

सीमा शुल्क कार्यालय आयुक्त का, सीमा शुल्क भवन,  
जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास,  
जामनगर, गुजरात – (361 001)

Office of the Commissioner of Customs (Preventive),  
'Seema Shulk Bhavan', Jamnagar – Rajkot Highway,  
Near Victoria Bridge,  
Jamnagar (Gujarat) – 361 001  
**Email:** commr-custjmr@nic.in; adj-custjmr@nic.in

DIN – 20260971MM0000ECA8FB

|    |                                                                             |                                                                                                                                           |
|----|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | फाइल क्रमांक/ File Number                                                   | F. No. CUS/3243/2023-Adjn.                                                                                                                |
| 2. | मूल आदेश क्रमांक/<br>Order-in-Original No.                                  | 6/Additional Commissioner/ 2026-27                                                                                                        |
| 3. | द्वारा पारित/ passed by                                                     | अमित कुमार सिंह/ Amit Kumar Singh<br>अपर आयुक्त/ Additional Commissioner,<br>सीमा शुल्क, निवारक/Customs (Preventive)<br>जामनगर/ Jamnagar. |
| 4. | Date of Order /आदेश दिनांक<br>Date of issue / आदेश जारी<br>किया             | 21.9.2026<br>21.9.2026                                                                                                                    |
| 5. | कारण बताओ नोटिस क्रमांक एवं<br>दिनांक<br>Show Cause Notice Number<br>& Date | Show Cause Notice No. ADC-08/2023-24<br>dated 5.12.2023                                                                                   |
| 6. | नोटिसी का नाम/<br>Name of Noticee                                           | <b>M/s. Rajendra Ship breakers Pvt Ltd.,</b><br>Plot No. DM -79, Behind Ram Mantra<br>Mandir, Kaliabid, Bhavnagar,<br>and others.         |

01. इस आदेश की मूल प्रति संबंधित व्यक्ति को निशुल्क प्रदान की जाती है।  
The original copy of this order is provided free of cost to the person concerned.
02. इस मूल आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम, धारा की 1962 128A)(1)a सीमा शुल्क नियम (अपील), 1982 के नियम 3 के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से 60 दिन के भीतर फॉर्म सीए-1 में निम्नलिखित पते पर अपील दायर कर सकता है। फॉर्म सीए-1 में अपील का प्रपत्र, दो प्रतियों में दायर किया जाएगा और उसके साथ इस आदेश की समान संख्या में प्रतियाँ संलग्न की जाएंगी जिसके विरुद्ध अपील की गई है। कम से कम से जिनमें एक प्रमाणित प्रति हो
- |                                                                                           |                                                                                                                      |
|-------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| आयुक्त (अपील)<br>चौथी मंजिल, हडको भवन,<br>ईश्वर भुवन रोड, नवरंगपुरा<br>अहमदाबाद – 380 009 | Commissioner (Appeals),<br>4th Floor, HUDCO Building,<br>Ishwar Bhuvan Road,<br>Navrangpura,<br>Ahmedabad<br>380 009 |
|-------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|



Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-1, within sixty days from the date of receipt of this order, under the

|     |                                                                                                                                                                                                                                                                                                                                                                                     |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | provisions of Section 128 of the Customs Act, 1962, read with Rule 3 of the Customs (Appeals) Rules, 1982 before the Commissioner (Appeals) at the above-mentioned address. The form of appeal in Form No. CA.-1 shall be filed in duplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy). |
| 03. | अपील पर 5/- रुपये का कोर्ट फीस स्टाम्प लगा होना चाहिए। जैसा कि भारतीय स्टाम्प अधिनियम, 1989 के तहत प्रदान किया गया है, या राज्य विधान द्वारा संशोधित किया जा सकता है, जबकि इस अपील के साथ संलग्न आदेश की प्रति पर रुपये ) 0.50 पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची -I, मद 6 के तहत निर्धारित किया गया है।              |
|     | The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paise only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.                                        |
| 04. | अपीलीय ज्ञापन के साथ शुल्क भुगतान /जुर्माना /अर्थ दंड का सबूत भी संलग्न करें अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 128 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।                                                                                                                                                                                    |
|     | Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 128 of the Customs Act, 1962.                                                                                                                                                               |
| 05. | अपील प्रस्तुत करते समय यह सुनिश्चित करें की सीमा शुल्क अपील)) नियम, 1982 नियम (प्रोसीजर) प्रक्रिया सिस्टेट और है। हुआ पालन पूरा का नियमो सभी के 1982                                                                                                                                                                                                                                |
|     | While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects.                                                                                                                                                                                                                                       |
| 06. | इस आदेश के खिलाफ आयुक्त (अपील), सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के 7.5% के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है।                                                                                                                |
|     | An appeal, against this order shall lie before the Commissioner (Appeals), on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute.                                                                                                                                        |



**Brief Facts:**

An intelligence was received by the Directorate of Revenue Intelligence, Jamnagar to the effect that the Shipping agent, **M/s. Lotus Danship Pvt. Ltd.**, Eva Complex, Opp. Gulista Ground, Waghawadi Road, Bhavnagar - 364002 vide their letter dated 06.12.2021 submitted an intimation with the Customs about arrival of a Liquefied Petroleum Gas (LPG) tanker, MT Harriet (IMO No. 8716514) (hereinafter referred to as "the vessel") from Khasab Port, Oman on 08.12.2021 at Alang for demolition. M/s. Lotus Danship Pvt. Ltd. had also filed IGM Job No. 1324296 dated 06.12.2021 & Prior IGM No. 2298394 dated 06.12.2021 for import of the said vessel, MT Harriet (IMO No. 8716514) at Alang for demolition. Further, **M/s. Rajendra Ship Breakers Pvt. Ltd.**, (hereinafter referred to as "importer") filed a prior Bill of Entry No.6603471 dated 09.12.2021 for the import of the vessel, MT Harriet (IMO No. 8716514) under CTH 8908 at Alang for breaking brought from one M/s. Blueone General Trading LLC, Dubai (hereinafter referred to as "seller") The vessel reached the Bhavnagar anchorage on 09.12.2021.

2. Intelligence developed by Directorate of Revenue Intelligence (DRI) indicated that the vessel declared as MT Harriet with IMO No. 8716514 had already been decommissioned and demolished in Turkey in the year 2013. On verification of the details of the vessel with IMO No. 8716514, it appeared that the IMO number belonged to one vessel 'Happy Harrier' (Gas Tanker) built in 1988 and beached at Aliaga, Turkey on 12.11.2013 for demolition/breaking purpose, under the flag of "Isle of Man" having ownership by "Lomond Shipping Company S.A".

2.1. This fact led to the suspicion that the details of the vessel that had come for breaking have been misdeclared in the Customs documents. This mis-declaration in the IGM filed by the Shipping Agent and mis-declaration in the prior bill of entry filed by the importer led to the suspicion that the actual vessel that arrived might be a restricted or sanctioned vessel under various national/international laws.

**STATEMENTS AND ENQUIRY****Search of the Vessel declared as 'MT Harriet (IMO No.8716514)'**

3. A team of officers from Regional Unit, DRI, Jamnagar/Bhavnagar and Customs Division, Bhavnagar boarded the vessel and conducted a search on the vessel on 11.12.2021/12.12.2021 under panchnama proceedings dated 11.12.2021/12.12.2021. On preliminary investigation, it appeared that the actual vessel that had arrived at Alang was different from the one that was declared in the Customs documents.

3.1. The actual IMO number of the vessel appeared to be 8800298 and not 8716514 and similarly the actual name of the vessel appeared to be MT Melody/Blue Way/Sunny Girl/Happy Girl and not MT Harriet as declared in the Customs documents. Further, the said vessel, MT Melody appeared to be under the sanction of U.S. Department of Treasury's OFAC for involvement in transferring LPG to the port of Baniyas in North-Western Syria. In order to, unearth the actual facts, a detailed investigation was conducted.

During the search of the vessel, many documents & evidences like laptop, hard disks, photographs, mobile and life jackets etc. as per Annexure - attached to the Panchnama dated 11/12.12.2021, resumed/taken over for

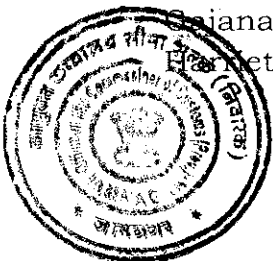


further investigation in respect of the contravention of the provisions of the Customs Act, 1962, are showing that the vessel's identity had been manipulated/forged.

**Statement of Shri Rahul Chowdhary, Captain of the alleged vessel**

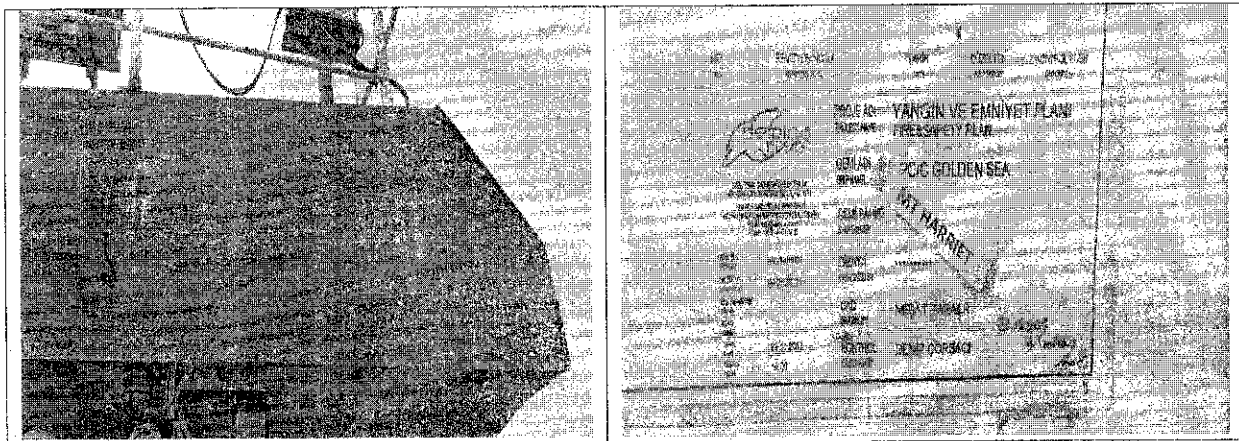
**4.1.** Statement of the Captain of the vessel, **Shri Rahul Choudhary** was recorded on **12.12.2021** under Section 108 of the Customs Act, 1962 in which he stated that he had been employed with M/s. ABB Ship Management Pvt. Ltd., Mumbai, since 13.11.2021. As per his work agreement his employer is M/s. Blue One General Trading LLC, UAE. He had taken the charge of the alleged vessel since 15.11.2021 from Sharjah Inner Anchorage (Mina Khalid Port) and was told to report to **M/s. DTA (Dubai Trading Agency)** of UAE. In his statement dated 12.12.2021,

- ❖ He agreed with the contents of the panchnama dated 11/12.12.2021. He confirmed that the declared vessel name was MT Harriet with IMO No. 8716514 and the Checklist for IGM bearing No. 2298394 pertained to the said vessel. He had brought the vessel to Alang as per the Provisional Certificate of Registry issued by Union of Comoros provided to him by Capt. Gajanan Karanjikar of M/s. DTA, UAE.
- ❖ He also stated that M/s. DTA, UAE was engaged in recycling of vessels and in marine services like supply of provisions, supply & transportation of crew members, etc. M/s. DTA, UAE recruits all its manpower through M/s. ABB Ship Management Pvt Ltd, Navi Mumbai; that he was working for M/s. DTA, UAE through M/s. ABB Ship Management Pvt Ltd, Navi Mumbai where he was employed. In M/s. DTA, UAE he used to report to Capt. Gajanan Karanjikar. He stated that Capt. Gajanan Karanjikar had managed to provide him all the certificates on board the vessel through supply boat.
- ❖ On 14.11.2021, during a meeting in Sharjah with Shri Amresh Kumar, Capt. Gajanan Karanjikar, Shri Ravindra Kumar Varma, Chief Engineer of the vessel and Shri Kaushal Kumar Chief Officer of the vessel, they had been informed that they had to board the vessel named MT Melody which they are going to rename as MT Harry (later on renamed to MT Harriet) and he was also told that M/s. Blue One General Trading LLC, UAE had purchased that vessel.
- ❖ He stated that Shri Amresh Kumar and Capt. Gajanan Karanjikar, both of M/s. DTA had instructed him to navigate the vessel to Alang. The mode of communication during the voyage in high sea was through Thuraya phone given by M/s. DTA through DTA-5 supply boat. He was instructed by Capt. Gajanan Karanjikar to use the same during the voyage and to destroy the same before entering India, as it is prohibited there. So, he dismantled the Thuraya phone and threw it in the sea on 01.12.2021.
- ❖ He stated that all the reporting related to the vessel were made to Shri Amresh Kumar and Capt. Gajanan Karanjikar, both of M/s. DTA during his tenure with the vessel. He did not know anyone or had never met anyone from the owner of the vessel or buyer of the vessel. However, Shri Bilal from M/s. Blue One General Trading LLC, UAE had been added by Capt. Gajanan Karanjikar or Shri Amresh Kumar in a whatsapp group, MT Harriet created by him for the conversation and reporting of the vessel.



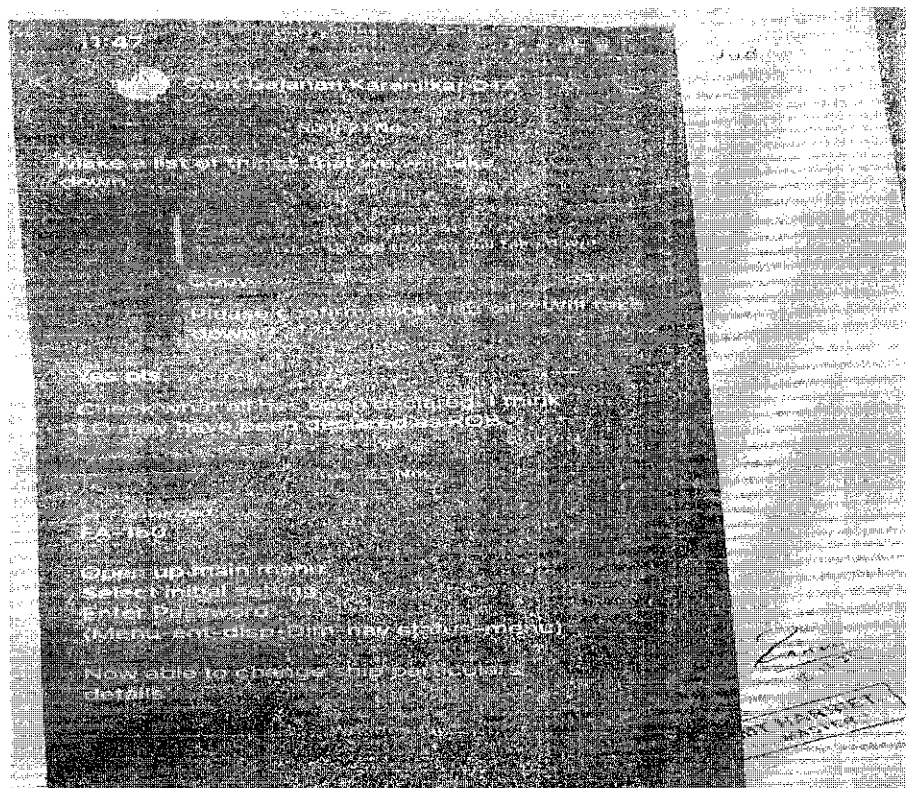
- ❖ He admitted that two vessels cannot have the same IMO number and that when he had taken the charge of the vessel at Mina Khalid Port, the actual name of the vessel was **'MT Melody' (ex-name Golden Sea, Happy Girl, Sunny Girl and Blue Way) having IMO No. 8800298**. He also added that the vessel had different names like 'Golden Sea', 'Happy Girl', 'Sunny Girl' and 'Blue Way'.
- ❖ He stated that Capt. Gajanan Karanjikar had informed him that due to salary issues of old crew and problems faced in getting NOC from Insurance authorities, they were changing the name and IMO number of the vessel. He admitted that when he boarded the vessel at Mina Khalid Port, name of the vessel was MT Melody and IMO number was 8800298. The vessel was issued Port Clearance Certificate dated 23.11.2021 by UAE Port Control, Sharjah in the actual name of MT Melody and IMO Number i.e. 8800298. As per the said Port Clearance, flag of the vessel was of **Sao Tome and Principe**. He produced the copy of said Port Clearance Certificate that was provided to him by vessel's agent at Mina Khalid Port.
- ❖ He stated that the other Port Clearance Certificate dated 23.11.2021 issued by Sultanate of Oman, Royal Oman Police, DG of Customs showing the name of the vessel as Harriet and IMO Number as 8716514 (RUD No. 7), was provided to him by Capt. Gajanan Karanjikar through DTA-5, supply boat of M/s. DTA, UAE, which he produced to the authorities at Alang India.
- ❖ He further stated that Capt. Gajanan Karanjikar had managed to get new registration certificate by registering the vessel with Union of Comoros with new name and IMO number. Based on the said registration certificate, Capt. Gajanan Karanjikar managed to obtain said Port Clearance Certificate dated 23.11.2021 with new name and IMO number to hide the actual identity of the vessel. He also stated that Shri Amresh Kumar of M/s. DTA and Capt. Gajanan Karanjikar, Mr. Bilal and all the crew members were aware of the fact that the identity of the vessel has been forged. He also stated that he believed that Shri Raju of M/s. ABB Ship Management Pvt. Ltd., Navi Mumbai might also be aware of the same.
- ❖ He stated that as per the directions of Capt. Gajanan Karanjikar, all the materials which reveal the identity of the vessel as MT Melody (IMO No. 8800298) were returned through the supply boat DTA-5 that had come to deliver the Port Clearance Certificate. During the voyage, he found a few more documents from Engine Room, Generator Room, etc. which were revealing the actual identity of MT Melody (IMO No. 8800298) and the same were burnt on the instructions of Capt. Gajanan Karanjikar.
- ❖ On the instructions of Gajanan Karanjikar, he had returned back all the materials related to vessel MT Melody and during the voyage, he applied paper stickers and paint marks mentioning new/fake name everywhere in the vessel. He took utmost care to ensure that nowhere the original name and IMO number of MT Melody (IMO No. 8800298) was visible.





He also admitted that the officers had rightly detected that he had painted fake name and IMO number of the vessel at some places after reaching India.

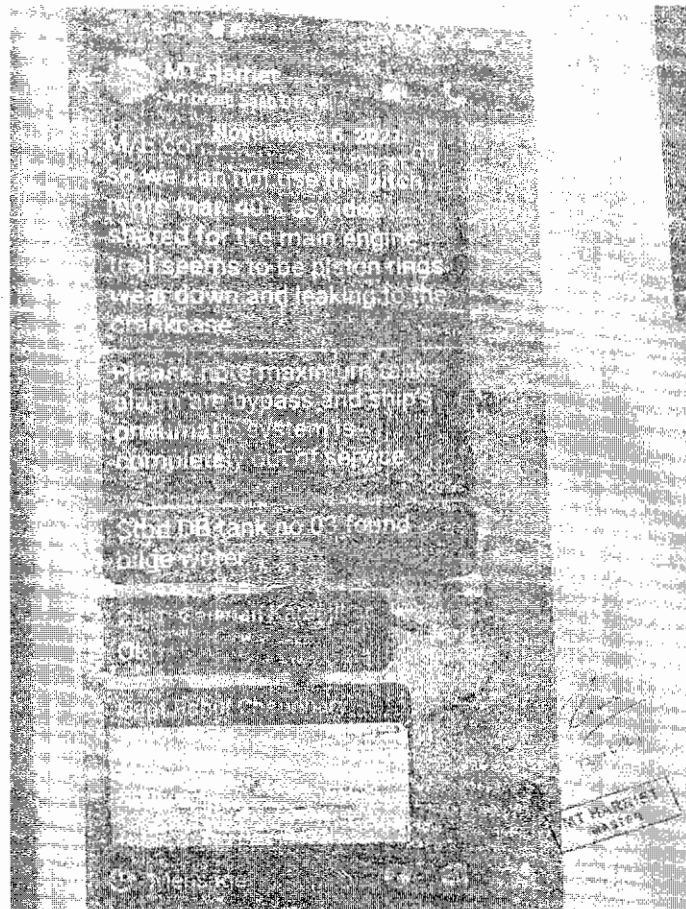
- ❖ The Captain admitted that in the Trim & Stability Book, name of the vessel was printed as “Sunny Girl”. There was also hand written word “Happy Girl”. These all were ex names of the vessel MT Melody (IMO No. 8800298) which had been declared as MT Harriet (IMO No. 8716514) at Alang, India in the instant case.
- ❖ He stated that when he took over charge of the vessel, the AIS of the vessel was telecasting the name & IMO of MT Melody (IMO No. 8800298). The Automatic Identification System (AIS) was kept on till 27.11.2021, by the time vessel passed the State of Hormos. Capt. Gajanan Karanjikar then instructed him through phone to switch off the AIS later.



To amend the AIS, Capt. Gajanan Karanjikar got the settings from technician and sent the same to the Captain through whatsapp chat as shown above. He followed the steps and changed the settings of AIS.



- ❖ Shri Rahul Choudhary stated that when he took over the charge of the vessel at Mina Khalid port, he scanned the ship particulars sheet displayed in the vessel and sent to Capt. Gajanan Karanjikar the picture titled "SHIP'S PARTICULARS" at 10.23 am of 17.11.2021 through whatsapp chat. The said sheet was stating all the basic details of MT Melody (IMO No. 8800298)
- ❖ During the search of the vessel, a certificate bearing No. 45434 dated 09.11.2021 issued by M/s. Flots Marine Survey & Consultancy FZC, UAE was found from the vessel.



On showing the said certificate bearing No. 45434, dated 09.11.2021 issued by M/s. Flots Marine Survey & Consultancy FZC, UAE, the Captain stated that M/s. Flots Marine Survey & Consultancy FZC, UAE had inspected the vessel viz. MT Melody (IMO No. 8800298) to certify that the vessel was Gas Free. He admitted that this certificate was also showing the actual name and IMO number of the vessel.

- ❖ During the course of search/rummaging of the vessel, the team of officers found a log book for the period from 24.11.2021 onwards only. On being asked to produce the log book for the period prior to 24.11.2021, he stated that he had the log book for the earlier period when he took over, but they had handed over the same to DTA-5 supply boat alongwith other documents of the vessel.



On being asked about how did he obtain the certificates that are found on board such as Provisional Registration Certificate, Provisional Minimum Safe Manning Document, Port Clearance Certificate, etc. in the name of M.T. Harriet, whereas the actual identity of the vessel was MT Melody (IMO

No. 8800298), he stated that so far as he knew all the certificates were genuine, but had been obtained on the basis of mis-declaration with regard to vessel's identification.

- ❖ After going through the news article dated 28 December 2020 titled 'The Tale of Two Tankers and the Art of Sanctions Busting' (<https://energyfuse.org/the-tale-of-two-tankers-and-the-art-of-sanctions-busting/>), wherein it was mentioned that the LPG tanker Melody (IMO 8800298) was one of many vessels that has continued to call on Syria despite U.S. and European sanctions, he agreed that the vessel mentioned in the news article was the same MT Melody (IMO No. 8800298) that he had brought to Alang.
- ❖ He also stated that he was aware that changing IMO number of the vessel and running the vessel under a fake identity was illegal and it could attract legal actions under the Merchant Shipping Act, 1958 & other maritime laws.

4.1. Thus, it appeared from the statement that the actual vessel brought in by the Master in the name MT Harriet (IMO No. 8716514) to Alang for recycling was infact the sanctioned vessel MT Melody (IMO No. 8800298).

#### **SEIZURE AND PROVISIONAL RELEASE OF THE VESSEL**

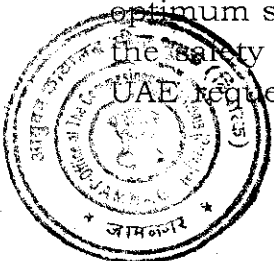
5.1. As discussed above, during the search of the vessel, many documents & evidences were recovered from the vessel which indicated that actual name of the vessel is **"MT Melody" having IMO No. 8800298** and not MT Harriet (IMO No. 8716414) as declared in the Customs documents.

5.2. The captain of the said vessel, Shri Rahul Choudhary also admitted to the fact that the identity of the vessel has been forged. In view of the evidences recovered, it appeared that the correct name of the vessel is MT Melody & correct IMO Number is 8800298, and not MT Harriet (IMO No. 8716514) as declared by the importer/agent as well as the Master of the said vessel. There is a reason to believe that the subject vessel, MT Melody (IMO No. 8800298) has been mis-declared in IGM and other Customs documents as "MT Harriet (IMO No. 8716514)" for 'Breaking and Associated items' which is in contravention of the provisions of the Customs Act, 1962 and, therefore, is liable for confiscation under Sections 111(d), 111(f) & 111(m) of the Customs Act, 1962.

5.3. Accordingly, the vessel MT Melody (IMO No. 8800298), which has been mis-declared as MT Harriet (IMO No. 8716514) was placed under seizure under Section 110(1) of the Customs Act, 1962, along with all its accessories vide Seizure Memo dated 12.12.2021 (**RUD No.15**).

#### **PROVISIONAL RELEASE OF THE VESSEL**

6. The seller of the vessel, M/s. Blue One General Trading LLC vide letter 24.02.2022 made a request to provisional release of the vessel declared as 'MT Harriet' on the ground that the Alang Anchorage was susceptible to effects of strong tidal currents and inclement weather and the vessel was not in optimum shape to survive the rigors of the weather there. Therefore, in light of the safety and environmental concerns, M/s. Blue One General Trading LLC, UAE requested Customs to give permission to beach the vessel and also gave



an undertaking that they would not proceed with any activity in respect of the vessel until DRI gives NOC to do so.

**6.1.** Subsequently, the Assistant Commissioner, Customs Division, Bhavnagar vide letter F.No. VIII/48-03/PI/MT Harriet/20-21 dated 11.03.2022, has provisionally released the seized vessel declared as "MT Harriet" on Bank Guarantee of **Rs. 3,00,00,000/- (Rs. Three Crores Only)** and Bond having value of **Rs.10,04,38,363/-**.

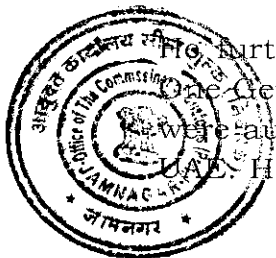
**Search of residence-cum-office premise of M/s. Rajendra Ship Breakers Pvt. Ltd.**

**7.** A search was conducted at the residence-cum-office premises of **M/s. Rajendra Ship Breakers Pvt. Ltd.** located at DM-79, Kalvibid, Near Ram Mantra Mandir, Bhavnagar – 364002, by the team of officers of DRI and Customs Division, Bhavnagar. During the search, certain documents and related electronic evidences were drawn under **panchnama dated 14.12.2021**, in relation to import of the vessel declared as 'M.T. Harriet'. Statement of the authorized person, Shri Anish Gupta was recorded under section 108 of the Customs Act, 1944.

**Statement of Shri Anish Gupta, authorized person of M/s. Rajendra Ship Breakers Pvt. Ltd.**

**8.** Statement of Shri Anish Gupta, Authorized Person of the Importer (M/s. Rajendra Ship Breakers) was recorded on 14.12.2021 in the residence-cum-office of the importer. Shri Anish Gupta confirmed the details shown in the IGM bearing No.2298394 dated 06.12.2021 filed at SBY Alang, wherein the vessel MT Harriet with IMO No. 8716514 was intimated to be imported for the purpose of breaking at Alang and bought from M/s. Blue One General Trading LLC, UAE. He also submitted that they had filed prior Bill of Entry No. 6603471 dated 09.12.2021 to import the said vessel, MT Harriet with IMO No. 8716514.

- ❖ After going through the Panchnama dated 11/12.12.2021 and the statement of Captain Rahul Choudhary recorded on 12.12.2021, Shri Anish Gupta submitted that the vessel which he had imported as MT Harriet with IMO 8716514 was actually MT Melody with IMO no. 8800298.
- ❖ Shri Anish Gupta stated that Mr. Sunil Narayan of M/s. Soham Overseas, Bhavnagar telephonically (Mobile No. 9825205999) offered him about the sale of MT Harriet. As the vessel MT Harriet was as per their requirement in terms of LDT, generators, main engines etc. they had accepted the deal. Then the MOA was signed by them on 02 November, 2021. Mr. Sunil Narayan had played the role of mediator in finalization of the deal at the value of AED 4760112 with M/s. Blue One General Trading LLC, UAE. In support of his claim, copy of Bill of Sale and Commercial Invoice issued by M/s. Blue One General Trading LLC, UAE were produced by Shri Anish Gupta.



He further stated that he did not have any knowledge about M/s. Blue One General Trading LLC, UAE. Nor was he aware about the persons who were authorized to sign on behalf of M/s. Blue One General Trading LLC, UAE. However, Shri Sunil Narayana had stated to him that Shri Bilal and

Shri Tahir were from M/s. Blue One General Trading LLC, UAE. But he was not aware about their position and authority in M/s. Blue One General Trading LLC, UAE.

- ❖ He also stated that the vessel arrived at Alang Anchorage on 09<sup>th</sup> November 2021. The Customs Boarding and desk review formalities were completed on 10<sup>th</sup> December 2021 and 11<sup>th</sup> December 2021. The prior IGM in respect of MT Harriet was filed on 06/12/2021 and prior Bill of Entry of MT Harriet was filed on 09/12/2021. The prior IGM and prior Bill of entry were filed keeping in view the banking holidays in India and in UAE and also the tide situation of the Alang Port.
- ❖ On being asked about not mentioning the IMO number of the vessel in the MOA, he stated that as a ship breaker, they import ship for breaking purpose. The agreement was finalized on the basis of LDT of the ship which was verified from Trim & Stability book and for machineries such as main engine, generators which are ascertained from the documents. For their business IMO number did not play any role.
- ❖ With regard to terms and conditions for payment he stated that mostly payment to seller was made through 'Letter of Credit (LoC)' opened in Banks and in some case they had made telegraphic transfer (SWIFT). In this case, they preferred to pay through telegraphic transfer as they didn't have credit limit because they had just come out from NPA. The telegraphic payment was finalized only after their Bank i.e. Axis Bank had called for 'MIRA' report, VAT Registration and other rating. As per the terms, they had to pay the seller only after the delivery and clearance by various authorities.
- ❖ He stated that they had made communications with Mr. Bilal via e-mail account snp@blueoneships.com & bilal@blueships.com since November 2021 in relation to arrival of MT Harriet at Alang and fulfillment of banking requirement for SWIFT Transfer in UAE and India. He stated that he did not know Mr. Gaganan Karanjikar of M/s. Blueone General Trading LLC, UAE.
- ❖ When Shri Anish Gupta was asked again about the reasons behind not mentioning IMO No. in the Memorandum of Agreement (MOA), he stated that they had no clue about mis-declaration of the ship and they had not focused on the IMO. As far as preparation of draft MOA was concerned, he stated that Mr. Bilal had prepared the draft MOA and sent it through mail. He approved the same, got it signed from his father (Shri Rajendra Gupta) on behalf of M/s. Rajendra Ship Breakers Pvt. Ltd. Then, he sent the said MOA to M/s. Blueone General Trading LLC for their signature.
- ❖ He confirmed the deal only on the basis of few details related to weight, generators, engine, etc., received from Shri Sunil Narayan. He, for the first time, inspected the vessel physically on arrival at Alang Anchorage on 10.12.2021 only.
- ❖ He was shown the Certificate of Ownership and Non-Encumbrance No. 02/11/2021/1201502/0263, dated 23.11.2021 submitted by him with the 603471/09.12.2021 and another certificate bearing the same



number 21/NEC/1201502/0263 dated 10.12.2021 found during the search of his office premises. On being asked to explain how there could be two certificates of the same number with different dates, he stated that both the certificates were received from Shri Sunil Narayan and the reasons were not known to him.

- ❖ After going through the news article dated 28 December 2020 titled 'The Tale of Two Tankers and the Art of Sanctions Busting' (<https://energyfuse.org/the-tale-of-two-tankers-and-the-art-of-sanctions-busting/>), wherein it was mentioned that the LPG tanker Melody (IMO 8800298) was one of many vessels that had continued to call on Syria despite U.S. and European sanctions, he agreed that the vessel mentioned in the news article was the same **M.T. Melody (IMO No. 8800298)** that they had imported as MT Harriet (IMO No. 8716514). He further stated that he was not aware that the vessel was under sanctions of certain authorities.

**Search of office premises of shipping agent, M/s. Lotus Danship Pvt. Ltd.**

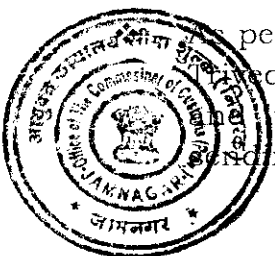
9. From **14.12.2021 to 16.12.2021**, a search was conducted at the premises of the M/s. Lotus Danship Pvt. Ltd., (No.110 &111, Eva Complex, Opp. Galista Ground, Waghawadi Road, Bhavnagar-364002), the shipping agent having Customs License No. AACCL2976P/SA/JMR/04/19-20 engaged in importation of the said vessel under the **Panchnama proceedings dated 16.12.2021**. During the search of the premises, Directors of the firm Shri Kalpesh N Trivedi and Shri Chirag N Trivedi were present. The duo submitted that they had been appointed as 'agents' by the overseas seller, M/s. Blue One General Trading LLC established in United Arab Emirates (UAE) for completion of all the formalities. The Directors submitted that they came to know about the seller only a few days before the estimated arrival of the vessel at Alang.

9.1. During the search, relevant data were extracted from the mobile phones & computers following the due process and formalities. Documentary evidences as well as electronic evidences collected were listed in **Annexure - 'A' and Annexure - 'B'** attached with the panchnama dated 16.12.2021. The statements of Shri Chirag Trivedi and Shri Kalpesh Trivedi, Directors of the firm, Shri Anthony Ronald Brooks, Manager-in-Charge and Shri Tajagn Parthivbhai Vora, Deputy Manager of M/s. Lotus Danship Pvt. Ltd. were recorded under Section 108 of the Customs Act, 1944.

**Statement of Shri Anthony Ronald Brooks, Manager-in-Charge of M/s. Lotus Danship Pvt. Ltd.**

10. Statement of Shri Anthony Ronald Brooks, Manager-in-charge of M/s. Lotus Danship (Pvt.) Ltd., was recorded under Section 108 of the Customs Act, 1962, on 15.12.2021 (**RUD No. 25**), wherein he interalia stated that he looked after the day-to-day activities of the firm being the Manager-in-Charge. He assisted in clearance of the vessels coming for breaking at Alang through their agency, M/s. Lotus Danship Pvt. Ltd. in which he was working since 2012.

per the directions given by his directors i.e., Shri Chirag Narendrabhai Trivedi and Shri Kalpesh Narendrabhai Trivedi, he regularly read mails intimations regarding the arrival of vessels and replied to them by sending the list and formats of pre arrival documents. The latest work was



for LPG tanker vessel, M.T. Harriet. (IMO – 8716514) for which he had filed IGM No. 2298394 dated 06.12.2021.

- ❖ He stated that on **03.12.2021**, a mail about pre arrival of a vessel named Happy Girl/ Sunny Girl was received on the authorized mail ID of M/s. Lotus Danship (Pvt.) Ltd., Bhavnagar i.e., **“lotusdanshipvtltd@yahoo.com”**. There was one mail on the subject Stability copy with an attachment in the name of ‘Harriet Stability’. On verification of the attachment, i.e., copy of the ‘Final Trim & Stability Booklet’, he found that there was no mention of the vessel name, MT Harriet in the booklet. He found the name of Happy Girl/Sunny Girl in the booklet. Accordingly, on the direction of Shri Chirag Trivedi, he tallied the LDT with weight of the vessel mentioned in MOA of M.T. Harriet. (IMO – 8716514) with the weight of ‘Happy Girl’ and found it to be same.
- ❖ He stated that on 08.12.2021, Mr. Tajna Vora handed over him the original copy of “Final Trim & Stability Book” wherein **he found the LDT of vessel Happy Girl/Sunny Girl, with the stamp of M.T. Harriet on it.** He also remembered that earlier on 03.12.2021, there was no stamp or anything in respect of vessel M.T. Harriet on the copy of the same booklet.
- ❖ On being shown the print out of 02 mails both dated 01.11.2021 on the subject ‘Draft LPG Melody’ taken from their office e-mail account dubaimbc@gmail.com, one received from Blue One General Trading LLC and second one sent to e-mail IDs tajvora@gmail.com and sohamnarayan@gmail.com, he stated that he didn’t have any knowledge about them as he haven’t seen the mails earlier. However, on referring to the mails, he found that it was the draft Memorandum of Agreement for the LPG tanker vessel, MT. Patra which was later renamed to MT Harriet. He also found that though the MOA was for the LPG tanker vessel, the subject of the said mail read as Draft LPG Melody.
- ❖ He also admitted that in the Trim & Stability Book, name of the vessel was printed as “Sunny Girl” which was overwritten by hand as “Happy Girl”. There was also a stamp of “MT Harriet” on it. But he didn’t have complete knowledge about those multiple names. He also submitted that initially he did not know about the mis-declaration of the vessel MT Melody with IMO No. 8800298 which was wrongly declared as MT Harriet with IMO 8716514. He said that he was just following the directions of Shri Chirag Narendrabhai Trivedi.

**Statement of Shri Kalpesh Trivedi, Director of M/s. Lotus Danship Pvt. Ltd.**

11. Statement of Shri Kalpesh Trivedi was recorded under Section 108 of the Customs Act, 1962 on 16.12.2021, wherein Shri Kalpesh Trivedi stated that the IGM No. 2298394 dated 06.12.2021 was filed by their firm, M/s. Lotus Danship Pvt. Ltd. on behalf of M/s. Blue One General Trading LLC. The Bill of entry No. 6603471 dated 09.12.2021 was filed by the importer, M/s. Rajendra Ship Breakers Pvt. Ltd. Both the IGM and Bill of Entry were filed for the import of LPG tanker vessel declared as M.T. Harriet.



- ❖ He confirmed that IGM No. 2298394 dated 06.12.2021 was filed in respect of M.T. Harriet. (IMO – 8716514) alongwith supporting documents which were received through email ID of [snp@blueoneships.com](mailto:snp@blueoneships.com).
- ❖ He stated that the Memorandum of Agreement dated 02.11.2021 was collected by Mr. Tajagn Vora (Deputy Manager of M/s. Lotus Danship Pvt. Ltd.) from the office of the M/s. Rajendra Ship Breakers Pvt. Ltd. located at D-79, Kaliyabid, Near Ram Mantra Mandir, Bhavnagar. He stated that the last port clearance of the vessel, MT Harriet was issued from Port Khasab, Sultanate of Oman having certificate number PTS231121179123 dated 23.11.2021 (RUD No. 7).
- ❖ He stated that M/s. Blue One General Trading LLC, 1608, Fahidi Heights, Dubai, vide letter dated 25.11.2021, had appointed M/s. Lotus Danship Pvt. Ltd. as shipping agent for completing the usual port clearance formalities in respect of the vessel imported through **IGM No. 2298394 dated 06.12.2021** and **BE No. 6603471 dated 09.12.2021**.
- ❖ He stated that most of the correspondence took place through email of M/s. Blue One General Trading LLC, Dubai. In case of need, his brother Shri Chirag Trivedi called Shri Gajanan (Mobile No. +971502779396) and Mr. Bilal (Mobile No.+971529812606). He had never talked with anyone from M/s. Blue One General Trading LLC, Dubai. He was not much aware about the same, as his focus remains on the agency work only. His brother (Shri Chirag Trivedi) looks after marketing work of the company to get new clients.
- ❖ He further admitted that the officers of Custom Division, Bhavnagar and Officers from DRI Jamnagar/Bhavnagar during search of the vessel, found some incriminating documents and evidences. From the evidences and documents, it was found that the actual LPG tanker was MT Melody having IMO No. 8800298 and not MT Harriet with IMO 8716514. After going through the Panchnama dated 10/11.12.2021 and Statement of Captain recorded on 12.12.2021, he agreed with the contents of the same. He stated that the panchnama drawn on the vessel declared as MT Harriet was sent to M/s. Blue One General Trading LLC through e-mail.
- ❖ On going through the two (02) print out of mails both dated 01.11.2021 on the subject 'Draft LPG Melody' taken from his e-mail account [dubaimbc@gmail.com](mailto:dubaimbc@gmail.com), one received from Blueone General Trading LLC and second one sent to e-mail IDs [tajvora@gmail.com](mailto:tajvora@gmail.com) and [sohamnarayan@gmail.com](mailto:sohamnarayan@gmail.com), Shri Kalpesh Trivedi stated that in the absence of Mr. Chirag Trivedi, the draft Memorandum of Agreement of LPG Melody was forwarded to e-mail ID of Shri Tajgan Vora, who had further forwarded the same to Mr. Soham Narayan on his e-mail ID [sohamnarayan@gmail.com](mailto:sohamnarayan@gmail.com) which belonged to Shri Soham Narayan. He further stated that, on the request made by Shri Soham Narayan, the draft Memorandum of Agreement was forwarded to him and as per his knowledge, Shri Soham Narayan made contact with Mr. Anish Gupta of M/s. Rajendra Ship Breakers Pvt. Ltd. Plot No. 114, SBY Alang for processing it further.



- ❖ After that they had collected the Memorandum of Agreement (MOA) dated 02.11.2021 in respect of M.T. Patra (later renamed to MT Harriet) executed between M/s. Blue One General Trading LCC and M/s. Rajendra Ship Breakers Pvt. Ltd. and Addendum No. 1 to MOA dated 23.11.2021 from the office of M/s. Rajendra Ship Breakers Pvt. Ltd. The Addendum was regarding change in the name of vessel from M.T. Patra to M.T. Harriet.
- ❖ He also stated that on verification of the Memorandum of Agreement received from M/s. Rajendra Ship Breakers Pvt. Ltd, they did not find any IMO No. of M.T. Harriet which was required for filing the IGM. Thus, they obtained the IMO No. from Provisional Registration Certificate.
- ❖ He stated that his part of the work in the company started only after the vessel was declared for arrival. So, he was not aware about the Memorandum of Agreement prepared by his firm for the sale of vessel from M/s. Blue One General Trading LLC to M/s. Rajendra Ship Breakers Pvt. Ltd., where the currency of transaction chosen was AED.
- ❖ He was shown the copy of relevant pages of Trim & Stability book of M.T. Harriet submitted with IGM and compared it with the Trim & Stability book of M.T. Harriet collected at the time of boarding of the vessel. It was noticed that one stamp reflecting details as shown under was missing on copy submitted alongwith IGM.

M.T. Harriet  
 OFF NO: 1201502  
 IMO : 8716514  
 POR : MORONI  
 GRT : 3643  
 NRT : 1104

On pointing out the difference, Shri Kalpesh Trivedi clarified that the said stamp was placed by the Captain of the vessel, M.T. Harriet during the Custom Boarding of the vessel. Whereas the copy submitted at the time of IGM was the mail copy received from [snp@blueoneships.com](mailto:snp@blueoneships.com) dated 03.12.2021.

- ❖ He was shown two copies of first page of Trim & Stability Book (T&S Book) of vessel MT Melody (Ex names Sunny Girl, Happy Girl) having IMO No. 8800298, one found during the course of search from his mailbox in a mail dated 03.12.2021, wherein, name of vessel, MT Harriet (IMO 8716514) was nowhere mentioned, even though the registration of the vessel was fraudulently changed earlier on 23.11.2021 to MT Harriet and the second one which was found onboard the vessel, wherein there were two stamps of MT Harriet (IMO 8716514) (RUD No. 10). On being asked whether they were aware of the actual name of the vessel before arrival, he stated that he had noticed the discrepancy in the name while going through it only. Otherwise, there was no intention to aid the seller of the vessel to hide the actual identity of the vessel.
- ❖ On being asked, Shri Kalpesh Trivedi stated that he had not seen any Inspection Report. He added that as it was received by his brother's (Shri Chirag Trivedi) phone, he (Chirag) might have seen this and hence might reply properly.

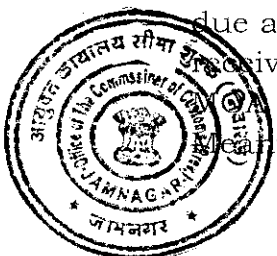


- ❖ Shri Kalpesh Trivedi was shown screenshot of mail dated 14.12.2021. The said mail was received by him from dubaimbc@gmail.com wherein the pdf attachment titled as 'Tug MT Melody' and containing the details of 'MT Patra' was found. On being asked what the reason was for believing the vessel as 'MT Harriet' only, he stated that they had received the addendum on 23.11.2021, for changing the name of the vessel, and hence he thought it to be of MT Harriet only.
- ❖ He stated that he was not aware about the Port Clearance issued to MT Melody (IMO 8800298) found during the course of search/rummaging of the vessel, as he had been given only the Port Clearance issued to MT Harriet (by Sultanate of Oman) by the Master of the vessel. But, after seeing two Port Clearances, he admitted that the actual identity of the vessel had been misdeclared.
- ❖ He accepted that he was aware that changing IMO number of the vessel and running the vessel under a fake identity was illegal and it could attract legal actions under the Merchant Shipping Act, 1958 & other maritime laws. After going through the provisions of Section 30, Section 46 and 111 of the Customs Act, 1962, he admitted that their actions had violated the provisions of Section 111(d), (f) & (m) readwith Section 30 of the Customs Act, 1962.

**Statement of Shri Tajgan Parthivbhai Vora, Deputy Managar, of M/s. Lotus Danship Pvt. Ltd.**

**12.** Statement of **Shri Tajgan Parthivbhai Vora, Deputy Managar**, of **M/s. Lotus Danship Pvt. Ltd.** was recorded under Section 108 of the Customs Act, 1962 on 16.12.2021, wherein he interalia stated that he looked after the day-to-day activities of the firm. He assisted in clearance of the vessels by preparing documents, typing, editing, filing in respect of vessels coming coming for breaking at Alang through their agency, M/s. Lotus Danship Pvt. Ltd.

