for the authorized operations with mala-fide intension and to evade applicable duties involved on the said goods.

21. I find that M/s. OSGL has failed to account for the goods valued at Rs. 1,67,35,421/- as provided under these rules, therefore, customs duties amounting to Rs. 81,17,152/- is required to be recovered from them under Section 28(4) of the Customs Act, 1962 along with appropriate interest under Section 28AA of the Customs Act, 1962.

22. I find that for the contravention of the provisions of the SEZ Act, 2005 and rules made thereunder read with the provisions of Customs Act, 1962 and rules made thereunder, the importer has rendered themselves liable for penal action under Section 114A of the Customs Act, 1962.

23. I find that M/s. OSGL has filed Bill of Entry No. 1015620 dated 04.10.2022 on behalf of M/s. Blue I Store, Janakpuri, West Delhi having IGM No. 2323437 dated 03.10.2022 for importing goods in container no. CBHU8397004 under Bill of Lading No. MAXDXB06612223 dated 01.10.2022. M/s. Blue I Store, West Delhi appeared to be engaged in the incidence of importing of goods and clandestine clearance/deviation of the said goods in the guise of warehousing. M/s. Blue I Store, Janakpuri, West Delhi had provided his IEC for import and did not respond to the summons issued during the investigation to provide the details of the goods imported on behalf of them. Therefore, I find that M/s. Blue I Store, Janakpuri, West Delhi has rendered themselves liable for penal action under Section 117 of the Customs Act, 1962.

24. I find that the IEC holder was supposed to file Ex-bond Bill of Entry for clearance/re-export of the impugned goods, however, being involved in the clandestine clearance/deviation of the said goods in the guise of warehousing, it appears from the records available that they have not filed any ex-Bond Bill of Entry for the said goods. Therefore, I find that the importer M/s. Blue I Store, Janakpuri, West Delhi has made themselves liable for penal action under Section 112(a)(ii) of the Customs Act, 1962.

25. In view of the above, I hereby pass the following order-

- (i) I determine and confirm the duty of Rs. 81,17,152/- (Rupees Eighty One lakh Seventeen Thousand One Hundred and Fifty two only) and order to recover the same from M/s. OSGL Overseas under Section 28(4) of Customs Act, 1962.
- (ii) I order to recover interest at the applicable rate, on the amount of Rs. 81,17,152/- confirmed at (i) above, under Section 28AA of the Customs Act, 1962.
- (iii) I order to impose penalty equal to the duty plus interest confirmed above upon M/s. OSGL Overseas under Section 114A of the Customs Act, 1962.
- (iv) I order to impose penalty of 8,11,715/- (Rupees Eight lakh Eleven Thousand Seven Hundred and Fifteen only) upon M/s. Blue I Store, Janakpuri, West Delhi under Section 112(a)(ii) of the Customs Act, 1962.

(v) I order to impose penalty of Rs. 4,00,000/- (Rupees Four lakh only) upon M/s. Blue I Store, Janakpuri, West Delhi under Section 117 of the Customs Act, 1962.

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

(M. RAM MOHAN RAO)
Commissioner,
Customs House, Kandla

F. No.: GEN/ADJ/COMM/336/2025-Adjn-O/o Commr-Cus-Kandla

DIN-20250771ML0000924318

By Speed POST A.D.

To,

(i) M/s. OSGL Overseas,
Shed No. 2 & 3, Sector-1, Phase-1,
Kandla SEZ, Gandhidham, Kutch, Gujarat.

(ii) M/s. Blue I Store,
Lower Ground Floor,
WZ-13-D/3, Shop No.2, Aslatpur,
Janakpuri, West Delhi

Copy to:

(i) The Chief Commissioner, Gujarat Customs Zone, Ahmedabad
(ii) The Additional Commissioner (SIIB), Customs House, Kandla
(iii) The Development Commissioner, Kandla Special Economic Zone for information.
(iv) The Superintendent (EDI/TC) for necessary action.
(v) Guard File.