- ❖ He admitted that he assisted in filing IGM No. 2298394 dated 06.12.2021 in respect of MT Harriet (IMO 8716514) coming from Sharjah Anchorage.
- ❖ He stated that on 25.10.2021, Shri Chirag N Trivedi told him to make draft MOA in respect of LPG Tanker named Melody, arriving from seller M/s. Blue One General Trading LLC, UAE, wherein the mode of payment should be "Telephonic Transfer" instead of "Letter of Credit". He also asked him to be in touch with Shri Soham Narayan for further documentation.
- ❖ He stated that on 27.10.2021, Shri Soham Narayan messaged him a checklist of a vessel MT Meldoy (IMO 8800298) to prepare draft MOA (Memorandum of Agreement) for the vessel and he drafted the MOA as per the instruction of Shri Chirag N Trivedi. Then he forwarded the draft MOA to Shri Soham Narayan.
- ❖ He stated that on 01.11.2021, he received a mail of subject "LPG Tanker due at Alang" from M/s. Blue One General Trading LLC, UAE, wherein, he received MOA of "MT Patra" which is the edited file of same word file of MT Melody, and he forwarded the same to Shri Soham Narayan. While, he came to know from Shri Chirag N Trivedi and Shri Sunil



Narayan that the vessel MT Melody (IMO 8800298) was sanctioned by OFAC, US.

- ❖ He stated that on 05.12.2021, his colleague Mr. Anthony Ronald Brooks, showed him the copy of the agency appointment letter, Registry and 'Final Trim & Stability booklet', wherein, he found the name of the vessel was reflected as 'Happy Girl/Sunny Girl'. Whereas, in the agency appointment letter and registry, name of vessel was mentioned as MT Harriet (IMO 8716514). On pointing out the discrepancy to Shri Chirag N Trivedi, Shri Chirag N Trivedi told him that he would manage and make them verified.
- ❖ He stated that on 06.12.2021, on the directions of Shri Chirag N Trivedi, he visited the office of Shri Anish Gupta to collect the MOA and other documents.
- ❖ He stated that Mr. Gajanan and Mr. Bilal of M/s. Blue One General Trading LLC, 1608, Fahidi Heights, Dubai were the sellers of this vessel. They appointed M/s. Lotus Danship Pvt. Ltd. as their shipping agent for the vessel, MT Harriet. His office received the mails of M/s. Blue One General Trading LLC regarding the vessel, MT Harriet on email ID [lotusdanshippvtltd@yahoo.com](mailto:lotusdanshippvtltd@yahoo.com).
- ❖ He added that on 11.12.2021, he received call from Mr. Gajanan, asking about Shri Chirag N Trivedi. Shri Chirag N Trivedi sometimes telephonically talked to Mr. Gajanan and Mr. Bilal, and he didn't have any other knowledge about them.
- ❖ He stated that he learnt from Shri Chirag N Trivedi that the vessel MT Melody (IMO 8800298) was LPG Tanker which was sanctioned by OFAC, US. He admitted that he had abetted in the act of mis-declaration of the name and IMO number of the vessel which is a clear violation of the Customs Act, 1962.

**Statements of Shri Chirag Narendrabhai Trivedi, Director of M/s. Lotus Danship Pvt. Ltd.:**

13. Statement of Shri Chirag Narendrabhai Trivedi, Director of M/s. Lotus Danship Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 on 16.12.2021, wherein he interalia stated that:

- ❖ He confirmed that the IGM No. 2298394 dated 06.12.2021 alongwith all documents declaring the vessel as MT Harriet with IMO (International Maritime Organization) No. 8716514 was filed by his firm, M/s. Lotus Danship Pvt. Ltd.
- ❖ He stated that M/s. Blue One General Trading LLC, Dubai, UAE, vide letter dated 25.11.2021 had appointed them as agents for completing the usual port/Customs/Desk Review/Vessel delivery/crew sign off formalities, etc. for the vessel MT Harriet and had produced the copy of the contract.
- ❖ He stated that since last two months, he had been working with M/s. Blue One General Trading LLC, Dubai, UAE. Mr. Asif Khanda was the owner of Blue One General Trading LLC, Dubai, UAE.



- ❖ He stated that he used to communicate through mails addressed to bilal@blueoneships.com and snp@blueoneships.com. He stated that he had never talked with Mr. Asif Khanda. In case of need, he used to talk with Mr. Bilal (Mobile No. +971529812606) or Capt. Gajanan (Mobile No. +971502779396) and Mr. Sunil Narayan, the broker for the vessel and had also communicated with Mr. Bilal or Capt. Gajanan through whatsapp chat.
- ❖ He stated that Mr. Asif Khanda, the owner of M/s. Blue One General Trading LLC, Dubai, UAE was one of the financiers of Mr. Tahir Lakhani. Mr. Tahir Lakhani looks after the day-to-day activities of M/s. Blue One General Trading LLC, Dubai, UAE. Mr. Bilal was an accountant in M/s. Blue One General Trading LLC, Dubai, UAE. Capt. Gajanan was Operation Manager in M/s. Blue One General Trading LLC, Dubai, UAE.
- ❖ He stated that he used to communicate through phone with Mr. Anish Gupta of M/s. Rajendra Shipbreakers Pvt. Ltd. (Importer). Most of his communication took place after the ETA of the vessel was declared.
- ❖ He stated that in the month of October-2021, he called Mr. Tahir Lakhani, a cash buyer and one of their principals to recommend his company's name to Mr. Asif Kanda to allot agency work of 'Inter- G' & 'River - R' vessels. Mr. Tahir Lakhani provided the number of Mr. Bilal of M/s. Blue One General Trading LLC, Dubai, UAE and asked him to contact Mr. Bilal. So, on the recommendation of Tahir, they got agency work of these two vessels and his business relations with M/s. Blue One General Trading LLC, Dubai, UAE, started after that.
- ❖ After going through the Seizure Memo dated 12.12.2021, Panchnama dated 11/12.12.2021 and statement of the Master of the vessel, he stated that he understood that the vessel declared as **MT Harriet with IMO 8716514** that he had got cleared from various agencies was actually **MT Melody with IMO No. 8800298**.
- ❖ He admitted that there was misdeclaration in the IGM No. 2298398 dated 06.12.2021 and that the name of the vessel could be changed at the owner's discretion, but it was not possible to change IMO number of the vessel.
- ❖ He stated that he did not know how the owners of the vessel managed to change the IMO number of the vessel.
- ❖ He admitted that they had prepared draft MOA for MT Melody initially. On receipt of the final MOA in the name of MT Patra, they noticed the change in name of the vessel, but had not noticed about the manipulation of IMO number.
- ❖ He stated that he got the details for preparing draft MOA from Mr. Sunil Narayan on around 28<sup>th</sup> or 29<sup>th</sup> October 2021. Whereas details for filing MOA were received by him from M/s. Blue One General Trading LLC, Dubai on 3<sup>rd</sup> or 4<sup>th</sup> December 2021.

- ❖ He stated that as per his knowledge the vessel was in market since last two years. He had also received details of the vessel in the month of September-2021.
- ❖ He stated that he was aware that MT Melody was under US Treasury's OFAC sanction, but he was not aware that 'MT Harriet' was actually 'MT Melody'.
- ❖ Regarding manipulating the identity of the vessel in the documents and in the vessel physically, he stated that 'Owner' i.e., Tahir Lakhani or Operation Manager of the owner could do manipulation in the identity of the vessel. He further added that from the statement of the Captain of the vessel, he knew that physical manipulation was done by the Captain. He believed that physical manipulation would have been done by the Captain on the instruction of Capt. Gajanan or Mr. Tahir Lakhani. He stated that to hide the identity of the vessel on documents, they got new Registration Certificate on fake IMO. As he read in the statement of the captain that they applied paper stickers and paints where the actual name and IMO were mentioned, to hide the original identity of the vessel.
- ❖ Shri Chirag Trivedi stated that from 2014-15, he was having business relations with Mr. Tahir Lakhani. For the first time, he had contacted him in 2012 to give some agency related work, which did not materialize.
- ❖ He stated that initially, the draft MOA was prepared for MT Melody with IMO No. 8800298, as per details received from Mr. Sunil Narayan, on 01.11.2021, on his instruction. The draft MoA was then sent to Mr. Soham Narayan, son of Shri Sunil Narayan who then forwarded to Mr. Bilal of M/s. Blue One General Trading LLC, Dubai. This in turn was forwarded to the owners, so he believed that it (name and IMO) might have been changed when it was with owners.
- ❖ He stated that as the vessel was under sanction list of OFAC, the actual identity of the vessel was hidden. All the decisions in the companies operated by Mr. Tahir Lakhani were taken by him only; so, it was Mr. Tahir Lakhani's decision to change the name.
- ❖ He admitted that the general currency of payment in Bhavnagar Ship Breaking Industry is USD/Euro. But Mr. Sunil Narayan instructed him to prepare draft MoA by taking the value equivalent to USD 570 per MT to calculate the total value in AED. He stated that he immediately understood that the reason behind taking AED as the currency of transaction was to avoid legal financial issues of transacting in USD since he knew that the said vessel was in OFAC sanction list.
- ❖ After going through copies of first page of Trim & Stability Book (T&S Book) of vessel, MT Melody (Ex-names Sunny Girl, Happy Girl) having IMO No. 8800298, one copy of T&S Book which was found during the course of search from his mailbox in a mail dated 03.12.2021, wherein name of vessel MT Harriet (IMO 8716514) was nowhere mentioned, even though the registration of the vessel was fraudulently changed on 23.11.2021 to MT Harriet and the other copy, which was found onboard the vessel, there were two stamps of MT Harriet (IMO 8716514), he stated that



the mail box was checked by his brother, Mr. Kalpesh Trivedi and employee Mr. Anthony, where we had received copy of T&S Book without stamp. The vessel was boarded by Mr. Anthony where he had received the copy of T&S Book with stamp. So, he had not come across any of the copy of T&S Book.

- ❖ On going through the Inspection Report of MT Melody, which was found from his phone, wherein the IMO number was clearly visible, he stated that the vessel was in market since long time. He had also received details in September or October 2021. He confirmed that he was aware of the name of MT Melody and its IMO number at that time.
- ❖ After going through following three documents retrieved from his phone during the course of search of his office,
  1. Whatsapp chat with Capt. Azamuk from whom he had received Inspection Report of MT Melody for which he had replied to him to check the sanction. **(RUD No.30)**
  2. Whatsapp chat Mr. Yashr Aussie wherein he had forwarded the Inspection Report of MT Melody. **(RUD No.31)**
  3. Copy of Inspection Report containing 10 pages that he had received from Capt. Azamuk & forwarded to Mr. Yashr Aussie. **(RUD No.32)**

he admitted that he was aware of all the details of MT Melody and sanctions on her in the month of October – 2021 itself.

- ❖ On being shown screenshots of two mails dated 01.11.2021 & 14.12.2021 **(RUD No. 33)**, which were received by him containing pdf attachment titled as Tug MT Melody, while it contains the details of MT Patra, he stated that he had noticed the change of name, which was usual, however, he did not notice that the IMO number had been deleted.
- ❖ After going through the two Port Clearances, one issued to MT Melody by Mina Khalid Port (RUD No. 6) and another one issued to MT Harriet by Sultanate of Oman (RUD No.7), he stated that the field related work was looked after by his brother, Mr. Kalpesh Trivedi and Mr. Anthony. He also stated that earlier he had not seen any of the Port Clearances, however, after seeing both the Port Clearances, he admitted that there was clear misdeclaration with regard to the identity of the vessel.
- ❖ On going through the printout of a whatsapp chat with Sohambhai retrieved from his mobile, he stated that the Shri Soham Narayan, was the son of Shri Sunil Narayan. In that chat, he had sent Sohambhai a message regarding price calculation of MT Melody and on being asked by Shri Soham Narayan he further confirmed that it belonged to the same vessel which was given to Shri Anish.
- ❖ He admitted that changing IMO number of the vessel and running the vessel under a fake identity was illegal and it can attract legal actions under the Merchant Shipping Act, 1958 & other maritime laws.

Further, **a second statement of Chirag Trivedi**, Director of M/s. Danship Pvt. Ltd. was recorded under section 108 of Customs Act, 1944



on 19.12.2021 (**RUD No.34**), wherein he stated that his primary point of contact at the seller's side was Mr. Tahir Lakhani and that Mr. Asif Kanda was the owner of the Blue One General Trading LLC. He stated that Mr. Tahir Lakhani had earlier informed him that M/s. Blue One General Trading LLC belonged to his friend, Mr. Asif Khanda but he himself (Tahir) handled the company. So, he used to call Mr. Tahir Lakhani only. He added that Mr. Tahir Lakhani was an old cash-buyer of ships for recycling based in UAE.

**14.1.** In respect of other businesses, he stated that Mr. Tahir Lakhani was one of the biggest cash buyers, also engaged in various shipping & marine related businesses and having office for Dubai Trading Agency at DMC (Dubai Maritime City); that his other companies were mostly from free zone; that his relationship with Mr. Tahir Lakhani was business related only.

**14.2.** He also admitted that he was the Director in a Dubai based company, M/s. Red Snapper LLC, which was operated by Mr. Tahir Lakhani. He stated that he was not much aware about the business profile of M/s. Red Snapper LLC. Upon insistence of Mr. Tahir Lakhani, he accepted to be the Director in a company established by him (Tahir). The office of M/s. Red Snapper LLC was located at Hamariya Free Zone.

**14.3.** He also stated he had got the payment of agency fees by TT. The average agency fee was from 1300 USD to 1500 USD per vessel. He had also acted as a ship broker in 10-15 vessels sold by Mr. Tahir Lakhani. As per the market practice, payment for the same was given by the buyers of the vessel; that the Cash buyers did not pay to the ship brokers; that the payment for brokerage depends upon the LDT of the vessel and hence is not fixed.

**Statement of Shri Soham Sunil Narayan, S/o Shri Sunil Narayan (Proprietor of M/s. Teamforce, Bhavnagar)**

**15.** Statement of **Shri Soham Sunil Narayan, S/o Shri Sunil Narayan** (Proprietor of M/s. Teamforce, Bhavnagar) was recorded under Section 108 of the Customs Act, 1962 on 16.12.2021(**RUD No. 35**), wherein he interalia stated that, they had played the role of mediator in finalizing the deal of MT Harriet between M/s. Blue one General Trading LLC, UAE and M/s. Rajendra Ship Breakers Pvt. Ltd. Bhavnagar.

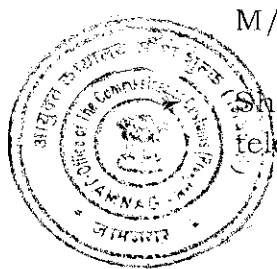
- He stated that M/s. Teamforce was the Proprietorship firm of his father, Shri Sunil Narayan. He looked after the day-to-day activities of M/s. Teamforce being the Manager-in-Charge. He helped in purchase and sale of old ships for recycling / Demolition. He assisted in clearance of the vessels coming for breaking to Alang. He had been working in this firm from October 2020. As per his father's directions he regularly read mails and intimations regarding purchase and sales of old ships for recycling /Demolition.
- He stated that as per his knowledge, the latest work was for LPG Tanker vessel, M.T. Harriet for which IGM No. 2298394 dated 06.12.2021 was filed by Shri Chirag Narendrabhai Trivedi. They played the role of mediator in finalizing the deal of MT Harriet. The deal was finalized between Mr. Anish Gupta of M/s. Rajendra Ship Breakers Pvt. Ltd., Bhavnagar and M/s. Blueone General Trading LLC, Dubai. M/s. Blueone General Trading LLC, Dubai belonged to Mr. Tahir Lakhani. He also stated that since last three years, they had no business deals with Mr. Tahir Lakhani. In



the last 02-03 months, their business relations had normalized, and they were able to get good deals from Mr. Tahir Lakhani.

- He stated that that he did not know the actual IMO No. of the vessel, but it was in his knowledge that there was some issue in the IMO No. of the vessel and that the actual name of the vessel was MT Melody.
- He stated that the vessel reached Bhavnagar Anchorage on 09.12.2021. As per his information, the "Final Trim & Stability Book" of the vessel M.T. Harriet (IMO – 8716514) was handed over to the Captain of the Vessel, Shri Rahul Choudhary.
- He stated that Mr. Bilal of M/s. Blue One General Trading LLC, UAE had prepared the draft MOA which was received by him through M/s. Chirag. The memorandum was corrected and finalized by Shri Rajendra Gupta and himself. The corrected draft was sent to Mr. Bilal Dubai for finalizing the deal. He provided the copy of the corrections that were made by them **(RUD No.36)**.
- He stated that the draft MOA was submitted for the vessel MT Melody and at the finalization stage, the name of the vessel was changed to MT Harriet, the reasons for change were not known to him. His father telephonically offered the sale of the vessel to Mr. Anish Gupta (Authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.). As the vessel, MT Harriet was as per their requirement in terms of LDT, generators, main engines etc., they accepted the deal. Thereafter, the MOA was signed by them on 02.11.2021. His father had played the role of mediator in finalization with M/s. Blue one General Trading LLC, UAE.
- Regarding retrieval of MOA named as "MT PATRA" (later renamed to MT Harriet) from his mobile gallery, he stated that the draft MOA of "MT PATRA" was sent by Mr. Bilal through Mr. Chirag which was corrected/finalized by Shri Rajendra Gupta & him and sent back to Mr. Bilal. In token of having seen it, he put his dated signature on first and last page of MOA. **(RUD No.37)**
- After going through Memorandum of Agreement document named "**Tug MT Melody TT**" found in his mobile **(RUD No. 38)** and finding the details of the vessel, MT Melody in the said MOA matching with the actual vessel that has arrived at Alang, he stated that the draft was prepared by Mr. Tajagn based on the details provided by him which he got from his father (Shri Sunil Narayan). He admitted that he and his father were aware that the vessel that was coming to Alang was MT Melody (IMO 8800298) and not MT Harriet (IMO 8716514).
- He stated that he knew that Mr. Tahir Lakhani, was the Cash Buyer of M/s. Blue one General Trading L.L.C., who had appointed M/s. Lotus Danship Pvt. Ltd. as their shipping agents. He also stated he did not physically inspect the vessel nor did he sent any photographs or videos to M/s. Rajendra Ship Breakers Pvt. Ltd.

Shri Soham Narayan stated that his office had received the mails and telephonic conversation with M/s. Blue One General Trading LLC



regarding the vessel, M.T Harriet in the email id: narayansoham@gmail.com. He didn't have any other knowledge regarding M/s. Blue One General Trading LLC, Dubai and also didn't know about Mr. Gajanan. However, he said that Mr. Bilal and Mr. Tahir Lakhani were known to him.

- He provided the details of three mail IDs that were used in the office of M/s. Teamforce i.e., narayansoham@gmail.com, teamforce216@hotmail.com and teamforce216@gmail.com. He stated that on getting the news that DRI team had initiated the investigation in the case of mis-declaration of M/s. Harriet, he deleted the MOA and checklist of the vessel's information from his e-mail.
- He submitted that he knew about the mis-declaration of the vessel, MT Melody with IMO No. 8800298 which was wrongly declared as MT Harriet with IMO 8716514. The same was in the knowledge of Mr. Anish Gupta. He stated that he was just following the directions of Shri Chirag Narendrabhai Trivedi, Shri Tahir Lakhani and his father Shri Sunil Narayan. He also added that he had deleted mails of MOA between M/s. Blueone General Trading LLC and M/s. Rajendra Shipbreaking and the checklist of vessel received from Shri Anish.

16. Further, another **statement of Shri Soham Narayan** was recorded under Section 108 of the Customs Act, 1962 on **18.12.2021 (RUD No. 39)**, wherein he interalia stated that he and his father Shri Sunil Narayan had taken the printout of the draft MOA (file name MT PATRA TT SALE MOA.pdf – attached with the statement) (RUD No.37) from Shri Tajagn and went to the office of M/s. Rajendra Ship Breakers Pvt. Ltd on 01.11.2021; that the draft was corrected by Shri Rajendra Gupta in the presence of his son, Shri Anish Gupta, Shri Sunil Narayan and himself. The following corrections were made/suggested by Shri Rajendra Gupta: -

- Date of MoA was changed to "02 November 2021" from "01 November 2021".
- Spelling mistakes of "AREB, BUILTY, REGISTRY, BYUERS AND TELEGTAPHIC" on the first page and 'one' on the second page were highlighted.
- In clause 7 of page 2, "14" was changed to "15". In clause 11, "Letter of Credit Not be established" was changed to "Buyer not make payment".
- On page 4 against clause 12, following words have been added:-
- "AND THEY SHALL BE ENTITLED TO CLAIM FOR THEIR LOSSESS AND FOR ALL INCURRED TOGETHER WITH INTEREST AT THE RATE OF 12% (TWELVE PERCENT PER ANNUM)".
- From Clause 14: the words "FOR ESTABLISHING LETTER OF CREDIT" were deleted.
- On page 5 against clause 15, the words "LETTER OF CREDIT" was replaced with "PAYMENT TERMS".
- In Clause 15(B), date 02 Nov 2021" was inserted
- In Clause 15(D), "AN" was replaced by 'A' in the beginning and the words "L/C OPENING" were deleted.

reference to e-mail chain on the subject 'DRAFT LPG MELODY' received from his gmail ID [narayansoham@gmail.com](mailto:narayansoham@gmail.com) in which



[tajvora@gmail.com](mailto:tajvora@gmail.com) (Mr. Tajagn Vora) has sent email to him forwarding the pdf file named, **"TUG MT MELODY TT Word Document"** at 02:08 PM on 01.11.2021 (RUD No. 38) and on the same day Shri Tajagn had forwarded another mail to him with the file **'M.T. PATRA TT SALE MOA.pdf'** at 06:11 PM (RUD No. 37).

He explained that the first file, "TUG M.T. MELODY TT Word Document" was prepared by Tajagn (working in M/s. Lotus Danship Pvt. Ltd.) with Shri Chirag Trivedi. The file contained draft MOA dated 01.11.2021 between Blue One General Trading LLC and Rajendra Ship Breakers Pvt. Ltd. for the vessel M.T. Melody with the following details:

|                  |                             |
|------------------|-----------------------------|
| VESSEL NAME      | : M.T. MELODY               |
| EX NAME          | : GOLDEN SEA                |
| BUILTY AND YEAR  | : SOUTH KOREA, 1989         |
| FLAG             | : COMOROS                   |
| PORT OF REGISTRY | : KRIBI                     |
| GROSS TONNAGE    | : 3643 T                    |
| NET TONNAGE      | : 1104T                     |
| LDT              | : 2328.57 (MT)/2292.00 (LT) |
| IMO              | : 8800298                   |

- He stated that he understood that the above said draft MOA for the vessel MT Melody was prepared by Tajagn on the direction of Shri Sunil Narayan through Chirag. He presumed that the same had been forwarded to Blue One General Trading LLC by Tajagn.
- He further added that the second file 'M.T. Patra TT Sale MOA.pdf' (RUD No.37) that he received from Tajagn at 06.11 PM was the same draft MOA modified for the vessel M.T. Patra with the following details:

|                  |                             |
|------------------|-----------------------------|
| VESSEL NAME      | : M.T. PATRA                |
| BUILTY AND YEAR  | : SOUTH KOREA, 1989         |
| FLAG             | : UNION OF COMOROS          |
| PORT OF REGISTRY | : COMOROS                   |
| GROSS TONNAGE    | : 3643 T                    |
| NET TONNAGE      | : 1104T                     |
| LDT              | : 2328.57 (MT)/2292.00 (LT) |

- After going through the both the files, he stated that the second file was same as the first one except for the following changes: -
  1. Vessel name had been changed from MT MELODY to MT PATRA.
  2. Flag has been changed from COMOROS to UNION OF COMOROS.
  3. Port of the registry has been changed from KRIBI to MORONI.
  4. Ex-name GOLDEN SEA has been removed.
  5. IMO number 8800298 had been removed.
  6. Lumpsum price has been changed from AED 3998000 to AED 4760112.
  7. Some other changes in the clauses.



He stated that those draft MOAs referred to the Memorandum of Agreement for the vessel MT Melody that Teamforce Worldwide (Proprietorship of Sh.

Sunil Narayan) was trying to sell to M/s. Rajendra Ship Breakers Pvt. Ltd. in the name of the M.T. Patra which was later renamed as MT Harriet.

- He admitted that he knew in advance that the actual vessel that was to be imported was MT Melody in the name of the MT Patra (later renamed as MT Harriet). He, his father Shri Sunil Narayan, Shipping agent Shri Chirag Trivedi and the importer Shri Rajendra Gupta and Shri Anish, all knew about the fact that the actual vessel to be imported was MT Melody in the name of MT Patra/MT Harriet from the beginning itself.

**Statement of Shri Sunil Narayan (Proprietor of M/s. Teamforce, Bhavnagar):**

**17.** Statement of **Shri Sunil Narayan**, Proprietor of **M/s. Teamforce Worldwide**, 216, Madhav Hills, Waghawadi Road, Bhavnagar – 364 001 was recorded under Section 108 of the Customs Act, 1962 on **16.12.2021 (RUD No.40)**, wherein he interalia stated that the IGM had been filed for importing of the vessel declared as MT Harriet with IMO No. 8716514. He confirmed that he was the mediator and ship broker of the said vessel.

- He stated that he had mediated between the cash buyer/seller, M/s. Blue One General Trading LLC, Dubai, UAE and the buyer M/s. Rajendra Shipbreaker Pvt. Ltd., Bhavnagar. He was in contact with Mr. Tahir Lakhani at the seller's side and in contact with Shri Anish Gupta at the buyer's side. Apart from buyer and seller, he was in contact with Shri Chirag Trivedi, agent of the vessel. He was also in touch with Mr. Bilal and Capt. Gajanan from the seller's side.
- He stated that they used to communicate through mail to email addresses bilal@blueoneships.com and snp@blueoneships.com. On being asked, he stated that he had never talked to Mr. Asif Kanda. He used to talk to Mr. Tahir Lakhani (Mobile No. +971529999866 & +971529967777), Mr. Bilal (Mobile No. +971529812606) or Capt. Gajanan (Mobile No. +971502779396). He had also communicated with Mr. Bilal or Capt. Gajanan through whatsapp chats. He stated that Mr. Bilal and Captain Gajanan worked for Mr. Tahir Lakhani.
- He stated Mr. Tahir Lakhani was operating M/s. Blue One General Trading LLC, UAE, though he was not the owner of the company. All other persons viz. Capt. Gajanan & Mr. Bilal were employees of Mr. Tahir Lakhani.
- He stated that his primary role as a ship broker was to find suitable buyers in Alang Sosiya for his foreign client, Shri Tahir Lakhani. In the instant case, he identified M/s. Rajendra Shipbreakers Pvt. Ltd. as the buyer. Then, he conveyed the details and other communications made by Mr. Tahir Lakhani to the buyers and shipping agents.
- After going through the Panchnama dated 11/12.12.2021 and Seizure Memo dated 12.12.2021, he confirmed that the vessel that had been seized was the same for which he had played the role of a ship broker/mediator. He stated that the vessel declared by agent was MT Harriet with IMO No. 8716514 and the actual vessel that arrived was MT Melody with IMO No. 8800298.



- He admitted that there was misdeclaration in the IGM No. 2298398, dated 06.12.2021. He added that the name of the vessel could be changed at the owner's discretion, but it was not possible to change IMO number of the vessel. He said that the owners of the vessel viz. M/s. Blue One General Trading LLC, Dubai obtained various certificates by manipulating the facts and based on that they managed to change IMO of the vessel.
- He admitted that he was aware of the fact that the vessel that was declared as MT Harriet with IMO No. 8716514, was actually MT Melody with IMO No. 8800298. He stated that in the mid of October-2021, Mr. Tahir Lakhani called him and informed him that he was going to buy an LPG Tanker and gave him details thereof. On seeing the details, he told Mr. Tahir that this vessel was under OFAC sanction, for which he replied that he will take care of that.
- He stated that he was desperate to get some business so, he accepted to act as a broker for the vessel MT Melody which was under US Treasury's OFAC sanction.
- He stated that manipulation in the identity was only possible by the owner, M/s. Blue One General Trading LLC, Dubai. With regard to the manipulation in physical identity of the vessel, after reading the statement of vessel's captain, he came to know that the captain and his crew members have manipulated the same.
- He also stated that to hide the identity of the vessel on documents, they got new Registration Certificate on fake IMO and based on which they sold and cleared the vessel with various authorities. To hide the physical identity of the vessel, they instructed the Captain and crew of the vessel to apply paint and paper stickers wherever the original name & IMO number were visible. They also offloaded number of documents related to identity of the ship.
- He stated that since 1993, he was associated with Mr. Tahir Lakhani. However, he had not mediated in any of the vessel of Mr. Tahir Lakhani during the period from 2000 to 2020.
- He stated the draft MoA was prepared on 01.11.2021 in Mr. Chirag Trivedi's office on his instruction. Initially, the draft MoA was prepared for MT Melody with IMO No. 8800298. The draft MoA was then sent to his son viz. Mr. Soham Narayan, who then forwarded the same to Mr. Bilal of M/s. Blue One General Trading LLC, Dubai.
- He stated that his son had sent the draft to Mr. Bilal of M/s. Blue One General Trading LLC, Dubai on 01.11.2021. In reply, Mr. Bilal of M/s. Blue One General Trading LLC, Dubai sent back, an amended draft wherein the name of the vessel was mentioned as MT Patra and the IMO number was deleted from the MOA. He added that the purpose of changing the name and deleting the IMO number from MOA, was to hide the actual identity of the vessel.



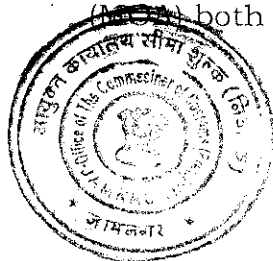
- He admitted that as the vessel was under sanction list of OFAC, actual identity of the vessel was hidden to avoid the problems that would be faced while dealing a vessel under sanction. All the decisions in the companies operated by Mr. Tahir Lakhani were taken by Mr. Tahir himself, so it was Mr. Tahir Lakhani's decision to change the name. Mr. Bilal from M/s. Blue One General Trading LLC, Dubai had specifically instructed him to make MOA in AED only. The reason behind that might be the difficulties that were faced in trading in USD while having OFAC sanctions.
- After going through the following two documents: -
  1. Draft MoA dated 01.11.2021 prepared for sale of MT Melody wherein IMO Number was written as 8800298 and LDT was 2328.67. (RUD No.37).
  2. Draft MoA dated 02.11.2021 prepared for sale of MT Patra wherein no IMO number had been written and LDT was 2291.80. (RUD No.38)

he agreed that the above-mentioned documents were there in his son, Shri Soham Narayan's mobile phone. He stated that initially, on 01.11.2021, the draft MOA of MT Melody was prepared in Mr. Chirag's office on its original name and IMO number. The said draft MoA was then sent to his son's email address. His Son, Mr. Soham got a printout of the same, scanned with his phone's CamScanner app, and sent it to M/s. Blue One General Trading LLC, Dubai, UAE on next day i.e., on 02.11.2021. M/s. Blue One General Trading LLC, Dubai, UAE, on the direction of Mr. Tahir Lakhani, had changed the name of the vessel to MT Patra and deleted the IMO number from the MoA. They then sent the MoA so amended to the buyers viz. M/s. Rajendra Shipbreakers Pvt. Ltd. and the agent M/s. Lotus Danship Pvt. Ltd., based on which, the agent had filed IGM, and the importer had filed prior Bill of Entry.

- He accepted that he was aware that changing IMO number of the vessel and running the vessel under a fake identity was illegal and attracted legal actions under The Merchant Shipping Act, 1958 & other maritime laws and also punishable under IPC for forgery of documents.
- On going through the provisions of Section 30, Section 46 & 111 of the Customs Act, 1962, he admitted that his actions have violated the provisions of Section 111(d) (f) & (m) read with Section 30 of the Customs Act, 1962.

18. Another statement of **Shri Sunil Narayan** was recorded under Section 108 of the Customs Act, 1962 on **19.12.2021 (RUD No.41)**, wherein he, inter-alia stated that the draft MOA for MT Melody was prepared by Mr. Chirag and his son, Shri Soham Narayan, who forwarded the same to M/s. Blue One General Trading LLC. The draft MOA was modified by M/s. Blue One General Trading LLC on the directions of Mr. Tahir Lakhani. He admitted that he was aware of the fact that he was selling the vessel MT Melody in the name of MT Patra (later renamed to MT Harriet).

- After going through the copies of two draft Memorandum of Agreement (MOA) both dated 01<sup>st</sup> November 2021 viz.,



1. Draft MOA dated 01.11.2021 for the vessel MT Melody retrieved from the mobile of his son Shri Soham Sunil Narayan. (File name: **TUG M.T MELODY TT Word Document**) (RUD No.37).

2. Draft MOA dated 01.11.2021 for the vessel MT Patra retrieved from the email of Shri Chirag Trivedi (dubaimbc@gmail.com). (File name: TUG M.T MELODY TT SALE MOA) (RUD No.38).

he explained that the first file, **'TUG M.T MELODY TT Word Document'** was prepared by Tajagn (working in Lotus Danship Pvt. Ltd) on his directions through Shri Chirag Trivedi. The file contained draft MOA dated 01-11-2021 between M/s. Blue One General Trading LLC and M/s. Rajendra Ship breakers Pvt. Ltd. for the vessel MT Melody. The second file **'TUG M.T MELODY TT SALE MOA'** was the same draft MOA modified for the vessel **MT PATRA** with the following changes:-

1. Vessel name has been changed from MT MELODY to MT PATRA.
2. Flag has been changed from COMOROS to UNION OF COMOROS.
3. Port of the registry has been changed from KRIBI TO MORONI.
4. Ex- name GOLDEN SEA has been removed.
5. IMO number 8800298 has been removed.
6. Lumpsum price has been changed from AED 3998000 to AED 4760112.
7. Some other changes in the agreement clauses.

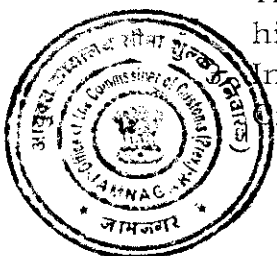
➤ He stated that he called Mr. Chirag Trivedi on 01.11.2021 and told him to prepare a draft MOA of MT Melody with the rate of 575 USD/LDT (currency of payment as AED) and with payment mode of TT.

➤ He stated that Shri Chirag had asked Shri Tajagn to prepare the draft MOA of MT Melody with the details that he had with him. Tajagn then prepared the draft MOA of the vessel MT Melody with the file name, **'TUG M.T MELODY TT Word Document'**. The same was sent to Soham Narayan, who showed it to him. On the same day he spoke to Mr. Tahir Lakhani who said that the vessel's identity would be changed to avoid OFAC sanction issue. Then, the name was changed, and the IMO number was removed from the draft and sent by Blue One General Trading LLC (snp@blueonships.com) to Chirag (dubaimbc@gmail.com). Then, they took a printout of the same from Tajagn, on the same day when he alongwith Shri Soham Narayan were en-route to office-cum-residence of M/s. Rajendra Ship Breakers Pvt. Ltd. The draft was then corrected by Shri Rajendra Gupta in the presence of Anish Gupta, Shri Sunil Narayan and Shri Soham Narayan.

➤ The following corrections were made/suggested by Shri Rajendra Gupta:

1. The of MOA was changed to "02 November 2021" from "01 November 2021".
2. Spelling mistakes of "AREB, BUILTY, REGISTRY, BYUERS AND TELEGTAPHIC" on the first page and 'one' on the second page were highlighted.

In clause 7 of Page 2, "14" was changed to "15", In clause 11 "Letter of Credit Not be established" was changed to "Buyer not make payment"



4. On page 4 against Clause 12, following words have been added: -
5. "AND THEY SHALL BE ENTITLED TO CLAIM FOR THEIR LOSSES AND FOR ALL INCURRED TOGETHER WITH INTEREST AT THE RATE OF 12% (TWELVE PERCENT PER ANNUM)"
6. From Clause 14: the words "FOR ESTABLISHING LETTER OF CREDIT" were deleted.
7. On page 5 against Clause 15, the words "LETTER OF CREDIT" was replaced with "PAYMENT TERMS".
8. In Clause 15(B), date "02 Nov 2021" was inserted.
9. In Clause 15(D), "AN" was replaced by 'A' in the beginning and the words "L/C OPENING" were deleted.

Then these corrections were made in the soft copy by Shri Tajagn and the final draft was sent to Blue One General Trading LLC.

- He stated that both the draft MOAs refer to the Memorandum of Agreement for the vessel MT Melody that Teamforce Worldwide (his proprietorship firm) was trying to sell to Rajendra Ship Breakers Pvt. Ltd.
- He was aware of the US Sanctions on the vessel MT Melody. He knew the same while he enquired for the buyers of the vessel MT Melody. He admitted that he knew in advance that the actual vessel that was to be imported in the name of MT Patra (later renamed as MT Harriet) was MT Melody. He also admitted that the IMO number had been deliberately left in the revised draft MOA for the purpose of manipulation.
- He stated that Shri Soham Sunil Narayan and Shipping Agent, Shri Chirag Trivedi and the importer, all knew about the fact that the actual vessel to be imported in the name of MT Patra/MT Harriet was MT Melody from the beginning itself. He further added that he and Shipping Agent, Shri Chirag Trivedi knew that IMO number was also going to be changed.
- He stated that the seller, Tahir Lakhani informed him about the change in the IMO number and name of the vessel MT Melody just before the signing of the MOA i.e., around 1<sup>st</sup> November 2021. He accepted the offer because Mr. Tahir said that he had taken the vessel in his own company and that there would not be any problem in that. He admitted that changing the IMO number and identity of the vessel and abetment in the same was illegal and attracted penal actions under various laws.
- He stated that in his earlier statement dated 16.12.2021, he mentioned that his primary point of contact at the seller's side were Mr. Tahir Lakhani, and that Asif Kanda was the owner of M/s. Blue One General Trading LLC. On being asked about the relation between Asif Kanda and Tahir Lakhani and also why was Mr. Asif Kanda never contacted during the entire transaction, he stated that Tahir Lakhani and Asif Kanda were business associates. As far as his knowledge, Asif Kanda was a NRI from Gujarat. Mr. Tahir Lakhani had informed that Mr. Asif Kanda was the owner of M/s. Blue One General Trading LLC, and he was consultant of the said firm. So, for all the work related to M/s. Blue One General Trading LLC, he contacted Mr. Tahir Lakhani only. He did not even have contact number of Mr. Asif Khanda.



- He stated that Mr. Tahir Lakhani was an old cash-buyer of ships for recycling based in UAE. He was a Pakistani origin individual probably holding UK passport. Mr. Tahir Lakhani primary business was cash buying of old ships for recycling. He might also be involved in Shipping related services. His relationship with Mr. Tahir Lakhani was completely professional. He had around 20 vessel dealings as a Ship Broker with Mr. Tahir Lakhani in the 1990s. He lost in touch with him since 2000 and it was only in July 2021, he contacted Mr. Tahir Lakhani for business again.
- He stated that he did not know anybody in specific who were in touch with Mr. Tahir Lakhani in India or overseas except Shri Chirag Trivedi, his Shipping Agent at present. As per the market practice, cash buyers did not give any remuneration/commission to the Ship brokers. It was the buyers who give a commission of USD/LDT to the brokers after successful delivery of the vessel. His last transaction with Mr. Tahir Lakhani was in the month of October 2021.
- He agreed that the act of mis-declaring the name and IMO number of the vessel was a clear violation of the Customs Act, 1962 and that they attracted penal provisions of the said Act. He admitted that he had aided in the mis-declaration of identity of the vessel in the IGM/prior BE filed by the Shipping Agent for the import of the vessel MT Melody (mis-declared as MT Harriet).

**Third statement of Shri Chirag Narendrabhai Trivedi, Director of M/s. Lotus Danship Pvt. Ltd.:**

19. Another (third) statement of **Shri Chirag Trivedi** under Section 108 of the Customs Act, 1962, was recorded on **20.12.2021 (RUD No. 42)**, wherein: -

- He admitted that he was aware of the fact that he was getting clearances for MT Melody in the name of MT Patra as stated by Shri Sunil Narayan in his statement dated 19.12.2021, that the draft MOA for MT Melody was prepared by him and Shri Soham Narayan, which was forwarded to M/s. Blue One General Trading LLC. The draft MOA was modified by M/s. Blue One General Trading LLC on the directions of Mr. Tahir Lakhani, to change the name from MT Melody to MT Patra and remove the IMO No. of the vessel.
- After going through the copies of following two draft Memorandum of Agreement (MOA) both dated 01<sup>st</sup> November 2021 viz.,
  1. Draft MOA dated 01.11.2021 for the vessel MT Melody retrieved from the mobile of Shri Soham Sunil Narayan (File name: TUG M.T MELODY TT Word Document) (RUD No.35).
  2. Draft MOA dated 01.11.2021 for the vessel MT Patra retrieved from the email of Shri Chirag Trivedi (dubaimbc@gmail.com). (File name: TUG M.T MELODY TT SALE MOA) (RUD No.36).

He stated that the first file, '**TUG M.T MELODY TT Word Document**' was prepared by Tajagn (working in Lotus Danship Pvt. Ltd) on his directions (RUD No.35). The file contains draft MOA dated 01-11-2021 between Blue



One General Trading LLC and Rajendra Ship breakers Pvt. Ltd. for the vessel MT Melody with the following details: -

|                  |                             |
|------------------|-----------------------------|
| VESSEL NAME      | : M.T. MELODY               |
| EX NAME          | : GOLDEN SEA                |
| BUILTY AND YEAR  | : SOUTH KOREA, 1989         |
| FLAG             | : COMOROS                   |
| PORT OF REGISTRY | : KRIBI                     |
| GROSS TONNAGE    | : 3643 T                    |
| NET TONNAGE      | : 1104T                     |
| LDT              | : 2328.57 (MT)/2292.00 (LT) |
| IMO              | : 8800298                   |

- The second file '**TUG M.T MELODY TT SALE MOA**' is the same draft MOA modified for the vessel **MT PATRA** with the following details.

|                  |                             |
|------------------|-----------------------------|
| VESSEL NAME      | : M.T. PATRA                |
| BUILTY AND YEAR  | : SOUTH KOREA, 1989         |
| FLAG             | : UNION OF COMOROS          |
| PORT OF REGISTRY | : COMOROS                   |
| GROSS TONNAGE    | : 3643 T                    |
| NET TONNAGE      | : 1104T                     |
| LDT              | : 2328.57 (MT)/2292.00 (LT) |

- After going through both the files, **Shri Chirag Trivedi** observed that the second file was same as the first one except for the following changes: -

1. Vessel name has been changed from MT MELODY to MT PATRA.
2. Flag has been changed from COMOROS to UNION OF COMOROS.
3. Port of the registry has been changed from KRIBI TO MORONI.
4. Ex- name GOLDEN SEA has been removed.
5. IMO number 8800298 has been removed.
6. Lumpsum price has been changed from AED 3998000 to AED 4760112.
7. Some other changes in the agreement clauses.

- He further stated that both the draft MOAs refer to the Memorandum of Agreement for the vessel MT Melody that Teamforce Worldwide (proprietorship of Shri Sunil Narayan) was trying to sell to Rajendra Ship Breakers Pvt. Ltd.

- On being asked to explain those two MOAs for the vessel M.T. Melody & finalization of the MOA, **Shri Chirag Trivedi** stated that in the last week of October 2021, Mr. Sunil Narayan called him to confirm whether he had the details of MT Melody. In his reply, he said that he had the details of MT Melody. Then, Mr. Sunil asked him to prepare a draft MOA for the said vessel with the rate of 575 USD/LDT (currency of payment as AED) and with payment mode of TT.

He then asked Shri Tajagn, Trainee working in his office to prepare a draft MOA of MT Melody with the details available with him. Tajagn then prepared the draft MOA of the MT Melody with the file name '**TUG M.T MELODY TT Word Document**' on 01.11.2021. The same was sent to Sunil Narayan, who showed it to Shri Sunil Narayan. Then, he received a mail from [dubaimbc@gmail.com](mailto:dubaimbc@gmail.com) from M/s. Blue One General Trading LLC



(snp@blueonships.com) of the same draft MoA renamed as '**TUG M.T MELODY TT SALE MOA**' with certain changes in the vessel name (MT Melody changed to MT Patra), removal of the ex-name, IMO number of the vessel. Then, Tajagn took a printout of the received draft MoA and handed over the same to Shri Sunil Narayan and his son Soham, who then went to Office-cum-residence of M/s. Rajendra Ship Breakers Pvt. Ltd. The draft was corrected by Shri Rajendra Gupta in the presence of his son Anish Gupta, Shri Sunil Narayan and Shri Soham Narayan.

He added that the following corrections were made/suggested by Shri Rajendra Gupta: -

1. Date of MOA was changed to "02 November 2021" from "01 November 2021".
2. Spelling mistakes of "AREB, BUILTY, REGISTRY, BYUERS AND TELEGTAPHIC" on the first page and 'one' on the second page were highlighted
3. In clause 7 of Page 2, "14" was changed to "15", In clause 11 "Letter of Credit Not be established" was changed to "Buyer not make payment"
4. On page 4, against Clause 12, following words have been added:-  
"AND THEY SHALL BE ENTITLED TO CLAIM FOR THEIR LOSSES AND FOR ALL INCURRED TOGETHER WITH INTEREST AT THE RATE OF 12% (TWELVE PERCENT PER ANNUM)"
5. From Clause 14: the words "FOR ESTABLISHING LETTER OF CREDIT" were deleted.
6. On page 5, against Clause 15, the words "LETTER OF CREDIT" were replaced with "PAYMENT TERMS".
7. In Clause 15(B), date "02 Nov 2021" was inserted.
8. In Clause 15(D), "AN" was replaced by 'A' in the beginning and the words "L/C OPENING" were deleted.

These corrections were made by Tajagn and the final draft was sent to Blue One General Trading LLC.

- Shri Chirag Trivedi further stated that he was aware of the US sanctions on the vessel MT Melody. The details of the vessels along with the information related to the sanctions were in circulation in the market since quite a long. But initially he got the information about the sanction of the vessel from Capt. Azam of Electra Maritime, London.
- He admitted that he knew in advance that the actual vessel that was to be imported in the name of MT Patra (later renamed as MT Harriet) was MT Melody. He also admitted that the IMO number had been deliberately left in the revised draft MOA for the purpose of manipulation.
- He stated that Broker Shri Sunil Narayan, his son Shri Soham Sunil Narayan and the importer, all knew about the fact that the actual vessel to be imported in the name of MT Patra/MT Harriet was MT Melody from the beginning itself.

Shri Chirag Trivedi submitted that the seller did not inform him about the manipulation of IMO No. in the beginning. But when he received the copy of MOA and observed that IMO was not written on it, he called Mr. Bilal of

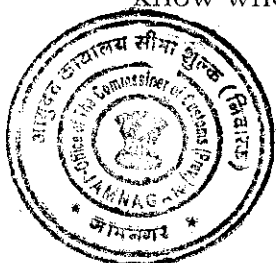
M/s. Blue One General Trading LLC about the same and thus came to know that the Mr. Tahir Lakhani and Shri Sunil Narayan had already talked about it.

- He stated that he didn't ask Mr. Tahir Lakhani about the change in the name and removal of IMO number in the revised draft MOA, since Mr. Bilal had informed him that it was Mr. Tahir's decision.
- In respect of the Provisional Registration Certificate of the vessel MT Harriet (i.e., MT Melody), he stated that it was received on his email id [lotusdanshippvtttd@yahoo.com](mailto:lotusdanshippvtttd@yahoo.com) and whatsapp on his mobile number 9712979228 somewhere on 4<sup>th</sup> December. He noticed that the IMO number in the certificate was not pertaining to MT Melody. He also noticed that the vessel name had been changed from MT Patra to MT Harriet. He enquired about the same from Mr. Bilal about the change in name & IMO number. Mr. Bilal told him to clear the vessel MT Melody, based on the provisional registration certificate and the other documents made on MT Harriet and sent to him.
- He accepted that change in the name of the vessel was possible and acceptable but added that the IMO number could not be different for the same vessel at any cost. He also admitted that he didn't raise any objection with Mr. Bilal or Mr. Tahir regarding the discrepancy in the IMO number of the vessel MT Melody.
- He admitted that he had aided M/s. Blueone General Trading LLC in the manipulation of the IMO number despite the fact that he knew of its OFAC sanction of the vessel MT Meldoy. He also admitted that changing the IMO number and identity of the vessel and abetment in the same is illegal and attracted penal action under various laws.
- Shri Chirag Trivedi agreed that act of mis-declaring the name and IMO number of the vessel and manipulation of IMO number were clear violations of the Customs Act, 1962 and they attracted penal provisions of the said Act. He admitted that he had aided in the mis-declaration of identity of the vessel in the IGM filed by his shipping agency for the import of the vessel MT Melody (mis-declared as MT Harriet).

**Second statement of Mr. Anish Gupta, Authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.:**

20. Statement of **Mr. Anish Gupta**, authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd. was recorded under section 108 of the Customs Act, 1962 on **17.12.2021 (RUD No.43)**, wherein he inter-alia stated that:-

- the draft Memorandum of Agreement was brought to his office by Mr. Sunil Narayan of M/s. Soham Overseas on 01/02.11.2021; that he did not know who had prepared the draft.



- with regard to step wise development in the finalization of Memorandum of Agreement, he stated that on the 27-28 October 2021, Shri Sunil Narayan brought proposal of one LPG Tanker having LDT around 2000 to 2500 LDT with the ship particulars. The proposed rate for the LPG Tanker was 590 USD/LDT. After 02 days, Shri Sunil Narayan visited his office-cum-residence between 1200 Hrs to 1300, and the rate was negotiated, and the deal was finalized the rate of 575 USD/LDT.
- in the evening of 01.11.2021, Shri Soham Narayan and Shri Sunil Narayan visited his residence-cum-office with draft Memorandum of Agreement. In the draft agreement certain changes were made as per discussion with Shri Soham Narayan, Shri Sunil Narayan, his father Shri Rajendra Gupta and himself.
- in draft Memorandum of Agreement, necessary corrections were made by Shri Sunil Narayan in his own handwriting through pen. After making necessary changes in the draft Shri Sunil Narayan and Shri Soham Narayan left his residence with corrected Memorandum of Agreement. The draft memorandum of agreement was finalized for the LPG Tanker MT Patra on 01.11.2021.
- on 09.11.2021 at 0500 PM, fair copy of memorandum of agreement in respect of LPG Tanker 'Harriet' was brought to his office by Shri Soham Narayan; the fair copy of memorandum of agreement was first signed by Shri Rajendra Gupta on behalf of M/s. Rajendra Ship Breakers Pvt. Ltd. Shri Soham Narayan explained that the name of the vessel has been changed from 'Patra' to 'Harriet'. Thereafter, the scanned copy of memorandum of agreement was mailed to M/s. Blue One General Trading LLC at their e-mail ID [snp@BlueOneships.com](mailto:snp@BlueOneships.com) on 10.11.2021 and signed copy was returned to Shri Soham Narayan. After three-four days, the second signed copy was received from Shri Soham Narayan, duly signed on behalf of M/s. Blue One General Trading LLC.
- the expected date of arrival of the vessel at Alang Anchorage was 13/14 November 2021. But till 20/21.11.2021, the vessel didn't arrive at Alang anchorage. Therefore, on the advice of Shri Sunil Narayan, he sent a mail addressed to Mr. Tahir/Mr. Bilal of M/s. Blue One General Trading LLC at e-mail ID [snp@BlueOneships.com](mailto:snp@BlueOneships.com) to sail the vessel at the earliest.
- in reply to his mail, M/s. Blue One General Trading LLC regretted for the delay and stated that they were preparing the vessel MT Patra (later renamed to MT Harriet) for sailing.
- they had planned to beach the vessel M.T. Harriet in the evening tide of 11.12.2021, however, the payment was not made till date.
- On completion of boarding formalities on 10.12.2021, Shri Sunil Narayan contacted him and suggested to beach M.T. Harriet in the evening tide on 11.12.2021. As they had not made any payment to the owner of the vessel, M/s. Blue One General Trading LLC, Shri Sunil Narayan suggested to contact Shri Kishore Chand Bansal, owner of Plot No. 119 to 122, V5 Road No. 15, for help and also to give guarantee to Dubai based Mr. Tahir; then



he (Mr. Tahir) might accept for beaching the ship in the evening tide of 11.12.2021 even without full payment.

- Shri Kishore Chand Bansal on his behalf contacted Mr. Tahir to let beaching of the vessel on 11.12.2021 (Evening Tide), prior to payment since the payment was not released due to Banking holidays in UAE and India. Thereafter, Shri Sunil Narayan confirmed that owner had no problem to beach the vessel prior to payment. However, the vessel was not beached as an investigation was initiated against it by the DRI.
- He accepted that he had deleted some mails and messages from his mobile phone.
- At the time of finalizing the Memorandum of Agreement, they first came to know about M/s. Blue One General Trading LLC., Dubai. They enquired about M/s. Blue One General Trading LLC with Shri Sunil Narayan. Shri Sunil Narayan stated that M/s. Blue One General Trading LLC had also sold vessel 'Inter-G' and 'River-R' to the Plot No. 123, SBY Alang.
- During this deal, M/s. Rajendra Ship Breakers Pvt. Ltd., did not make any enquiry about M/s. Blue One General Trading LLC. Agreement was made with sellers keeping trust on the mediator, through whom they were getting ships. Shri Sunil Narayan was working in Bhavnagar since last 20 years and hence they proceeded with Shri Sunil Narayan to purchase M.T. Harriet from M/s. Blue One General Trading LLC.
- They did not know the actual IMO No. of the vessel. They had received the proposal of MT Patra and the same was accepted by them. On 23.11.2021, Addendum No. 1 was issued for change in the name of the vessel from "MT Patra" to 'MT Harriet' which was common in ship breaking activity.
- He stated that he had made inquiry regarding name change of vessel to Shri Sunil Narayan, who informed that due to change in registry, the vessel's name was changed from "MT Patra" to 'MT Harriet'.
- He stated that he did not agree with the statement given by Shri Soham Narayan that mis-declaration of the vessel MT Melody with IMO No. 8800298, which was wrongly declared as MT Harriet, with IMO No. 8716514, was known to him.
- He admitted that act of mis-declaring the name and IMO number of the vessel are clear violations of the Customs Act, 1962 and that they attracted penal provisions of the said Act. However, he said that he was not fully aware of the mis-declaration at all.

**Statement of Mr. Rajendra Gupta, Authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.:**

21. Statement of **Shri Rajendra Gupta**, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd., was recorded under Section 108 of the Customs Act, 1962 on **19.12.2021 (RUD No.44)**, wherein he stated that: -

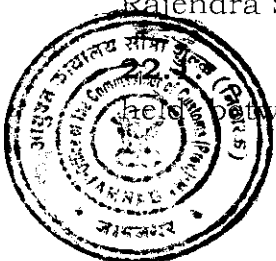


- He totally agreed with the contents of both the statements given by Shri Anish Gupta on 14.12.2021 & 17/18.12.2021, who was also the authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.
- He did not know anything about M/s. Blue One General Trading LLC, except that M/s. Blue One General Trading LLC was the seller company, who had sold the vessel M.T. Harriet for breaking purpose, and they had signed Memorandum of Agreement with them. He came to know about M/s. Blue One General Trading LLC through Mr. Sunil Narayan.
- He stated that from the market, it came to the knowledge of his son Shri Anish Gupta that one vessel 'M.T. Harriet' having LDT of around 2200 LDT was available with Shri Sunil Narayan. After that, Shri Sunil Narayan came to their residence on 28/29.11.2021. Since the details of ship particulars given by Shri Sunil Narayan were acceptable to them, they accepted the deal at rate of 575 USD/LDT.
- He stated that in the evening of 01.11.2021, Shri Soham Narayan and Shri Sunil Narayan visited their residence-cum-office with draft Memorandum of Agreement. In the draft agreement, certain changes were made by him as per the discussion with Shri Soham Narayan, Shri Sunil Narayan and Shri Anish Gupta.
- In draft Memorandum of Agreement, necessary corrections were noted by Shri Sunil Narayan in his own handwriting through pen. After making necessary changes in the draft, Shri Sunil Narayan and Shri Soham Narayan left their residence with corrected Memorandum of Agreement. On the same day, after three to four hours, Shri Soham Narayan visited their office with 06 sets of unsigned Memorandum of Agreement as per his advice. Thereafter, he signed one copy of Memorandum of Agreement on 02 November 2021. After signing the Memorandum of Agreement, he had no knowledge and information about any further development in the matter. After that, follow-up actions as and when required were taken up by his son Shri Anish Gupta.
- On being asked to give the details of the corrections made in the draft Memorandum of Agreement on 01.11.2021, which were mutually agreed by him and Shri Sunil Narayan, he provided the details of corrections made in the draft Memorandum of Agreement dated 01.11.2021.

**Statement of Directors of the importer, M/s. Rajendra Ship Breakers Pvt. Ltd.:**

**22.** Statement of **Shri Devesh Gupta**, Director of M/s. Rajendra Ship Breakers Pvt. Ltd. was recorded on 28.12.2021 (**RUD No. 45**) under Section 108 of the Customs Act, 1962, regarding import of vessel declared as MT Harriet, wherein he interalia stated that he has been working as Director of M/s. Rajendra Ship Breakers Pvt. Ltd. since last 14 years. All decisions in respect of M/s. Rajendra Ship Breakers were taken by Shri Rajendra Gupta. He further stated that he was not actively involved in the business of M/s. Rajendra Ship Breakers Pvt. Ltd. since 2006.

He stated that as per his knowledge and the family discussions between his family members, the contents of both statements dated



17/18.12.2021 given by Shri Anish Gupta and the statement dated 19.12.2021 given by Shri Rajendra Gupta were correct. As per his discussion with Shri Rajendra Gupta, the name of the vessel was 'M.T. Patra'. Before the arrival of the vessel, he knew that the name of the vessel was changed to MT Harriet from 'MT Patra'. He had no knowledge of IMO No. of the vessel.

**22.3.** The decision-making authorities in M/s. Rajendra Ship Breakers Pvt. Ltd. were Shri Rajendra Gupta and Shri Anish Gupta. As per his knowledge, the notice of readiness in the instant case was accepted by Shri Rajendra Gupta on behalf of M/s. Rajendra Ship Breakers Pvt. Ltd. He did not know anything about M/s. Blue One General Trading LLC, as he was not actively involved in the business activity of M/s. Rajendra Ship Breakers Pvt. Ltd. He did not know anything about prior BE No. 6603471 dt. 09.12.21.

**23.** Statement of **Smt. Anita Gupta, Director of M/s. Rajendra Ship Breakers Pvt. Ltd.** was recorded on 28.12.2021 under Section 108 of the Customs Act, 1962 (**RUD No. 46**), regarding import of vessel declared as MT Harriet, wherein she stated that she has been working as Director of M/s. Rajendra Ship Breakers Pvt. Ltd. since 1995. She did not actively involve in the business of M/s. Rajendra Ship Breakers Pvt. Ltd. due to health issues. She had authorized Shri Rajendra Gupta and Shri Anish Gupta to take decisions in the interest of M/s. Rajendra Ship Breakers Pvt. Ltd. She did not remember whether she had signed any document regarding import of M.T. Harriet. Being Director of the firm, she normally put her signature on papers on the advice of Shri Rajendra Gupta and Shri Anish Gupta, as they were actively involved in the business.

**24.** Statement of **Shri Raju Annappa Bhanuse**, Director of M/s. ABB Ship Management Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962, on 31.12.2021 (**RUD No. 47**), wherein he stated that M/s. ABB Ship Management Pvt. Limited was a crew management services firm, where they supplied crew members to the ship owners/managers. Being a Director, he looked after the day-to-day activities of M/s. ABB Ship Management Pvt. Limited, Mumbai.

- After going through the seizure memo dated 12.12.2021, wherein a vessel MT Melody (IMO 8800298) declared as MT Harriet (IMO 8716514) had been seized for manipulation of identity, he stated that Mr. Melville D'souza of M/s. DTA had informed him initially for supply of crew members to MT Melody. Thereafter, he changed name of vessel to MT Patra. They supplied crew members to this vessel (MT Patra).
- He stated that they were in contact with Shri Melville D'souza of M/s. DTA since August 2020. They had provided crew members for M/s. DTA in the past. In November 2021, Mr. Gajanan called them for providing some crew to their sister concern firm i.e., M/s. Blue One General Trading LLC, UAE for demolition voyage.
- He stated that he and his Fleet Personal Officer, Mr. Deepak Marale used to contact Shri Gajanan and Shri Melville D'souza of M/s. DTA who were the points of contact in M/s. Blue One General Trading LLC, UAE.

He stated that Shri Melville D'souza on 02.11.2021 contacted Shri Deepak Marale, Fleet Personal officer through Whatsapp for supply of crew



members for LPG carrier for immediate joining. On 07.11.2021 through their message, they came to know that the name of vessel was MT Melody. Thereafter, on 09.11.2021 through Whatsapp message, Shri D'souza communicated that the name of vessel was MT Patra not MT Melody. However, he did not provide any documents for the same.

- He stated that they had not made any written agreement at the time of supply of crew for MT Melody (declared as MT Harriet). On 02.11.2021, Shri Melville D'souza messaged him for arrangement of 08 crew members for the demolition vessel. They provided him a list of 08 crew members for whom they arranged tickets. All the crew members were supplied without any written agreement with M/s. Blue One General Trading LLC, UAE. They had no written agreement of the same, so, they mailed to M/s. Blue One General Trading LLC on 15.12.2021 for supply of copy of agreement. On 16.12.2021, they received copy of agreement through mail from M/s. Blue One with signature.
- He had signed the agreement on behalf of M/s. ABB Ship Management Pvt. Ltd., and Shri Asif Khanda had signed for M/s. Blue One General Trading LLC, UAE. He also stated that has he known that the vessel was seized by the department, he would not have signed the agreement between M/s. Blue One General Trading LLC, UAE and M/s. ABB Ship Management Pvt. Ltd. He also stated that they had signed the agreement in back date to avoid any litigation.
- He stated that M/s. Blue One General Trading LLC, UAE had entered into seafarer agreement at UAE with all 08 crew members for one month (+/- 1 Month) w.e.f. 09.11.2021 and all the crew members went to Dubai on 13.11.2021/17.11.2021.
- He stated that Mr. Melville D'souza had sent contact number of Shri Rahul Choudhary on whatsapp to check whether he was available to board the vessel as the Master of the said vessel. Accordingly, they had contacted Shri Rahul Choudhary and informed that Mr. Melville D'souza had suggested his name as Master of the vessel intended for demolition purpose at Alang, Bhavnagar.
- He stated that from the panchnama and the statement of Master of the vessel, he understood that the vessel that was imported as MT Harriet with IMO 8716514 was actually MT Melody with IMO 8800298.
- He stated that Shri Gajanan had requested him to send all news articles/information related to seizure of vessel MT Melody declared as MT Harriet. Accordingly, on whatsapp, he had sent copy of paper cutting alongwith photo of Master of the vessel going down in the boat which was sent by the Chief Officer of the vessel.
- He stated that he was aware that changing IMO number of the vessel and running the vessel under a fake identity was illegal and it could attract legal actions under the Merchant Shipping Act, 1958 & other maritime laws.



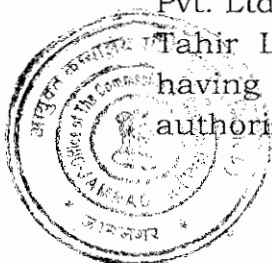
- He had taken/submitted the printouts of communication that he had with Shri Gajanan, Mr. Melville D'souza on Email and Whatsapp, Copy of agreement between M/s. Blue One General Trading LLC, UAE and M/s. ABB Ship Management Pvt. Limited, Seafarer agreement between M/s. Blue One General Trading LLC, UAE and crew members of the vessel MT Melody declared as MT Harriet etc.

**Statement of Mr. Asif Hanif Khanda, Owner of M/S. Blueone General Trading LLC, UAE:**

**25.** Consequent to the seizure of the vessel declared as 'MT Harriet', summons dated 22.12.2021 and 10.01.2022 were issued to Mr. Asif Khanda, Owner of M/s. Blueone General Trading LLC, UAE. In response to summons dated 22.12.2021 and 10.01.2022, Mr. Asif Khanda vide his letter dated 17.01.2022, submitted that he was unable to appear before DRI in India due to COVID situation. Further, summons dated 11.02.2022 was issued to Mr. Asif Khanda to appear before DRI on 21.02.2022.

**25.1.** Mr. Asif Khanda, owner of M/s. Blue One General Trading LLC, UAE and seller of vessel declared as MT Harriet with IMO No. 8716514 appeared before the DRI to represent his view on 21.02.2022. Accordingly, **statement of Mr. Asif Hanif Khanda**, was recorded under Section 108 of the Customs Act, 1962 on 21.02.2022 (**RUD No. 48**), wherein he interalia stated that:-

- ❖ M/s. Blue One General Trading LLC, UAE was a Limited Liability Company, 100% shares of which was owned by him. The said company was engaged in trading of Hydrocarbon Oil and all types of Lubricating Oil. Since September-2021, he had entered into cash buying of ships meant for recycling/breaking with the help of Mr. Tahir Lakhani.
- ❖ He was engaged in only M/s. Blue One Trading LLC. He did not own any other business activity. He agreed that he sold the vessel declared as 'MT Harriet' with IMO No. 8716514. He confirmed that the actual name of the vessel was 'MT Harriet' having IMO No. 8716514.
- ❖ He had received inspection report of the vessel from Mr. Tahir Lakhani. He did not do any physical verification of vessel. As per the inspection report, the IMO No. of the vessel was 8716514 and the name of the vessel was MT Harriet.
- ❖ He had appointed M/s. Lotus Danship Pvt. Ltd. as shipping agent. He was aware that one person Mr. Chirag of M/s. Lotus Danship Pvt. Ltd. However, he had never made any contact with Mr. Chirag. He had heard the name of Mr. Sunil Narayan, who had played the role of broker in case of MT Harriet. He had never made any contact with any person of M/s. Rajendra Ship Breakers Pvt. Ltd.
- ❖ All the correspondence whether written or telephonic with M/s. Lotus Danship Pvt. Ltd., Mr. Sunil Narayan and M/s. Rajendra Ship Breakers Pvt. Ltd. were done by Mr. Tahir Lakhani on behalf of his company. As Mr. Tahir Lakhani was earlier engaged in ship breaking activity and was having good knowledge in ship breaking activity, he allowed and authorized Mr. Tahir to do so.



- ❖ He had spoken with Mr. Bilal, an Accountant in DTA and heard the name of Mr. Gajanan but had not talked with him.
- ❖ For the oil business of M/s. Blue One General Trading LLC, he used the email id of blueonetradings01@gmail.com only. But for the ship breaking purpose, he had allowed Mr. Tahir Lakhani & Mr. Bilal to obtain domain and in turn they had created email IDs viz. snp@blueoneships.com, asif@blueoneships.com and bilal@blueoneships.com and informed him. He had made the payments for the purchase of the domain name.
- ❖ He was shown the pictures taken in the vessel during the search at Bhavnagar Anchorage. After going through the pictures, he stated that as per pictures shown, the actual was IMO No. 8800298 and name of the vessel was "Golden Sea". (Ex-name of the MT Melody).
- ❖ On going through the statement and panchnama dated 11/12.12.2021, he admitted that there was mis-declaration in the identity of the vessel.
- ❖ He stated that the appointment letter to the Captain of the vessel was issued by Mr. Bilal and he had signed the letter.
- ❖ He accepted that vessel's IMO number can not be changed during her life. He further stated that he had no idea about how the IMO No. of the vessel that was supposed to be imported had been changed in its last voyage. If there was any change in IMO, the same might have been made before he had purchased that vessel.
- ❖ When he was shown the MoA for his purchase of vessel from its earlier owner, Tyron Shipping which was signed by him on 08.11.2021 and the Port Clearance No. MK/2021-31003, which was issued on 23.11.2021, and asked as to how the name & IMO number of the vessel did change before he purchased the vessel, he offered "**no comments**".
- ❖ He had given the contract to M/s. Dubai Trading Agency telephonically for sailing/navigation of the vessel. No written contract was signed for navigation.
- ❖ He stated that he had no knowledge about two port clearance certificates. He was aware only of port clearance certificate issued by Port Mina Khalid in respect of MT Harriet.
- ❖ He accepted that illegally changing IMO number of the vessel and running the vessel under a fake identity can attract legal actions.
- ❖ Mr. Asif Khanda stated that the vessel started her voyage from Sharjah outer anchorage on 23.11.2021 to Alang.

He had no records related to MT Melody (IMO No. 8800298). He had required the about the same with Mr. Tahir Lakhani, through whom he entered in the Ship breaking business.



- ❖ After going through the statement dated 12.12.2021 of Captain Rahul Chowdhary, he stated that he did not have any idea about those documents/materials related to the vessel MT Melody, which were returned by Captain Rahul Chowdhary through the supply boat DTA – 5, which had come to deliver him the port clearance certificate. He stated that he had come to know this fact only after reading the statement of the Captain.
- ❖ He stated that as per his knowledge ex-name of the vessel was 'Harry'. He was not aware of the vessel MT Melody. He came to know about this fact only after he got the news about the seizure of the vessel, MT Harriet.
- ❖ He stated that at the time finalization of MOA on 02.11.2021, the importer M/s. Rajendra Ship Breakers Pvt. Ltd. requested on mobile of Mr. Tahir Lakhani and suggested that name of the vessel to be re-named as 'Patra'. The same was communicated to Turkish broker, Mr. Mahmood of M/s Tyron Shipping Ltd. Later on, Mr. Mahmood informed that name 'Patra' was not available and thereafter on receipt of registration certificate, he came to know that the name of the vessel was 'Harriet'.
- ❖ He stated that on receipt of the draft/final MOA, he came to know that transaction would be made in AED. According to him, Mr. Bilal had prepared the draft, as Mr. Bilal had generally sent him draft/final through whatsapp in pdf format.
- ❖ He stated that he had received MOA in the name of the vessel MT Patra, on 02.11.2021 and that he had received addendum regarding change in the name of vessel MT Patra to MT Harriet on 23.11.2021.

26. Further, statements of **Shri Asif Khanda** was recorded on 22.02.2022 (**RUD No. 49**) and on 23.02.2022 (**RUD No. 50**) under Section 108 of the Customs Act, 1962, wherein he stated that he was not aware of the fact the ship owners also have IMO No. At present he did not have any IMO no., and that Mr. Tahir Lakhani informed him that he would create IMO no. for M/s. Blue One General Trading LLC.

- ❖ After verifying his records, he stated that no power of attorney was issued to any one from M/s. Blue One General Trading LLC. He was not able to collect and produce documents or any other official documents in respect of M/s. Tyron Shipping Ltd. With respect to terms and conditions between M/s. Blue One General Trading LLC and Mr. Tahir Lakhani in recycling business, he submitted that no formal agreement was there between us.
- ❖ He stated that as per his knowledge, Mr. Tahir Lakhani was a British Citizen and lived at UAE/London but did not own any business in his own name. DTA stands for Dubai Trading Agency. Mr. Jamal of DTA was the person who introduced him with Mr. Tahir Lakhani on telephone approximately 02 years ago. Mr. Tahir suggested him to enter into ship recycling business. Mr. Tahir agreed to help him in sale/purchase of the vessels. Mr. Tahir also suggested agents at both the places for smooth business transaction. After enquiry, he came to know that Tahir's credibility in the market was good and so he decided to enter into ship recycling business.

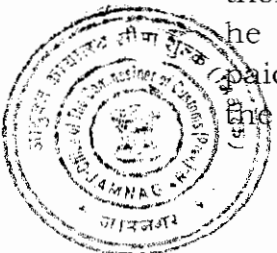


- ❖ He had telephonically talked with Mr. Bilal during the finalization of the MOA of MT Harriet but had never met with Mr. Bilal, as he was newly appointed person in DTA. He had heard the name of Capt. Gajanan of DTA only after the seizure of the vessel.

**Statement of Shri Anish Gupta, Authorised Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.:**

**27.** Another statement of **Shri Anish Gupta**, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 on **17.05.2022 (RUD No.51)**, wherein he stated that:-

- ❖ He knew Mr. Asif Khanda. He came to know about him when he received the MOA and asked Mr. Sunil Narayan about the owner of the M/s. Blue One General Trading LLC, Dubai. He met with Mr. Asif Khanda in the first week of March 2022. On being shown the copy of passport of Asif Khanda, he confirmed that the photograph and signature in the passport were of Mr. Asif Khanda.
- ❖ After going through the statements of Mr. Asif Khanda (Owner of M/s. Blue One General Trading LLC) dated 21.02.2022, 22.02.2022 & 23.02.2022, he agreed with the statement dated 21.02.2022 of Shri Asif Khanda that he had sold the vessel MT Harriet (IMO 8716514) to M/s. Rajendra Ship Breakers Pvt. Ltd.
- ❖ He stated that he met with Mr. Asif Khanda in the first week of March - 2022 in relation to vessel mis-declared as MT Harriet (IMO 8716514).
- ❖ He stated that Mr. Asif Khanda informed him that he had made the payment of penalty of 03 Crores and also submitted the bond of ship value. He also informed that the vessel MT Harriet (IMO No. 8716514) got all necessary clearances.
- ❖ He stated that he came to know about the actual identity of the vessel MT Melody (IMO No. 8800298) declared as MT Harriet (IMO No. 8716514), when he had gone through the panchnama dated 11/12.12.2021 and statement of Master of the vessel dated 11/12.12.2021 and some evidences/photographs during his statement dated 14.12.2021.
- ❖ After going through his statements dated 14.12.2021 and 17.12.2021, he confirmed that the details mentioned therein are true and correct. He stated that he agreed with his earlier statement dated 14.12.2021, wherein, he had accepted that the vessel was MT Melody (IMO 8800298), on the basis of the panchnama, statement of the master of the vessel dated 11/12.12.2021 and evidences/photographs shown to him.
- ❖ He also stated that after knowing that the vessel actually imported by them was MT Melody (IMO 8800298) and not MT Harriet (IMO 8716514), he filed refund application before the Customs Authorities for the duty paid against prior BE No.6603471 dated 09.12.2021 on the grounds that the ship imported by him was different and the vessel was seized by DRI.



- ❖ He admitted that the vessel was MT Melody (IMO No.8800298) and hence disowned the same and filed refund application dated 03.01.2022 before the Customs Authorities on the ground that the vessel was mis-declared as 'MT Harriet (IMO No. 8716514)' which was not correct name/number of the vessel.
- ❖ He stated that he had filed the BE No. 6603471 dated 09.12.2021 and the same was pursued by them for Customs clearance on 28.03.2022 (after disowning the same), as Mr. Asif Khanda approached them personally and informed that the vessel was cleared by the department.
- ❖ With reference to the reasons for acceptance of the vessel as 'MT Harriet (IMO 8716514), in spite of knowing the fact the vessel was actually 'MT Melody (IMO 8800298), he stated that they wanted to purchase MT Harriet (IMO 8716514), after getting clearances from all concerned departments, only then they proceeded for final assessment of bill of entry. If it was not getting cleared as MT Harriet (IMO 8716514), they would not have bought or beached the said vessel on our plot/yard.
- ❖ He stated that he would produce the copies of documents in support of his claim by 18.05.2022. (However, no documents in support of his claim had been received by the DRI).
- ❖ He stated that no fresh MOA was executed or signed between between M/s. Rajendra Ship Breakers Pvt. Ltd. and M/s. Blue One General Trading LLC, with correct name and IMO No. of vessel i.e., MT Melody with IMO No. 8800298.
- ❖ He also stated that they had started cutting of the vessel MT Melody (IMO No.8800298) declared as MT Harriet (IMO No. 8716514). On being shown a letter dated 24.02.2022 to Shri Anish Gupta issued by M/s. Blue One General Trading LLC, wherein the seller had given undertaking that they would not proceed with any activity in respect of the said vessel till the completion of the investigation and on being asked whether the seller informed him about such declaration, he stated that he was not aware of any such letter submitted by M/s. Blue One General Trading LLC.
- ❖ He was requested to protect the following evidences available in the vessel till the completion of the investigation (i) IMO No. painted outside the bridge of the vessel and (ii) Pumping plan fixed accommodation area. He stated that the item no. (i) was kept secured, however, he would have to check regarding item No. (ii).

#### **SUMMONS TO THE OTHER STAKE HOLDERS:**

28. In view of the above findings, the remaining stakeholders in the entire chain of events were summoned for giving statement and further evidences in order to proceed with the investigation. Summons dated 20.12.2021, 13.01.2022, 29.01.2022 and 28.02.2022 were sent through e-mail to Mr. Tahir Lakhani of M/s. Dubai Trading Agency, Dubai (DTA), Mr. Bilal (Accountant) of DTA and Mr. Gajanan Karanjikar, Operation Manager of DTA on e-mail IDs [bilal@blueoneships.com](mailto:bilal@blueoneships.com), [snp@blueoneships.com](mailto:snp@blueoneships.com), [agency@dtashipping.com](mailto:agency@dtashipping.com) and [operations@dtashipping.com](mailto:operations@dtashipping.com) under Section 108 Customs Act, 1962 to give evidence and produce documents or things in



connection with the 'Import of the vessel declared as MT Harriet with IMO 8716514'. In spite of giving several opportunities to Mr. Tahir Lakhani and Mr. Bilal, they have failed to appear before the investigating authority.

**28.1.** Whereas, in response to summons dated 28.02.2022 Mr. Gajanan Karanjikar vide letter dated 09.03.2022 informed that due to certain unavoidable work commitments with his employer M/s. Protec Ship Repair & Maintenance LLC in UAE and restrictions on travel, he was not in a position to travel to India before 31<sup>st</sup> May 2022. Further, summons dated 30.05.2022, 13.06.2022 and 30.06.2022 were issued to Mr. Gajanan Karanjikar to appear before the investigating agency on 10.06.2022, 24.06.2022 and 21.07.2022.

**28.2.** In response to summons dated 30.05.2022 and 13.06.2022, Mr. Gajanan Karanjikar vide letter dated 07.06.2022 and 23.06.2022 stated that due to serious health issues and on-going medical treatment, he was unable to appear before the investigating officer. Further, in response to the summons dated 30.06.2022, he submitted that while travelling from Dubai, UAE, PCR test was done where he had tested positive for COVID – 19 virus and thus he had been restrained from travelling due to the mandatory quarantine of 14 days. Further, another summons dated 22.09.2022 was issued to Mr. Gajanan Karanjikar to appear before the DRI on or before 26.09.2022. In response of summon dated 22.09.2022, Mr. Gajanan Karanjikar vide letter dated 03.10.2022 stated that he had made an attempt to appear before DRI on 27.09.2022 and on arrival at Ahmedabad he was having increase in Blood pressure and felt very uneasy, so he rushed back to home (Nashik).

### SUMMARY OF THE FINDINGS

**29.** A Liquefied Petroleum Gas (LPG) tanker declared as MT Harriet (IMO No. 8716514) was imported by **M/s. Rajendra Ship Breakers Pvt. Ltd., Bhavnagar** from M/s. Blueone General Trading LLC, Dubai at SBY, Alang for recycling with the help of the Shipping agent, **M/s. Lotus Danship Pvt. Ltd., Bhavnagar** vide Bill of Entry No. 6603471 dated 09.12.2021.

**29.1** During the investigation, it was revealed that the correct name, IMO Number and identity of the vessel have been mis-declared. The International Maritime Organization (IMO) number is a unique identifier for ships, ship owners and management companies. The IMO number remains linked to the hull of a ship for its lifetime, regardless of changes of names, flags, or owners. From the evidences retrieved and the statements recorded, it appeared that the actual name of the vessel is 'MT Melody having IMO 8800298 (Ex-names: Golden Sea, Happy Girl, Sunny Girl, Blue Way) and not MT Harriet having IMO 8716514 as declared in import document.

**29.2** It also appeared that the said vessel, MT Melody/Blueway having IMO No. 8800298 is sanctioned by US Department of Treasury's OFAC which has been endorsed by the UNSC Resolution 22331 dated 20.07.2015 which makes the vessel a prohibited goods for importation under the Customs Act, 1962.

**29.3** It appeared that there is a larger syndicate of members involved in importing the vessel MT Melody (IMO 8800298) by manipulating the identity of the vessel on the basis of false and fabricated documents and by mis-declaring the name as MT Harriet (IMO 8716514), in order to ensure sale of the vessel that has been sanctioned under United States Treasury's Office of Foreign



Assets Control and to ensure smooth financial transaction of the money as certain Indian Banking Institutions are firmly committed to comply with all applicable sanctions laws (as imposed by UN, US, UK, EU or any other Government and/or Regulatory authorities).

**29.4** It appeared that in the instant case, the syndicate involving the following members have involved/participated/played active role along with the owner of the vessel in the entire modus of importing the liquefied petroleum gas (LPG) tanker vessel MT Melody (IMO 8800298) for demolition by manipulating the true identity and declaring the same as MT Harriet (IMO 8716514).

1. Shri Tahir Lakhani
2. Shri Ganjanan Karanjikar
3. Shri Asif Khanda
4. Shri Chirag N Trivedi
5. Shri Sunil Narayan
6. Shri Anish Gupta
7. Shri Rahul Choudhary

**29.5** It also appeared that the entire syndicate is very well aware of the fact that the actual vessel to be imported was MT Melody (IMO 8800298) which has been sanctioned by OFAC. They had also prepared the Memorandum of Agreement for the vessel MT Melody in the beginning and had modified the same document to wilfully manipulate the name and IMO number to hide the actual identity of the vessel and its OFAC sanction.

### **EVIDENCES**

### **30. DOCUMENTARY EVIDENCES**

During the course of investigation, many documentary as well as other evidences have been resumed/taken over for investigation in respect of contravention of the provisions of the Customs Act, 1964. The following documentary evidences resumed during the investigation from the vessel and from the office premises of the shipping agent are vital in establishing the true identity of the vessel. These documents appear to be in the actual name of the vessel i.e., MT Melody/Blue Way/Sunny Girl/Happy Girl (IMO 8800298) and not in the name MT Harriet (IMO 8716514) declared in the Customs documents.



**30.1 Navigation License No.045/OR/2020 dated 12.10.2020 issued by Republic of Sao Tome Principe.**

REPÚBLICA DEMOCRÁTICA DE SÃO TOMÉ E PRÍNCIPE  
 REPUBLICA DEMOCRATIQUE DE SAO TOME ET PRINCIPE  
 DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE

INSTITUTO NACIONAL DE REGISTRO DE NAVIOS  
 NATIONAL MARITIME REGISTRATION INSTITUTE

LICENÇA DE NAVEGAÇÃO  
 NAVIGATION LICENCE

N.º: 045/020

LETRAS DE CHAMADA

CALL LETTERS

3-02TK

NÚMERO DE REGISTRO

REGISTRATION NUMBER

STP-103-CA

SUBSCREVER E AUTORIZAR ESTE REGISTO DE CERTIFICADO DE NAVEGAÇÃO E EMBARCAÇÃO, CUJAS INDICAÇÕES SÃO DESCRITAS ABAIXO:

SUBSCRIBE AND AUTHORIZE THIS REGISTRATION OF NAVIGATION CERTIFICATE TO THE VESSEL WHOSE PARTICULARS ARE DESCRIBED BELOW:

| NOME DO NAVIO<br>NAME OF THE VESSEL                                                         | CARACTERÍSTICAS DO NAVIO<br>PARTICULARS OF THE VESSEL | NOME E ENDEREÇO DO PROPRIETÁRIO / OWNER'S NAME & ADDRESS |
|---------------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------|
| MELODY                                                                                      | IMO                                                   | MELODY SHIPPING TRAPE LTD.                               |
| NOME ANTERIOR<br>PREVIOUS NAME                                                              | 8906255                                               | 205, Victoria House, Victoria,<br>Mauritius              |
| MELODY                                                                                      | ENCONTRO<br>DATE                                      | NACIONALIDADE ANTERIOR<br>PREVIOUS NATIONALITY           |
| CONSTRUIDAS EM<br>BUILT IN                                                                  | 1989                                                  | CAMEROON                                                 |
| SOUTH KOREA                                                                                 |                                                       | CONSTRUTORES<br>CONSTRUCTORS                             |
| NÚMEROS DE / NUMBERS OF<br>CONVERSES / DECKS: 2                                             | MATERIAL DO CASCO<br>MATERIAL OF THE HULL             | HYUNDAI HEAVY INDUSTRIES LTD.                            |
| MASTRO / MASTS: 2                                                                           | ACÇO / STEEL                                          | BIMENSÃO PRINCIPAL<br>MAIN DIMENSION                     |
| CHAMINÉS / FUNNELS: 1                                                                       | TONELAGEM / TONNAGE                                   | COMPRIMENTO / LENGTH: 47,7 m                             |
|                                                                                             | BRUTA GROSS: 3643 mt                                  | Boca / BREADTH: 15,90 m                                  |
|                                                                                             | LÍQUIDA NET: 1104 mt                                  | PONTAL / DEPTH: 6,25 m                                   |
| SERVIÇO OFERECIDO PELA EMBARCAÇÃO: TANKER DE GÁS<br>SERVICE GIVEN BY THE VESSEL: GAS TANKER |                                                       |                                                          |
| OBSERVAÇÕES / REMARKS: NAVEGAÇÃO NÃO RESTRITA / UNRESTRICTED NAVIGATION                     |                                                       |                                                          |
| SISTEMA DE PROPULSAO / PROPULSION SYSTEM                                                    |                                                       |                                                          |

TIPO DE MOTORES: DIESEL MARINHO

TYPE OF ENGINES: MARINE DIESEL

NÚMERO DE MOTORES: 1 / NUMBER OF ENGINES: 1

NÚMERO DE CILINDROS: 6 / NUMBER OF CYLINDERS: 6

NOME DA FABRICAÇÃO: MAK

NAME OF MANUFACTURE: MAK

POTER DO CAYALO: 4425,37 HP

HORSE POWER: 4425,37 HP

EMI TIDA EM: 12 OUTUBRO 2020 EM SÃO TOMÉ

ISSUED ON: 12 OCTOBER 2020 AT SAO TOME

ESTE CERTIFICADO PERMANECERÁ VÁLIDO ATÉ: 12 ABRIL 2021

THIS CERTIFICATE WILL REMAIN VALID UNTIL: 12 APRIL 2021

2 m. 1170  
12-12-2020

Alfonso Soares  
12-12-20

ALBERTO FRANK MEYER  
DIRECTOR GERAL / DIRECTOR GENERAL

**Ship registration** is the process by which a ship is documented and given the nationality of the country to which the ship has been documented. The nationality allows a ship to travel internationally as it is proof of ownership of the vessel. Navigation license No. 045/OR/2020 recovered from the vessel reflects the actual name of vessel as MT Melody and IMO No. as 8800298. (RUS No.52).



[illegible]

**MARITIME & PORT INSTITUTE**  
**SHIP'S RADIO LICENSE**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                   |                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <b>LETRAS DE CHAMADA</b><br>CALL LETTERS<br>S41A                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | <b>IDENTIDADE MARÍTIMA DE</b><br><b>VEHÍCULOS MÓVEIS</b><br>VESSEL NUMBER<br>46816158 |
| <p>A Licença de Rádio é concedida ao licenciado com o objetivo de estabelecer e operar um sistema de comunicação de rádio em conformância com os Regulamentos de Rádio STP existentes e sujeito aos requisitos desta Administração, conforme indicado abaixo. This Radio License is granted to the licensee for the purpose to establish and operate a radio communication system in accordance with the existing STP Radio Regulations and subject to the requirement of this Administration as indicated below.</p> |                                                                                   |                                                                                       |
| <b>TIPO DO NAVIO</b><br>NAME OF THE VESSEL<br>JMO                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>CARACTERÍSTICAS DO NAVIO</b><br>PARTICULARS OF THE VESSEL<br>BRIDGE            | <b>NÚMERO OFICIAL</b><br>OFFICIAL NUMBER<br>STP-16-C                                  |
| <b>PAÍS DE ORIGEM</b><br>PORT OF ORIGIN<br>SAO TOME                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>TIPO DE RADIO E EQUIPAMENTO</b><br>AUTHORIZED<br>RADIO EQUIPMENT<br>AUTHORIZED | <b>BRUTA</b><br>GROSS<br>3643 MT                                                      |
| <b>CATEGORIA DE CORRESPONDÊNCIA</b><br>CATEGORY<br>RADIO LLOYD                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>TIPO DE RADIO E EQUIPAMENTO</b><br>AUTHORIZED<br>RADIO EQUIPMENT<br>AUTHORIZED | <b>AAIC</b><br>AAIC<br>AAIC                                                           |

VALIDA EM 12 DE ABRIL DE 2021 EM SÃO TOMÉ  
VALID IN 12 APRIL 2021 AT SAO TOME  
DELEGAÇÃO DE MANUTENÇÃO VÁLIDA ATÉ 12 ABRIL 2021  
MAINTENANCE DELEGATE WILL REMAIN VALID UNTIL 12 APRIL 2021

MT HARPIET  
MA 102

  
CRANK VIDEOS  
DISTANCE BY AIR 1000 KM

Extrato das Atas da Comissão, C.F. 158 - See Record of the Commission, C.F. 158 - Extrato das Atas da Comissão, C.F. 158

Minimum safe manning certificate ensures the number of qualified and experienced seafarers necessary for the safety and security of the ship, crew, passengers, cargo and property and for the protection of the marine environment **(RUD No.53)** and Radio license license certificate is applicable for vessel which have radio equipment on board having a contract with a radio company that is responsible for the ship's communications accounts. Minimum safe manning certificate and Radio license No. recovered from the vessel reflects the actual identity of the vessel as MT Melody with IMO 8806298. **(RUD No.54).**



30.3 Port Clearance Certificates:

Port Clearance Certificate

Port: MINA KHALID Issue Date: 23 NOV 2021

Port Clearance No: MK/2021-31003

Vessel: MT MELODY

IMO: 8800298

GT: 2543

Net Tonnage: 2543

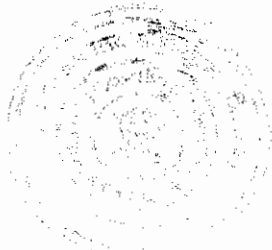
IMO Number: 8800298

Master: HANAN CHAKRABARTY

Arrival Date: 23 NOV 2021

Departure Date: 23 NOV 2021

During the investigation, Port Clearance No. MK/2021-31003 dated 23.11.2021 in respect of the vessel 'MT Melody having IMO 8800298' issued at Port Mina Khalid, UAE was recovered from the whatsapp chat of the Captain of the vessel. (RUD No.6). This Port Clearance certificate was hidden from the Customs authorities and a fake Port clearance certificate dated 23.11.2021 issued by Sultanate of Oman, Royal Oman Police as shown below with the name MT Harriet and IMO 8716514 was submitted to the Customs authorities. (RUD No.7).





**30.4 Trim and Stability Book**

Trim & Stability Book, is a stability manual, approved by the classification Society, which contains information to enable the Master to operate the ship in compliance with the applicable requirements contained in the Rules. In the Trim & Stability book submitted by the Captain of the vessel, name of the vessel is printed as "Sunny Girl". There is also handwritten word "Happy Girl". (RUD No. 10). These all are ex names of the vessel MT Melody (IMO No. 8800298) which has been declared as MT Harriet (IMO No. 8716514) at Alang, India in the instant case.



30.5 Ship Certificates issued Alfa Register of Shipping at Fethiye/Turkey:

During the investigation various Ship Certificates issued by Alfa Register of Shipping (Certificate No. ARS 001) dated 16.10.2020 issued at Fethiye/Turkey, in the name of vessel MT Melody and IMO Number No. 8800298 were recovered. All these certificates prove the actual name and IMO of the vessel that is imported in the instant case (RUD No.55). The relevant portion of the certificates are shown below:



ALFA REGISTER OF SHIPPING

Certificate No. ARS001

INTERIM

INTERNATIONAL SHIP SECURITY CERTIFICATE

Issued under the provisions of the

INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND PORT FACILITIES

(ISPS CODE)

Issued on 16.10.2020 at FETHIYE

by Alfa Register of Shipping

| Name of Ship | Distinctive Number or Letters | Port of Registry | Gross Tonnage | IMO Number | Type of Ship |
|--------------|-------------------------------|------------------|---------------|------------|--------------|
| MELODY       | SA216                         | SAO TOME         | 345           | 8800298    | GAS CARRIER  |

Name and address of the Owner: MELODY SHIP, NO TRAIL LTD  
SOU VICTORIA CROSS, VICTORIA ROAD, SEYDISELIM



ALFA REGISTER OF SHIPPING

INTERNATIONAL TONNAGE CERTIFICATE (1969)

Issued under the provisions of the

INTERNATIONAL CONVENTION ON TONNAGE MEASUREMENT OF SHIPS, 1969

Under the authority of the Government of

SAO TOME

by Alfa Register of Shipping

| Name of Ship | Distinctive Number or Letters | Port of Registry | Date       |
|--------------|-------------------------------|------------------|------------|
| MELODY       | SA216                         | SAO TOME         | 06/10/1988 |

CLASIFICACION





30.6 Muster List and other documents.

MAN OVERBOARD DRILL

ASTB LIFE BOAT DECK

(3 PROLONG BLAST)

\*\*\*STB. SIDE LIFE BOAT USE AS "RESCUE BOAT"

LIFE BLUE WAY.

PANAMA

| NAME                     | RANK                | DUTIES                                                             |
|--------------------------|---------------------|--------------------------------------------------------------------|
| 1. CAPTAIN KAPILA        | MASTER              | GENERAL COMMAND                                                    |
| 2. ADMICAN               | CAPT                | INCHARGE OF RESCUE BOAT IN COORDINATION WITH MASTER                |
| 3. ADEKSH BATHAPUR SINGH | 2 <sup>ND</sup> OFF | ARRANGE FIRST AID KIT AND FOLLOW MASTER ORDER IN RIDGE             |
| 4. INMAIL AYGEN          | CHENG               | STAY IN ENGINE ROOM AND ACT ACCORDING WITH MASTER                  |
| 5. HASAN SABIN           | 2 <sup>ND</sup> ENG | PREPARE RESCUE BOAT (STB. LIFE BOAT) ENGINE AND ASSIST CH OFFICER  |
| 6. ROHIT KANA            | CAPT                | ASSIST TO RESCUE BOAT LAUNCHING                                    |
| 7. RAJINDER SINGH        | AB                  | PREPARE RESCUE BOAT FOR LANDING AND STEERSMAN IN RESCUE BOAT       |
| 8. TANDIL PRAGDESH KUMAR | AB                  | ASSIST TO RESCUE BOAT LAUNCHING AND LINESMAN                       |
| 9. RAVI SINGH KUMAR      | AB                  | ASSIST MASTER IN RIDGE                                             |
| 10. KISHAN RAO           | OILER               | FOLLOW CHENG ORDER IN ENGINE ROOM                                  |
| 11. ADITYA CHAVLA        | OILER               | ASSIST TO LAUNCH RESCUE BOAT                                       |
| 12. LOKESH SIKRI         | OILER               | PREPARE LIFEBOAT, ROPE, LARAB, AND WALK AT MASTER STATION TO ORDER |
| 13. OZMER MAUT           | COOK                | PREPARE FIRST AID KIT AND STRETCHER                                |

During the investigation, ‘Muster List’, ‘record for hours rest’, ‘vaccination report’, ‘sopep drill’, narcotic list’, ‘Crew Currency declaration’, ‘record of garbage discharge’, ‘fire control drill’ etc., with the stamp/signature of the then Captain(s) of the vessel named as ‘Blue Way’ (erstwhile name of MT Melody) with the **IMO No. 8800298**, printed on the reverse sides of the ‘Survival Manual’ were recovered from the vessel (**RUD No.56**).

30.7 Ship design document for VHF Radio Telephone showing Hull No H634.

12-12-21

12-12-21

MT HARRIET

INSTRUCTION BOOK FOR

SAILOR MULTI-REMOTE VHF SYSTEM

SEC NO. SHIP DESIGN OFFICE

C333

SEC. DESIGN DEPT

SHIP NO.

3757

H634

APPROVED

CHECKED

DRAWN

SCALE

DRAWING NO.

63-0631-211

HYUNDAI HEAVY INDUSTRIES CO. LTD.

Ulsan Shipyard, Korea

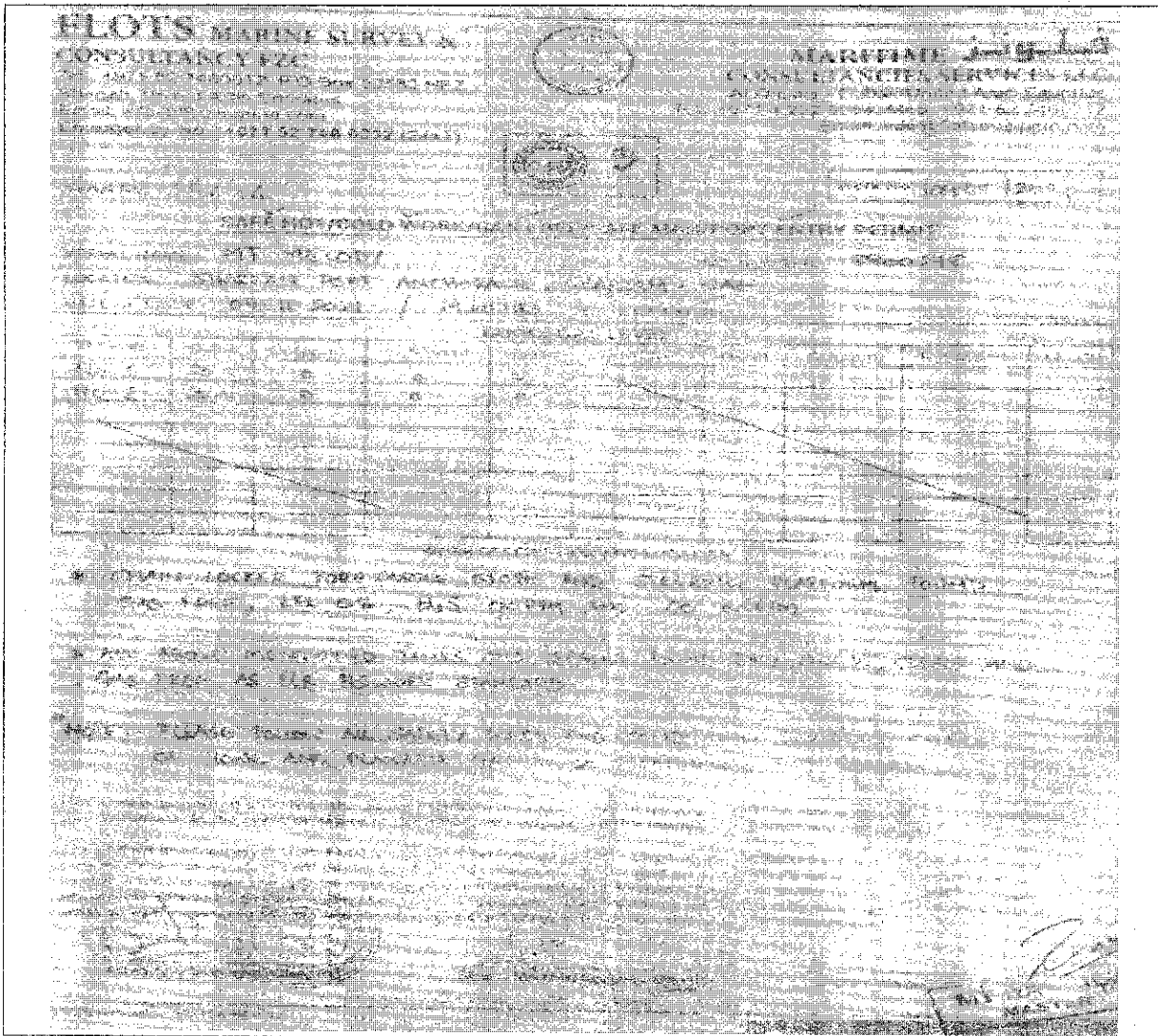
CONSIGNED

12-11-21

Ship design document for VHF Radio Telephone and other drawing/arrangements plans showing Hull No. H634 and name the vessel as ‘Sunny Girl’ (ex-name of MT Melody) recovered during the investigation clearly

points out the true identity of the vessel through the Hull number (**RUD No.57**). Similarly, other ship drawing/arrangement design/plans viz. Arr'mt of Radio Room and Electric Shop, Magnetic Compass, Anemometer & Anemoscope, Halon Free Extinguishing System, Schematic Arrangement Piping and Nozzle Arrangement, Enginer Flat Deck Group, Control Panel Bridge, CO2 Fire Extinguishing System and Radar Equipment (S Band DWG.) are found to contain Hull No. H634 with the name of the ship as '**Sunny Girl**'.

**30.8 Gas Free Certificate bearing Srl. No. 45434 (Work No. 10985/2021)**



During the investigation, the above Gas Free certificate bearing. Srl. No. 45434 (Work No. 10985/2021) was recovered from the vessel. It reflects the name of the vessel as 'MT Melody' and IMO No. as 8800298 (RUD No. 13).



30.9 Crew list dated 28.01.2021

| CREW LIST                                                                                                   |                |                                       |             |                                    |                |                                         |                   |                                  |         |
|-------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------|-------------|------------------------------------|----------------|-----------------------------------------|-------------------|----------------------------------|---------|
| 1. NAME OF SHIP<br>M. S. MELDY                                                                              |                | 2. DEPARTURE PORT<br>TRIPOLI, LIBANON |             | 3. DATE OF DEPARTURE<br>28.01.2021 |                | 4. PORT OF DESTINATION<br>DUBAI, U.A.E. |                   | 5. NAME OF CAPTAIN<br>RUD No. 58 |         |
| 6. NAME, ADDRESS, GRADE, RANK, NATIONALITY, DATE OF BIRTH, PLACE OF BIRTH, DATE OF ENTRY, DATE OF DEPARTURE |                |                                       |             |                                    |                |                                         |                   |                                  |         |
| Sl. No.                                                                                                     | Name, Address  | Grade                                 | Nationality | Date of Birth                      | Place of Birth | Date of Entry                           | Date of Departure | Signature                        | Remarks |
| 1                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 2                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 3                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 4                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 5                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 6                                                                                                           | SULVEDI AGHAYE | 3rd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 7                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 8                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 9                                                                                                           | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 10                                                                                                          | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 11                                                                                                          | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 12                                                                                                          | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 13                                                                                                          | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |
| 14                                                                                                          | SAHIL KUMAR    | 2nd PSC                               | INDIA       | 24.01.1987                         | INDIA          | 28.01.2021                              | 28.01.2021        |                                  |         |

1. MELDY

2. MELDY

3. MELDY

4. MELDY

5. MELDY

6. MELDY

7. MELDY

8. MELDY

9. MELDY

10. MELDY

11. MELDY

12. MELDY

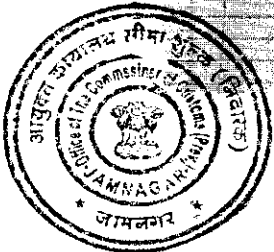
13. MELDY

14. MELDY

A crew list dated 28.01.2021 was recovered from the vessel reflecting the name of the vessel as 'MT Melody', duly signed and stamped by the then Captain of the vessel (**RUD No.58**). Similarly, certain other documents & correspondences such as 'letters issued to Crew Manager', 'store lists', 'cash/accounts & slopcheck' reports, 'crew sign off salary payment receipts of the previous crew' & **'bunker sounding table'** etc. **having the stamp or name of the vessel as 'Melody/Golden Sea/Sunny Girl'** were also recovered during the course of the investigation.

30.10. Ship's Logbook:

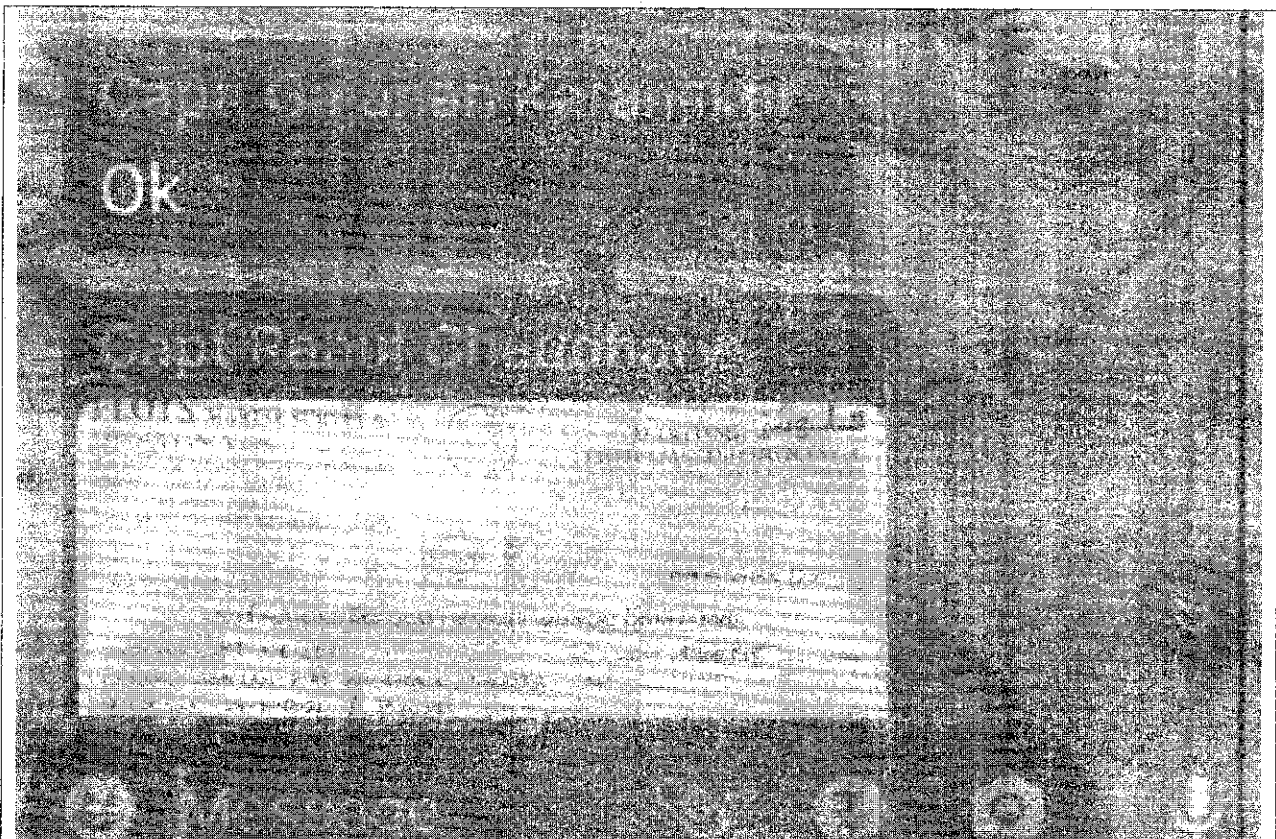
| SHIP'S LOGBOOK |            |       |           |           |          |           |           |           |         |
|----------------|------------|-------|-----------|-----------|----------|-----------|-----------|-----------|---------|
| Sl. No.        | Date       | Time  | Latitude  | Longitude | Speed    | Direction | Remarks   | Signature | Remarks |
| 1              | 28.01.2021 | 08:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 2              | 28.01.2021 | 10:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 3              | 28.01.2021 | 12:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 4              | 28.01.2021 | 14:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 5              | 28.01.2021 | 16:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 6              | 28.01.2021 | 18:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 7              | 28.01.2021 | 20:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 8              | 28.01.2021 | 22:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 9              | 29.01.2021 | 00:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 10             | 29.01.2021 | 02:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 11             | 29.01.2021 | 04:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 12             | 29.01.2021 | 06:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 13             | 29.01.2021 | 08:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 14             | 29.01.2021 | 10:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 15             | 29.01.2021 | 12:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 16             | 29.01.2021 | 14:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 17             | 29.01.2021 | 16:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 18             | 29.01.2021 | 18:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 19             | 29.01.2021 | 20:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |
| 20             | 29.01.2021 | 22:00 | 33° 45' N | 15° 15' E | 10 knots | 090°      | Under way |           |         |



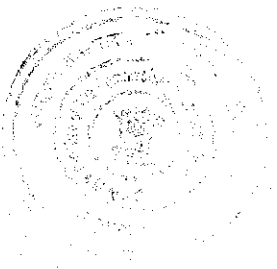
Copy of logbook of the vessel declared as MT Harriet for the period 27.11.2021 to 10.12.2021 was collected under the Panchnama dated 11/12.12.2021 (**RUD No. 59**). A logbook (a ship's logs or simply log) is a record of important events in the management, operation, and navigation of a ship. It is essential for traditional navigation and must be filled in atleast daily and maintained on the bridge of the vessel. On going through the copy of logbook, it is found on the top that the said vessel has commenced its voyage towards Alang from **Sharjah OPL**.

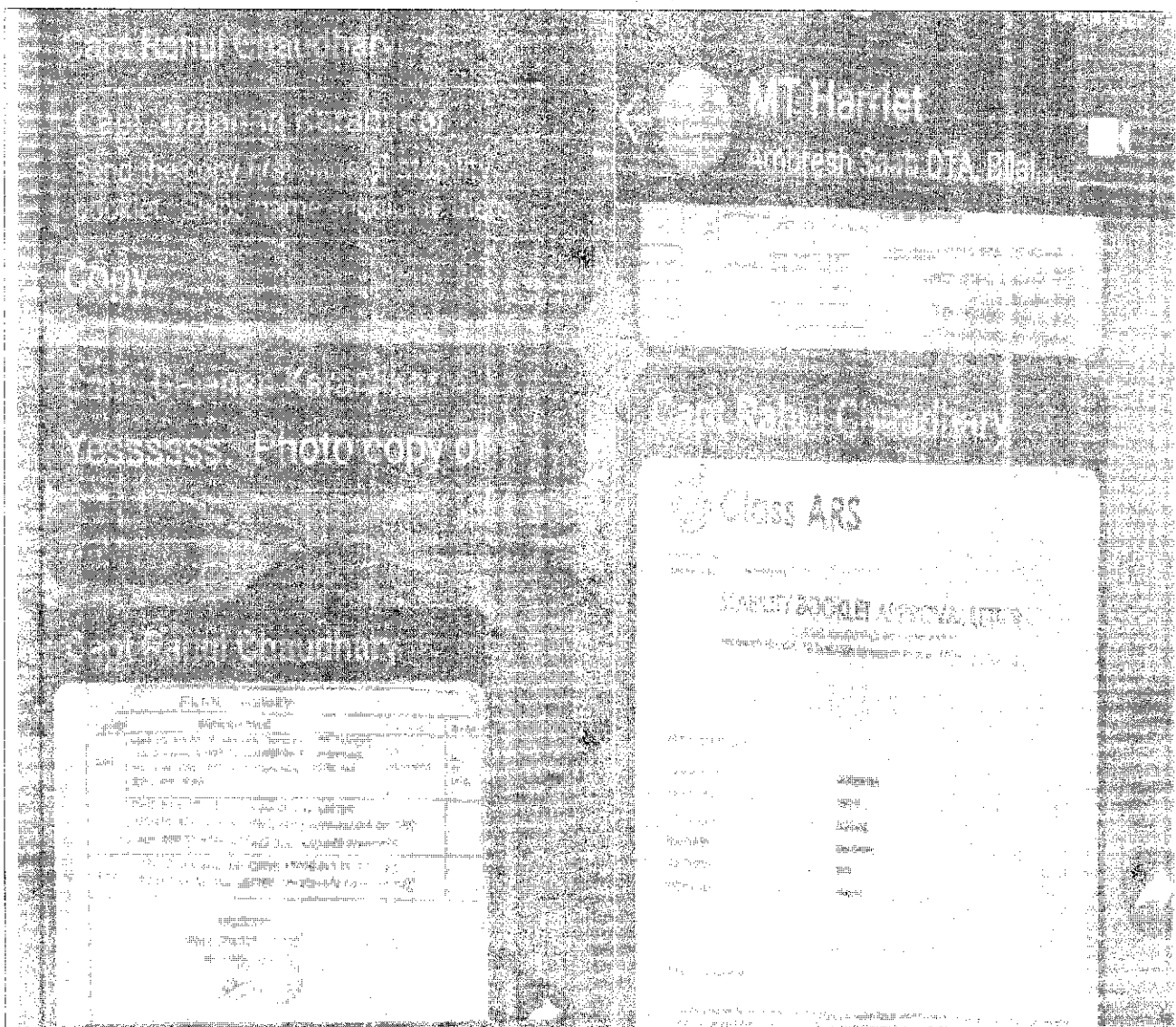
### 31. Digital Evidences

**31.1** Various whats-app chats were recovered from the digital evidences showing the actual name and IMO number of the vessel. Some of the chats are shown below:-

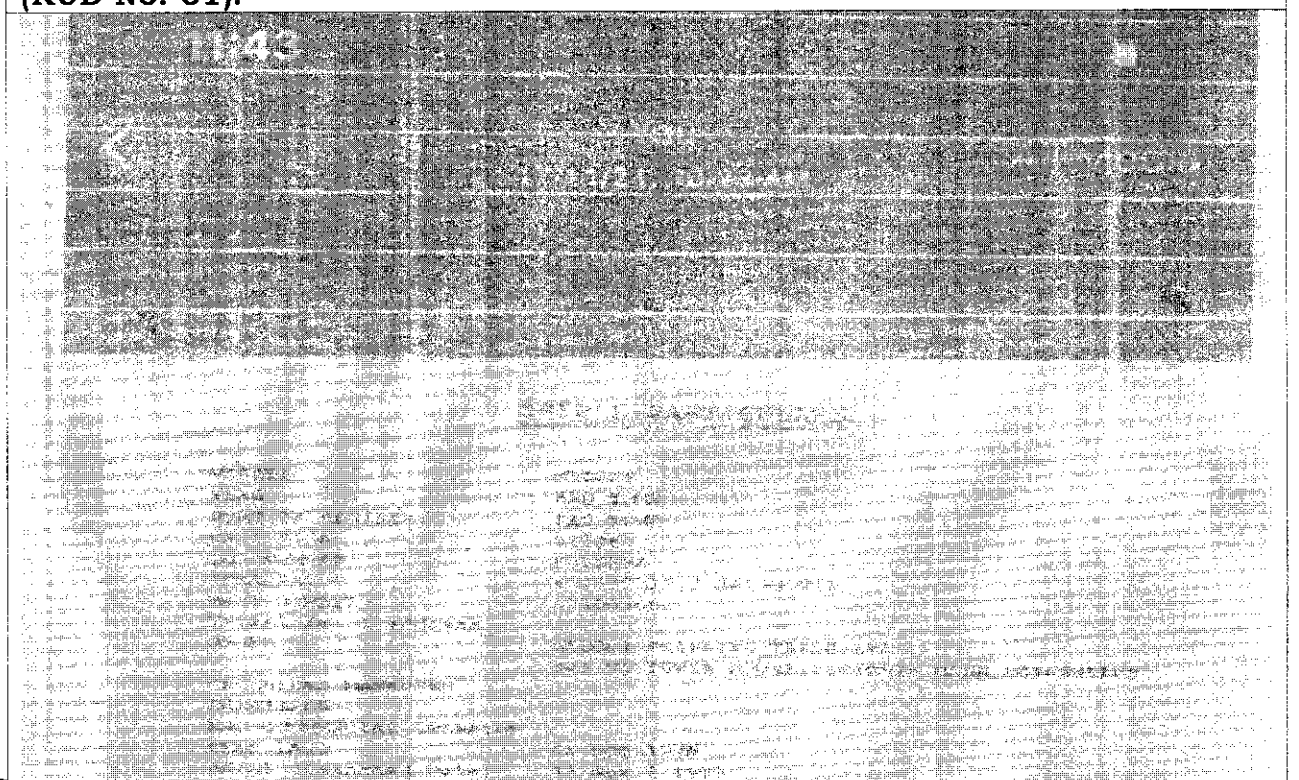


Whatsapp chat between Capt. Gajanan Karanjikar and Capt. Rahul Chaudhary sharing Gas Free Certificate issued by M/s Flots Marine Survey & Consultancy FZC in the name of MT Melody. (**RUD No.60**).





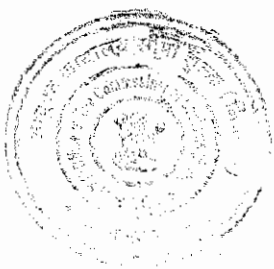
Whatsapp chat of Capt. Rahul Chaudhary sharing 'Stability Booklet Approval Letter showing name of the ship as 'Golden Sea' in the 'MT Harriet Group' (RUD No. 61).



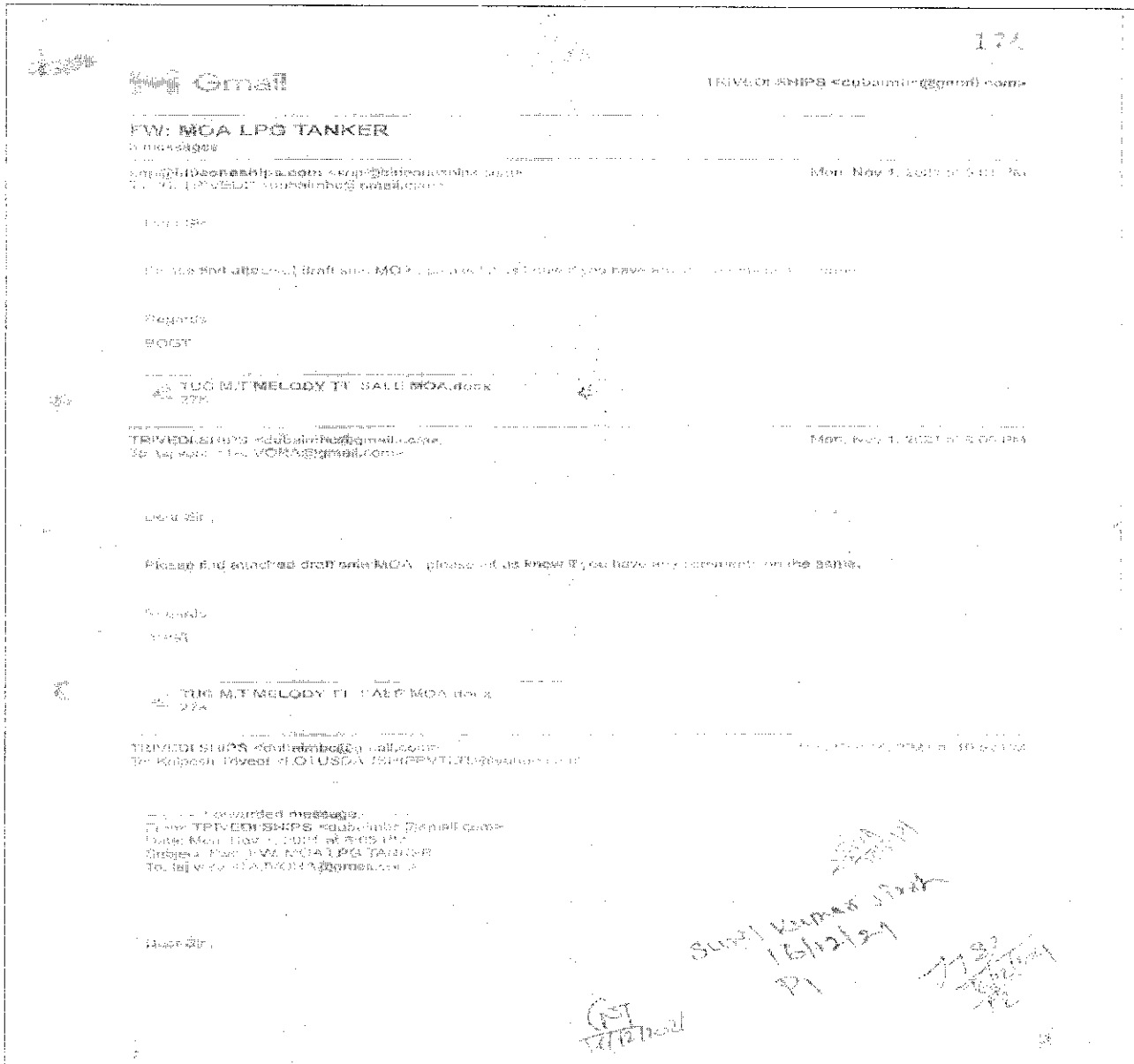
Whatsapp chat of Captain Rahul Choudhary dated 17.11.2021 forwarding 'Ship Particulars of MT Melody' showing name of the ship as Melody and IMO No. 8800298. (RUD No. 12).



|                                                                                                                                                                                                                                           |                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                           |                                                                                                                                                                                        |
| <p>Whatsapp chat between Shri Chirag Trivedi and Shri Soham S. Narayan, wherein Chirag is mentioning the actual name of the vessel as LPG Melody showing that he was aware of the actual vessel that is imported. <b>(RUD No.62).</b></p> | <p>Whatsapp chat between Shri Chirag Trivedi and Captain Azamuk dated 20.10.21 wherein Shri Chirag is seen asking Azamuk to check the sanctions on the vessel Melody.(RUD No. 30).</p> |
|                                                                                                                                                                                                                                           |                                                                                                                                                                                        |
| <p>Whatsapp chat between Shri Chirag Trivedi and Yashr Aussie dated 20.10.21, reflecting pdf titled Melody Inspection.(RUD No. 32).</p>                                                                                                   |                                                                                                                                                                                        |

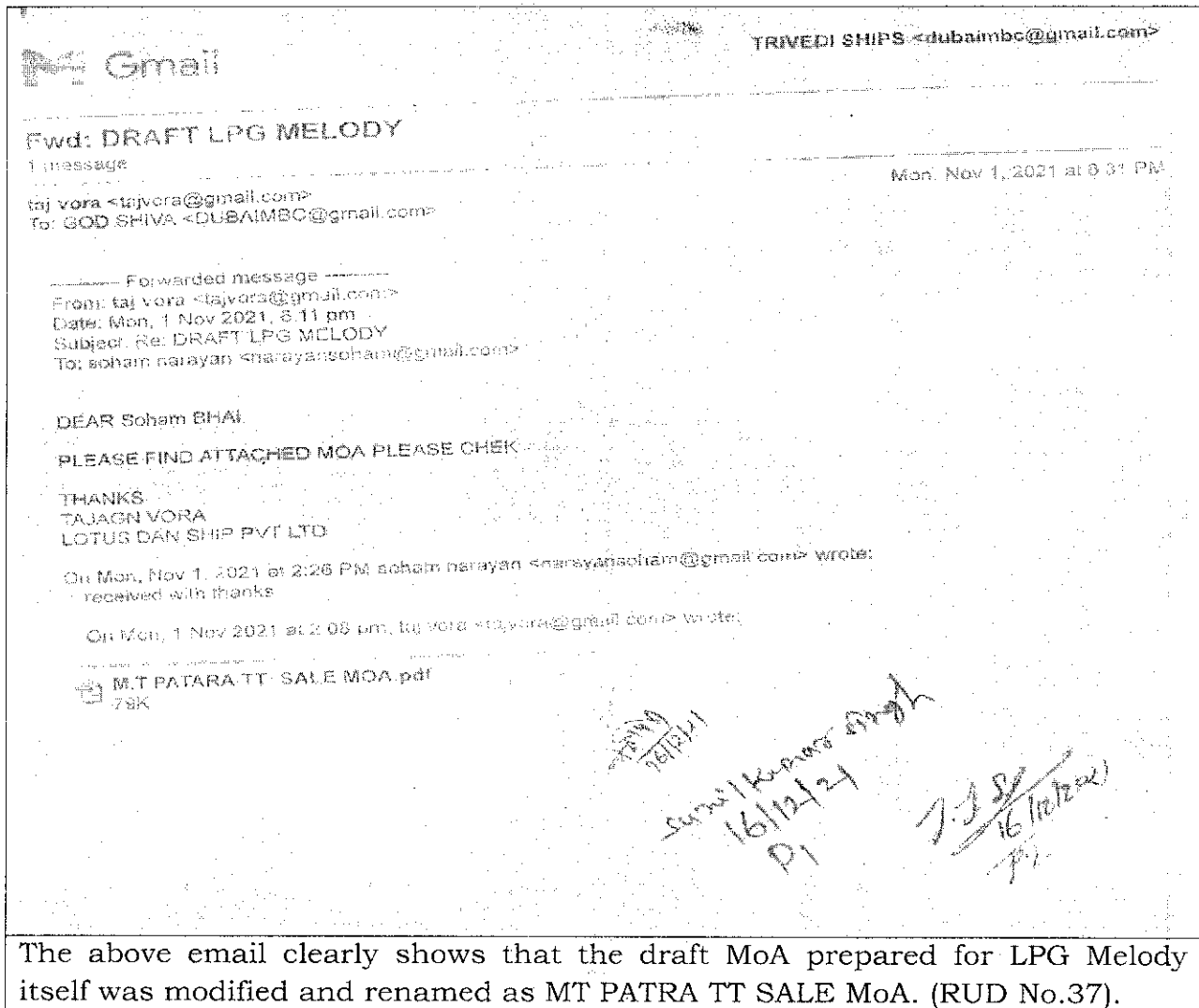


**31.2** During the search of the office premises of the Shipping Agent, M/s. Lotus Danship Pvt. Ltd., several incriminating email evidences were retrieved from the the email id of the Shipping Agent, which clearly showed that its Director, Shri Chirag Trivedi prepared the initial draft of Memorandum of Agreement for the vessel MT Melody (IMO 8800298) through his Deputy Manager, Shri Tajagn Vora. Later on, the same draft was modified to change the name of the vessel and IMO number. Screenshots of the some of the emails are reproduced below:



The name of the attachment in the above mail, viz. "TUG M.T MELODY TT SALE MOA" itself shows that all the stakeholders namely, Shri Chirag Trivedi, Shri Kalpesh Trivedi, Shri Tajagn Vora, Blue One General LLC in the mail chain are very well aware of the actual vessel, MT Melody right from the stage of draft MoA.(RUD No. 38).





The above email clearly shows that the draft MoA prepared for LPG Melody itself was modified and renamed as MT PATRA TT SALE MoA. (RUD No.37).

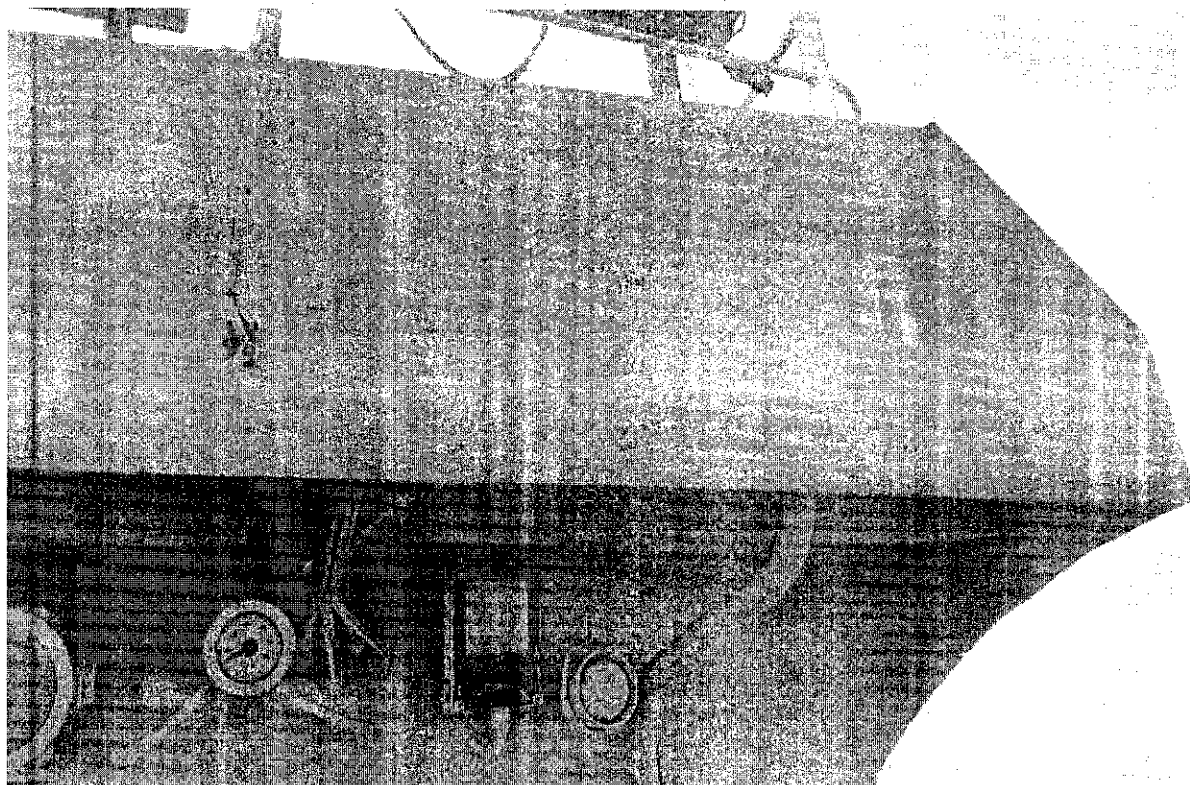
**32.** The electronics evidences such as laptops, mobiles, hard disks withdrawn from the vessel, from the office-cum-residence of M/s. Rajendra Ship Breakers Pvt. Ltd. and also from the office of the M/s. Lotus Danship Pvt. Ltd. Bhavnagar have been sent to the Directorate of Forensic Science (DFS), Gandhinagar for retrieval of the data there from. Report from DFS is still awaited in the matter. Any additional evidence retrieved from such report would be used for issuing supplementary notice.

### **33. MATERIAL EVIDENCE**

**33.1** IMO number is a unique seven-digit number that is assigned to propelled, sea-going merchant ships of 100 GT and above. The IMO number is a mandatory prerequisite for sailing through the SOLAS (Safety of Life at Sea) regulation XI/3 which was adopted in 1994. SOLAS regulation XI-1/3 requires ships' identification numbers to be permanently marked in a visible place either on the ship's hull or superstructure. This number remains unchanged and is never reassigned regardless of any changes concerning the ship's owner, country of registration, name or transfer to other flags.

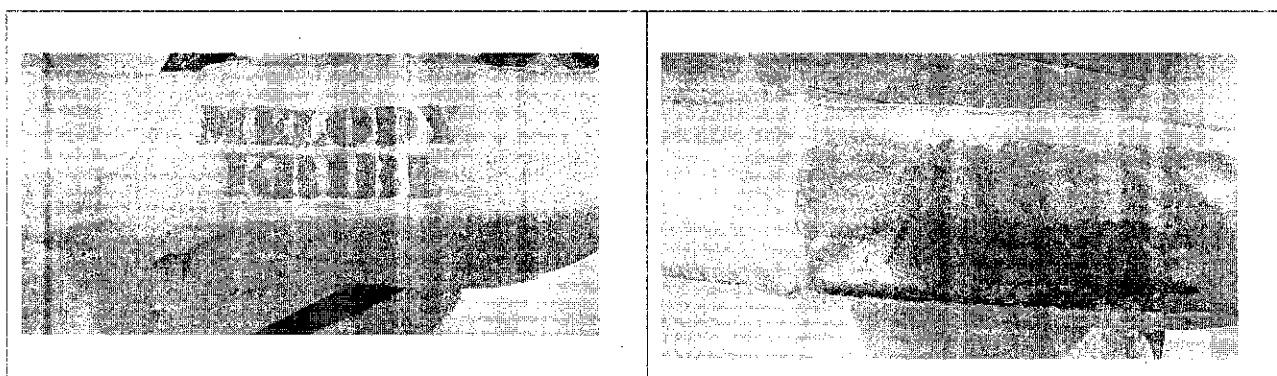
**33.2** During the rummaging of the vessel, it was found that the IMO number written on the ship's superstructure was overwritten with paint (RUD No.8). The picture of the same is shown below:





On enquiry with the Master of the vessel, he admitted that he had overwritten the original IMO number on the vessel in order to hide the actual identity of the vessel.

**33.3.** During the course of Panchnama dated 11/12.12.2021, drawn on the the vessel declared as 'MT Harriet', two life jackets (**RUD No. 63**) were recovered, wherein the name of the vessel MT Melody was written on one and the same was painted with black in the other. The photographs of both the life jackets are shown as under:-



### ORAL EVIDENCES

**34.1.** The Captain of the vessel **Shri Rahul Choudhary**, in his the statement dated 12.12.2021 recorded on 11.12.2021 (RUD No. 5), admitted to have taken over the charge of vessel MT Melody having IMO No. 8800298' on 15.11.2021 from Sharjah inner anchorage (Mina Khalid Port) and was given Port Clearance No. MK/2021=31003 dated 23.11.2021 issued to the vessel MT Melody from Port Khalid (RUD No. 06). He also admitted that the Sail Clearance Certificate dated 23.11.2021 (RUD No. 07) issued by Sultanate of Oman, Royal Oman Police, DG of Customs reflecting name of the vessel as MT Harriet and IMO Number as 8716514, has been provided to him by Capt. Gajanan Karanjikar and the documents/materials belonging to the vessel MT



Melody were returned back to the DTA - 5 boat that had come to deliver the port clearance certificate at Port Mina Khalid, UAE.

**34.2.** He accepted that tampering has been done with the IMO No. of the vessel by earasing the originally painted IMO number and writing the fake IMO number on the vessel with paint, by applying paper stickers mentioning fake name overwriting the original everywhere in the vessel. (RUD No. 8 & 9). He also admitted to the fact that the Automatic Identification System (AIS) of the vessel was functional till 27.11.2021 and during the voyage, on receipt of the settings to amend/change the AIS (RUD No.11), he changed the system to reflect the fake IMO No. This fact had also been verified from the copy of Bridge Log/Bell Bell wherein, it has been entered that the AIS was kept off with effect from 28.11.2021 (RUD No. 59). Further, from his mobile phone crucial evidence establishing the identity of the vessel were retrieved viz 'Ship Particulars of MT Melody' (RUD No. 12) and 'Stability Booklet Approval Letter showing name of the ship as 'Golden Sea' (RUD No. 10).

**34.3.** He admitted that the LPG tanker Melody (IMO 8800298) was one of many vessels that has continued to call on Syria despite U.S. and European sanctions, as mentioned in the news article dated 28 December 2020 titled 'The Tale of Two Tankers and the Art of Sanctions Busting'.

**35.** In his statement dated 16.12.2021 (RUD No. 25), **Shri Anthony Brooks**, has stated that, on 03.12.2021, a mail regarding pre-arrival of a vessel 'Happy Girl/ Sunny Girl' (ex-name of MT Melody) was received on the authorized mail ID of M/s. Lotus Danship (Pvt.) Ltd., Bhavnagar [lotusdanshippvtltd@yahoo.com](mailto:lotusdanshippvtltd@yahoo.com), with subject 'Stability copy' with an attachment in the name of 'Harriet Stability'. There was no mention/stamp of the vessel name, MT Harriet in the booklet. He stated that initially he was not aware about the mis-declaration of the vessel, MT Melody with IMO No. 8800298 and that he was just following the directions of Shri Chirag Narendrabhai Trivedi.

**36.** In his statement **Shri Kalpesh Trivedi**, one of the Directors of M/s. Lotus Danship Pvt. Ltd., recorded on 16.12.2021 (RUD No. 26), agreed that the IGM No. 2298394 dated 06.12.2021 was filed by his firm M/s. Lotus Danship Pvt. Ltd. He also agreed with the contents of Panchnama dated 10/11.12.2021 and statement of the Captain recorded on 12.12.2021, that the actual LPG tanker imported was MT Melody having IMO No. 8800298 and not MT Harriet with IMO 8716514. Also, from the e-mail (ID [dubaimbc@gmail.com](mailto:dubaimbc@gmail.com)) dated 14.12.2021, a pdf attachment titled as '**Tug MT Melody**' was retrived containing the details of MT Patra (later re-named to MT Harriet). He accepted that he was aware that changing IMO number of the vessel was illegal and it could attract legal actions under the Customs Act, 1962.

**37.** **Shri Tajagn Vora**, Deputy Manager of M/s. Lotus Danship Pvt. Ltd. Bhavnagar in his statement dated 16.12.2021 recorded under Section 108 of the Customs Act, 1962 (RUD No. 28) has stated that Shri Chirag Trivedi had asked him to prepare draft MOA of the LPG Tanker MT Melody arriving from seller M/s. Blueone General Trading LLC, UAE and accordingly, he prepared the draft MOA in the name of the vessel MT Melody. The MOA was forwarded to Shri Soham Narayan on his e-mail ID [sohamnarayan@gmail.com](mailto:sohamnarayan@gmail.com) and on 01.12.2021, he received a mail from M/s. Blueone General Trading LLC, UAE along with draft MOA of 'MT Patra', which was the edited file of same word file of



MOA of MT Melody. He further said that, on 05.11.2021, Shri Anthony Ronald Brooks showed him the copy of the agency appointment letter, registry and 'Final Trim & Stability Booklet' in the name of the vessel MT Harriet (IMO 8716514). Thereafter, Shri Tajgan Vora came to know from Shri Chirag Trivedi that the vessel MT Melody was actually a OFAC sanctioned vessel and therefore was declared as MT Harriet with IMO 8716514. He admitted that he had abetted in the act of mis-declaration of the name and IMO number of the vessel and violated the provisions of the Customs Act, 1962.

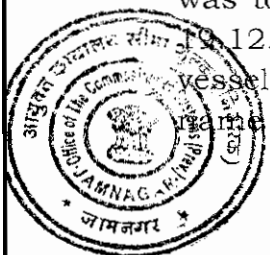
**38. Shri Soham Sunil Narayan** in his statement recorded under Section 108 of the Custom Act, 1962 on 16.12.2021 (RUD No. 35) has stated that the draft MOA was initially submitted for the vessel MT Melody and at the finalization stage, the name of the vessel was changed to MT Harriet.

**38.1.** Further, in his statement recorded on 18.12.2021 (RUD No. 39), Shri Soham Sunil Narayan has also confirmed that he knew in advance that the actual vessel was MT Melody. He also stated that he and his father Shri Sunil Narayan had taken the printout of the draft MOD (file name MT Patra TT Sale MOA.pdf) (RUD No. 37) to the office of M/s. Rajendra Ship Breakers Pvt. Ltd., where Shri Rajendra Gupta in the presence of his son Shri Anish Gupta had corrected the draft MOA.

**38.2.** Shri Soham Sunil Narayan, also explained the e-mail chain on the subject 'Draft LPG Meledy' retrieved from his gmail ID narayansoham@gmail.com in which tajvora@gmail.com (Mr. Tajagn Vora) had sent email to him forwarding the pdf file named 'Tug MT Melody TT Word Document' at 02.08 PM on 01.11.2021 (RUD No.38). He stated that first file "Tug MT Melody TT Word Document" was prepared by Tajagn Vora of M/s. Lotus Danship Pvt. Ltd. The same was forwarded to M/s. Blueone General Trading LLC by Shri Tajagn Vora. He further stated that second file "MT Patra TT Sale MOA.pdf" (RUD No. 35) received by him from Shri Tajgan at 06:11 PM on 01.11.2021 was the draft MOA modified for the vessel MT Patra, with certain changes.

**39. Shri Rajendra Gupta**, the authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd. in his statement dated 18.12.2021 (RUD No. 44) has also admitted that on 01.11.2021 Shri Soham Narayan and Shri Sunil Narayan visited his residence-cum-office with draft MOA. In the draft agreement certain changes were made as per discussion with the duo and with his son Shri Anish Gupta. He further stated that after 3 to 4 hours, Shri Soham Narayan visited his office with 06 sets of unsigned Memorandum of Agreement as per his advice. Thereafter, he signed the Memorandum of Agreement on 02<sup>nd</sup> November 2021.

**40. Shri Sunil Narayan**, (Proprietor of M/s. Team World) in his statement dated 16.12.2021, (RUD No. 40) has stated that there was misdeclaration in the IGM No. 2298398, dated 06.12.2021. He added that the owners of the vessel viz. M/s. Blue One General Trading LLC, Dubai obtained various certificates by manipulating the facts and based on that they managed to change IMO of the vessel; that the vessel was under sanction list of OFAC, the purpose of changing the name and deleting the IMO number from MOA, was to hide the actual identity of the vessel. Further, in his statement dated 19.12.2021 (RUD No. 41) with respect to draft MOA dated 01.11.2021 for the vessel MT Melody retrieved from his son, Shri Soham Narayan's mobile in the name "TUG M.T. MELODY TT Word Document", he stated that the same was



prepared by Shri Tagjan Vora on his directions, whereas, the second file **MT Patra TT Sale MOA.pdf** was the same draft modified for the vessel MT Patra with minors changes, such as change in the name of the vessel, port of registry from Kribi to Moroni, removal of ex-name Golden Sea and IMO No. 8800298 etc.

**40.1.** He also stated that Shri Rajendra Gupta in the presence of his son Shri Anish Gupta had made/suggested certain corrections in draft MOA prepared by Shri Tagjan with the file name **"TUG M.T. MELODY TT Word Document"**. His statement also supports the fact that the vessel declared in the import documents was not the same as declared.

**41.** In statement of **Shri Chirag Trivedi**, (Director of M/s. Lotus Danship Pvt. Ltd.) dated 16.12.2021 (RUD No.29), recorded under section 108 of the Customs Act, 1962, he admitted the fact that there was mis-declaration in the IGM No. 2298394 dated 06.12.2021 and that it was in his knowledge that the vessel declared as 'MT Harriet with IMO 8716514' was actually 'MT Melody with IMO No. 8800298', which was under US Treasury OFAC sanction. Further, retrieval of screenshot/whatsapp chats from his mobile viz chat dated 20.10.21, with Yashr Aussie reflecting pdf titled Melody\_Inspection\_a\_at\_Dubai\_OPL\_Sept\_09\_2021, chat dated 20.10.21 (RUD No. 31), chat with Captain Azamuk asking to check sanction in response to pdf titled Melody\_Inspection\_a\_at\_Dubai\_OPL\_Sept\_09\_2021 (RUD No.30) and attachment of whatsapp message of Captain Azamuk Pdf file titled 'Melody\_Inspection\_a\_at\_Dubai\_OPL\_Sept\_09\_2021' (RUD No. 32), also establishes that the vessel declared on importation in the documents including bill of entry was actually MT Melody, not the same as declared and that Shri Chirag Trivedi was well aware of the sanction and misdeclaration.

**42.** Shri Chirag Trivedi in his statement 20.12.2021 (RUD No. 41) admitted that the draft MOA dated 01.11.2021 for the vessel MT Melody retrieved from Shri Soham Narayan's mobile under file name "TUG M.T. MELODY TT Word Document" was prepared by Shri Tagjan Vora on the directions of Shri Sunil Narayan (RUD No. 38), whereas, the second file was same as the first except for the changes such as vessel name from **MT Melody to MT Patra**, flag from Comoros to Union of Comoros, port of the registry from KRIBI to MORONI, removal of ex-name 'Golden Sea' & IMO No. 8800298, lump-sum price from AED 3998000 to AED 4760112 etc. made/suggested by Shri Rajendra Gupta in the presence of Shri Anish Gupta, Shri Sunil Narayan and Shri Soham Sunil Narayan.

**43.** In his statement 31.12.2021 **Shri Raju Annappa Bhanuse**, Director of M/s. **ABB Ship Management Pvt. Ltd.** (RUD No. 46), has admitted that initially, Mr. Melville D'souza of M/s. DTA, Dubai had approached him for supply of crew to the vessel MT Melody. Thereafter, on 09.11.2021, Mr. Melville D'souza communicated the vessel name as MT Patra through whatsapp message. Mr. Melville D'souza had also suggested the name of Captain Rahul Choudhary in respect of the said vessel for demolition purpose at Alang, Bhavnagar; that no written agreement at the time of supply of crew for MT Melody (declared as MT Harriet) was executed. All the crew was supplied without any written agreement for M/s. Blue One General Trading LLC, UAE.

**44.1.** **Shri Asif Khanda**, owner of M/s. Blueone Genral Trading LLC, Dubai and seller of the alleged vessel, in his statement recorded under Section

108 of the Customs Act, 1962 on 21.02.2022 (RUD No. 47), on going through panchnama dated 11/12.12.2021 and statement of the Captain Rahul Choudhary dated 12.12.2021, admitted that there was mis-declaration of the identity of the vessel. He admitted that as per pictures, the actual IMO No. is 8800298 and name of the vessel was 'Golden Sea' (Ex-name of the MT Melody)'.

**44.2.** He stated that he had no idea about the change in the IMO No. and that if there was any change in IMO the same might have been made before he purchased the vessel. He stated that he was aware of only one port clearance which was issued at Port Mina Khalid, UAE and the vessel started her voyage from Sharjah outer anchorage on 23.11.2021 to Alang.

**45.** It appeared that the MOA dated 04.11.2021 in respect of MT Harry (IMO 8716514) executed between M/s. Melody Shipping Trade Ltd., Syecelles and M/s. Tyron Shipping Ltd., Marshall Islands (**RUD No. 64**) and MOA dated 08.11.2021 in respect of vessel M.T. Patra (IMO 8716514) executed between M/s. Tyron Shipping Ltd., Marshall Islands and M/s. Blue One General Trading LLC, Dubai, (**RUD No. 65**) were signed by the concerned parties on 04.11.2021 & 08.11.2021 respectively. Whereas the MOA between M/s. Rajendra Ship Breakers Pvt. Ltd. (Buyer) and M/s. Blue One General Trading LLC, Dubai was executed on **02.11.2021** which is prior to finalization of both the above MOA's.

**46.1.** In his statement **Shri Anish Gupta**, authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd. recorded on 14.12.2021 (RUD No. 19), had accepted the fact the vessel imported as MT Harriet with IMO 8716514 was actually MT Melody with IMO No. 8800298. With regard to recovery of two Certificates of 'Ownership and Non-Encumbrance' having same Certificate No. 21/NEC/120150/0263 but having different dates i.e., 23 November 2021 and 10 December 2021 issued by the Union of Comoros in the name of vessel 'MT Harriet' having IMO No. 8716514, he was unable to explain the reasons for the same. However, he stated that both the certificates were received from Shri Sunil Narayan.

**46.2.** In his statement dated 17.12.2021 (RUD No. 42) he admitted that Shri Rajendra Gupta, authorized signatory of the M/s. Rajendra Ship Breakers Pvt. Ltd., in the presence of Shri Soham Narayan and Shri Sunil Narayan, had made certain changes/corrections in the draft MOA dated 01.11.2021. He also stated after knowing the vessel imported by them was MT Melody (IMO 880298) not MT Harriet (IMO 8716514), they filed refund application before the Customs Authorities for the duty paid against the prior BE NO. 6604371 dated 09.12.2021, on the grounds the ship imported by them was different and the vessel had been seized by the DRI.

**46.3.** Shri Anish Gupta in his statement dated 17.05.2022 (RUD No. 50) has stated that he agreed with statements of Shri Asif Khanda recorded on 21.02.2022, 22.02.2022. He also stated that he came to know about the actual identity of the vessel MT Melody (IMO No. 8800298), when he went through the panchnama dated 11/12.012.2021 and some evidences/photographs during the time of recording of his statement dated 14.12.2021.

With regard to the reasons for accepting the vessel as 'MT Harriet' (IMO 8716514), in spite of knowing the fact the vessel was actually 'MT Melody' (IMO 8800298)' in his statement dated 17.05.2022, he stated that Shri Asif



Khanda approached him personally and informed that he had paid penalty of Rs. 03 Crores and also submitted bond of ship value and the vessel MT Harriet got all necessary clearance, so he accepted the vessel. He submitted that he would submit all necessary documents in support of his claim, however, he failed to submit any documents in support of his claim. He also informed that no fresh Memorandum of Agreement was executed between M/s. Rajendra Ship Breakers Pvt. Ltd. and M/s. Blueone General Trading LLC, with correct name and IMO no. of the vessel i.e., MT Melody with IMO No. 8800298.

#### **OTHER EVIDENCES**

**47.** Apart from the evidences as discussed above, some more documents were also resumed from the office premises of the Shipping Agent, Importer etc., during the investigation which are also vital in establishing the true identity of the vessel and the mensrea of the stakeholders. The said documents are listed below:

| <b>S. No.</b> | <b>Particular of Documents</b>                                                                                                                                                                                                                                                                                                                                                                                                          | <b>RUD No.</b> |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| (i)           | Documents & correspondences such as 'letters issued to Crew Manager', 'store lists', 'cash/accounts & slopcheck' reports, 'crew sign off salary payment receipts the previous crew' <b>'bunker sounding table'</b> etc. <b>having the stamp of actual name of the vessel as 'Melody/Golden Sea/Sunny Girl'.</b>                                                                                                                         | <b>66</b>      |
| (ii)          | Printout of the Bridge Equipment Report issued at Sharjah Anchorage dated 15.11.2021 which belongs to the vessel MT Melody                                                                                                                                                                                                                                                                                                              | <b>67</b>      |
| (iii)         | Various drawing/arrangement viz. Arr'mt of Radio Room and Electric Shop, Magnetic Compass, Anemometer & Anemoscope, Halon Free Extinguishing System, Schematic Arrangement Piping and Nozzle Arrangement, Enginer Flat Deck Group, Control Panel Bridge, CO2 Fire Extinguishing System and Radar Equipment (S Band DWG.). The same pertains to the ship having hull No. 634 (H-634) and the name of the vessel as <b>'Sunny Girl'</b> . | <b>68</b>      |
| (iv)          | Certificate dated 25.11.2021 by M/s. Blue one General Trading LLC. Self-declaration that MT Harriet (IMO No. 8716514) is not under any sanction.                                                                                                                                                                                                                                                                                        | <b>69</b>      |
| (v)           | Certificate dated 20.11.2021 addressed to M/s. Blue One General Trading LLC, Dubai by M/s. Tyron Shipping Ltd., Marshall Islands in respect of vessel name 'Harriet'.                                                                                                                                                                                                                                                                   | <b>70</b>      |
| (vi)          | Letter of Undertaking dated 20.11.2021 issued by M/s. Tyron Shipping Ltd. to M/s. Blue One General Trading LLC.                                                                                                                                                                                                                                                                                                                         | <b>71</b>      |
| (vii)         | Commercial Invoice No.01 dated 21.11.2021, issued by M/s. Melody Shipping Trade Ltd., Seychelles to M/s. Tyron Shipping Ltd., Marshall Island which lacks IMO No. and name of the vessel.                                                                                                                                                                                                                                               | <b>72</b>      |
| (viii)        | Duly filled copy of application dated 18.11.2021 for the registration of vessel in Union of Comoros, wherein Present Port of Registry was mentioned as <b>'CAMEROON'</b> .                                                                                                                                                                                                                                                              | <b>73</b>      |
|               | Other ship drawing/arrangement design/plans viz. Arr'mt of Radio Room and Electric Shop, Magnetic Compass,                                                                                                                                                                                                                                                                                                                              | <b>74</b>      |

|                                                                                                                                                                                                                               |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Anemometer & Anemoscope, Halon Free Extinguishing System, Schematic Arrangement Piping and Nozzle Arrangement, Enginer Flat Deck Group, Control Panel Bridge, CO2 Fire Extinguishing System and Radar Equipment (S Band DWG.) |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

### **VERIFICATION OF SHIP REGISTRY AND OTHER CERTIFICATES**

**48.1.** Whereas, during the investigation of the vessel, it has been noticed that the Provisional Registration Certificate No. 21/REG/1201502/196 is issued from Moroni on 22<sup>nd</sup> November 2021, by Mr. Said Salim, Registrar, Maritime Affairs Department, **Union of Comoros**. In order to establish the identity and ownership of the vessel declared as “MT Harriet” and to confirm the genuineness of the provisional registration certificate No.21/REG/1201502/196 dated 22.11.2021 in respect of vessel declared as “MT Harriet” mails dated 08.02.2022, 01.03.2022, 20.04.2002 and 07.10.2022 were sent to official e-mail ID ([info@comorosmaritime.org](mailto:info@comorosmaritime.org)) of Maritime Affairs Department, Union of Comoros,.

**48.2.** In reply to the mail dated 07.10.2022, Mr. Ayaz Burd, Permanent Maritime Advisor, Union of Comoros vide e-mail dated 07.10.2022 replied that the “The Administration confirms that the M.T. Harriet IMO No. 8716514 **is not registered** under Comoros Flag. He further reported that the Call sign, Official Number and MMSI Number is obsolete in their data base. (**RUD No. 75**).

**48.3.** The reply from Maritime Affairs Department, Union of Comoros confirms the fact that the vessel ‘declared as MT Harriet with IMO 8716514’ was not registered with Maritime Affairs Department, Union of Comoros and the documents submitted by the importer were forged and fabricated ones.

**49.1.** The vessels have ‘**Call Sign**’ (designated sequence of letters and numbers that are assigned when a vessel receives it’s ‘Ship Radio Licence’), the purpose of the Call Sign is to identify vessels. Sometimes vessel names may be similar or the same, but the Call Signs help in identifying the exact vessel. The vessels also have ‘**MMSI No.**’ (**Maritime Mobile Service Identity Number**) which is also unique for a vessel. It can be regarded more or less as a phone number for maritime purposes.

**49.2.** On verification of the Call Sign and MMSI no. from [www.equasis.org](http://www.equasis.org) the Call Sign “**D6HD5**” and MMSI No. “**616999226**” are assigned to “**M.T. Melody having IMO No. 8800298**” (**RUD No. 76**). Whereas, as per the Provisional Registration Certificate, Provisional Minimum Safe Manning Document and Provisional Ship’s Radio Licence submitted/collected by the importer, seller, Captain of the vessel and shipping agent in respect of ‘**MT Harriet IMO 8716514**’ the Call Sign is ‘**D6HD5**’ and MMSI No. is ‘**616999226**’ which are same as that of ‘**M.T. Melody**’. As Call Sign and MMSI No. are unique identifiers for the vessels, the possibility of another vessel having same ‘**Call Sign**’ and ‘**MMSI No.**’ is ‘**Nil**’.



**CONFIRMATION OF THE IMO NO. OF THE VESSEL BY IMO**

**50.1.** According to **International Maritime Organisation (IMO) Ship Identification Scheme**, the IMO number is a unique seven-digit number that is assigned to propelled, sea-going merchant ships of 100 GT and above. The IMO number is a mandatory prerequisite for sailing through the **SOLAS (Safety of Life at Sea) regulation XI/3** which was adopted in 1994. **SOLAS regulation XI-1/3** requires ships' identification numbers to be permanently marked in a visible place either on the ship's hull or superstructure. This number remains unchanged and is never reassigned regardless of any changes concerning the ship's owner, country of registration, name or transfer to other flags.

**50.2.** Therefore, to ascertain the true identity of the imported vessel declared as 'M.T. Harriet', a mail dated 21.03.2022 alongwith copies of some of the drawing/arrangement plans collected during the course of the Panchnama dated 11/12.12.2021 (reflected at Srl (vii) of the table) was sent to **IHS Maritime & Trade, UK, (e-mail ID [ship.imo@ihsmarkit.com](mailto:ship.imo@ihsmarkit.com))**. **IHS Maritime & Trade, UK** are the sole and originating source for the international Maritime Organization (IMO) Ship Company and Register Owner number scheme, with responsibility for assigning and validating these numbers. **IHS Maritime** vide mail dated 22.03.2022 confirmed that the information provided in the said mail referred to the vessel with IMO number 8800298 built by Hyundai Heavy Industries in Ulsan under hull number 634. **(RUD No. 77)**.

**50.3.** **IHS Maritime** also informed that the ship for a time had false Tanzanian (Zanzibar) registration in the name of **Golden Sea**, that afterwards, it had Comoros registration; that when the vessel name changed to **Melody in Oct 2019**, it had the flag of **Cameroon**; then it reverted back to **Comoros** in November 2021. Therefore, it appeared the import of said vessel namely MT Harriet with IMO No. 8716514 was based on false declaration and forged and fabricated documents.

**50.4.** Thus, from the reply, it can be found that the actual vessel that is imported in the instant case is MT Melody with IMO 8800298 which has a history of fabricating the documents and obtaining false registries.

**CONTRAVENTIONS AND CHARGES****Willful Misdeclaration:**

**51.1.** Under the provisions of the **Section 30** of the Customs Act, 1962, the person in charge of a vessel or aircraft or a vehicle carrying imported goods or any other person in this behalf shall deliver to the proper officer arrival manifest or import manifest of the vessel. The person while delivering the arrival manifest or import manifest shall declare as to the truth of its contents.

**51.2.** From the investigation, it appeared that the Shipping Agent, M/s. Lotus Danship Pvt. Ltd. was aware about the actual vessel to be imported i.e., MT Melody and its sanctions. Nevertheless, they misdeclared the identity of the vessel with a different IMO number and name in the IGM to hide the facts from the Customs Authorities.

**51.3.** Therefore, it appeared that M/s. Lotus Danship Pvt. Ltd. have deliberately contravened the above said provisions by delivering incorrect



import manifest with fraudulent intention to hide the actual identity of vessel MT Melody The relevant provisions of the said sections are as under:

**“Section 30. Delivery of [arrival manifest, import manifest] or import report-**

(1) The person-in-charge of-

- (i) a vessel; or
- (ii) an aircraft; or
- (iii) a vehicle,

carrying imported goods [or export goods] or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer [an [arrival manifest or import manifest] by presenting electronically prior to the arrival] of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in [such form and manner as may be prescribed] and if the [arrival manifest, import manifest] or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:]

[Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to deliver [arrival manifest or import manifest] by presenting electronically, allow the same to be delivered in any other manner.]

(2) The person delivering the [arrival manifest, import manifest] or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the [arrival manifest, import manifest] or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented.”

**51.4.** Since, M/s. Lotus Danship Pvt. Ltd. have violated the provision of 30 of the Customs Act, 1962 which was their duty to comply, but for which no express penalty is elsewhere provided for such contravention or failure, they shall be liable to penalty under Section 117 of Customs Act, 1962 which 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 four lakh rupees.

During the investigation, it has also come to the notice that the shipping agent have submitted fake registration certificates and other documents like Port Clearance etc., to the Customs Authorities. Thus, it



appeared that M/s. Lotus Danship Pvt. Ltd. have knowingly and intentionally made/used declaration, statement and document which are false and incorrect. Therefore, the Shipping Agent shall be liable for penalty under **Section 114AA** of the Customs Act, 1962 which reads as under:

**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.

**52.1.** Vide Finance Act, 2011, “Self-Assessment” has been introduced w.e.f. from 08.04.2011 under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill as the case may be, in electronic form, as per **Section 46 or 50** respectively. Thus, under self-assessment, it is the responsibility of the importer or exporter to ensure that he declares the correct classification, country of origin, applicable rate of duty, value, benefit or exemption notification claimed, if any in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill.

**52.2.** From the investigation, it appeared that the importer, M/s. Rajendra Ship Breakers Pvt. Ltd. was aware about the actual vessel to be imported i.e., MT Melody and its sanctions. Nevertheless, they misdeclared the identity of the vessel with a different IMO number and name in the Bill of Entry to hide the facts from the Customs Authorities.

**52.3.** Therefore, it appeared that M/s. Rajendra Ship Breakers Pvt. Ltd. have deliberately contravened the above said provisions with a malafide intention to ensure smooth financial transaction of the money in respect of United States Treasury’s Office of Foreign Assets Control sanctioned vessel. The relevant provisions of the said sections are as under:

**“Section 46. Entry of goods on importation. -**

*(4) The importer while presenting a bill of entry shall [\* \* \*] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, <sup>13</sup> [and such other documents relating to the imported goods as may be prescribed].*

*(4A) The importer who presents a bill of entry shall ensure the following, namely:-*

- (a) the accuracy and completeness of the information given therein;*
- (b) the authenticity and validity of any document supporting it; and*
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]*

**52.4.** Since, M/s. Rajendra Ship Breakers Pvt. Ltd. have violated the provision of 46 of the Customs Act, 1962 which was their duty to comply, but for which no express penalty is elsewhere provided for such contravention or failure, they shall be liable to penalty under **Section 117 of Customs Act,**



**52.5.** During the investigation, it has also come to the notice that the importer have submitted fake registration certificates and other documents like Port Clearance etc., to the Customs authorities. Thus, it appeared that M/s. Rajendra Ship Breakers Pvt. Ltd. have knowingly and intentionally made/used declaration, statement and document which are false and incorrect. Therefore, the Shipping Agent shall be liable for penalty under **Section 114AA** of the Customs Act, 1962.

**Illegal Import:**

**53.1.** It appears from the above evidences collected during the investigation and discussed in the forgoing paras that the shipping agent/importer and its syndicate knew very well that the imported vessel is actually MT Melody (IMO 8800298). As discussed above, the seller i.e., M/s. Blueone General Trading LLC, the shipping agent, broker, master of the vessel and the importer all have admitted to the fact that vessel imported as MT Harriet with IMO 8716514, was in fact MT Melody with IMO 8800298 and that but they arranged false and fabricated ship registry and other documents.

**53.2.** Further, Captain of the vessel Shri Rahul Choudhary himself admitted that he had taken the charge of the vessel, MT Melody at Port Khalid. M/s. Lotus Danship Pvt. Ltd. is a Shipping Agent' by profession and therefore by no stretch of imagination, such misdeclaration and mis-statement can be regarded as without the will and intention, especially when such misdeclaration leads to import of OFAC sanctioned vessel. Despite knowing the facts about the vessel MT Melody, it appeared that the shipping agent/importer and its syndicate have entered into a conspiracy to suppress the actual identity of the vessel, willfully mis-stated the facts in respect of identity of the vessel with an intention to ensure sale of the vessel that has been sanctioned under United States Treasury's Office of Foreign Assets Control and to ensure smooth financial transaction.

**53.3.** It is amply clear from the facts and the circumstances, enumerated in the foregoing paras and the documentary/material evidences on record, the vessel imported in the name of M.T. Harriet with IMO No. 8716514 under the Bill of Entry No. 6603471 dated 09.12.2021, is actually M.T. Melody with IMO No. 8800298. In view of the above, it appeared that the said import of vessel MT Melody by mis-declaring the actual identity of the vessel and also on the basis of fabricated/forged documents, squarely falls within the ambit of 'illegal import' as defined in **Section 11(A) (a)** of the Customs Act, 1962 in as much as the same was done in contravention of various provisions of the Customs Act, 1962.

**53.4.** Therefore, the said imported goods appear to be liable for confiscation under the provisions of Section 111(d), (f) and (m) of the Customs Act, 1962.

**Section 111.** *Confiscation of improperly imported goods, etc.: The following goods brought from a place outside India shall be liable to 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.*



(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned.

(m) any goods which do not corresponds 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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of Section 54.

**53.5.** Hence, M/s. Blueone General Trading LLC, Dubai in connivance with the shipping agent, M/s. Lotus Danship Pvt. Ltd., M/s. Rajendra Ship Breakers Pvt. Ltd. & Others appear to have effected illegal import of the vessel under the cover of forged and fabricated documents/certificates and thereby rendered the imported vessel MT Melody (IMO 8800298) liable for confiscation in terms of the provisions of **Section 111(d), 111(f) and 111(m)** of the Customs Act, 1962.

**53.6.** Further, the acts and omissions on the part of M/s. Blueone General Trading LLC, Dubai, M/s. Lotus Danship Pvt. Ltd., M/s. Rajendra Ship Breakers Pvt. Ltd. & Others have rendered themselves liable to penalty under **Section 112 and 114AA** of the Customs Act, 1962. The relevant provisions of the said sections are as under:-

**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

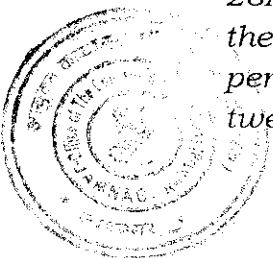
(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

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 <sup>4</sup> [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.

**Outright Smuggling:**

**54.1.** Whereas from the investigation it appeared that the actual vessel imported into Indian waters is MT Melody/Blueway with IMO 8800298 which is sanctioned by United States Department of Treasury's Office of Foreign Assets Control (OFAC) whose sanctions seem to be endorsed by the United Nations Security Council (UNSC) resolution 2231 dated 20.07.2015. Further, as per UNSC Act, 1947 of India, the Central Government may, by order published in the Official Gazette, make such provisions, as appear to it necessary or expedient for enabling those measures to be effectively applied. Accordingly, the Central Government vide **Notification No. 13/2015-2020 dated 29.06.2016** issued by the Ministry of Commerce & Industry has made the UNSC resolution 2231 (2015) applicable to India. The said order reads as under:

*"The prohibition on direct or indirect export to Iran or import from Iran of specified items is lifted. Direct or indirect export to Iran or import from Iran is now permitted subject to **UN Security Council Resolution 2231 (2015)** and IAEA specified documents."*

**54.2.** In view of the above, it appeared that the sanctioned vessel is prohibited to enter into Indian waters and therefore, falls under the definition of 'prohibited goods' under the Customs Act, 1962.

**54.3.** Thus, it appeared that, by importing the said vessel by manipulating the IMO number and name of the vessel, the importer, shipping seller and other stakeholders have involved in outright smuggling of prohibited goods by misdecailing the description to hide the actual identity of the imported goods.



Thus, the goods are liable to be confiscated under Section 111(d) and 111(f) of the Customs Act, 1962.

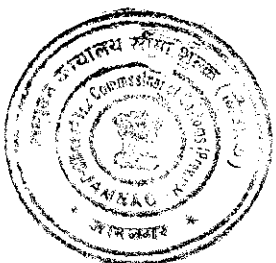
**54.4.** By these acts of omission and commission, M/s. Blueone General Trading LLC, Dubai, M/s. Lotus Danship Pvt. Ltd., M/s. Rajendra Ship Breakers Pvt. Ltd. & Others have rendered themselves liable to penalty under **Section 112** of the Customs Act, 1962

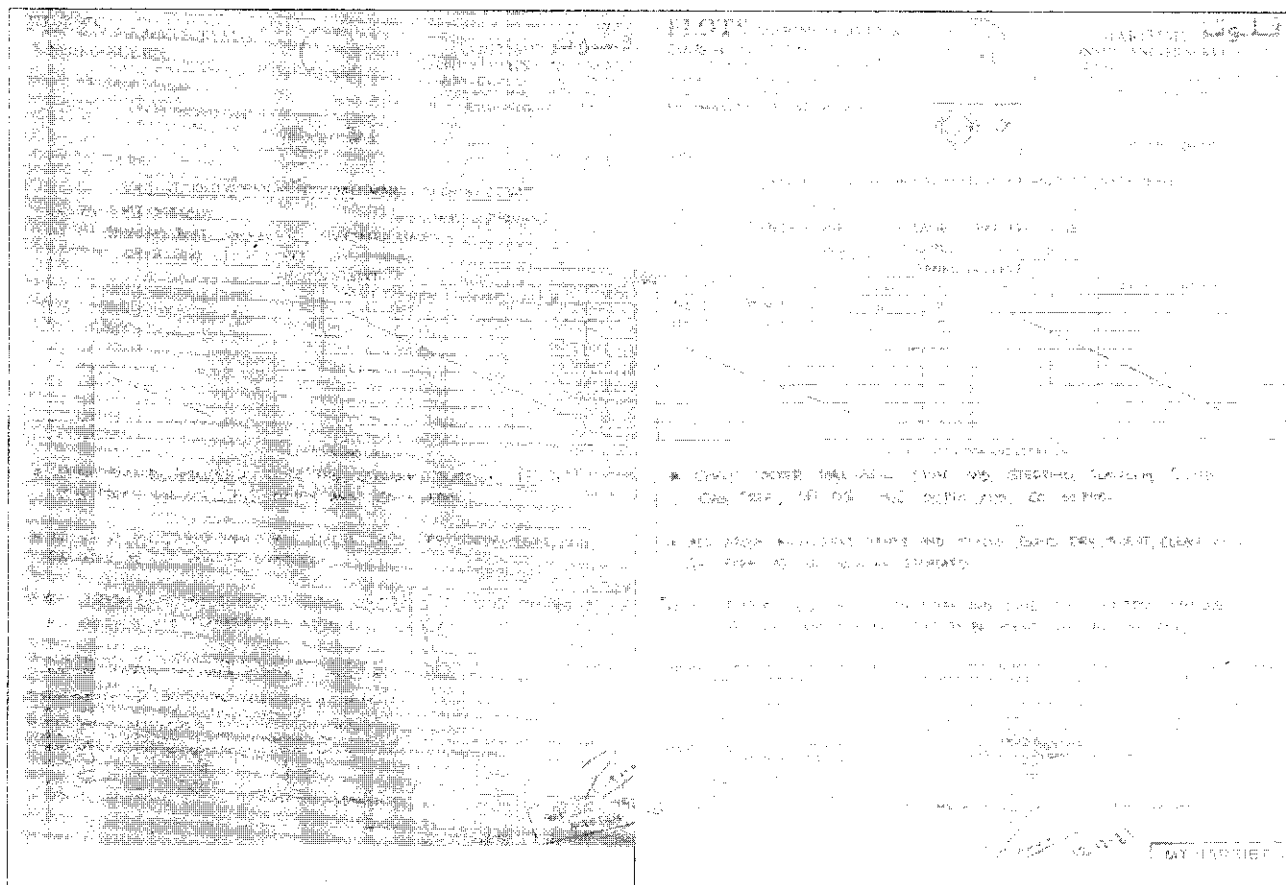
**Forgery of Documents:**

**55.1.** During the examination of the vessel, it has been revealed that documents/certificate were forged/manipulated in order to circumvent the international prohibitions and to ensure smooth financial transaction in respect of United States Treasury's Office of Foreign Assets Control (OFAC) sanctioned vessel. The Provisional Registration Certificate No. 21/REG/1201502/196, Provisional Ship's Radio Licence No. 21/SSL/1201502/236 and Provisional Minimum Safe Manning Document No. 21/MSM/1201502/235 were either forged or managed to be obtained on the basis of false and fabricated documents.

**55.2.** On verification, the National Agency of Maritime Affair (ANAM), Union of Comoros confirmed that the vessel MT Harriet with IMO No. 8716514 was not registered under Comoros flag, further the Call Sign, Official Number and MMSI No. were also obsolete in their database. From equasis data the call sign & MMSI No. as mentioned on the above provisional certificates, belongs to the vessel MT Melody having IMO No. 8800298. Thus, it appeared that the Provisional Certificate of Registry submitted by the importer and others in the name of MT Harriet with IMO 8716514 is fake and forged.

**55.3.** During the investigation, two Gas Free certificate bearing. Srl. No. 45434 (Work No. 10985/2021) dated 09.11.2021 issued by M/s. Flots Marine Survey & Consultancy FZC, UAE were recovered from the vessel. In these two certificates, one reflects the name of the vessel as 'MT Melody' and IMO No. as '8800298' and the second certificate reflects the name of the vessel as 'MT Harriet' and IMO No. as '8716514', whereas the other particulars of the both the certificates are same/identical/similar which implies that the certificate with name MT Melody is a forged document. Screenshots of both the certificates are given below.





**55.4.** Similarly, during the investigation, two port clearance certificates were recovered, one having Sail Certificate No. PTS231121179123 dated 23.11.2021 issued by DG of Customs, Oman to the vessel named as 'MT Harriet' having 'IMO No. 8716514' and another Port Clearance Certificate No. MK-2021-31003 dated 23.11.2021 issued by UAE authorities to the vessel 'MT Melody' having 'IMO No. 8800298'. Based on the facts revealed during the course of investigation, it appeared that the Sail Certificate No. PTS231121179123 dated 23.11.2021 produced by the Captain of the vessel was managed/obtained on the basis of fake and fabricated documents. **(Copy pasted in Para 30.3 above).**

**55.5.** Further, on 221.02.2022, Shri Asif Khanda of M/s. Blueone General Trading LLC had submitted the Navigation License No. **045/PRR/2020** dated **09.07.2021** issued by Republic Democratic of Sao Tome & Principe, reflecting vessel name as '**Harry**' and previous name as '**Golden Sea**' with IMO as '**8716514**' along with other ship details. **(RUD No. 78).** Whereas the Navigation License bearing the number **045/OR/2020** dated **12.10.2020** issued by Republic Democratic of Sao Tome & Principe resumed under panchnama dated 11/12.12.2021 reflects the vessel name as '**Melody**' and previous name as '**Melody**' with IMO as '**8800298**' (RUD No. 52). Further, on going through the above certificates, both certificates bear same '**Registration Number**' as '**STP-103-CA**' and same '**Call Letters**' as '**S42TK**'. Thus, it appeared that the certificate with the name MT Melody is a forged document. Screenshots of both the certificates are given below:



REPUBLICA DEMOCRATICA DE SAO TOME E PRINCIPE

MINISTERIO DO MAR E DA PESCAÇA E DA PROTECÇÃO DO AMBIENTE

INSTITUTO MARÍTIMO E PORTUÁRIO

MARITIME & PORT INSTITUTE

SECRETARIA DA NAVEGAÇÃO

NAVIGATION OFFICE

S.O. 0450R/2020

LETRAS DE CHAMADA

CALL LETTERS

S42TK

NÚMERO DE REGISTRO

REGISTRATION NUMBER

STP-103-CA

SUBSCREVERE E AUTORIZAR ESTE REGISTO DE CERTIFICADO DE NAVEGAÇÃO A EMBARCAÇÃO, CUJAS INSCRIÇÕES SÃO DESCRITAS ABAIXO.

GIVEN AND AUTHORIZE THIS REGISTRATION OF NAVIGATION CERTIFICATE TO THE VESSEL, WHOSE PARTICULARS ARE DESCRIBED BELOW.

|                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <div>NOME DO NAVIO</div> <div>NAME OF THE VESSEL</div> <div>MELODY</div> <div>NOME ANTERIOR</div> <div>PREVIOUS NAME</div> <div>CONSTRUIDAS EM</div> <div>BUILT IN</div> <div>SOUTH KOREA</div> <div>NÚMEROS DE CONVERSES</div> <div>DECK'S: 2</div> <div>MASTRO/MASTE</div> <div>MAST: 2</div> <div>CHAMINES/FUNNEL</div> <div>1</div> | <div>CARACTERÍSTICAS DO NAVIO</div> <div>PARTICULARS OF THE VESSEL</div> <div>IMO</div> <div>5980258</div> <div>EM CONSTRUÇÃO</div> <div>DATE</div> <div>1999</div> <div>MATERIAL DO CASCO</div> <div>MATERIAL OF THE HULL</div> <div>AÇO/STEEEL</div> <div>TONELAGEM/TONNAGE</div> <div>BRUTAS/GRS: 3643 mt</div> <div>LÍQUIDA/NET: 1104 mt</div> | <div>NOME E ENDEREÇO DO PROPRIETÁRIO/OWNER'S NAME &amp; ADDRESS</div> <div>MELODY SHIPPING TRADE LTD.</div> <div>706, Vitoria House, Victoria St.</div> <div>Antananarivo, Madagascar</div> <div>NACIONALIDADE ANTERIOR</div> <div>PREVIOUS NATIONALITY</div> <div>CAMEROON</div> <div>CONSTRUTORES</div> <div>CONSTRUCTORS</div> <div>HYUNDAI HEAVY INDUSTRIES LTD.</div> <div>DIMENSÃO PRINCIPAL</div> <div>MAIN DIMENSION</div> <div>COMPRIMENTO/LENGTH: 50.97 m</div> <div>BRELA/DEPTH: 15.90 m</div> <div>PONTAL/DEPTH: 6.25 m</div> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

SERVIÇO OFERECIDO PELA EMBARCAÇÃO: TANQUE DE GÁS

SERVICE GIVEN BY THE VESSEL: GAS TANKER

ORSENAÇÃO DESEMPENHO: NAVEGAÇÃO NÃO RESTRIÇA / UNRESTRICTED NAVIGATION

SISTEMA DE PROPULSÃO / PROPULSION SYSTEM

TIPO DE MOTORES: DIESEL MARINHO

TYPE OF ENGINES: MARINE DIESEL

NÚMERO DE MOTORES: 1

NUMBER OF ENGINES: 1

NÚMERO DE CILINDROS: 6

NUMBER OF CYLINDERS: 6

NOME DA FABRICAÇÃO: MAN

NAME OF MANUFACTURE: MAN

POTÊNCIA DO CAVALO: 4425.37 HP

HORSE POWER: 4425.37 HP

EMITIDA EM: 12 OUTUBRO 2020 EM SÃO TOME

ISSUED ON: 12 OCTOBER 2020 AT SAO TOME

ESTE CERTIFICADO DE REGISTRO É VÁLIDO ATÉ: 12 ABRIL 2021

THIS CERTIFICATE OF REGISTRATION IS VALID UNTIL: 12 APRIL 2021

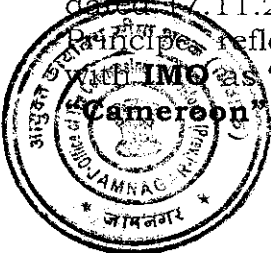
MESTRE

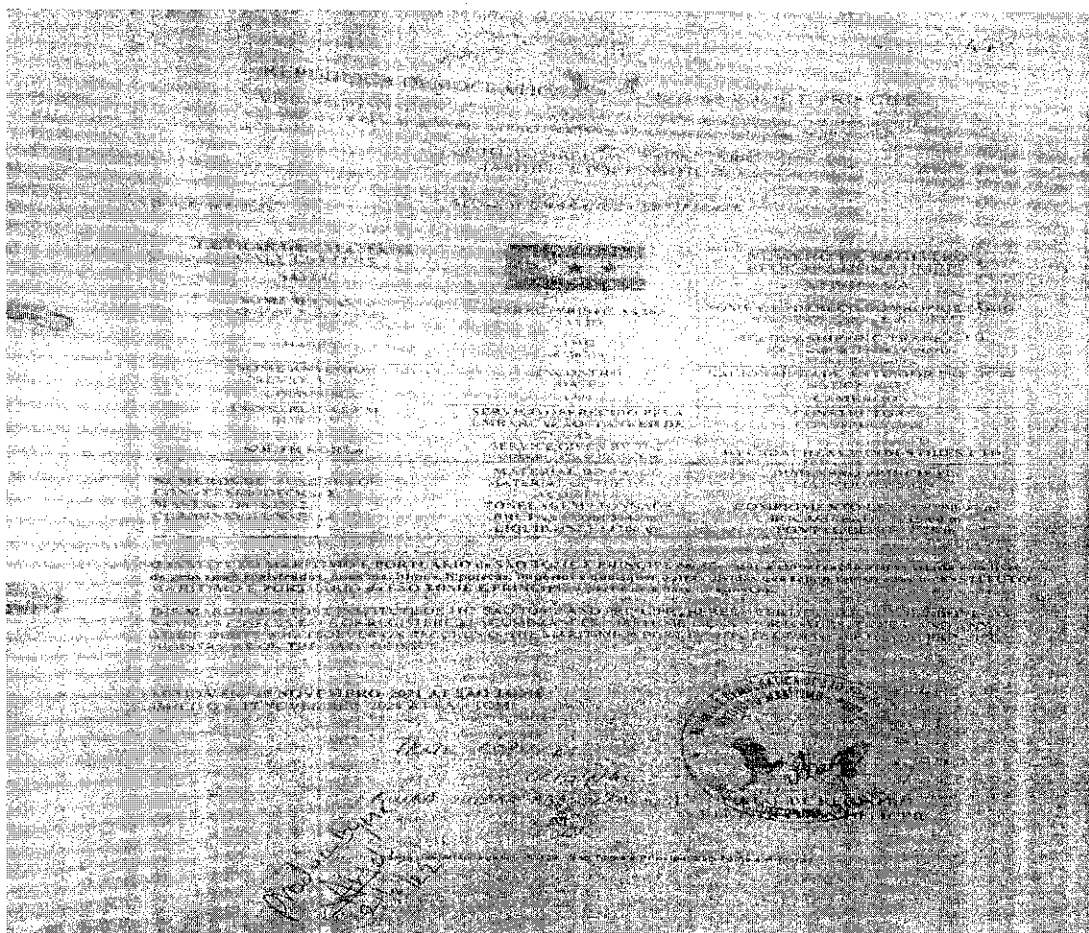
ALBERTO FRANK MELODY

DIRECTOR GERAL / DIRECTOR GENERAL

Carpa das Afundadas, C.P. 130 - São Tomé e Príncipe, São Tomé e Príncipe. Tel: +252 952 1016; Email: info@stpp.org.ao

55.6. Further, the Non-Encumbrance Certificate No. 025/NEC/2021 dated 17.11.2021 (RUD No. 79) issued by Republic Democratic of Sao Tome & Principe reflecting vessel name 'Harry' and previous name as 'Golden Sea' with IMO as '8716514' and Call Sign as "S42TK" and previous Nationality as Cameroon.





**55.7.** Whereas it is evident from other documents and certificates issued by **Alfa Register of Shipping** recovered under **Panchnama** dated 11/12.12.2021 that "Golden Sea" is the ex-name of the vessel "MT Melody" and the Call Sign mentioned as "**S42TK**" belongs to the vessel MT Melody. (RUD No.55).

**55.8.** During the search at the premises of M/s. Rajendra Ship Breakers Pvt. Ltd., two 'Certificate of Ownership and Non-Encumbrance' having same Certificate No. 21/NEC/120150/0263, but having different dates i.e. **23 November 2021** and **10 October 2021**, both issued by the Union of Comoros in the name of vessel 'MT Harriet' having IMO No. 8716514 was recovered (RUD No. 22 & 23). In Provisional Registration Certificate No. 21/REG/1201502/196 issued by Union of Comoros of the alleged vessel, the date of issuance was 22.11.21. All these indicate that the syndicate has been making fake and fictitious documents at their will to hoodwink the Indian authorities.

#### **Violations of the Handling of Cargo in Customs Areas Regulations:**

**56.1.** The Shipping Line, Shipping Agent and the persons acting on their behalf are not only expected to comply with the provisions of the Customs Act, 1962 but also various rules and regulations enacted thereunder. The definition of "Customs Cargo Services provider" reads as any person responsible for receipt, storage, delivery, dispatch or otherwise, handling of imported goods and export goods and includes a custodian. Therefore, the Shipping Line, Shipping Agent and the persons acting on their behalf are very well covered under the said definition and are therefore liable to comply with the provisions and abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder.

**56.2.** Rule 6 of Handling of Cargo in Customs Areas Regulations, 2009 clearly outlines the responsibilities of the Customs Cargo Service provider such as keeping a record of imported goods, goods brought for export or



transshipment, as the case may be, and produce the same to the Inspector of Customs or Preventive Officer or Examining Officer as and when required, keeping a record of each activity or action taken in relation to the movement or handling of imported or export goods and goods brought for transshipment, displaying or making available in any other manner, information of process or movement or handling of imported or export goods and goods brought for transshipment.

**56.3.** Whereas from the investigation, it appeared that the Shipping Agent and the persons acting on their behalf, all have contravened and violated the provisions of the Rules and Regulations and thereby are liable to be **penalised under HCCR, 2009** also in as much as they have failed to comply with the HCCR, 2009.

**Non-Compliance of the Merchants Shipping, Act 1958:**

**57.1.** The provisions of Merchants Shipping, Act, 1958 not only apply to any vessel which is registered in India; or any vessel which is required by this Act to be so registered; but also apply to vessels other than registered in India while any such vessel is within India, including the territorial waters thereof.

**57.2.** The manipulation and forging of the identity of the vessel has also in contravened the following provisions of the Merchants Shipping Act, 1958 as mentioned below:-

1. Section 417: Certificate of Registry.
2. Section 418: Particulars relating to sailing vessel to be painted.
3. Section 421: Certificate of inspection.
4. Section 423 to 425: Registry of ship.

**57.3.** Further, the Merchants Shipping Act clearly outlines the penalties for violation of various provisions of the said Act by the owner or Master or agent of a vessel. In the instant case, it appeared that the Master of the Vessel along with the other stakeholders like have wilfully destroyed or mutilated or rendered illegible the entries in the official log book and wilfully made or assisted in making false or fraudulent entries in the official log book.

**57.4.** In the instant case, it appeared that the Shipping Agent and other stakeholders have aided and abetted in wilfully destroying or mutilating or rendering illegible the entries in the official logbook and in wilfully making or assisting in making false or fraudulent entries in the official logbook. Therefore, they have rendered themselves liable for **penal action under the Merchant Shipping Act, 1958** and other acts, rules, regulations in the Maritime Law. They have also rendered themselves liable for **penal action by the DG Shipping** for the actions discussed in para supra.

**Non-Cooperation/Non-Appearance by Conspirators**

**58.** During the course of investigation, Mr. Tahir Lakhani (Cash Buyer and owner of M/s. Dubai Trading Agency, Dubai), Captain Gajanan Karanjikar (Operation Manager) and Mr. Bilal (Accountant of M/s. Dubai Trading Agency, Dubai) were summoned to give documents and evidence. Number of summons were issued to the stakeholders to give their statement and submit evidence regarding identification of the vessel and other issue. However, none of them have bothered to appear and co-operate in the investigation. Mr. Tahir Lakhani



and Mr. Bilal (Accountant) had not made any response to the summons, whereas Captain Gajanan Karanjikar was giving fake excuses and reasons for avoiding personal appearances. All these absence and collective non-attendance/non-cooperation in the investigation itself suggest that all of them are hand in glove in the entire conspiracy and mis-declaration of actual identity of the vessel. If the vessel documents/identity was genuine and they have nothing to hide, then they would have come to join investigation with clear hands. Their failure to join investigation and escape from the inquiry itself appeared to prove their mala-fide intentions and suppression of actual identity of the vessel of MT Melody.

### **PERSONAL PENALTY**

#### **Shri Rahul Choudhary, Captain of the vessel MT Melody:**

**59.1.** Shri Rahul Choudhary, the Captain of the vessel MT Melody was working for M/s. DTA, UAE, through M/s. ABB Ship Management Pvt. Ltd. His name was suggested by M/s. Dubai Trading Agency, Dubai (DTA) to M/s. ABB Ship Management Pvt. Ltd., Mumbai, to ensure his availability to board the vessel as a Master/Captain and has taken the charge of vessel MT Melody (IMO 8800298) on 15.11.2021 from Sharjah Inner Anchorage (Mina Khalid).

**59.2.** He was informed by Shri Amresh Kumar and Capt. Gajanan Karanjikar that they were going to rename the vessel, MT Melody as 'MT Harry' as the vessel was purchased by M/s. Blueone General Trading LLC, UAE and was instructed to navigate the vessel to Alang. During his voyage, he used to report to Shri Amresh Kumar and Capt. Gajanan Karanjikar of M/s. DTA.

**59.3.** He accepted the fact that two vessels cannot have the same IMO number. The vessel was issued port clearance certificate dated 23.11.2021 by UAE Port Control, Shahjah in the name of MT Melody with IMO No. 8800298. Further, he was also provided by the owner of vessel with another Port Clearance Certificate dated 23.11.2021 issued by Sultanate of Oman, Royal Oman Police, DG of Customs, showing the name of the vessel as Harriet and IMO Number as 8716514 and the same was produced before the Customs authorities during the course of boarding. He did not question the fact that he was provided with two Port Clearance certificates for the same vessel from two different ports on the same date. Rather, he abetted them by producing the fake certificate to the Customs authorities.

**59.4.** He returned all the materials like Trim & Stability Book, Water Ballast Book, all ship's certificate, Machinery Manuals, Records related to past voyages, Port clearance file etc. which revealed the identity of the vessel as MT Melody (IMO No. 8800298) to DTA. During the voyage when he found some more documents from Engine Room, Generator Room, etc. which were revealing the actual identity of MT Melody (IMO 8800298), he burnt the same and threw them into the sea on the directions of the representative of the owner. He applied paint marks and paper stickers mentioning new/fake name everywhere in the vessel. He also followed the steps to change the settings of the AIS (Automatic Identification System), which were provided by the representative of the owner. He produced forged/manipulated gas free certificate bearing No. 45434 dated 09.11.2021 in the name of the vessel MT Harriet (IMO 8716514), issued by M/s. Flots Marine Survey & Consultancy UAE even after knowing the fact the said certificate belongs to the vessel



MT Melody (IMO 8800298). Thus, it appeared that Shri Rahul Chaudhary, Captain of the vessel was in hand in glove with the others in the entire conspiracy of manipulating the identity of the imported vessel.

**59.5.** From the above, it appeared that Shri Rahul Choudhay, knowingly and willingly entered into criminal conspiracy with M/s. Blueone General Trading LLC, Dubai, UAE (seller of the vessel). Shri Rahul Choudhary has not fabricated the identity of the vessel, but also produced forged/manipulated documents before the authorities. Since, he had removed, concealed and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a) /112(b) of the Customs Act, 1962. He has also rendered himself liable to penalty under Section 114AA of the Customs Act, 1962.

**Shri Chirag Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Shipping Agent:**

**60.1.** Shri Chirag Trivedi, one of the Directors of M/s. Lotus Danship Pvt. Ltd. was the shipping agent of the vessel. The IGM No. 2298394 dated 06.12.2021 alongwith all documents stating the vessel as MT Harriet (IMO 8716514) was filed by his company. He was in direct contact with the cash-buyer of the vessel, M/s. Blueone General Trading LLC through Mr. Tahir Lakhani of M/s. DTA and Mr. Bilal, Accoutant in Dubai, Shri Sunil Narayan, Broker (Proprietor of Teamforce Worldwide) and the importer M/s. Rajendra Ship Breakers Pvt. Ltd. He was very much aware that the vessel imported was MT Melody in the name of MT Harriet. He was also aware of the fact that M/s. Blueone General Trading LLC was manipulating the name and IMO number of the vessel MT Melody in order to ensure the sale of sanctioned vessel.

**60.2.** Evidences retrieved/resumed from his office revealed that the draft Memorandum of Agreement was prepared originally for the actual vessel MT Melody in his office which was forwarded to Mr. Bilal of M/s. Blueone General Trading LLC, who then modified the same draft by changing the name and IMO number of the vessel and sent back by return mail to him. On receipt of copy of provisional registration certificate of the vessel, he noticed new IMO Number 8716514 and new name MT Harriet in respect of the vessel MT Melody. It is pertinent to mention that he was aware that the IMO number of the vessel, MT Melody was 8800298. He admitted that he communicated about the omission of IMO nubur in the draft MOA to Mr. Bilal and when he received the reply that they have to clear the vessel in the name of MT Harriet (IMO 8716514). Thus, it appeared from the records/evidences and his statement recorded under 108 of the Customs Act, 1962 that he was actively involved in the conspiracy of manipulation of IMO number of the vessel MT Melody.

**Shri Kalpesh Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Shipping Agent:**

**61.** Shri Kalpesh Trivedi, one of the Directors of M/s. Lotus Danship Pvt. Ltd., deals with the part of the work in the company that starts after the vessel is declared for arrival. He has accepted that IGM No. 2298394 dated 06.12.2021 was filed by M/s. Lotus Danship Pvt. Ltd. in respect of MT Harriet (IMO 8716514) alongwith supporting documents received from M/s. Blueone General Trading LLC, Dubai. He said that the Memorandum of Agreement



dated 02.11.2021 was collected from the office of the M/s. Rajendra Ship Breakers Pvt. Ltd. On receipt of MOA, he did not find any IMO No. of the vessel required for filing of IGM of the vessel, so he obtained the IMO No. from provisional registration certificate. According to him, the last port clearance of the vessel MT Harriet was issued from Port Khasab, Sultanate of Oman, which was provided by the Captain of the vessel declared as MT Harriet.

**Shri Tajagn Vora, Deputy Manager, M/s. Lotus Danship Pvt. Ltd., Shipping Agent:**

**62.1.** Shri Tajagn Vora working as Deputy Manager in M/s. Lotus Danship Pvt. Ltd. on 25.10.221 came to know from Shri Chirag Trivedi that MT Melody was arriving from M/s. Blueone General Trading LLC, Dubai. He was directed to prepare draft memorandum of agreement with mode of payment as 'Telephonic Transfer'. On receipt of checklist from Shri Soham Narayan through whatsapp No.8980122739, he prepared draft MOA on 27.10.2021 and forwarded the draft MOA to Shri Soham Narayan.

**62.2.** On 01.11.2021, he received a mail on subject 'LPG Tanker due at Alang' from M/s. Blueone General Trading LLC, UAE, wherein he received MOA of MT Patra, which was the edited word file of 'MT Melody' that he prepared earlier. He found the vessel name as 'Happy Girl/Sunny Girl' on 'Final Trim and Stability booklet' whereas in the agency appointment letter, the name of the vessel was mentioned as MT Harriet. On verification of the fact with Shri Chirag Trivedi, he came to know that the vessel, MT Melody was a sanctioned one and hence the name has been changed.

**62.3.** Therefore, from the above it appeared that it was in his knowledge that the subject vessel MT Melody was a sanctioned one. He, knowingly and willingly assisted and abated other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a) /112(b) and Section 114AA of the Customs Act, 1962.

**Shri Sunil Narayan, Proprietor of M/s. Teamforce Worldwide:**

**63.1.** Shri Sunil Narayan, Proprietor of M/s. Teamforce Worldwide has played the role of mediator between the seller i.e., M/s. Blueone General Trading LLC, Dubai and the importer, M/s. Rajendra Ship Breakers Pvt. Ltd. in finalizing the sale deal of the vessel for demolition purpose. He had been in contact with Mr. Tahir Lakhani, Mr. Bilal and Capt. Gajanan Karanjikar at the seller's side and had conveyed the details/communications made by Mr. Tahir Lakhani to the buyer and shipping agent. He was aware of the fact that the vessel, declared as MT Harriet with IMO No. 8716514 was actually the sanctioned vessel MT Melody with IMO No. 8800298. He was actively involved in the entire chain of communication from the initiation of Memorandum of Agreement (MOA) till finalization of the MOA alongwith Shri Chirag Trivedi. It was in his knowledge that the owners of the vessel viz. M/s. Blueone General Trading LLC, Dubai, had obtained various certificates by manipulating the facts and based on that they managed to change IMO of the vessel.

**63.2.** From the above, it appeared that Shri Sunil Narayan, knowingly willingly entered into criminal conspiracy with M/s. Blueone General Trading LLC, Dubai, UAE (seller of the vessel) to sell the vessel in Alang. Shri Narayan despite knowing that the identity of said ship was manipulated



and it had US sanctions, undertook the brokering work of the vessel. It appeared that he assisted and abated other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a)/112(b) of the Customs Act, 1962. He has also rendered himself liable to penalty under Section 114AA of the Customs Act, 1962.

**Shri Soham Sunil Narayan, Manager of M/s. Teamforce Worldwide:**

**64.1.** Shri Soham Sunil Narayan, Manager-in-Charge of M/s. Teamforce Worldwide) was also aware of the fact that the vessel, declared as MT Harriet with IMO No. 8716514 was actually the sanctioned vessel MT Melody. He actively participated in the entire chain of communication from the initiation of Memorandum of Agreement (MOA) till finalization of the MOA in respect of MT Patra (later renamed to MT Harriet) alongwith Shri, Tajagn Vora, Shri Chirag Trivedi, Shri Rajendra Gupta and Shri Anish Gupta. It was in his knowledge that the name of the vessel has been manipulated. He also accepted that the fact that he had delayed mail of MOA between M/s. Blueone General Trading LLC and M/s. Rajendra Ship Breakers Pvt. Ltd. and checklist of vessel received from Shri Anish Gupta.

**64.2.** From the above, it appeared that Shri Soham Sunil Narayan, knowingly and willingly entered into criminal conspiracy with M/s. Blueone General Trading LLC, Dubai, UAE (seller of the vessel). He despite knowing that the identity of said ship was manipulated and it had US sanctions, he undertook the brokering work of the vessel. However, he assisted and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a)/112(b) and Section 114AA of the Customs Act, 1962.

**Shri Rajendra Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.:**

**65.1.** Shri Rajendra Gupta is the authorized signatory of M/s. Rajendra Ship Breakers Pvt. Ltd. and has signed the memorandum of agreement on behalf of M/s. Rajendra Ship Breakers Pvt. Ltd. in respect of vessel imported as 'MT Harriet'. He came to know about M/s. Blueone General Trading LLC through Mr. Sunil Narayan. He admitted that on 01 November 2021 he had made certain changes in the draft memorandum of agreement in respect of MT Harriet as per the discussion with Shri Sunil Narayan, Shri Soham Sunil Narayan and Shri Anish Gupta.

**65.2.** He actively participated in the entire chain of communication from the initiation of Memorandum of Agreement (MOA) till finalization of the MOA in respect of MT Patra (later renamed to MT Harriet) alongwith Shri Tajagn Vora, Shri Chirag Trivedi, Shri Anish Gupta, Shri Sunil Narayan and Shri Soham Sunil Narayan. He made contact with Mr. Tahir Lakhani through Shri Kishore Chand Bansal to beach the vessel prior to payment against the vessel. He also took the vessel even after knowing that the same was sanctioned by US OFAC.



**Shri Anish Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.:**

**66.1.** Shri Anish Gupta confirmed that the IGM bearing No.2298394 dated 06.12.2021 filed at SBY Alang, was bought by them for the purpose of breaking at Alang from M/s. Blue One General Trading LLC, UAE. He also submitted that they had filed prior Bill of Entry No. 6603471 dated 09.12.2021 to import MT Harriet with IMO No. 8716514. He agreed with the contents of Panchnama dated 11/12.12.2021 and the statement of the Captain Rahul Choudhary recorded under Section 108 of the Customs Act, 1962. According to him, Mr. Tahir Lakhani and Mr. Bilal were from M/s. Blueone General Trading LLC, UAE.

**66.2.** He actively participated in the entire chain of communication from the initiation of Memorandum of Agreement (MOA) till finalization of the MOA in respect of MT Patra (later renamed to MT Harriet) alongwith Shri Tajagn Vora, Shri Chirag Trivedi, Shri Rajendra Gupta and Shri Sunil Narayan. He even proposed/requested Mr. Tahir Lakhani on mobile and suggested the name of the vessel as 'MT Patra'. After knowing the fact that the vessel imported was MT Melody, he filed refund application before the Customs Authorities on the ground that the vessel arrived was not the same which they imported. Whereas he himself approached the Customs authorities to process the same Bill of Entry to clear the same vessel despite knowing about the US OFAC sanctions.

**66.3.** From the above, it appeared that Shri Anish Gupta, knowingly and willingly imported the vessel, whose identity was manipulated and whose documents were forged/manipulated. Thus, it appeared that he entered into criminal conspiracy with M/s. Blueone General Trading LLC, Dubai, UAE (seller of the vessel) and others. He played actively in hiding the identity of vessel by submitting forged and manipulated documents before the Customs Authorities and therefore, he has attempted, assisted and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Thereby, he has rendered himself liable to penalty under Section 112(a) / 112(b) and Section 114AA of the Customs Act, 1962.

**Captain Gajanan Karanjikar, Operation Manager of DTA:**

**67.1.** Capt. Gajanan Karanjikar works as 'Operation Manager' for M/s. Blueone General Trading LLC, Dubai. He was in regular contact with Shri Chirag Trivedi and Shri Sunil Narayan in connection with the vessel MT Melody. In November 2021, Mr. Gajanan contacted M/s. ABB Ship Management Pvt. Ltd. for providing some crew to their sister concern firm i.e. M/s. Blue One General Trading LLC, UAE for demolition voyage (for the vessel MT Melody).

**67.2.** He instructed Shri Rahul Choudhary to navigate this vessel towards Alang and to use thuraya phone during the voyage and to destroy the same before entering India. He also informed Shri Rahul Choudhary that they were changing the name and IMO number of the vessel due to salary issues of old crew and problems faced in getting NOC from Insurance authorities. Meanwhile, Capt. Gajanan Karanjikar had managed to get new registration certificate of Union of Comoros with new name and IMO number. Based on the said registration certificate, he managed to obtain said Port Clearance



Certificate dated 23.11.2021 issued by Sultanate of Oman, Royal Oman Police, DG of Customs showing the name of the vessel as Harriet and IMO Number as 8716514. He managed to provide all the fake certificates on board the vessel through supply boat DTA - 5.

**67.3.** On his direction, the Captain Rahul Choudhary returned all the materials which reveal the true identity of the vessel as MT Melody (IMO No. 8800298) through the supply boat DTA-5 that had come to deliver the Port Clearance Certificate. During the voyage he not only directed Captain Rahul Choudhary to burn/destroy the documents which were recovered from Engine Room, Generator Room, etc. revealing the actual identity of MT Melody (IMO No. 8800298) but also directed to apply paper stickers and paint marks mentioning new/fake name everywhere in the vessel.

**67.4.** He provided the "settings" to amend the Automatic Identification System (AIS) in order to hide the actual identity of the vessel on 21 Nov 2021 to captain Shri Rahul Chaudhary. By the time vessel passed the State of Hormos, Capt. Gajanan Karanjikar instructed Captain Rahul Choudhary to switch-off the AIS.

**67.5.** From the above, it appeared that Capt. Gajanan Karnajikar, knowingly and willingly involved in manipulation of identity of the vessel, providing forged/manipulated documents to Captain of the vessel and have entered into criminal conspiracy with M/s. Blueone General Trading LLC, Dubai, UAE (seller of the vessel) to sell the same to M/s. Rajendra Ship Ship Breakers Pvt. Ltd. He played active role in hiding the identity of vessel by providing forged and manipulated documents. Therefore, it appeared that he has attempted, assisted and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a) /112(b) and Section 114AA of the Customs Act, 1962.

**Shri Tahir Lakhani, M/s. Dubai Trading Agency, LLC, Dubai:**

**68.1.** Mr. Tahir Lakhani, a native of Pakistan and a British Citizen, earlier engaged in ship re-cycling business is associated with M/s. Dubai Trading Agency (DTA). He is the person who had purchased/sold the vessel in the name of M/s. Blueone General Trading LLC. For all the work related to selling and clearing of the vessel in India, he had appointed M/s. Lotus Danship Pvt. Ltd. and Shri Sunil Narayan (Proprietor of M/s. Team Worldwide). The navigation, management/administration and documentation related to sale and purchase of the vessel from the time of purchase till the time of sale was handed by Mr. Tahir Lakhani. He was in regular contact with Shri Chirag Trivedi, Director of M/s. Lotus Danship Pvt. Ltd. and the broker, Shri Sunil Narayan.

**68.2.** In October 2021, Mr. Lakhani contacted Shri Sunil Narayan and provided details of LPG Tanker. Shri Sunil Narayan pointed out that the vessel was OFAC sanctioned vessel for which he replied that he would take care of that. As the vessel was under sanction list of OFAC, actual identity of the vessel was hidden to avoid the problems that would be faced while dealing a vessel under sanction. In DTA, all decisions are taken by Mr. Tahir Lakhani. It appeared that he decided to change the name and IMO No. of the vessel and accordingly the same was removed from draft memorandum of agreement and



was sent to Shri Chirag Trivedi by M/s. Blueone General Trading LLC, just before the finalization of the MOA. He managed to get registration certificate on fake IMO based on which he sold the vessel in the market.

**68.3.** From the above, it appeared that Mr. Tahir Lakhani, has masterminded the whole conspiracy in manipulation of identity of the vessel and have entered into criminal conspiracy with M/s. Blueone General Trading LLC, Dubai, UAE (seller of the vessel). He played active role in hiding the identity of vessel by providing forged and manipulated documents. Therefore, it appeared that he has attempted, assisted and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a) /112(b) and Section 114AA of the Customs Act, 1962.

**Shri Asif Hanif Khanda, Owner of Blueone General Trading LLC & Seller of the Vessel:**

**69.1.** Shri Asif Hanif Khanda is the owner of the Blueone General Trading LLC and seller of the vessel MT Melody (declared as MT Harriet). He had sold the said vessel MT Melody (in name of MT Harriet) to M/s. Rajendra Ship Breakers Pvt. Ltd. with the help of his associate, Mr. Tahir Lakhani. He had allowed Mr. Tahir Lakhani to deal with M/s. Lotus Danship Pvt. Ltd., Shri Sunil Narayan and M/s. Rajendra Ship Breakers Pvt. Ltd., on behalf of his company. He also provided access to email IDs of M/s. Blueone General Trading LLC for correspondences. With the help of Mr. Tahir Lakhani, he appointed agents at both the places viz., Dubai and Bhavnagar for smooth business transaction and also had given the contract to M/s. Dubai Trading Agency for sailing/navigation of the vessel.

**69.2.** He accepted that the vessel's IMO number can not be changed during her life. With regard to his statement that IMO number might have been changed before he had purchased this vessel is unacceptable as he had purchased vessel from earlier owner on 08.11.2021 and Port Clearance No. MK/2021-31003, dated 23.11.2021 in respect of MT Melody was issued after his purchase of vessel.

**69.3.** On 21.02.2022, Shri Asif Hanif Khanda produced, copy of duly filled application for registration of vessel dated 18.11.2021 (RUD No.73), for registering the vessel in Union of Comoros, Provisional Registration Certificate No. 21/REG/1201502/196 dated 22.11.21 issued by **Union of Comoros** and Non-Encumbrance Certificate No. 025/NEC/2021 dated 17 November 2021, issued from **Democratic Republic of Sao Tome & Principe**. In the application dated 18.11.2021, the Shri Asif Khanda had mentioned the then port of registry as '**Cameroon**', whereas, the Non-Encumbrance certificate dated 17.11.2021 was issued from '**Sao Tome & Principe**'. Further, the provisional registration certificate dated 22.11.2021 issued by Union of Comoros, reflects the previous flag as '**Togo**'. These documents lack any co-relation between them, therefore, it is clear that the import of the said vessel was effected on the basis of false declarations, forged and fabricated documents in which Asif Khanda is a active member.



From the above, it appeared that Mr. Asif Khanda in collaboration with Mr. Tahir Lakhani, Captain Gajanan has framed the whole conspiracy in

manipulation of identity of the vessel. He played active role in hiding the identity of vessel by providing forged and manipulated documents. Therefore, it appeared that he has attempted, assisted and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a) /112(b) and Section 114AA of the Customs Act, 1962.

**Shri Anthony Brooks, Manager, M/s. Lotus Danship Pvt. Ltd., Shipping Agent:**

**70.1.** Shri Anthony Brooks assisted in clearance of vessels through their agency, M/s. Lotus Danship Pvt. Ltd. and has filed IGM No. 2298394 dated 06.12.2021 in respect of the vessel MT Melody. On 03.12.2021, he had received mail of pre-arrival of a vessel Happy Girl/Sunny Girl on the authorized mail ID of M/s. Lotus Danship Pvt. Ltd. The mail was on the subject 'Stability copy with an attachment in the name of 'Harriet Stability'. He noticed that there was no mention of the vessel name, MT Harriet in the said booklet with no stamp of 'MT Harriet'. Whereas, on 08.12.2021, when Shri Tajagn Vora handed over him the original copy of 'Final Trim & Stability Book', he noticed the LDT of the vessel with the stamp of MT Harriet on it. With regard to mail dated 01.11.2021 on the subject 'Draft LPG Melody', it was in his knowledge that it was the draft Memorandum of Agreement for the vessel, MT Patra (later renamed MT Harriet) and that MT Patra referred to the vessel MT Melody.

**70.2.** From the above, it appeared that he has assisted and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a) /112(b) of the Customs Act, 1962.

**Shri Amresh Kumar, M/s. Dubai Trading Agency (DTA), Dubai:**

**71.** Shri Rahul Choudhary, Captain of the alleged vessel in his statement dated 12.12.2021 had stated that Shri Amresh Kumar had informed him to board the vessel named as MT Melody which was to be re-named as MT Harriet. As per the instructions of Shri Amresh Kumar, Captain Rahul Choudhary navigated the vessel to Alang. All the reporting related to the vessel were made to Shri Amresh Kumar by Shri Rahul Choudhary, through whatsapp group named as 'MT Harriet'. From the statement of Shri Rahul Choudhary, it appeared that Shri Amresh Kumar had assisted and abetted other persons to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under section 111(d), 111(f) and 111 (m) of the Customs Act, 1962. Therefore, he has rendered himself liable to penalty under Section 112(a) /112(b) and Section 114AA of the Customs Act, 1962.

**ARREST OF THE STAKEHOLDERS**

**72.1.** Shri Rahul Choudhary, Shri Chirag Trivedi and Shri Sunil Narayan for contraventions of the provision of Sections 111(d), 111(f) & 111(m) readwith Section 30 of the Customs Act, 1962 had committed offence of the nature described under Section 132 & 135(1)(b) and punishable under Section 135(1)(A) of the Customs Act, 1962, by playing active role alongwith the owner of the vessel in the entire modus of importing the liquefied petroleum

gas (LPG) tanker vessel MT Melody (IMO 8800298) for demolition by manipulating the identity and declaring the same as MT Harriet (IMO No. 8716514).

**72.2.** They had done an act i.e., knowingly involved themselves in outright smuggling of sanctioned vessel/goods by mis-declaring the identity of the vessel, in contravention to the provisions of Customs Act, 1962 and rules made there under. Therefore, they were arrested under Section 104 of the Customs Act, 1962. Whereas, the Hon'ble Session's Judge, Bhavnagar vide his order(s) dated 11.01.2022 has allowed the bail applications and released all the 03 accused on bail.

### **CONFISCATION AND PENALTY**

**73.** It appeared that the import of the vessel MT Melody (IMO No. 8800298) has been hidden by tampering with the IMO No. of the vessel and the same has been mis-declared by submitting fake and fabricated documents under the IGM 2298394 dated 06.12.2021 as '**MT Harriet (IMO No. 8716514)**' and Bill of Entry No. 6603471 dated 09.12.2021. By mis-declaring/tampering of the IMO Number of the vessel, the owner has rendered the vessel alongwith all its accessories and goods having approximate value of **Rs.10,04,38,363/- (Rupees Ten Crores Four Lakhs Thirty-Eight Thousand Three Hundred and Sixty-Three Only)** liable for confiscation under Section 111(d), 111(f) and 111(m) of the Customs Act, 1962.

**74.** In view of Section 124 of the Customs Act, 1962, **M/s. Rajendra Ship Breakers Pvt. Ltd.** Plot No. 114, Sosiya/Alang, Bhavnagar, was called upon to show cause, as to why;

**A. (i)** The vessel, MT Melody (IMO 8800298) declared as MT Harriet (IMO No. 8716514), valued at Rs.10,04,38,363/- (Rupees Ten Crores Four Lakhs Thirty-Eight Thousand Three Hundred and Sixty-Three Only) imported by them and seized under Seizure Memo dated 12.12.2021, should not be confiscated under the provisions of Section 111(f) and 115 of the Customs Act, 1962.

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

**(iii)** Penalty should not be imposed upon them under **Section 114AA** of the Customs Act, 1962.

**(iv)** Penalty should not be imposed upon them under **Section 117** of the Customs Act, 1962.

**B. M/s. Blue One General Trading LLC, UAE** through its Proprietor, **Shri Asif Khanda**, that penalty should not be imposed upon them under Section 112 and Section 114AA of the Customs Act, 1962.

**C. M/s. Lotus Danship Pvt. Ltd.** that:

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

**(ii)** Penalty should not be imposed upon them under **Section 114AA** of the Customs Act, 1962.



(iii) Penalty should not be imposed upon them under **Section 117** of the Customs Act, 1962.

**D.** That penalty under **Section 112(a)/ 112(b) and Section 114AA** of the Customs Act, 1962 and under HCCR, 2009 should not be imposed on the following persons. Further, it appeared that DG shipping should be requested to initiate penal action against them for the grave violations of various provisions of Merchant Shipping Act and other maritime laws in force.

- (i) Shri Chirag Trivedi, Director of M/s. Lotus Danship Pvt. Ltd.
- (ii) Shri Kalpesh Trivedi, Director of M/s. Lotus Danship Pvt. Ltd.
- (iii) Shri Gajanan Karanjikar, Operations Manager (M/s. Dubai Trading Agency)
- (iv) Shri Tahir Lakhani through M/s. Dubai Trading Agency, Dubai.
- (v) Shri Rahul Choudhary, Captain of the vessel declared as 'MT Harriet'
- (vi) Shri Amresh Kumar, M/s. Dubai Trading Agency, Dubai.

**E.** That penalty under **Section 112(a)/ 112(b) and Section 114AA** of the Customs Act, 1962 and under HCCR, 2009 should not be imposed on the following persons.

- (i) Shri Bilal, Accountant of M/s. DTA Dubai.
- (ii) Shri Rajendra Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.
- (iii) Shri Anish Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd.
- (iv) Shri Sunil Narayan, Proprietor M/s. Teamforce Worldwide
- (v) Shri Soham Sunil Narayan, Manager of M/s. Teamforce Worldwide
- (vi) Shri Tajagn Vora, Deputy Manager of M/s. Lotus Danship Pvt. Ltd.
- (vii) Shri Anthony Brooks, Manager of M/s. Lotus Danship Pvt. Ltd.

#### Defence :

**75.** Noticee No. 1, 9 and 10 vide their letters dated 31.1.20024 requested to allow cross examination of Shri Sunil Narayan, Proprietor of M/s Teamforce Worldwide, Shri Soham Sunil Narayan, Manager of of M/s Teamforce Worldwide and Shri Asif Hanif Khanda, Owner of Blueone General Trading LLC.

**76.** Noticee No. 1 vide letter dated 2.4.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:



**76.1** The show cause notice allegation is levelled against them for mis-declaration of the imported vessel in the bill of entry filed by them with intent to evade Customs duty. The said allegations are totally illegal and not sustainable in view of the following :-

- a. The appellant imported a ship i.e. LPG tanker viz. M. T. PATRA for ship breaking in terms of a Memorandum of Agreement (MOA) dated 02/11/2021 and the said MOA specifically listed the name of the vessel is M.T.PATRA having LDT 2291.80 MT/2255.71 LT. A copy of the same is enclosed herewith.
- b. Later on the seller informed them that presently the vessel is known as MT HARRIET and accordingly an addendum no. 1 to the MOA has been executed on 23/11/2021. The Addendum no.2 to the MOA has been executed on 08/12/2021 under which time of delivery has been extended due to non availability of delivery of vessel. A copy of both these addendum is enclosed herewith. Survey report dated 10-12-2021 confirmed the name of the vessel is M. T. HARRIET; the vessel beached at our plot on 12-03-2022 and the vessel was taken physical delivery on 12-03-2022.
- c. The seller has provided them a copy of certificate of ownership and non-encumbrance issued by Register of Maritime Affairs Department of Union of Comoros at Moroni dated 23/11/2021. A copy of the said certificate is enclosed herewith. The agent of the vessel has filed an IGM declaring the vessel MT HARRIET bearing IMO no. 8716514 on 06/12/2021 and the same has been allotted No.2298394 by the Superintendent of Customs, SBY Alang cell, Bhavnagar (RUD-2).
- d. Accordingly, they have filed prior bill of entry on 09/12/2021 for importation of vessel MT HARRIET bearing IMO no. 8716514 before the Superintendent of Customs, SBY Alang Cell, Bhavnagar. The said B/E has been registered as no.6603471 and also assessed by the proper officer. After that, TR-6 challan No.2037377331 for total customs duty of 2,13,38,130/- was issued on 09/12/2021 valid upto 09/12/2021. Therefore, they paid the said amount on 10/12/2021 under ICEGATE Reference IIG101221044045803543 for import of old and used vessel viz. vessel MT HARRIET bearing IMO no. 8716514(RUD-3).
- e. Thereafter, on arrival of the vessel, after completion of Customs boarding formalities, we have received a notice of readiness for physical delivery at 16-30 hours on 10/12/2021 from the Master of the Vessel MT HARRIET. The said notice also shows the name of the vessel as MT HARRIET. A copy of the same is enclosed herewith.

After completion of all customs formalities, on the basis of the intelligence developed by the Directorate of Revenue Intelligence (Hereinafter referred to



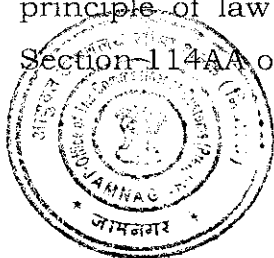
as "DRI") that the vessel MT HARRIET bearing IMO no.876514 is not correct name and number of the vessel and the correct name and IMO no. are different as declared and informed by the seller and Master of the vessel, the Superintendent of Customs Division, Bhavnagar has seized the impugned vessel under Seizure Memo dated 12/12/2021 issued from F. No. Vill/48-02/PI/INQ/21-22 (RI-JD-15).

- g. After investigation, the impugned notice was issued to us alleging that these goods are liable to confiscation under Sections 111 (f) and 115 of the Act.

**76.2** In view of the above, the seized goods were legally imported vide the Bill of Entry filed by them and whatever description declared in the bill of entry in question was as per the IGM and MOA. There is absolutely no evidence on record to establish the fact that the seized goods were smuggled into India with a malafide intention to ensure smooth financial transaction of the money in respect of United States Treasury's office of Foreign Assets Controlled sanctioned vessel by mis-declaration of the name of the vessel by them, which according to the department is the basis of seizing the same. Their role beyond indenting legitimately, nothing fraudulent is established. No evidence is forthcoming to establish our conscious knowledge regarding modus operandi of the unscrupulous sellers.

**76.3** The seized vessel was not proved to be smuggled goods and consequently no penalty under Section 112(a) or (b) of the Act can survive in the facts of the instant matter. There is complete absence of the element of mens rea.

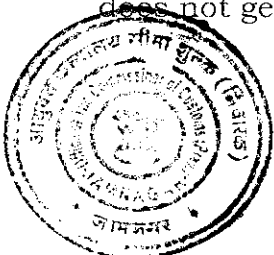
**76.4** As regards the penalty proposed under Section 114AA of the Act, there is no material evidence available in records to prove that they were either involved in smuggling of the goods or encouraged and supported the wrong doer in doing the wrongful act in attempting to import the goods. These penal provisions call for prior knowledge of wrong doing or existence of deliberate intent. There is no evidence to the effect that we had signed all the import documents with an intent or knowledge to the effect that the declaration of the goods entered in the import documents could not match with the actual goods meant for import as a result of the fraud committed by the seller. The Department could not produce any cogent evidence to establish the fact that either Shri Anish Gupta or Shri Rajendra Gupta was aware of the fact that the name of the vessel was not M. T. Harriet, but M. T. Melody. They have prepared the document as informed to us on behalf of the seller. Therefore, following the principle of law settled in this regard, they are not liable for penalty under Section 114AA of the Act.



**77.** Noticee No. 2 vide letter dated xx.2.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**77.1** They had purchased the vessel from Tyron shipping company with the IMO number 8716514 and he did not verify from his end that IMO number which is provided by Tyron shipping company is false or correct, however, due to lack of knowledge of any addition or modification of IMO number and entrusting faith upon the seller of the vessel, and the documents showing the IMO number 8716514 believing to be correct, the present noticee had further sold this vessel and then the said vessel travelled from Oman to Alang Port at district Bhavnagar Gujarat, thus due to lack of knowledge of alleged wrong IMO number which was alleged by the authorities, the noticee cannot be booked in the alleged offence as there was no intention or knowledge about the same, and even if the entire case is taken upon hand *prima facie* it appears that the noticee had not accrued any benefit out of it hence, considering the above, in the interest of justice charges leveled upon the present noticee may be dropped.

**77.2** The allegation in the Show Cause Notice against the present Noticee and others is that the vessel which was bought in the name of 'M.T.Harriet' with IMO number 8716514 to Alang for recycling was sanctioned vessel with original name 'M.T.Melody' with IMO number 8800298. Now, as per the Show Cause Notice and the list of documents relied upon to constitute the charge under the Customs Act to show that the said vessel is a sanctioned vessel or is under list of OFAC is not either proved or can be seen by perusing the documents which are provided along with the Show Cause Notice to the present Noticee as none of the documents authentically show that the said vessel is under OFAC sanction or is prohibited in India. Moreover, it is also pertinent to note that the said vessel was prohibited into Indian territory is also not reflected from the documents which are annexed with the Show Cause Notice. Furthermore, it is also not found from the list of documents annexed with the Show Cause Notice that there are any admissible evidence with regard to prohibition or sanction on the vessel or it is restricted or is under any prohibition as per the Customs Act. Therefore, the allegation leveled under the Show Cause Notice stating that the vessel was sanctioned vessel and was prohibited under the Indian Law due to the sanction laid by the U.S. or any International law which barred the entry of the vessel in the Indian territory does not get substantiated.



**77.3** They would like to cross examine the following witnesses whose statements are recorded by DRI: (i) Rahul Chaudhary- captain (ii) Kalpesh Trivedi (iii) Chirag Trivedi (iv) Sunil Narayan (v) Soham Narayan (vi) Anish Gupta —Authorised signatory of M/s Rajendra shipping breakers Pvt Ltd (vii) Rajendra Gupta — Director of M/S Rajendra shipping breakers Pvt Ltd (viii) Devesh Gupta- Director of M/S Rajendra shipping breakers Pvt Ltd (ix) Raju Annappa Bhanuse (x) Bilal and (xi) Amresh.

**77.4** That the present vessel was a floating vessel and if at all it was considered that the said vessel was prohibited vessel then DRI would have directed the vessel to travel out of Indian territory or it could have sent back the said vessel, but since it was not the case, so the vessel was allowed to be beached and further it was also allowed to conclude the transaction of sale and purchase of the ship by allowing the present noticee to transfer the purchase amount of the ship through its HDFC bank, Bhavnagar branch to the seller situated at Dubai.

**77.5** As per the Section 114AA, if any individual intentionally or knowingly makes false declaration or statement, etc. for the transaction of any business then and then only the said Section is applicable. However, insofar as the present case on hand is concerned, as per the Show Cause Notice it is the case of the prosecution that the IMO number has been changed. Now as far as this present noticee is concerned as stated above from the inception that is at the time of purchase of disputed vessel the IMO Number which was mentioned in the MOA for purchasing the vessel which was executed between Tyron Shipping and the present noticee had not changed as on the basis of trust and faith the details provided by the seller of the vessel was believed to be true and therefore the present noticee did not had any knowledge or information about the fact that the IMO Number of the vessel is false hence under the above facts and circumstances of the case the above provision is also not attracted against the present noticee.

**78.** Noticee No. 3 and 12 vide letter dated 16.1.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**78.1** Before the arrival of the vessel in the Indian territory prescribed list of pre arrival of the vessel which is given by the owner of the ship which contains the documents such as ship registry services, agency appointment certificate, class flag document, stability booklet and other additional documents which are received from the owner and the buyer respectively, such bunch of documents which are received from buyer and seller are to be submitted to the Department on behalf of the owner and seller of the ship. This also



includes end to end MOA between buyer and seller of the vessel, and hence, the work of the present Noticee is just to assist in completing the formalities by providing documents which are provided by the owner and the seller of the vessel, and hence, beyond that there is no other responsibility or any other act to be carried out by the present Noticee, and therefore, the allegation leveled against the present Noticee with regard to manipulation of the IMO number is baseless. Moreover, it is impossible to verify that the IMO number which was received by the Noticee was incorrect as even the Customs Department had also realized the same at a belated stage, and hence, considering the above the allegation leveled against the Noticee may be dropped in the interest of justice.

**78.2** The present Noticee no. 12 was not aware about any manipulation whatsoever of the IMO number of the vessel, Moreover, in the said project the personal involvement of noticee No. 12 was not there further, as he was not handling the said transaction as a shipping agent in person, and as he was not knowing anything precise about the said work, though he has been falsely implicated and show cause notice is issued to him where he is shown as noticee number 12.

**78.3** That by change of any IMO number of the ship there had been no benefit accrued by the Noticee or neither it is the case under the Show Cause Notice that the present Noticee had availed any benefit out of it, and therefore, the allegations leveled against the present Noticee cannot stand qua the present Noticee, and hence, in the interest of justice the same may be dropped.

**78.4** As per the Section 114, if any individual intentionally or knowingly makes false declaration or statement, etc. for the transaction of any business then and only then the said Section is applicable. However, insofar as the present case on hand is concerned, as per the Show Case Notice it is not the case of the prosecution that the present Noticee has manipulated any IMO number or he has changed any IMO number. Moreover, the present Noticee has also not made any declaration or any statement by his own.

**78.5** The provision of Section 117 is also not applicable to the present Noticee under the above facts and circumstances of the case because the Noticee has not contravened any provisions of law since it is the precise case of the Noticee that he is not aware about any change of IMO number as the documents such as ship registry, stability booklet, class flag documents, etc. required at pre — arrival stage of the vessel which are to be submitted to the Customs was submitted by him which he had received through email from the shipping company which includes buyer and seller of the vessel, and hence, his role is



limited to submitting the documents which he had received from the buyer and seller to the Customs Department and other than that he has no role to play. Therefore, the present Noticee has nothing to do with the change of IMO number.

**78.6** Insofar as the Section 111(m) is concerned, the same is also not attracted to the Noticee because the said Section only gets attracted if any goods does not correspond in respect of value or in any other particular with the entry made thereunder. The said provision is attracted on reading with Section 77 and Section 54 of the Act, but, in the present case there is no question of any applicability of the said Section as there is no question of any transshipment nor there is a question of any prohibition as described earlier in the reply. Moreover, the duty of the vessel has already been paid by the buyer and in addition to that the said Section is not applicable to the present Noticee as he is just a shipping agent.

**78.7** They would like to cross examine the following witnesses whose statements are recorded by DRI: (i) Rahul Chaudhary- captain (ii) Anthony brooks (iii) Chirag Trivedi (iv) Sunil Narayan (v) Soham Narayan (vi) Anish Gupta —Authorised signatory of M/s Rajendra shipping breakers Pvt Ltd (vii) Rajendra Gupta — Director of M/S Rajendra shipping breakers Pvt Ltd (viii) Devesh Gupta- Director of M/S Rajendra shipping breakers Pvt Ltd (ix) Raju Annappa Bhanuse (x) Tajagn Vora.

**79.** Noticee No. 4 vide letter dated 22.2.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**79.1** It is submitted that as stated above, neither he is connected to the owner of the disputed vessel nor is holding any position in blue one shipping and he does not have any connectivity with the purchaser of the said vessel Moreover, the present noticee is also not connected with any agency or agent in the said transaction of the vessel, nor he had ever corresponded or have prompted for this transaction. Hence, it is submitted that present noticee is falsely shown related to the alleged offence mentioned in the show cause notice.

**79.2** It submitted that as stated above since the noticee was not knowing about any sale or purchase of the disputed vessel, therefore, the allegations raised in the show cause notice that the present noticee was knowing that the IMO Number of the vessel is falsely mentioned is out of the question. that the present noticee also had no connection with Dubai Trading agency, the agency which was involved as an agent for the disputed vessel. Moreover, since the noticee is not having any relation with Dubai trading agency.



**79.3** It is submitted that the present noticee had never talked with Mr Chirag Trivedi, Mr Sunil Narayan or anyone else with regard to the vessel in dispute as he was neither involved in the purchase or sale of the vessel and neither he was a beneficiary of the same. Therefore the allegation leveled against the present noticee on the basis of various statement recorded by investigating officer by administering threat and coercion to the witnesses are false and fabricated version and are not distinctively related to the present noticee. It is submitted that as stated above the present noticee is not related to the said transaction nor he was in the possession of the vessel or holding an ownership or was a buyer or seller nor an employee or an agent of the alleged vessel and therefore under these facts and circumstances Section 114 would not get attracted.

**79.4** They would like to cross examine the following witnesses whose statements are recorded by DRI: (i) Rahul Chaudhary- captain (ii) Kalpesh Trivedi (iii) Chirag Trivedi (iv) Sunil Narayan (v) Soham Narayan (vi) Anish Gupta — Authorised signatory of M/s Rajendra shipping breakers Pvt Ltd (vii) Rajendra Gupta — Director of M/S Rajendra shipping breakers Pvt Ltd (viii) Devesh Gupta- Director of M/S Rajendra shipping breakers Pvt Ltd (ix) Raju Annappa Bhanuse (x) Bilal and (xi) Amresh.

**80.** Noticee No. 5 and 8 vide letter dated 1.2.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**80.1** The noticee No. 5 -Mr Bilal was working as an assistant accountant in the firm of Dubai Trading agency (DTA), since years and at the time of alleged offence, it is further submitted that his job in the office was as an assistant accountant and was to maintain books of accounts provided by my company and other than that no other concerns was there and their responsibility was to maintain books of accounts of the firm, hence he was just a grass root employee in the firm of Dubai Trading agency (DTA). He was falsely implicated and he has nothing to do with change of IMO number in the vessel. Hence, the allegations levelled against him in the show cause notice may be dropped.

**80.2** Noticee No. 8- Mr Amresh was also an employee of Dubai Trading agency (DTA) and his job was to look after the repair and maintenance of ships and he was merely a mechanical engineer whose work area was limited to repairing and maintenance of the ships only, therefore from the above it is clear that the present noticee is also not connected with the alleged offence as he has no role in entire transaction. That the present noticee's are not connected with shipping nor they are connected with the owner of the alleged vessel. It is alleged in the Show Cause Notice that the present Noticee's were aware



about the fact that the IMO number of the vessel has been changed to hide the identity of the ship which is as such not correct. Hence, the allegations levelled against him in the show cause notice may be dropped.

**81.** Noticee No. 11 vide letter dated 16.1.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**81.1** The present Noticee is a shipping agent and his actual job is to assist for usual port, customs, desk review, vessel delivery, crew sign of formalities, etc. of the vessel and not beyond that, and hence, the Noticee had nothing to do with the buying or selling of the ship as his only job is to complete the formalities which are required to be carried as ship agent for providing the documents of the ship to the Customs as per the requirement which are provided to him by the owner and the buyer of the vessel.

**81.2** It is submitted that the name of the vessel 'Patra' was different from draft which was sent by the Noticee. Moreover, since the IMO number was not mentioned in the MOA received by one of the office staff of M/S. Lotus Danship Pvt. Ltd., the Noticee was unaware about any type of change or amendment in the transaction, and subsequently the Noticee had received an Addendum from the buyer of the vessel in which the name of the vessel was mentioned as 'M.T.Harriet' with IMO number 8716514 and subsequently the present Noticee was informed by way of documents provided by the buyer and seller in which the name of the vessel was 'M.T.Harriet' with IMO number 8716514 through ship registry and other documents provided by both the parties. Hence, the work of the present Noticee was to submit the documents which were provided by the parties to the Customs Department to fulfill the formalities for boarding, beaching and providing access to ship breaking. Therefore, the role of the present Noticee is limited and is just for completing the formalities as mentioned above and beyond that nothing can be related to the Noticee on behalf of owner or buyer of the ship, and therefore, under the said facts and circumstances the charge against the Noticee mentioned in the Show Cause Notice may be dropped in the interest of justice.

**81.3** They would like to cross examine the following witnesses whose statements are recorded by DRI: (i) Rahul Chaudhary- captain (ii) Anthony brooks (iii) Chirag Trivedi (iv) Sunil Narayan (v) Soham Narayan (vi) Anish Gupta —Authorised signatory of M/s Rajendra shipping breakers Pvt Ltd (vii) Rajendra Gupta — Director of M/S Rajendra shipping breakers Pvt Ltd (viii) Devesh Gupta- Director of M/S Rajendra shipping breakers Pvt Ltd (ix) Raju Bhanuse (x) Tajagn Vora.



**81.4** As per the Section 114, if any individual intentionally or knowingly makes false declaration or statement, etc. for the transaction of any business then and only then the said Section is applicable. However, insofar as the present case on hand is concerned, as per the Show Cause Notice it is not the case of the prosecution that the present Noticee has manipulated any IMO number or he has changed any IMO number. Moreover, the present Noticee has also not made any declaration or any statement by his own.

**81.5** The provision of Section 117 is also not applicable to the present Noticee under the above facts and circumstances of the case because the Noticee has not contravened any provisions of law since it is the precise case of the Noticee that he is not aware about any change of IMO number as the documents such as ship registry, stability booklet, class flag documents, etc. required at pre — arrival stage of the vessel which are to be submitted to the Customs was submitted by him which he had received through email from the shipping company which includes buyer and seller of the vessel, and hence, his role is limited to submitting the documents which he had received from the buyer and seller to the Customs Department and other than that he has no role to play. Therefore, the present Noticee has nothing to do with the change of IMO number.

**81.6** Insofar as the Section 111(m) is concerned, the same is also not attracted to the Noticee because the said Section only gets attracted if any goods does not correspond in respect of value or in any other particular with the entry made thereunder. The said provision is attracted on reading with Section 77 and Section 54 of the Act, but, in the present case there is no question of any applicability of the said Section as there is no question of any transshipment nor there is a question of any prohibition as described earlier in the reply. Moreover, the duty of the vessel has already been paid by the buyer and in addition to that the said Section is not applicable to the present Noticee as he is just a shipping agent.

**82.** Noticee No. 13 and 14 vide letter dated 16.1.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**82.1** that the noticee number 13 Mr Tajagn Vora was a young boy aged around 24 years at the time of alleged offence and was working as an under trainee in the firm of M/S Lotus danship Private Limited, it is further submitted that he was on the pay scale of Rs 5000 per month and his job in the office was as a typist and to look after the cleanliness and maintenance of the office like a peon in the office, hence he was just a grass root employee in the firm of M/S Lotus danship Private Ltd.



**82.2** It is submitted that the noticee number 14 Mr Anthony Brooks was also an employee of M/S Lotus danship Private Ltd and was on a pay scale of Rs 20,000 per month and his job was to look after the documentation, and to complete various formalities under the advice and instructions of the employer.

**82.3** It is not the case of the DRI that either of the noticee's have availed any monetary benefit out of the said transaction as their work is to act upon the instructions of their employer, and beyond that there is nothing on their hand which they can do in addition, however, the allegation with regard to awareness of change in the IMO number of the vessel is also outrightly denied by the present noticee's, as stated above the noticee number 13 was a grass root level employee and had just completed his graduation and was pursuing his further studies and for having the pocket expense he had opted for the job. Hence considering the above facts and circumstances of the case prima facie it appears that the present noticee's are falsely implicated in the present case. It is submitted that the present Noticee's were not aware about any manipulation whatsoever of the IMO number of the vessel.

**83.** Noticee No. 15 vide letter dated 16.1.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**83.1** The role of present Noticee is limited to connecting the proposed purchaser and seller and beyond that he does not have to involve into the documents relating to the vessel as it is neither his job nor he has been given any access for the same by the proposed buyer and the seller and therefore, the change in the IMO number or the change in the name of the vessel cannot be in any way connected with the present Noticee. Therefore, the allegations leveled against the present Noticee in the Show Cause Notice are baseless and the Sections invoked in the Showcause Notice against the present Noticee are not applicable.

**83.2** By change of any IMO number of the ship there had been no benefit accrued by the Noticee or neither it is the case under the Show Cause Notice that the present Noticee had availed any benefit out of it, and therefore, the allegations leveled against the present Noticee cannot stand qua the present Noticee, and hence, in the interest of justice the same may be dropped.

**83.3** That in the statements recorded by D.R.I. of various witnesses the name of the present Noticee is referred, and therefore, it is a mandatory requirement for the Noticee to cross examine the individuals whose statements are recorded by D.R.I. to secure the ends of justice and to surface the truth, and therefore, under the above facts and circumstances of the case the Noticee also



demands to allow him to cross examine various witnesses whose statement are recorded by D.R.I.

**83.4** That the Noticee has executed an affidavit dated 13.01.2022. and sent it to D.R.I. and Customs Department and had retracted the confessional statement which was recorded by D.R.I. against the will and say of the Noticee. Furthermore, it is also mentioned in the said application and affidavit of the Noticee that the statements recorded by D.R.I. was by using force and coercion and he was made to sign in the blank papers.

**84.** Noticee No. 16 vide letter dated 16.1.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**84.1** The present noticee is merely an under training assistant broker, which means he is not even a broker, but a trainee who was taking the training to become a broker. The role of the present noticee is falsely canvassed in the show cause notice, moreover he has neither attained any benefit from the shipment, neither he was knowing about the IMO number until the DRI officer had informed about the same to him, hence under the above facts and circumstances of the case, the present noticee is wrongly booked in the alleged offence however he is purely innocent and is having no knowledge about any technical aspects of the custom or the detailed information of the vessel or its documentation.

**84.2** That even in the Show Cause Notice also it has been mentioned that the exchange of MOA had taken place between the purchaser and seller and the documents of the vessel to be submitted before the concerned departments were provided by the buyer and seller to the shipping agent and not by the present noticee who is just an assistant under trainee broker. Furthermore, even if it is believed that the above documents were provided to the Noticee then too the Noticee is not an expert who can identify the change in IMO Number of the ship, unless and until it is pointed out and explained to the Noticee. Thus, in the interest of justice the charge levelled against the present Noticee may be dropped.

**84.3** By change of any IMO number of the ship there had been no benefit accrued by the Noticee or neither it is the case under the Show Cause Notice that the present Noticee had availed any benefit out of it, and therefore, the allegations leveled against the present Noticee cannot stand qua the present Noticee, and hence, in the interest of justice the same may be dropped.

**85.** Noticee No. 9 and 10 vide letter dated 8.4.2024 filed written submission in reply to Show Cause Notice, *inter alia*, contending as under:

**85.1** Their company has already filed the reply to the show cause notice vide letter dated 08-04-2024 and what is stated in the aforesaid reply to the show cause notice may be perused and the submission made by their company is



common for and on behalf of the Company and for them. Therefore, the same may please be considered for their defence also.

**85.2** That he was not aware of the original name of the seized vessel at all. He came to know about the mis-declaration of the name of the vessel only after seizure of the same. In these circumstances, he has no role to play in importation of vessel which was sanctioned by US OFAC and also not having any knowledge of such facts. Therefore, the penalty is not imposable. That in this case penalty has been proposed under Section 112(a)/112(b) of the Act, but which section of the Act has been violated by me has not been discussed in the impugned notice. A penalty is not imposable under the provisions of Section 111 (d), (f) and (m) as these sections do not attract his role to impose penalty.

**85.3** As regards the penalty proposed under Section 114AA of the Act, there is no material evidence available in records to prove that he was either involved in smuggling of the goods or encouraged and supported the wrong doer in doing the wrongful act in attempting to import the goods. Therefore, they are not we are not liable for penalty under Section 114AA of the Act.

#### **PERSONAL HEARING:**

**86.** Hearing in the matter was scheduled and held on 24.4.2025. Shri Karan R. Parekh, C.A. appeared for hearing on behalf of Noticee Nos 1,9 & 10. He reiterated the written submission made in respect of Noticee Nos 1,9 & 10. He sought 2 weeks' time for filing additional written submission.

**86.1** Shri Karan Parekh., C.A. vide letter dated 13.5.2025 filed additional written submission, *inter alia*, contending as under:

(i) There is no evidence discussed in the show cause notice that our client had knowingly executed the MOA for purchase of M. T. Melody in the name of vessel M. T. HARRIET. The act of the seller shows that the seller has supplied the vessel without informing to our client but in regular course of business. In the absence of contrary evidence, our client was not in any way involved rendering the goods liable for confiscation. Hence, the penalty is not be imposable on our client. DRI has failed to prove that the action of our client has rendered the goods liable for confiscation.

(ii) That our client had legally filed prior Bill of Entry for importation of vessel MT HARRIET bearing IMO no. 8716514 and not for importation of seized vessel M. T. Melody based on the documents sent/given to him and whatever description declared in the bill of entry in question was as per the IGM and MOA. Further, our client is neither the owner of the vessel at the time of her seizure or the importer of the seized vessel viz. M. T. Melody. The term "importer" is clearly defined in the Act. It includes any owner or any person holding himself out to be importer. These are to be established by factual enquiry. When our client denies that he did not import goods viz. M. T. Melody and did not hold himself to be the importer of such goods, then it is for the Revenue to categorically establish that our client was indeed the owner of the



goods there is no other evidence on record to hold the appellant as the importer or person behind the importation of such goods.

(ii) In the present case, the prior bill of entry filed by our client was for import of a ship i.e. LPG tanker viz. M.T. HARRIET bearing IMO no. 8716514 and not for seized ship viz. M.T. Melody. Thereafter, on seizure by the department, immediately, our client has cancelled the Advance/ Prior Bill of Entry No. 6603471 dated 09/12/2021 filed by them for import of vessel MT HARRIET bearing IMO no.876514 for breaking vide their letter dated 18/12/2021 and withdrew advance/prior B/E filed by our client for import of the vessel in dispute. It is further to submit that the question of misdeclaration will arise based on the statutory document filed by the importer before the Customs authorities. Such document in respect of import is bill of entry under Section 46 of the Act filed by the importer with the customs authorities for clearance of goods and the same had not been filed by our client. Hence, our client is not an 'importer' of the seized vessel.

(iv) That the seized vessel was not proved to be smuggled goods and consequently no penalty under Section 112(a) or (b) of the Act can survive in the facts of the instant matter. There is complete absence of the element of mens rea.

(v) That the penalty under Section 114AA of the Act can be imposed 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 the Customs Act. On careful perusal of the records, it is observed that investigation could not bring any document prepared by our client or signed by them relevant to the seized ship. We submit that our client had not made, signed or submitted any documents before customs with the prior knowledge about alleged mis declaration which they knew was false or incorrect. Therefore, our client is not liable to penalty under the provisions of Section 114AA of the Act.

(vi) That the penal provisions under Section 117 of the Act, is residuary in nature and can be invoked only in the situation when no express penalty is provided, elsewhere in the Act. We further submit that since the show cause notice proposed imposition of penalty under Section 112 of the Act against our client, the provisions of Section 117 of the Act were not invocable.

**86.2** Shri Sunil P. Kotia, Advocate, appeared for hearing on 24.4.2025 on behalf of Noticee Nos 2 to 6, 8,11,12,13,15 and 16 and reiterated the written submission made in respect of said noticees.

**86.3** No one appeared for hearing on behalf of Noticee No. 7 and 14.

#### **Request for Cross Examination :**

**87.** Noticee Nos 1 to 5 and 8 to 16 requested to grant cross examination of persons whose statements were recorded under Section 108 of the Customs Act, 1962. The request for cross examination was rejected vide letter F.No. CUS/3244/2023-Adjn dated 10.7.2026 as per following findings :



2. I have carefully examined the requests made by the Noticees for cross-examination, the contents of the Show Cause Notice dated 05.12.2023, the replies filed thereto, the relied upon documents (RUDs) and the statements recorded during the course of investigation.

3. The allegations in the Show Cause Notice are primarily based on extensive documentary, digital, material and electronic evidences, inter alia comprising:

- (i) Navigation Licence, Minimum Safe Manning Certificate, Radio Licence and other statutory ship certificates reflecting the actual identity of the vessel as MT Melody (IMO No. 8800298);
- (ii) Port Clearance Certificate issued at Port Mina Khalid, UAE in respect of MT Melody and the corresponding allegedly fabricated Port Clearance submitted to Customs authorities;
- (iii) Trim and Stability Book, Muster List, Ship Design Documents, Gas Free Certificate, Crew Lists, Ship Logbook and other ship documents recovered from the vessel;
- (iv) WhatsApp chats, emails and digital correspondences retrieved during investigation establishing the knowledge and involvement of various stakeholders regarding the actual identity of the vessel;
- (v) Material evidences such as overwriting of IMO number on the vessel, life jackets bearing the name MT Melody, and other physical evidences recovered from the vessel;
- (vi) Verification reports from Maritime Affairs Department, Union of Comoros and IHS Maritime & Trade, UK confirming that the vessel imported was in fact MT Melody having IMO No. 8800298 and not MT Harriet having IMO No. 8716514;
- (vii) Statements of various persons recorded under Section 108 of the Customs Act, 1962, which are corroborative in nature and are supported by the aforesaid documentary and electronic evidences.

4. It is observed that the requests for cross-examination have been made in a general manner without specifying:

- (a) the precise portions of the statements sought to be controverted;
- (b) the reasons as to why such statements are incorrect or unreliable; and
- (c) how the cross-examination of the concerned persons would be essential for adjudication of the issues involved.

5. The allegations in the Show Cause Notice are not originated solely upon the statements of the persons sought to be cross-examined. It, prima facie, appears that there are documentary evidences, electronic records,



*material evidences and official confirmations obtained from competent authorities etc. available on record and supplied to the Noticees as Relied Upon Documents (RUDs). The statements recorded under Section 108 of the Customs Act, 1962 are only one of the several evidences relied upon.*

*5.1. It is a settled position of law that cross-examination is not an absolute right in quasi-judicial proceedings under the Customs Act, 1962. The principles of natural justice do not require that cross-examination must invariably be granted in every case. The adjudicating authority is required to examine whether such cross-examination is necessary for a just decision of the case. Where the allegations are established on the basis of documentary and independent evidences, and the statements relied upon are corroborative in nature, denial of cross-examination does not amount to violation of principles of natural justice.*

*5.2. In the instant case, the Show Cause Notice relies upon a large body of documentary and electronic evidence including ship certificates, port clearances, digital communications, email correspondences, physical evidences recovered from the vessel, verification reports from foreign maritime authorities and technical confirmations regarding the IMO number and hull number of the vessel. These evidences independently establish the true identity of the vessel as MT Melody having IMO No. 8800298 and, prima facie, indicate mis-declaration of the vessel as MT Harriet having IMO No. 8716514. Thus, denial of cross-examination would not amount to violation of principles of natural justice.*

*5.3 I find that in the case of **M/s Jagdish Shanker Trivedi v/s CC, Kanpur, 2006 (194) ELT 290 (Tri.-Del.)**, the Hon'ble Tribunal while relying on various judgments of the Hon'ble Supreme Court, has held as under:*

*"7.1 The question as to whether there was any contravention of natural justice by the customs authorities when the persons whose statements were recorded, were not produced to enable their cross-examination, came up for consideration by the Supreme Court in Kanungo's case (supra) in the context of the provisions of confiscation made under Section 167(8) of the Sea Customs Act read with Section 3(2) of Imports and Exports (Control) Act, 1947. The Supreme Court in paragraph 12 of the judgment rejected that contention in the following terms:*

*"12. We may first deal with the question of breach of natural justice. On the material on record, in our opinion, there has been no such breach. In the show cause notice issued on August 21, 1961, all the material on which the Customs Authorities have relied was set out and it was then for the appellant to give a suitable explanation. The*



*complaint of the appellant now is that all the persons from whom enquiries were alleged to have been made by the authorities should have been produced to enable it to cross-examine them. In our opinion, the principles of natural justice do not require that in matters like this the persons who have given information should be examined in the presence of the appellant or should be allowed to be cross-examined by them on the statements made before the Customs Authorities. Accordingly, we hold that there is no force in the third contention of the appellant."*

*The decision in the case of Kanungo & Co. was followed by the Calcutta High Court in Tapan Kumar Biswas v. Union of India (supra). In paragraph 17 of the judgment, it was held that in a proceedings under the Customs Act, the proceedees are not entitled to cross-examine the witnesses. The decision of the Hon'ble Supreme Court in Ashutosh Ghosh and Another vs. Union of India and Others reported in 1977 Criminal Law Journal N.O.C. 67, was also relied upon wherein Supreme Court has categorically held that a proceedee is not entitled to cross-examine the witnesses. The decision of the Division Bench of the Calcutta High Court in Kishan Lal case (supra) was also referred to in paragraph 18 of the judgment and it was held to be laying down the proposition that cross-examination of the witnesses (in the matters under the Sea Customs Act) was not comprehended. Referring to all these decisions, the Court held, that a proceedee was not entitled cross-examination of any witnesses under Section 124 of the said Act which lays down the extent of applicability of the principles of natural justice and under which a proceedee was not entitled to cross-examine any witnesses (para 11). Thus in view of the decisions of the Hon'ble Supreme Court in the case of Kanungo & Co., Ashutosh Ghosh and of the Calcutta High Court, in the above two decisions, it is abundantly clear that a noticee cannot claim a right to cross-examine under Section 124 of the said Act."*

**5.4 In the case of Fortune Impex vs. Commissioner of Customs, Calcutta, 2001 (138) ELT 556 (Tri.-Kolkata) [affirmed in 2004 (164) ELT 4 (S.C.) & 2004 (167) ELT A 134 (S.C.)], the Hon'ble Tribunal has held as under:**

*"12. ....The learned Advocate has also emphasised that non-allowing of cross-examination of 26 persons sought by him also vitiates the proceedings. The cross-examination of the witness, wherever necessary, has to be allowed in Departmental Proceedings. But it is not required that in each and every case cross-examination should necessarily be allowed. There is no absolute right of cross-examination provided in the Customs Act. This was the view held by the Calcutta High Court in the case of Tapan Kumar Biswas v. UOI, 1996 (63) ECR 546. Cross-examination of witnesses cannot be*



*demanded as of right. The presumption is that unless a case for cross-examination is made out no cross-examination will be granted. The Appellate Tribunal in the case of Debu Saha v. Collector of Customs, 1990 (48) E.L.T. 302 (T) held that "It is no doubt true that **in all cases, cross-examination need not be granted, but it all depends on the circumstances of each case.**" The Tribunal also observed in that case that if the Collector comes to the conclusion that cross-examination is not material then by assigning reasons, he can reject the prayer..."*

**5.5 In the case of Calicut Rubber Company v/s CCE, Cochin, 1996 (81) ELT 320 (Tribunal), the Hon'ble Tribunal has held as under:-**

*"6. ...It has been pointed out before us that the Collector has mainly proceeded to confirm the duty on the basis of statement recorded by the department. The Learned Collector has held that the statements are given voluntarily. We agree with the Learned Collector that the statements are voluntary and that there has been no coercion in recording the statements as can be seen from the nature of the respective statements. The reply to show cause notice merely states that they are not voluntary statement. However, if there was any coercion or fraud by the officials then the appellants could have immediately reconciled from the statements on the very next day. In the reply to the show cause notice, the appellants themselves have contended that they do not suggest that the department had intentionally foisted a false case against them. Therefore, when there is no allegation of false case having been made out against them and that there is no individual resilement by the witnesses at the earliest point of time, therefore, we have to come to the conclusion that the statements given by the witnesses are voluntary. As regards the plea of denial of opportunity to cross-examine the witnesses, it has to be stated that **the appellants are the accused persons and their statements are not held to be false and that the case against them is on the basis of their own statement and hence the question of calling them for cross-examination does not arise..***

7. ....

8. *...that there is no violation of principles of natural justice in not granting the opportunity to cross-examine the witnesses,..."*

**5.6 I also find that in Revision Authority, GOI: G. Subramanian, 2002 (142) ELT 224 (G.O.I.), it is held that –**



"7. Govt. observes that through sustained and well directed investigation, the Deptt. was able to crack the organized gang which specialized in illegal exportation of foreign currency and import of foreign goods. The role of Shri G. Subramanian in this organized activity is established by the investigation carried out. It has been held by the Hon'ble Supreme Court of India that customs officers are not police officers and therefore statements given before customs officers are valid as substantive evidence. It has been categorically held that the statements made before the customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by the customs officials under Section 108 of the Customs Act. Hon'ble Supreme Court had also held that the statements made before customs officers though retracted within six days is an admission and binding because it has been made before a customs officer and not a police officer. These aspects have been dealt with in detail by the Hon'ble Supreme Court in the following judgments (i) *Surjit Singh Chhabra v. Union of India* reported in 1997 (89) E.L.T. 646, *Naresh J. Sukhawani v. Union of India* - 1996 (83) E.L.T. 258 (S.C.) etc. It has also been held that cross-examination is not compulsory. Procedural requirements as to cross-examination of witnesses etc. governing enquiry under Article 311 of the Constitution of India are not equally applicable to proceedings under Section 112 of the Customs Act, 1962. **Cross-examination is not a mandatory procedure to be allowed in all cases-** *Liyakat Shah v. Commr.* - 2000 (120) E.L.T. 556 (T). Hon'ble Tribunal has also held that the plea that no opportunity of cross-examination was afforded is not tenable and **when confessional statements are given, non-tendering of witnesses for cross-examination is not violative of principles of natural justice. Cross-examination is not a part of the natural justice but only that of procedural justice and not a 'Sine qua non'** *Poddar Tyres Pvt. Ltd. v. Commissioner* - 2000 (126) E.L.T. 737 (Tri.). In *Akai Impex v. Commissioner* - 2000 (118) E.L.T. 610 (T), Hon'ble Tribunal held that cross-examination of witnesses cannot be demanded as a matter of right.

8. Govt. observes that cross-examination will be allowed only when the proceedings justified. In the present case the confessional statements given, corroborative evidences collected, documentary evidences collected during searches conclusively prove, culpability of Shri G. Subramanian beyond doubt. He has not complained about threat or coercion when he was produced before Magistrate immediately after arrest. When the original adjudicating authority questioned him about the nature of torture during personal hearing, he could not answer satisfactorily. In view of the Hon'ble Supreme Court judgment as discussed above and the strong evidences collected by the Deptt., Govt. observes that penalty has been rightly imposed."



**5.7** In the case of *Goodrich Fairwell Exporters v/s CC (Import), Nhava Sheva, 2010 (252) E.L.T. 428 (Tri. - Mumbai)*, the Hon'ble Tribunal has observed as under:-

"16. The law, therefore, on the point of right to cross examine witness is well settled. It is not that in each and every matter before the adjudicating authority in relation to the tax liability that the assessee would be entitled to cross examine the persons whose statements recorded without disclosing the purpose for which the same is required. Besides, in a case where the facts which are sought to be established on the basis of the contents of the statements of the witnesses are not only to the knowledge of the assessee but are clearly admitted by the assessee in other documents in the same proceedings, mere rejection of refusal of cross examination of such persons would not result in failure of principles of natural justice. Hence, we do not find any substance in the first ground of challenge in the matter."

**5.8** In the case of *Sridhar Paints Co. P. Ltd. v/s CCE, Hyderabad -III, 2006 (198) E.L.T. 514 (Tri. - Bang.)*, the Hon'ble Tribunal has observed as under:-

"9. ..Shri V. Radha Krishna Proprietor of ARA, Vijayawada has admitted that they are the sole distributors of paints manufactured by SPCPL and also LRs and Kutcha Bills showing details of goods booked and consigned by ARA from Hyderabad to Vijayawada relates to the paints received along with the goods. He further stated that as per R. Shankar's instructions they have not rendered the goods in their account. They destroyed the transport and other documents after receipt of this. The sales proceeds were handed over by him personally to R. Shankar when he visited Hyderabad. As regards, the Chartered Engineer's certificate, the adjudicating authority has stated that the same does not relate to the period mentioned in the show cause notice. All the persons involved, viz., Shri K. Vijaya Kumar of VE, Shri R. Shankra, MD, Shri R. Sridhra, Director and V. Radha Krishna of ARA in their statements have admitted that most of the transactions were done without any payment of central excise duty from SPCPL through Vandana Enterprises. The Adjudicating Authority has also distinguished each case law cited by the appellants. The Adjudicating Authority has further cited several case laws to show 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.** Even unaccounted raw materials and finished goods have been seized. There is no infirmity in the



*Adjudication Order. A modus oprendus has been devised to evade Central Excise duty systematically..”*

**5.9** *In the case of Onida Saka Ltd. v/s CCE Noida, 2011 (267) ELT 101 (Tri.-Del), the Hon'ble Tribunal has held as under: -*

*“Since the statement of the above persons have not been retracted, there was no necessity for permitting their cross examination. Tribunal in the case of Debu Saha v. Collector of Customs reported in 1990 (48) E.L.T. 302 (Tri.), relying upon the Apex Court judgment in the case of State of Mysore v. Shibabsuppa reported in 1963 AIR page 375, has held that in quasi judicial proceedings the authorities are not bound by the strict rules of evidence and procedure and that in all the cases, the cross examination need not be granted, as it depends on the circumstances of each case. Therefore, just because the cross examination of the above mentioned persons were not allowed, it does not diminish the evidentiary value of their statements’.*

**6.** *I further observe that vide email dated 23.04.2025, Shri Sunil P. Kotia, Advocate of Shri Soham Sunil Narayan, Shri Chirag Narendrabhai Trivedi, Shri Sunil Narayan and Shri Rahul Choudhary, has made an attempt to show that these Noticees have retracted their statements by filing Affidavits on 30.12.2021, 16.01.2022, 13.01.2022 and 13.01.2022. I find that while recording the statements of these Noticees the evidences in the form of emails, whatsapp chat and other documents recovered from them were placed before them and they were given full opportunity to peruse the said documents before giving testimony about the truth and correctness thereof. It was only after they perused the documents placed before them, they gave testimony stating agreement with the contents thereof. It is also seen from the records that the retractions were never sent to the Investigating Agency or any of his superior officer and thus the revenue has not been given opportunity for further interrogation and collection of evidence. It is further seen that these were also not submitted to the Adjudicating Authority as the same have been brought to the notice of the Adjudicating Authority through Advocate's mail dated 23.04.2025 after a gap of more than one year. Thus, I find that the retractions filed by the Noticees are not genuine and bald retraction and the confessional statements are credible and voluntary. I rely upon the following judgements:*

**(a) A.L. JALALUDEEN Vs DY. DIR. OF ENFORCEMENT DIRECTORATE, CHENNAI 2010 (261) E.L.T. 84 (Mad.)** wherein in para 34, it has been held that

*“34. In that case, the Tribunal on its independent examination of the factual matrix placed before it “did not arrive at any finding that the*



*confession being free from threat, inducement or force could not attract the provisions of Section 24 of the Indian Evidence Act." However, the reasoning in the above judgment would indicate that if a confessional statement is retracted we should decide whether the retraction statement is genuine or not. Here we have given our reasons to confirm the Tribunal's finding that the retractions were not genuine and bald retraction and that the confessional statements are credible and voluntary."*

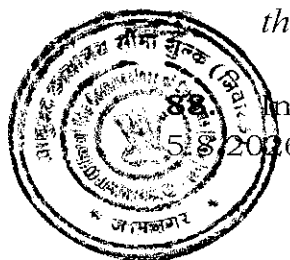
**(b) JAGDISH SHANKER TRIVEDI Vs COMMISSIONER OF CUSTOMS, KANPUR 2006 (194) E.L.T. 290 (Tri. - Del.), wherein in para 7.2, it has been held that**

*"It may be noticed that the above observations were made even though the petitioner had retracted within six days from the confession. The Supreme Court held that confession though retracted is an admission and was binding on the petitioner and, therefore, there was no need to call punch witnesses for cross-examination of the witnesses. Therefore, so far as the appellants whose statements were recorded under Section 108 of the said Act and who had clearly confessed to their involvement, there would be no violation of the principles of natural justice as the witnesses were not required to be produced for cross-examination. Their subsequent retraction did not entitle them to claim cross-examination of the witnesses on the aspects which were confessed by them. In the present case, even after the retraction, there have been statements, recorded on 3-1-1993 amounting to confessions."*

7. Further, the Noticees have already been provided copies of the relied upon documents and statements, and have been afforded adequate opportunity to inspect records and submit their written replies. Therefore, the requirements of natural justice have been duly complied with.

8. In view of the foregoing facts and circumstances, and considering that (i) the allegations are principally supported by documentary, electronic and material evidences; (ii) the statements relied upon are corroborative in nature; (iii) the requests for cross-examination are general and non-specific; and (iv) the grant of cross-examination is not indispensable for adjudication of the issues involved, I am of the considered view that the requests made by the Noticees for cross-examination of the persons mentioned in their respective replies are not warranted and the same are, therefore, rejected."

In the interest of natural justice, one more hearing was scheduled on 2026. Shri Sunil Kotia, Advocate appeared on behalf of Noticee Nos 2 to 6,



8,11,12,13,15 and 16 and reiterated the written submission made in respect of said noticees and further submitted that,

(i) the owner of the vessel Asif Kanda of Blueone General trading purchased the vessel on 8/11/2021 from M/s TYRON SHIPPING LTD, with vessel named PATRA and the IMO number mentioned in that MOA for purchase is the same mentioned in MT Harriat imo no.8716514 therefore from its purchase itself it the allegedly false IMO number is mentioned, hence under these circumstances the noticee cannot be considered accused and submitted MOA dated 8.11.2021 executed between M/s Blueone General trading LLC and M/s Tyron Shipping Ltd.

**88.1** Shri Karan Parekh., C.A. vide email dated 4.8.2026 requested on behalf of Notice No. 1, 9 and 10 to grant them adjournment. No one appeared for hearing on behalf of Noticee No. 7 and 14 on 5.8.2026.

**88.2** Shri Karan Parekh, C.A. appeared for hearing on 24.8.2026 on behalf of Notice No. 1, 9 and 10 and reiterated his earlier submissions and requested to give time till 28.8.2026 for filing additional written submission. However, no written submission has been received. I, therefore, proceed to decide the issue based on their earlier submissions and available records.

**88.3.** None of the Noticee contested denial of cross examination in their defence reply filed subsequently.

#### **DISCUSSIONS & FINDINGS:**

**89.** I have gone through Show Cause Notice, written submissions filed by the Noticees and oral submissions made at the time of hearing. The issues to be decided in the present case are,

- (i) Whether there is mis-declaration of vessel in dispute imported vide IGM No. 2298394 dated 06.12.2021 and Bill of Entry No. 6603471 dated 09.12.2021, or not?
- (ii) Whether vessel in dispute imported vide IGM No. 2298394 dated 06.12.2021 and Bill of Entry No. 6603471 dated 09.12.2021 was prohibited goods for importation under the Customs Act, 1962, or not?
- (iii) Whether vessel in dispute is liable for confiscation under the provisions of Sections 111(f) and 115 of the Customs Act, 1962, or not?
- (iv) Whether Noticee No. 1 and 3 are liable for penalty under Sections 112, 114AA and 117 of the Customs Act, 1962, or not?
- (v) Whether Noticee No. 2 is liable for penalty under Sections 112 and 114AA of the Customs Act, 1962, or not?
- (vi) Whether Noticee No. 4 to 16 are liable for penalty under Section 112(a)/ 112(b) and Section 114AA of the Customs Act, 1962 and under the provisions of HCCR, 2009, or not?

Whether reference is required to be made to DG Shipping to initiate penal action against Noticee No. 4,6,7,8,11 and 12 for violation of



provisions of Sections 417, 418, 421 and 423 to 425 of the Merchants Shipping Act, 1958, or not?

**90.** As per facts emerging from records, Noticee No. 3 filed IGM No. 2298394 dated 06.12.2021 declaring arrival of vessel MT Harriet (IMO No. 8716514) at SBY Alang for demolition, on behalf of Noticee No. 2. Noticee No.1 filed prior Bill of Entry No. 6603471 dated 09.12.2021 for import of vessel MT Harriet (IMO No. 8716514) at SBY, Alang for recycling purpose, which was purchased from Noticee No. 2.

**90.1** On the basis of investigation carried out by the Officers of Directorate of Revenue Intelligence (DRI), it is alleged in the show cause notice that correct name, IMO Number and identity of the vessel were mis-declared in IGM as well as in Bill of Entry. Based on investigation, it appeared that the actual name of the vessel was 'MT Melody' having IMO No. 8800298 (Ex-names: Golden Sea, Happy Girl, Sunny Girl, Blue Way) and not MT Harriet having IMO 8716514 as declared in import documents. It has been alleged that said vessel MT Melody (Ex. Name Blueway) having IMO No. 8800298 is sanctioned by the US Department of Treasury's Office of Foreign Assets Control (OFAC), which has been endorsed by the UNSC Resolution 22331 dated 20.07.2015, which made the vessel 'MT Melody' a prohibited goods for importation under the Customs Act, 1962.

**90.2** During the investigation, the investigating officers recorded statements of various persons under Section 108 of the Customs Act, 1962 and also collected various documentary evidences, digital evidences, material evidences etc. and allege that the vessel arrived at SBI Alang was MT Melody having IMO No. 8800298 and not MT Harriet having IMO No. 8716514 as declared in IGM and Bill of Entry. Since the vessel was allegedly mis-declared in IGM filed under Section 30 of the Customs Act, 1962 as well as in prior Bill of Entry filed under Section 46 of the Customs Act, 1962, the vessel in dispute was placed under seizure on 12.12.2021 under Section 110(1) of the Customs Act, 1962. The Show Cause Notice has proposed confiscation of the vessel under the provisions of Sections 111(f) and 115 of the Customs Act, 1962 and proposed imposition of penalty upon the Noticees under Sections 112, 114AA and 117 of the Customs Act, 1962.

**90.3** In backdrop of the above, I proceed to decide the issues involved in the present case as under:

**(i) Whether there is mis-declaration of vessel in dispute imported vide IGM No. 2298394 dated 06.12.2021 and Bill of Entry No. 6603471 dated 09.12.2021, or not?**

**91.** I proceed to decide whether the vessel which arrived at SBY Alang on 11.12.2021 was 'MT Harriet' having IMO No. 8716514 as declared in IGM and Bill of Entry or was it 'MT Melody' having IMO No. 8800298, as alleged in the Show Cause Notice and whether there was any mis-declaration in IGM and Bill of Entry filed in this regard. I examine various evidences gathered during investigation and relied upon in the Show Cause Notice, as under:

**Oral evidences :**

The statements of following persons were recorded under Section 108 of Customs Act, 1962 :



(i) Statement dated 12.12.2021 of Shri Rahul Choudhary, Captain of the vessel in dispute wherein he, *inter alia*, deposed as under:

"Q.9 : As per the details available on the public domain, vessel having IMO No. 8716514 has been demolished in the year 2013. The vessel was beached at Aliaga, Turkey on 12.11.2013 for demolition/breaking purpose under the flag of "Isle of Man". Two vessels cannot have the same IMO number, then how is it possible that your vessel is also having IMO No. 871 651 4? What is the factual position?

Ans : I admit that two vessels cannot have the same IMO number. I further admit that when I took over, actual name of the vessel was MT Melody and IMO No. was 8800298.

Q-11 : What is the purpose of mis-declaring the vessel's name and IMO number with all authorities?

Ans : Capt. Gajanan Karanjikar of M/S. DTA had informed me that there was some issue regarding payment to the old crews and due to that they were unable to get NOC from insurance authorities. So, they were changing the name and IMO number of the vessel.

On being further asked, I state that when I boarded the vessel at Mina Khalid Port, name of the vessel was MT Melody and IMO number was 8800298. The vessel was issued Port Clearance Certificate dated 23.11.2021 by UAE Port Control, Sharjah in the name of MT Melody. Actual IMO Number i.e. 8800298 was also mentioned in the said Port Clearance Certificate. As per the said Port Clearance, flag of the vessel was of Sao Tome and Principe. I hereby produce copy of the said Port Clearance Certificate that was provided to me by vessel's agent at Mina Khalid Port.

Q.14 : What are the records related to MT Melody (IMO No. 8800298) that you possess now? Please produce them.

Ans : With regard to the records related to MT Melody (IMO No. 8800298), I state that as per the directions of Capt. Gajanan Karanjikar, I had returned back all the materials related to vessel MT Melody that was available on board through the supply boat DTA-5 that had come to deliver us the Port Clearance Certificate.

On being asked about the details of the materials returned back, I state that the said material included Trim & Stability Book, Water Ballast Book, all Ship's Certificates, Machinery Manuals, Records related to past voyages, Port Clearance file, etc. In short, all the documents that were revealing the identity of the vessel, were handed over to Capt. Gajanan Karanjikar, through Supply Boat DTA-5.

I further state that during the voyage, we found few more documents from Engine Room, Generator Room, etc. which were revealing the actual identity of MT Melody (IMO No. 8800298). So I messaged to Capt. Gajanan Karanjikar about this. Capt. Gajanan Karanjikar instructed me to burn the same and throw into the sea, which followed.

Q.15: What did you do to hide the identity of the vessel? What was the purpose of destroying the evidences that revealed the actual identity of the vessel?

Ans : Capt. Gajanan Karanjikar had informed me that due to salary issues of old crew and problems faced in getting NOC from Insurance company, they wanted to hide the actual identity of the vessel from the buyer of the vessel. So, I followed his instructions. Earlier, I had returned back all the materials related to vessel MT Melody that was available on board the boat DTA-5 that had come to deliver us the Port Clearance Certificate. During the voyage also, I applied paper stickers and paint marks mentioning new/fake name everywhere in the vessel. I took utmost care to ensure that nowhere the original name and IMO number of MT Melody (IMO No. 8800298) is visible.



As the officers have rightly pointed out, I had painted fake name and IMO number of the vessel at some places after reaching India.

Q-16: During the course of search/rummaging, the officers had tried to remove fresh paint applied by you over the IMO number written on the vessel. After partially removing the paint applied by you, the earlier IMO number is visible. Copy of the photograph of the same and photographs of new name stickers applied over the actual name are shown to you. Please go through the same and comment.

Ans : I have gone through the photograph showing the actual IMO number of the vessel over which I have painted to hide the same. I have also gone through the photographs taken by the officers where new name applied by me and my officers have been removed with the earlier names being made visible thereon. I have put my dated signature on the same and admit that in order to hide the actual identity of the vessel, my staff and myself had applied paper stickers and paints everywhere in the vessel.

Q.20 : During the search/rummaging, the officers have found that you had some conversations with Capt. Gajanan Karanjikar on his UAE Number +97152779396. Please explain one message sent by Capt. Gajanan Karanjikar at 8.52 pm of 23.11.2021 wherein it has been written that

"FA-150

Open up main menu

Select initial setting

Enter Password

(Men-ent-disp-Dim-nav status-menu)

Now able to change ship particulars details"

Ans: I have gone through the said message and state that the said message was sent by Capt. Gajanan Karanjikar to my mobile. In this regard, I state that when I took charge of the vessel, the AIS of the vessel was telecasting the name & IMO of MT Melody (IMO No. 8800298). So, to amend the same, Capt. Gajanan Karanjikar had promised me to send a technician but somehow he could not send. So, he got above settings from technician for changing the settings of the AIS and sent the same to me. I followed the steps and successfully changed the settings of AIS.

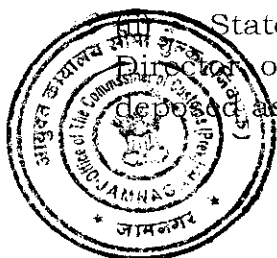
Q.23 : A certificate bearing No. 45434 dated 09.11.2021 issued by M/s. Flots Marine Survey & Consultancy FZC UAE has been found from your vessel during the search/rummaging by the DRI & Customs officers. Please explain about the same.

Ans : I have seen the certificate bearing No. 45434, dated 09.11.2021 issued by M/s Flots Marine Survey & Consultancy FZC, UAE. In token of having seen the same, I have put my dated signature on the same. In this regard, I state that M/s. Flots Marine Survey & Consultancy FZC, UAE had inspected the vessel viz. MT Melody (IMO No. 8800298) to certify that the vessel is Gas Free. I admit that this certificate is also showing the actual name and IMO number of the vessel.

Q.25: While the actual identity of the vessel is MT Melody (IMO No. 8800298), how did you obtain the certificates that are found onboard such as Provisional Registration Certificate, Provisional Minimum Safe Manning Document, Port Clearance Certificate, etc. in the name of M.T. Harriet?

Ans I state that so far as I know all the certificates are genuine but have been obtained on the basis of misdeclaration with regard to vessel's identification."

Statement dated 16.12.2021 of Shri Chirag Narendrabhai Trivedi, Director of M/s Lotus Danship Pvt Ltd, Bhavnagar wherein he, *inter alia*, deposed as under:



“Q.10 : What is the vessel that is declared to be imported in the IGM and MOA (Memorandum of Agreement) and what is the vessel that has actually arrived?

Ans : In IGM the vessel MT Harriet is declared to be imported, whereas, the vessel MT Melody has actually arrived.

Q.12: Do you admit that there is clear misdeclaration of the identity of the vessel in the IGM No. 2298398, dated 06.12.2021 ?

Ans Yes, I admit that there is misdeclaration in the IGM No. 2298398, dated 06.12.2021, as the identity of the vessel by manipulating the IMO

Q.16 : Were you aware of the fact from the beginning itself that the vessel which is arriving for breaking is MT Melody?

Ans: I admit that I have prepared draft MoA for MT Melody. But as per the practice being followed at Alang, all the draft MoAs do not get finalized. So when I received the final MoA in the name of MT Patra, I had noticed the change of name, which is quite usual, but I did not notice about the manipulation with IMO.

Q.17 : When did you first get the details of the vessel MT Melody from your principal M/S. Blue One General Trading LLC, Dubai?

Ans. : I got the details for preparing draft MoA from Mr. Sunil Narayan on around 28th or 29th October, 2021 for the vessel M.T. Melody. Whereas details for filing IGM were received by me from M/s. Blue One General Trading LLC, Dubai on 3rd or 4th December, 2021. Wherein I observed that they were for pertaining to MT Harriet.

Q.18 : Were you aware of the vessel MT Melody earlier? From where did you come to know about the vessel?

Ans. Yes, as per my knowledge the vessel was in market since last two years. I received details once in the month of July 2020 and in the month of September-2021.

Q.19 : Were you aware that vessel MT Melody is under US Treasury's OFAC (Office of the Foreign Assets Control) sanction?

Ans : Yes, I was aware that MT Melody was under US Treasury's OFAC sanction.”

Q.24 Who has prepared the MOA for MT Melody with IMO No. 8800298 Which has been mis-declared at the time of import as MT Harriet with IMO No. 8716514?

Ans The draft MoA was prepared on 01.11.2021 in my office on my instruction. Initially, the draft MoA was prepared for MT Melody with IMO No. 8800298, details of which I received from Mr. Sunil Narayan. The draft MoA was then sent to Mr. Soham Narayan, son of Shri Sunil Narayan who then forwarded to Mr. Bilal of M/S. Blue One General Trading LLC, Dubai.

Q.26 What was the reason for hiding the actual identity of the vessel?

Ans. As the vessel was under sanction list of OFAC, actual identity of the vessel was hidden.

Q-37: Go through the printout of a whatsapp chat retrieved from your mobile during the search of your office wherein you have had chat with contact saved as Sohambhai. Please go through it and explain the same.

Ans: I have gone through the print out of the chat I had with Sohambhai. In token of having seen the same, I have put my dated signature thereon. In this regard, I state that the said chat is with Shri Soham Narayan, son of Shri Sunil Narayan. In this chat, I have sent him a message regarding price calculation of MT Melody, for which he asks that which vessel it is and further confirms that is it the same vessel that has been given to Shri Anish, which I replied in affirmative.”



(iii) Statement dated 16.12.2021 of Shri Sunil Narayan, Proprietor of M/s. Teamforce Worldwide, Bhavnagar wherein he, *inter alia*, deposed as under:

Q.16: Were you aware of the fact from the beginning itself that the vessel which is arriving for breaking is MT Melody?

Ans : Yes, I was aware of the fact that the vessel that has been declared as MT Harriet with IMO No. 871 6514 is actually MT Melody with IMO No. 8800298.

Q.17: When did you first get the details of the vessel MT Melody from your principal M/S. Blue One General Trading LLC, Dubai?

Ans : In the mid of October-2021, Mr. Tahir Lakhani called me and informed me that he is going to buy an LPG Tanker and gave me details thereof. On seeing the details, I told him that this vessel is under OFAC sanction, for which he replied that he will take care of that.

Q.18 : Were you aware of the vessel MT Melody earlier? From where did you come to know about the vessel?

Ans: Yes, as per my knowledge the vessel was in market since last two years. I also received details in the month of September-2021.

Q.19 : Were you aware that vessel MT Melody is under US Treasury's OFAC (Office of the Foreign Assets Control) sanction?

Ans: Yes, I was aware that MT Melody was under US Treasury's OFAC sanction.

Q.20 : In your reply of the earlier question, you have mentioned that you were aware of the fact that the vessel MT Melody is under US Treasury's OFAC sanction. Then why did you accept to act as a broker for such a vessel?

Ans: It was my mistake. I did that since I was desperate to get some business.

Q.24 :Who has prepared the MoA for MT Melody with IMO No. 8800298? Which has been mis-declared at the time of import as MT Harriet with IMO No. 871 6514?

Ans: The draft MoA was prepared on 01.11.2021 in Mr. Chirag Trivedi's office on my instruction. Initially, the draft MoA was prepared for MT Melody with IMO No. 8800298. price of which I received from Mr. Tahir Lakhani. The draft MoA was then sent to my son viz. Mr. Soham Narayan, who then forwarded to Mr. Bilal of M/S. Blue One General Trading LLC, Dubai.

Q.25: At what point of time, name of the vessel in draft MOA was changed from MT Melody to MT Harriet? What was the purpose of changing the name and deleting IMO number from the MoA?

Ans : As stated earlier, my son sent the draft to Mr. Bilal of M/S. Blue One General Trading LLC, Dubai on 01.11.2021. In reply, Mr. Bilal of M/S. Blue One General Trading LLC, Dubai sent back an amended draft wherein the name of the vessel was MT Patra and the IMO number was deleted from the MoA. Purpose of changing the name and deleting the IMO number from MoA, was to hide the actual identity of the vessel.

Q.26 What was the reason for hiding the actual identity of the vessel?

Ans :As the vessel was under sanction list of OFAC, actual identity of the vessel was hidden to avoid the problems that would be faced while dealing a vessel under sanction."

Statement dated 16.12.2021 / 18.12.2021 of Shri Soham Narayan, Manager of M/s. Teamforce Worldwide, Bhavnagar wherein he, *inter alia*, deposed as under:



“Q12 : Whether the draft MOA was initially prepared for the vessel MT Melody?

Ans : The draft MOA was submitted for the vessel MT Melody and at the finalization stage the name of the vessel was changed to MT Harriet. I do not know the reasons in this regard/

Q15 You are shown a Memorandum of Agreement document named "Tug MT Melody TT" found in your mobile. The vessel details MT Melody in the said MOA matches with the actual vessel that has arrived at Alang. What is the source of the document? Were you aware that the vessel arriving is actually is MT Melody?

Ans : The draft was prepared by Mr. Tajagn based on the details provided by me which I got from my father. Yes, myself and my father were aware that the vessel that was coming to Alang was MT Melody (IMO 8800298) and not MT Harriet (IMO 8716514).

Q23 : Apart from above, would you like to add anything in your statement from your end?

Ans : I want to submit that I knew about the mis-declaration of the vessel MT Melody with IMO No. 8800298 which is wrongly declared as MT Harriet with IMO 8716514 just one month ago. The same is in the knowledge of M/r. Anish Gupta. I was just following the directions of Shri Chirag Narendrabhai Trivedi, Tahir Lakhani and my father Sunil Narayan. I also add that I have deleted mail of MOA between M/S. Blueone and M/S. Rajendra Shipbreaking and checklist of vessel received from Shri Anish.”

(v) Statement dated 18.12.2021 of Shri Soham Narayan, Manager of M/s. Teamforce Worldwide, Bhavnagar wherein he, *inter alia*, deposed as under:

“Q-4 : What do these draft MOAs refer to ?

Ans : These draft MOAs refer to the Memorandum of Agreement for the vessel MT Melody that Teamforce Worldwide (proprietorship of my father) was trying to sell to Rajendra Ship breakers Pvt Ltd in the name of MT Patra which was later renamed as MT Harriet.

Q-5 : Do you admit that you know in advance that the actual vessel that was to be imported was MT Melody in the name of MT Patra (later renamed as MT Harriet)? Who else knew about this fact?

Ans : I admit that I knew in advance that the actual vessel that was to be imported was MT Melody in the name of MT Patra (later renamed as MT Harriet).

My father Shri Sunil Narayan, Shipping Agent Shri Chirag Trivedi and the buyer Shri Rajendra Gupta & Shri Anish Gupta, all knew about this fact that the actual vessel to be imported was MT Melody in the name of MT Patra/ MT Harriet from the beginning itself.”

(vi) Statement dated 21.2.2022/22.2.2022 of Shri Asif Khanda of M/s. Blue One General Trading LLC wherein he, *inter alia*, deposed as under:

“Q-9 Please confirm who are dealing with Mr. Lotus Danship Pvt. Ltd., Mr. Sunil Narayan and M/S. Rajendra Ship Breakers Pvt. Ltd. on behalf of M/S. Blue One General Trading LLC?

Ans : All the correspondence whether written or telephonic with M/S. Lotus Danship Pvt. Ltd., Mr. Sunil Narayan and M/S. Rajendra Ship Breakers Pvt. Ltd. were done by Mr. Tahir Lakhani on behalf of my company. As he was earlier engaged in ship breaking activity and having good knowledge in ship breaking activity, I allowed and authorized him to do so.

Q-13 :As you have stated that Mr.Tahir Lakhani has suggested you to enter in ship recycling business. From your statement it is clear that all activities such as purchase of the vessels, appointment of shipping agents, brokers and crew



management, were managed by Mr. Tahir Lakhani? What are charges/commission you had to pay to Mr. Tahir?

Ans : As per general practice I had agreed to pay 1% of the MOA amount to Mr. Tahir Lakhani. All other activities such as crew manning, documentation, shipping agents/brokers, bunkering, maintenance and supply of provisions related were performed by DTA. Expenses of all other activities were born by M/S. Blue One General Trading LLC.

Q-14 : You are shown the pictures taken in the vessel during the search at Bhavnagar Anchorage. What is the actual IMO No. and name of the vessel as per these evidences.

Ans : As per pictures shown the actual IMO No. 8800298 and name of the vessel is "Golden Sea". (Ex-name of the MT Melody)

Q-15 : Do you admit that there is clear mis-declaration of the identity of the vessel?

Ans : On going through the statement and Panchnama dated 11/12.12.2021, there is misdeclaration of the identity of the vessel."

(vii) Statement dated 17.5.2022 of Shri Anish Gupta, authorised person of M/s. Rajendra Ship Breakers Pvt. Ltd, Bhavnagar wherein he, inter alia, deposed as under:

"Q-11 What did you do after knowing that the vessel actually imported by you was MT Melody (IMO 8800298) not MT Harriet as declared by you in your import documents?

Ans. After knowing that the vessel actually imported by me was MT Melody OMO 8800298) not MT Harriet (IMO 8716514), we filed refund application before the Customs Authorities for the duty, paid against prior B/E No.6603471 dated 09.12.2021 on the grounds the ship we imported by us was different and the vessel has been seized by DRI.

Q. 12. So, you yourself have admitted that the vessel is MT Melody (IMO No.8800298), and disowned the same and filed refund application dated 03.01.2022 before the Customs Authorities on the ground that the vessel was mis declared as 'MT Harriet (IMO No. 8716514) which is not correct name/number of the vessel?

Ans. Yes I admit that the vessel is MT Melody (IMO No.8800298), declared the same and filed refund application dated 03.01.2022 before the Customs Authorities on the ground that the vessel was mis-declared as MT Harriet (IMO No. 8716514) which is not correct name/number of the vessel.

Q. 13. You are shown BE No.6603471 dated 09.12.2021 which has been cleared provisionally. Did you file this BE 6603471 dated 09.12.2021 and pursue customs for clearance? Why did you pursue the bill of entry after disowning the same?

Ans. Yes, the above BE was filed by us as prior BE dated 09.12.221 and the same was pursued by us for Customs clearance on 28.03.2022. Yes, we filed the bill of entry the same was pursued by Customs on 28.03.2022 as Mr. Asif Khanda approached personally informed that he has got the vessel cleared by the department and therefore, the same was accepted by us.

Q-16 : Please confirm whether any fresh Memorandum of Agreement was executed between M/s Rajendra Shipbreakers Pvt Ltd and M/s Blue One General Trading LLC with correct name and IMO No. of the vessel i.e. MT Melody with IMO No. 8800298?

Ans : No fresh MoA was executed or signed between seller and importer."



**Documentary evidence :**

**91.2** During search carried out on the disputed vessel, the investigating officers recovered following documents :

- (i) Navigation License No.045/OR/2020 dated 12.10.2020 issued by Republic of Sao Tome Principe showing name of vessel as MT Melody and IMO No. as 8800298;
- (ii) Minimum Safe Manning Certificate S.O: MSM/PR/035/20 dated 12.10.2020 and Copy of Ships Radio License NO:09/SRL/PR/20 dated 12.10.2020 issued by Republic of Sao Tome Principe showing identity of the vessel as MT Melody with IMO 8800298;
- (iii) Port Clearance No. MK/2021-31003 dated 23.11.2021 in respect of the vessel 'MT Melody having IMO 8800298' issued at Port Mina Khalid, UAE;
- (iv) Trim & Stability Book, names of the vessel were mentioned as "Sunny Girl" and "Happy Girl", which are ex names of the vessel MT Melody (IMO No. 8800298);
- (v) Ship Certificates dated 16.10.2020 issued by Alfa Register of Shipping in the name of vessel MT Melody and IMO Number No. 8800298;
- (vi) 'Muster List', 'record for hours rest', 'vaccination report', 'sopep drill', 'narcotic list', 'Crew Currency declaration', 'record of garbage discharge', 'fire control drill' etc., with the stamp/signature of the then Captain(s) of the vessel named as 'Blue Way' (erstwhile name of MT Melody) with the IMO No. 8800298;
- (vii) Gas Free certificate bearing Srl. No. 45434 (Work No. 10985/2021) showing the name of the vessel as 'MT Melody' and IMO No. as 8800298;
- (viii) A crew list dated 28.01.2021 reflecting the name of the vessel as 'MT Melody', duly signed and stamped by the then Captain of the vessel.

**Material evidence :**

**91.3** During search of the vessel, it was observed that the IMO number written on the ship's superstructure was overwritten with paint, which is visible in the photograph (RUD No. 8 of SCN). Further, two life jackets were recovered, wherein the name of the vessel MT Melody was written on them.

**Verification of Ship's registration details:**

**91.4** In the IGM, Noticee No. 3 had declared name of vessel, IMO no and call sign as 'Harriet', '8716514' and 'D6HD5', respectively. On verification, it was informed by Maritime Advisor, Union of Comoros vide e-mail dated 07.10.2022 that 'M.T. Harriet IMO No. 8716514 is not registered under Comoros Flag'. Further, call sign 'D6HD5' was assigned to vessel 'M.T. Melody having IMO No. 8800298, as per [www.equasis.org](http://www.equasis.org) as per SCN.

**Evaluation of evidences:**

**91.5** I observe that Shri Rahul Choudhary, Captain of the vessel in dispute, *inter alia*, deposed that he boarded the vessel MT Melody having IMO number was 8800298 at Mina Khalid Port and Port Clearance Certificate dated 23.11.2021 was issued by UAE Port Control, Sharjah in the name of MT Melody. He further deposed that he either returned ship's certificates / documents revealing identity of the vessel as 'MT Melody' to owners or



destroyed the same. He admitted that he and his staff applied paper stickers and paints everywhere in the vessel to hide the actual identity of the vessel and also applied paper stickers and paint marks mentioning new/fake name everywhere in the vessel. On going through the photograph of ship's superstructure (RUD No. 8 of SCN), it is visible that IMO number was overwritten with paint.

**91.6** I observe that Shri Sunil Narayan, Proprietor of M/s. Teamforce Worldwide, Bhavnagar, *inter alia*, deposed that draft MoA was prepared on 01.11.2021 in the name of MT Melody with IMO No. 8800298 but the same was amended by M/s. Blue One General Trading LLC, Dubai wherein the name of the vessel was changed and the IMO number was deleted from the MoA. He further deposed that he was aware of the fact that the vessel that had been declared as MT Harriet with IMO No. 871 6514 was actually MT Melody with IMO No. 8800298 and that the vessel MT Melody was under US Treasury's OFAC sanction.

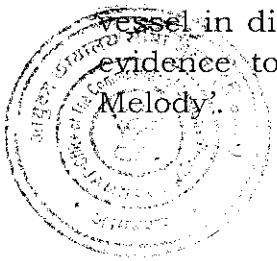
**91.7** I observe that Shri Chirag Narendrabhai Trivedi, Director of M/s Lotus Danship Pvt Ltd, Bhavnagar, *inter alia*, deposed that draft MoA was prepared on 01.11.2021 in the name of MT Melody with IMO No. 8800298 as per his instruction but the same was amended by M/s. Blue One General Trading LLC, Dubai wherein the name of the vessel was changed. He had filed IGM on the basis of details received from M/s. Blue One General Trading LLC, Dubai, wherein the vessel MT Harriet was declared to be imported, whereas, the vessel that actually arrived was MT Melody.

**91.8** I observe that Shri Soham Narayan, Manager of M/s. Teamforce Worldwide, Bhavnagar, *inter alia*, deposed that he knew about the mis-declaration of the vessel MT Melody with IMO No. 8800298 which is wrongly declared as MT Harriet with IMO 8716514 just one month ago. He further deposed that the same was in the knowledge of his father Shri Sunil Narayan, broker, Shipping Agent Shri Chirag Trivedi and the buyer Shri Rajendra Gupta & Shri Anish Gupta of M/s Rajendra Shipbreakers Pvt Ltd.

**91.9** Apart from oral evidences, I find that several documentary evidences in the form of Navigation License No.045/OR/2020 dated 12.10.2020, Trim & Stability Book, Minimum Safe Manning Certificate S.O: MSM/PR/035/20 dated 12.10.2020, Ships Radio License No. 09/SRL/PR/20 dated 12.10.2020, various ship related certificates dated 16.10.2020 issued by Alfa Register of Shipping, Gas Free certificate bearing Sr. No. 45434 etc. were recovered during search on board of the vessel, which were in the name of 'MT Melody' having IMO no. 8800298. This clearly establishes that vessel in dispute arrived at SBY Alang was MT Melody.

**91.10** I find that name of vessel - 'M.T. Harriet, IMO no- 8716514 and call sign : 'D6HD5' declared in IGM was wrong, as evident from e-mail dated 07.10.2022 received from Maritime Advisor, Union of Comoros informing that 'M.T. Harriet IMO No. 8716514 was not registered under Comoros Flag'. Further, call sign 'D6HD5' was assigned to vessel 'M.T. Melody having IMO No. 8800298, as per [www.equasis.org](http://www.equasis.org).

**91.11** Apart from the above, none of the Noticees has claimed that the vessel in dispute was 'MT Harriet' having IMO No. 8716514 nor produced any evidence to prove that the vessel in dispute was 'MT Harriet' and not 'MT Melody'.



**91.12** Considering the various evidences available on record as discussion *supra*, I hold that vessel in dispute arrived at SBY Alang on 11.12.2021 was 'MT Melody' having IMO No. 8800298, as alleged in the show cause notice and not 'M.T. Harriet' having IMO No. 8716514, as declared in IGM dated 6.12.2021 filed by Noticee No. 3 and in Bill of Entry dated 9.12.2021 filed by Noticee No. 1. So, there was mis-declaration of vessel in IGM and Bill of Entry.

**92.** Now, I proceed to decide whether mis-declaration of name, IMO Number and identity of the vessel in IGM and Bill of Entry had contravened the provisions of the Customs Act, 1962 or not.

**92.1** In the present case, the disputed vessel was imported for breaking purpose by Noticee No.1. Hence, the vessel itself was goods within the meaning of Section 2(22) of the Customs Act, 1962. Noticee No. 3, who acted as a Shipping Agent, filed IGM No. 2298394 dated 6.12.2021 under Section 30 of the Customs Act, 1962, declaring arrival of vessel named 'MT Harriet' having IMO No. 8716514 at SBY Alang for demolition, on behalf of Noticee No. 2, i.e. owner of the vessel. It is pertinent to examine the provisions of Section 30 of the Customs Act, 1962, which are reproduced as under:

***"Section 30. Delivery of arrival manifest, import manifest or import report-***

*(1) The person-in-charge of-*

- (i) a vessel; or*
- (ii) an aircraft; or*
- (iii) a vehicle,*

*carrying imported goods [or export goods] or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer [an [arrival manifest or import manifest] by presenting electronically prior to the arrival] of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in [such form and manner as may be prescribed] and if the [arrival manifest, import manifest] or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:]*

*[Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to deliver [arrival manifest or import manifest] by presenting electronically, allow the same to be delivered in any other manner.]*

*(2) The person delivering the [arrival manifest, import manifest] or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.*

*(3) If the proper officer is satisfied that the [arrival manifest, import manifest] or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented."*



**92.2** As per the above provisions, the person in charge of a vessel or aircraft or a vehicle carrying imported goods or any other person in this behalf shall deliver to the proper officer arrival manifest or import manifest of the vessel. The person while delivering the arrival manifest or import manifest shall declare as to the truth of its contents.

**92.3** As discussed in para *supra*, Noticee No.2 as well as Noticee No. 3 were well aware that the vessel MT Melody having IMO No. 8800298 was under sanction of US OFAC. Nevertheless, they mis-declared the identity of the vessel with a different IMO number and vessel name in the IGM to hide the actual identity of the vessel / facts from the Customs Authorities and thereby violated the provision of Section 30 of the Customs Act, 1962.

**92.4.** Noticee No.1 filed prior Bill of Entry No. 6603471 dated 09.12.2021 under Section 46 of the Customs Act,1962, for import of vessel named MT Harriet (IMO No. 8716514) at SBY, Alang for recycling purpose. It is pertinent to examine the provisions of Section 46 of the Customs Act, 1962, which are reproduced as under:

**“Section 46. Entry of goods on importation. –**

**(1)** ... ..

... ..

*(4) The importer while presenting a bill of entry shall [\* \* \*] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed[.]*

*(4A) The importer who presents a bill of entry shall ensure the following, namely:-*

- (a) the accuracy and completeness of the information given therein;*
- (b) the authenticity and validity of any document supporting it; and*
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.”*

**92.5** The above provisions, *inter alia*, provide that the importer has to declare about the truth of the contents while presenting the bill of entry and ensure about accuracy and completeness of information given therein and that the same complies with the restriction or prohibition, if any, in relation to goods declared to be imported.

**92.6** On examining the evidences gathered during investigation and discussed in para *supra*, it is evident that Noticee No. 1 was aware about the actual vessel to be imported for breaking purpose i.e., MT Melody having IMO 8800298 and not MT Harriet – IMO No. 8716514. Despite this, Noticee No. 1 mis-declared the identity of the vessel with a different IMO number and name in the Bill of Entry to hide the actual facts from the Customs authorities and thereby contravened the provisions of Section 46 of the Customs Act, 1962.

In view of the above discussion, I hold that there was mis-declaration of vessel in dispute imported vide IGM No. 2298394 dated 06.12.2021 and Bill of Entry No. 6603471 dated 09.12.2021.



(ii) **Whether vessel in dispute imported vide IGM No. 2298394 dated 06.12.2021 and Bill of Entry No. 6603471 dated 09.12.2021 was prohibited goods for importation under the Customs Act, 1962, or not?**

**93.** Now, I proceed to decide whether the vessel in dispute was prohibited goods for importation under the Customs Act, 1962 or not.

**93.1** The Noticee No. 2 has contended that the allegation in the Show Cause Notice that the vessel in dispute imported at SBY Alang was actually sanctioned vessel is entirely unsubstantiated. The documents annexed to the Show Cause Notice provide no authentic or admissible evidence proving that the vessel is under U.S. OFAC sanctions, international restrictions, or any prohibition under the Indian Customs Act. Consequently, there is no legal basis to show that the vessel's entry into Indian territory for recycling at Alang was barred or prohibited by law.

**93.2** In this regard, I find that the term "prohibited goods" has been defined under Section 2(33) of the Customs Act, 1962, as under:

"(33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;"

**93.3** I find that in the show cause notice, it has been alleged that vessel MT Melody (Ex. name Blueway) with IMO 8800298, is sanctioned by United States Department of Treasury's Office of Foreign Assets Control (OFAC). I observe that the Show Cause Notice has not relied upon any specific document showing that the vessel in dispute was sanctioned by US OFAC. However, this information is available in public domain and can be accessed by visiting the website of US Department of the Treasury available at <https://ofac.treasury.gov/recent-actions/20150803>, wherein it is mentioned as under:

"The following vessels have been added to OFAC's SDN List:

BLUE WAY Panama flag; Vessel Registration Identification IMO 8800298 (vessel) [SYRIA] (Linked To: MILENYUM ENERGY S.A.)."

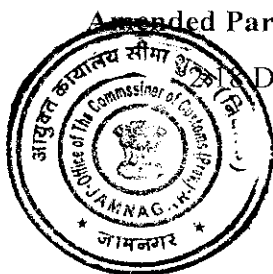
**93.4** I observe that Show Cause Notice has relied upon Notification No. 13/2015-2020 dated 29.06.2016 issued by the Ministry of Commerce & Industry and UNSC resolution 2231 (2015) to allege that the sanctioned vessel was prohibited to enter into Indian waters and therefore, falls under the definition of 'prohibited goods' under the Customs Act, 1962.

**93.5** In this regard, I have gone through said Notification issued by the Ministry of Commerce & Industry, which is reproduced as under:

"In exercise of the powers conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, as amended, read with Para 1.02 of the Foreign Trade Policy, 2015-2020, the Central Government hereby makes the following amendment in the Foreign Trade Policy (FTP) 2015-2020 with immediate effect:

**Amended Para 2.18 of FTP 2015-2020 shall read as under:**

Direct or Indirect Export/Import to/from Iran



(a) Direct or indirect export to Iran or import from Iran of any item, material, equipment, goods or technology mentioned in the following documents would be permitted subject to the provisions contained in Annex B to the United Nations Security Council Resolution 2231 (2015).

- i. Items listed in INFCIRC/254/Rev.9/Part 1 and INFCIRC/254/Rev.7/Part 2 (IAEA [Documents]) as updated by the IABA from time to time.
- ii. Items listed in S/2015/546 (UN Security Council document) as updated by the Security Council from time to time.

(b) All the UN Security Council Resolutions/Documents and IAEA Document referred to above are available on the UN Security Council website (<http://www.un.org/en/sc/documents/>) and IAEA website ([www.iaea.org](http://www.iaea.org))."

**Effect of this notification:-**

The prohibition on direct or indirect export to Iran or import from Iran of specified items is lifted. Direct or indirect export to Iran or import from Iran is now permitted subject to UN Security Council Resolution 2231(2015) and IAEA specified documents."

**93.6** By above notification, prohibition on direct or indirect export to Iran or import from Iran of specified item was lifted, subject to UN Security Council Resolution 2231. The said UN resolution provides that if Iran violates its commitment, sanctions on Iran would be reimposed.

**93.7** On examining the present case in light of the above Notification, I find that there is no evidence available on record, which indicate that the vessel in dispute was in any way related to import / export with Iran. In any case, the said Notification has lifted prohibition on direct or indirect export to Iran or import from Iran of specified items. The Notification *supra* relied upon in show cause notice has, thus, no relevancy with the facts involved in the present case.

**93.8** In view of the above, there is nothing on record to show that the vessel in dispute was prohibited for importation into India. Considering the facts of the case and evidences available on record, I hold that the vessel in dispute was not prohibited goods within the meaning of Section 2(33) of the Customs Act, 1962.

**93.9** Though the vessel in dispute was not prohibited for importation into India under extant Indian law, the vessel MT Melody was mis-declared in IGM as well as Bill of Entry, as evident from the evidences available on records. Thus, by mis-declaring the vessel in dispute, there was violations of the Customs Act, 1962 attracting penal provisions.

**(iii) Whether vessel in dispute is liable for confiscation under the provisions of Sections 111(f) and 115 of the Customs Act, 1962, or not?**

**94.** Now, I proceed to decide whether the vessel in dispute is liable for confiscation under the provisions of Sections 111(f) and 115 of the Customs Act, 1962 or not. The relevant provisions are reproduced as under:



**“SECTION 111.** Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation :

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest, import manifest or import report which are not so mentioned;”

**94.1** Section 111(f) provides that if any dutiable or prohibited goods are not mentioned in the import manifest, then the same are liable for confiscation.

**94.2** On examining the present case in backdrop of the evidences available on record, I find that in the IGM No. 2298394 dated 06.12.2021, it was declared that vessel MT Harriet (IMO No. 8716514) was arriving for breaking, whereas in reality, vessel MT Melody having IMO No. 8800298 arrived at SBY Alang, as evident from various evidences gathered during investigation. Shri Rahul Choudhary, Captain of the vessel admitted that when he took over, actual name of the vessel was MT Melody and IMO No. was 8800298. He returned ship documents to Shri Gajanan showing in the name of MT Melody. He destroyed certain documents showing actual identity of the vessel during voyage to Alang. He also admitted that he applied paper stickers and paints everywhere in the vessel to hide the actual identity of the vessel. I further find that Shri Chirag Trivedi, Director of M/s Lotus Danship Pvt Ltd admitted in his Statement that they had declared in the IGM that the vessel MT Harriet was to be imported, but actual vessel MT Melody had arrived. He further admitted that he was aware that vessel MT Melody was under US Treasury's OFAC sanction. I further find that Shri Sunil Narayan, broker admitted in his Statement that the vessel that was declared as MT Harriet with IMO No. 871 6514, was actually MT Melody with IMO No. 8800298. He further deposed that since the vessel was under sanction list of US OFAC, actual identity of the vessel was hidden to avoid any problems. I further find that Shri Soham Narayan, broker admitted in his Statement that he knew in advance that the actual vessel that was to be imported was MT Melody in the name of MT Patra (later renamed as MT Harriet). He further admitted that his father Shri Sunil Narayan, Shipping Agent Shri Chirag Trivedi and the buyer Shri Rajendra Gupta & Shri Anish Gupta, all knew about this fact that the actual vessel to be imported was MT Melody in the name of MT Patra/ MT Harriet right from the beginning.

**94.3.** Apart from above oral evidences, several ship related documentary evidences in the form of Navigation License No.045/OR/2020 dated 12.10.2020, Trim & Stability Book, Minimum Safe Manning Certificate S.O: MSM/PR/035/20 dated 12.10.2020, Ships Radio License No. 09/SRL/PR/20 dated 12.10.2020, various ship related certificates dated 16.10.2020 issued by Alfa Register of Shipping, Gas Free certificate bearing Sr. No. 45434 etc. were recovered during search on board of the disputed vessel, which were in the name of 'MT Melody' having IMO no. 8800298. This clearly establishes that vessel in dispute arrived at SBY Alang was MT Melody.

**94.5** The vessel MT Melody was imported at SBY Alang without mentioning in the import manifest filed under Section 30 of the Act. The vessel MT Melody, which was imported at SBY Alang for breaking purpose, was goods *per se*, within the meaning of Section 2(22) of the Customs Act, 1962 and accordingly the same was required to be mentioned in the import manifest. Since, the vessel MT Melody having IMO No. 8800298 was not mentioned in the import manifest, the same is liable for confiscation under Section 111(f) of the Act.



**94.6** I find from records that Assistant Commissioner, Customs Division, Bhavnagar has provisionally released the seized vessel under dispute on 11.3.2022 on Bank Guarantee of Rs. 3,00,00,000/- and Bond having value of Rs.10,04,38,363/-. Since, the disputed vessel has already been released under bond, I hold that Noticee No. 1 is liable for redemption fine in lieu of confiscation, in terms of Section 125 of the Customs Act, 1962.

**(iv) Whether Noticee No. 1 and 3 are liable for penalty under Sections 112, 114AA and 117 of the Customs Act, 1962, or not?**

**95.** The show cause notice has proposed penalty upon **Noticee No. 1 and 3** under Sections 112, 114AA and 117 of the Customs Act, 1962. It is pertinent to examine the relevant penal provisions, which are reproduced as under:

**“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,

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 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 four lakh rupees.”

**95.1 Noticee No. 1 - M/s. Rajendra Ship Breakers Pvt. Ltd** has contended that seized goods were legally imported vide the Bill of Entry filed by them and whatever description declared in the bill of entry in question was as per the IGM and MOA. There is no evidence discussed in the show cause notice that they had knowingly executed the MOA for purchase of M. T. Melody in the name of vessel M. T. HARRIET. That they were not in any way involved rendering the goods liable for confiscation.

**95.2** In this regard, I find that Shri Soham Narayan, Manager of M/s. Teamforce Worldwide, Bhavnagar, who brokered the deal between Noticee No. 1- M/s Rajendra Ship breakers Pvt Ltd and Noticee No. 2- M/s. Blueone General Trading LLC, had deposed in his statement dated 16.12.2021 that mis-declaration of the vessel MT Melody as MT Harriet with IMO 8716514 was in the knowledge of Shri Rajendra Gupta and Shri Anish Gupta, both Authorised persons of Noticee No. 1. So, Noticee No. 1 executed MoA with M/s. Blueone General Trading LLC for import of vessel MT Harriet (IMO No. 8716514) and also filed prior Bill of entry dated 09.12.2021 despite knowing the fact that vessel arriving was MT Melody having IMO 8800298 and not MT Harriet (IMO No. 8716514). This way Noticee No. 1 abetted with M/s. Blueone General Trading LLC and acted in a manner which rendered the vessel MT Melody liable for confiscation under Section 111(f) of the Act and rendered them liable for penalty under Section 112 of the Customs Act, 1962.

**95.3** Noticee No. 1 has contended that they had filed prior bill of entry for import of LPG tanker viz. M.T. HARRIET bearing IMO no. 8716514 and not for seized ship viz. M.T. Melody. Thereafter, on seizure by the Department, immediately, they cancelled the Advance Bill of Entry No. 6603471 dated 9.12.2021 filed for import of vessel MT HARRIET bearing IMO No. 876514 for breaking vide their letter dated 18.12.2021 and withdrew advance B/E. That the question of misdeclaration will arise based on the statutory document filed by the importer before the Customs authorities. Such document in respect of import is bill of entry under Section 46 of the Act filed by the importer with the customs authorities for clearance of goods and the same had not been filed by them. Hence, they are not 'importer' of the seized vessel.

**95.4** In this regard, I find that this contention is contrary to facts. As per facts emerging from Statement dated 17.5.2022 of Shri Anish Gupta, authorised person of Noticee No. 1 - M/s. Rajendra Ship Breakers Pvt. Ltd, Noticee No.1 filed refund application on 3.1.2022 for refund of duty paid in respect of Bill of Entry dated 9.12.2021 on the grounds that vessel was mis-declared as MT Harriet (IMO No. 8716514) which was not correct name/number of the vessel. However, Noticee No. 1 subsequently approached Customs Department to



disputed vessel, which was provisionally assessed and cleared for home consumption. So, Noticee No. 1 is the importer of the seized vessel MT Melody.

**95.5** Noticee No. 1 has contended that no penalty under Section 112(a) or (b) of the Act can survive in the facts of the instant matter as there is complete absence of the element of *mens rea*.

**95.5.1** In this regard, I find that Shri Soham Narayan, broker deposed in his Statement dated 18.12.2021 that the buyer Shri Rajendra Gupta & Shri Anish Gupta of M/s Rajendra Shipbreakers Pvt Ltd knew about the fact that the actual vessel to be imported was MT Melody in the name of MT Harriet right from the beginning. Thus, it was within knowledge of Noticee No. 1 that the disputed vessel was MT Melody and not MT Harriet. Despite this, Noticee No. 1 mis-declared the vessel in the Bill of Entry to hide the actual identity of the vessel in order to circumvent the international sanctions on the vessel. Thus, *mens rea* is clearly established on the part of Noticee No. 1.

**95.5.2** However, even for the sake of argument, it is presumed that there was no *mens rea* on the part of Noticee No. 1, then also penal provisions under Section 112 of the Customs Act, 1962 can be invoked, as element of *mens rea* is not required for imposition of penalty under Section 112 of the Customs Act, 1962 in case of mis-declaration of goods. I rely upon the decision rendered by the Hon'ble Madras High Court in the case of **M/s Bansal Industries** reported as 2007 (207) E.L.T. 346 (Mad.), wherein the Hon'ble Court, after relying upon the decision of Hon'ble Supreme Court, held that in the case mis-declaration or undervaluation of goods element of *mens rea* not required for imposition of punishment under Customs Act 1962. In that case, the Tribunal accepted the contention of the importer and set aside the confiscation on the ground that impugned goods were supplied by mistake by the supplier as the impugned goods were not ordered by the importer and there is no evidence that importer has paid for the impugned goods. In these circumstances, the Tribunal held that there was no willful, suppression of facts and the allegation that importer mis-declared the goods with intention to evade payment of duty. This finding was set aside by the Hon'ble High Court. The Hon'ble High Court held as under:

"We have gone through the order of the Tribunal. It is true that the Tribunal has recorded a finding of fact that it is inclined to accept the reasons given by the assessee that it was the supplier who by mistake loaded tin sheets waste which were not ordered by the assessee and that the Revenue has not shown that there was any flow back of funds for the purpose of tin sheets waste. However, a perusal of the order impugned shows that the Tribunal proceeded on the basis that the assessee had no intention to evade duty. We are deliberately quoting the order of the Tribunal in the following words :

".....the Revenue has not shown that appellant had willfully suppressed the facts and had mis-declared the goods with intention to evade duty and the fact that he had consciously committed the act of misdeclaration....."

It is oft-repeatedly held that *mens rea* is not an essential ingredient for contravention of the provisions of a civil law. The Apex Court recently in *Chairman, SEBI v. Shriram Mutual Fund* [(2006) 5 S.C.C. 361] held as under :-

"*Mens rea* is not an essential ingredient for contravention of the provisions of a civil Act. Unless the language of the statute indicates the need to establish the element of *mens rea*, it is generally sufficient to prove that a default in complying with the statute has occurred and it is wholly



unnecessary to ascertain whether such a violation was intentional or not. The breach of a civil obligation which attracts a penalty under the provisions of an Act would immediately attract the levy of penalty irrespective of the fact whether the contravention was made by the defaulter with any guilty intention or not."

Applying the above ratio to the facts of the case, we find that though the Tribunal has recorded a finding of fact that it was the supplier who by mistake loaded tin sheets waste which were not ordered by the assessee, the Tribunal rendered its decision on the basis that the Revenue has not shown that the assessee had willfully suppressed the facts and had mis-declared the goods with intention to evade duty. The order of the Tribunal mainly proceeded on the footing of intention of the assessee to evade duty, which, in our view, is not correct in the matter of breach of a civil obligation attracting levy of penalty. Therefore, the order of the Tribunal is liable to be set aside."

**95.5.3** Similarly the Hon'ble Supreme Court in the case of **M/s. Pine Chemical Suppliers** - 1993 (67) E.L.T. 25 (S.C.) has also held that in case of mis-declaration of description and value of imported goods, question of *mens rea* not relevant for liability to confiscation and penalty under Sections 111(m), 112 and 125 of the Customs Act. Therefore for invoking penal provisions under Customs law, *mens rea* is not pre-requisite.

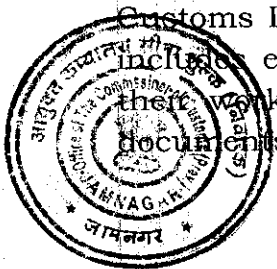
**95.6** Noticee No. 1 has contended that they had not made, signed or submitted any documents before Customs with the prior knowledge about alleged mis- declaration which they knew was false or incorrect. Therefore, they are not liable to penalty under the provisions of Section 114AA of the Act.

**95.7** In this regard, as discussed above, Noticee No. 1 was very well aware that vessel arriving at SBY Alang was MT Melody having IMO 8800298 and not MT Harriet (IMO No. 8716514). Despite knowing this, they executed MoA with M/s. Blue One General Trading LLC for purchase of vessel in dispute and also filed Bill of Entry dated 09.12.2021 mis-declaring that they were importing vessel MT Harriet (IMO No. 8716514) at SBY, Alang. This deliberate act of hiding the actual identity of the vessel on the part of Noticee No. 1 rendered them liable for penalty under Section 114AA of the Customs Act, 1962.

**95.8** Noticee No. 1 has contended that the penal provisions under Section 117 of the Act, is residuary in nature and can be invoked only in the situation when no express penalty is provided, elsewhere in the Act. Since the show cause notice proposed imposition of penalty under Section 112 of the Act against our client, the provisions of Section 117 of the Act were not invocable.

**95.9** I find that Noticee No. 1 mis-declared the identity of the vessel with a different IMO number and name in the Bill of Entry to hide the actual facts from the Customs authorities and thereby contravened the provisions of Section 46 of the Customs Act, 1962. Since, there is no express penalty provided for such contravention or failure, they are liable to penalty under Section 117 of Customs Act, 1962.

**96. Noticee No. 3 - M/s. Lotus Danship Pvt. Ltd** has contended that their work is to submit documents which are received from buyer and seller to the Customs Department on behalf of the owner and seller of the ship. This also includes end to end MOA between buyer and seller of the vessel and hence, their work was limited to assist in completing the formalities by providing documents which are provided by the owner and the seller of the vessel, and



hence, beyond that there is no other responsibility or any other act to be carried out by the present Noticee, and therefore, the allegation levelled against them with regard to manipulation of the IMO number is baseless.

**96.1** In this regard, I find that Noticee No. 3 was the shipping agent who had filed IGM No. 2298394 dated 06.12.2021 declaring arrival of vessel MT Harriet (IMO No. 8716514) at SBY Alang for demolition, on behalf of Noticee No. 2. As per Section 30 of the Customs Act, 1962, the person while delivering the arrival manifest or import manifest shall declare as to the truth of its contents. As discussed in para *supra*, Noticee No. 3 was well aware that the vessel MT Melody having IMO No. 8800298 was arriving at SBY Alang for demolition. However, they mis-declared the identity of the vessel in the IGM as MT Harriet (IMO No. 8716514) to hide the actual identity of the vessel / facts from the Customs Authorities and thereby violated the provision of Section 30 of the Customs Act, 1962. By mis-declaring the identifying of the vessel in IGM, Noticee No. 3 abetted with M/s. Blueone General Trading LLC and acted in a manner which rendered the vessel MT Melody liable for confiscation under Section 111(f) of the Act, which in turn rendered them liable for penalty under Section 112 of the Customs Act, 1962

**96.2** I find that this deliberate act of hiding the actual identity of the vessel on the part of Noticee No. 3 in IGM filed by them also rendered them liable for penalty under Section 114AA of the Customs Act, 1962.

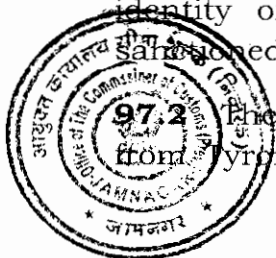
**96.3** I further find that Noticee No. 3 contravened the provisions of Section 30 of the Act by not declaring correct facts in IGM filed by them. Since, there is no express penalty provided for such contravention or failure, they are liable to penalty under Section 117 of Customs Act, 1962.

**(v) Whether Noticee No. 2 is liable for penalty under Sections 112 and 114AA of the Customs Act, 1962, or not?**

**97. Noticee No. 2 – Mr. Asif Khanda, Owner of M/s. Blueone General Trading LLC** has contended that they had purchased the vessel from Tyron shipping company with the IMO number 8716514 and he did not verify from his end that IMO number which is provided by Tyron shipping company is false or correct, however, due to lack of knowledge of any addition or modification of IMO number and entrusting faith upon the seller of the vessel, and the documents showing the IMO number 8716514 believing to be correct, the present notice had further sold this vessel and then the said vessel travelled from Oman to Alang Port at district Bhavnagar Gujarat, thus due to lack of knowledge of alleged wrong IMO number which was alleged by the authorities, the noticee cannot be booked in the alleged offence as there was no intention or knowledge about the same

**97.1** In this regard, I find that Noticee No. 2 executed MoA with Noticee No. 1- M/s Rajendra Shipbreakers Pvt Ltd for sale of vessel in dispute. As emerging from the evidences available on record, Mr. Asif Khanda, with the help of Mr. Tahir Lakhani, managed to obtain forged and fabricated vessel registration documents in the name of vessel MT Harriet, in order to hide the actual identity of vessel MT Melody, to sale and dispose of vessel which was sanctioned by US OFAC.

**97.2** The contention of the Noticee No. 2 that when they purchased the vessel from Tyron shipping company, IMO number of the vessel was 8716514, is



contrary to facts. Shri Rahul Choudhary, Captain of the vessel in his statement dated 12.12.2021 deposed that when he boarded the vessel at Mina Khalid Port, name of the vessel was MT Melody and IMO number was 8800298. The vessel was issued Port Clearance Certificate dated 23.11.2021 by UAE Port Control, Sharjah in the name of MT Melody. He further deposed that at the direction of Gajanan Karajikar of M/s DTA, he returned all the documents related to vessel MT Melody or destroyed them during voyage to SBY Alang. He also applied paper stickers and paint marks mentioning new/fake name everywhere in the vessel. The evidences gathered during investigation clearly reflect that name and IMO number of the vessel was changed from MT Melody (IMO 8800298) to MT Harriet (IMO 8716514) before / during voyage to SBY Alang, to hide the actual identity of the vessel from the Customs Department.

**97.3** The Noticee No. 2 contended that as per MOA dated 8.11.2021 executed between M/s Blueone General trading LLC and M/s Tyron Shipping Ltd, name of the vessel was PATRA and the IMO number was the same as mentioned in MT Harriet imo no.8716514.

**97.4** I have gone through the MoA dated 8.11.2021 executed by M/s Blueone General trading LLC with M/s Tyron Shipping Ltd purportedly for purchase of vessel MT Patra – IMO 8716514. However, M/s Blueone General trading LLC executed MoA with M/s Rajendra Shipbreakers Pvt Ltd on 2.11.2021 for sale of vessel in dispute. Thus, transaction for sale of vessel has preceded transaction for purchase of vessel. Noticee No. 2 could not have entered into MoA for sale of vessel on 2.11.2021, which is not owned by them. This creates serious doubt about veracity of MoA dated 8.11.2021 produced by Noticee No. 2.

**97.5** As emerging from records, Noticee No. 2 appointed Tahir Lakhani of Dubai Trading Agency to look after all work related to vessel MT Melody. Initially, draft MoA for sale of vessel was prepared in the name of MT Melody having IMO 8800298, but subsequently, at the instructions of Mr. Tahir Lakhani, the name of the vessel was changed to MT Harriet and IMO number was deleted from the MoA. Further, captain of the vessel, destroyed all the documents / certificates in the name of the vessel MT Melody at the directions of Shri Gajanan Karajikar of M/s DTA. Noticee No. 2, being owner of the vessel, cannot escape from wrong doings of Mr. Tahir Lakhani, staff / employee of M/s DTA or Captain of the vessel.

**97.6** The vessel MT Melody was mis-declared in IGM as MT Harriet by Noticee No. 3, who was shipping agent of Noticee No. 2. This rendered the vessel MT Melody liable for confiscation under Section 111(f) of the Act and Noticee No. 2 rendered himself liable for penal provisions under Sections 112 and 114AA of the Customs Act, 1962.

**(vi) Whether Noticee No. 4 to 16 are liable for penalty under Section 112(a)/ 112(b) and Section 114AA of the Customs Act, 1962 and under the provisions of HCCR, 2009, or not?**

**98. Noticee No. 4 - Mr. Tahir Lakhani,** Dubai Trading Agency has contended that he was neither involved in the purchase or sale of the vessel nor he was a beneficiary of the same. He was not connected to the owner of the disputed vessel nor was holding any position in M/s Blue one General



**98.1** In this regard, I find that summons was issued to Noticee No. 4 during the course of investigation, however, he failed to appear before the investigating officers. As per evidence available on record, I find that Shri Sunil Narayan, Proprietor of M/s. Teamforce Worldwide, Bhavnagar in his Statement dated 16.12.2021 had deposed that Mr. Tahir Lakhani had called him and informed that he was under process of buying LPG Tanker MT Melody and when he told Mr. Tahir Lakhani that the said vessel was under OFAC sanction, Mr. Tahir Lakhani replied that he will take care of that.

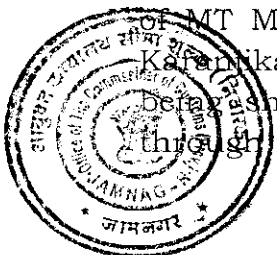
**98.2** Shri Chirag Trivedi had deposed that Mr. Tahir Lakhani was looking after day to day activities of M/s Blue One General Trading LLC and he used to communicate with Mr. Lakhani only. He further deposed that initially draft MoA was made in the name of MT Melody but subsequently the same was modified on the direction of Mr. Tahir Lakhani and IMO no. was removed from the MoA and name was changed to MT Patra.

**98.3** Shri Asif Khanda, owner of M/s Blue One General Trading LLC in his statements dated 21.2.2022 /22.2.2022 had deposed that all the correspondence whether written or telephonic with M/s. Lotus Danship Pvt. Ltd., Mr. Sunil Narayan and M/s. Rajendra Ship Breakers Pvt. Ltd. were done by Mr. Tahir Lakhani on behalf of his company. He further deposed that commission of 1% of MoA was paid in cash to Mr. Tahir Lakhani who provided various services like crew manning, documentation, shipping agents/brokers, bunkering, maintenance and supply of provisions etc in respect of vessel MT Melody. So, the contention of the Noticee that he was not involved in purchase and sale of the vessel is not correct.

**98.4** Considering the evidences available on records, it is evident that Mr. Tahir Lakhani manipulated the identity of the vessel and abetted M/s Blue One General Trading LLC in selling the vessel MT Melody by hiding its identity and thereby rendered the vessel MT Melody liable to confiscation under Section 111(f) of the Customs Act, 1962 and rendered himself liable for penal provisions under Sections 112 and 114AA of the Customs Act, 1962.

**99. Noticee No. 6 - Shri Rahul Choudhary**, captain of the vessel, MT Melody has not filed any written submission but has submitted affidavit dated 16.1.2022 through his advocate Shri Sunil Kotia during the hearing held on 24.4.2025. Vide the said affidavit, Noticee No. 6 has retracted his statement dated 12.12.2021 recorded under Section 108 of the Customs Act, 1962, on various grounds as mentioned in the affidavit.

**99.1** I have gone through affidavit dated 16.1.2022, wherein it has been stated that his statement was obtained through coercion and the same is not voluntary. He further stated that he did not know what was written in the statement and he was forced to sign the same. On going through his statement dated 12.12.2021, I find that the statement contains plethora of facts which is in the personal domain of the Noticee and cannot be dictated by coercion. For example, on being shown message received from Capt. Gajanan Karanjikar of M/s. Dubai Trading Agency in his mobile, Noticee No. 6 deposed that when he took charge of the vessel, the AIS of the vessel was telecasting the name & IMO of MT Melody (IMO No. 8800298). So, to amend the same, Capt. Gajanan Karanjikar had sent him settings to change AIS of the vessel. Similarly, on being shown 'ship's particulars sent by him to Capt. Gajanan Karanjikar through mobile on 17.11.2021, he explained that when he took over the vessel



at Mina Khalid Port, he scanned the sheet displaying basic details of vessel MT Melody and sent to Capt. Gajanan Karanjikar. He also explained about gas free certificate issued by M/s Flots Marine Survey & Consultancy, UAE found on board of the vessel in dispute showing name of vessel as MT Melody having IMO No. 8800298.

**99.2** It is not brought to my notice that the said affidavit for retraction was brought to the notice of the officer, who recorded the statement and hence, it has no bearing on the legality of the issue. The Tribunal in the case of Champion Confectionery reported in 2010 (262) E.L.T. 865 (maintained in 2011 (263) ELT A108 (Bombay High Court)), has held that retraction of any statement is to be made to the authority before whom the statement is given. Similarly, the Hon'ble CESTAT, New Delhi in the case of Gautam Trades & Agencies, reported in 2011 (274) ELT 408 has held at para 5.5 of the Order that,

"The retraction was not addressed to the officer before whom the statement was given. Retraction, by its nature is required to be given or submitted to the officer who had taken their statement. In other cases, it could be considered only as a representation or a complaint. We have not been shown that this retraction was given to the officer who has recorded the statement."

**99.3** I further find that the said affidavit was produced before the adjudicating authority at the time of hearing. It is a settled legal position that retraction of statement by way of filing affidavit and produced during adjudication after considerable lapse of time (after more than three years) has no effect on the legality of the case. I rely on the decision of the Hon'ble High Court of Bombay rendered in the case of Roopkala Export Corpn reported in 2004 (165) ELT 26, wherein it has been held that,

"14. It was, however, contended that in the defence reply dated 24-4-1999 (in reply to the show cause notice dated 9-2-1999), the Petitioners had submitted that the statements of Petitioner No. 2 were taken in the year 1995 under duress and that the said statements do not reflect the correct position which was prevailing at the relevant time. By no stretch of imagination such a vague statement made in reply to the show cause notice can be said to be a retraction of the statement recorded under Section 14 of the Act. Even assuming that the said statements were retracted, the very fact that the statements recorded in September, 1995 were sought to be retracted in April, 1999 in reply to show cause notices issued in the year 1999 clearly shows that the said retraction is merely an afterthought and is not *bona fide*"

**99.4** I also rely on Order passed by the Hon'ble CESTAT, New Delhi in the case of Anil Kumar reported in 2000 (118) ELT 377, wherein at para 8 of the order, it has been held that,

"I also find that these statements were never retracted by the appellants at any point of time except at the time of filing reply to the show cause notice. The Hon'ble High Court in the case *Surjit Singh Cahbra* has held statements recorded before the Customs authorities is an admissible piece of evidence and it's belated retraction has to be weighted with due caution."

**99.5** In view of the above, I hold that retraction of statement by Noticee No. 6 by way filing affidavit is afterthought only and it has no bearing on the outcome of this case.

**99.6** On examining the evidences available on record, I find that Noticee No. 6 was well aware that vessel he brought at SBY Alang was MT Melody (IMO No. 8800236) and not MT Harriet (IMO No. 8716514). When he boarded the vessel at Mina Khalid Port, name of the vessel was MT Melody and IMO number was



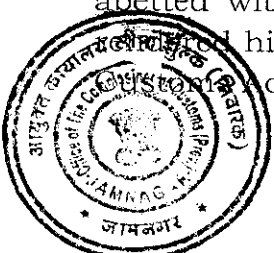
8800298. He acted as per the directions of Capt. Gajanan Karanjikar of M/s DTA and returned all the documents / materials that was available on board like Trim & Stability Book, Water Ballast Book, all Ship's Certificates, Machinery Manuals, Records related to past voyages, Port Clearance file etc, which were revealing the identity of the vessel MT Melody to Capt. Gajanan Karanjikar through the supply boat DTA-5. He admittedly destroyed certain documents found from Engine Room, Generator Room, etc. revealing the actual identity of vessel MT Melody (IMO No. 8800298) during the voyage to SBY Alang. However, on reaching SBY Alang, he produced port clearance certificate to the Customs issued in the name of MT Harriet. He admittedly applied paper stickers and paints everywhere in the vessel to hide the actual name of the vessel MT Melody. This way Noticee No. 6 abetted M/s Blueone General Trading LLC in manipulating the actual identity of the vessel MT Melody from Customs Department and thereby rendered the vessel liable to confiscation under Section 111(f) of the Customs Act, 1962. He rendered himself liable for penal provisions under Sections 112 and 114AA of the Customs Act, 1962.

**100. Noticee No. 7 - Shri Gajanan Bhalchandra Karajikar** has not filed any written submission. Summons were issued to him during investigation to give oral evidence, but he failed to appear before the investigating officers.

**100.1** As emerging from the evidences available on records, Shri Gajanan Bhalchandra Karajikar was working as operation manager in M/s DTA. He directed Captain Rahul Choudhary to return all the documents / materials which revealed actual identity of the vessel as MT Melody (IMO No. 8800298) through the supply boat DTA-5. He also directed Captain Rahul Choudhary to destroy the documents which were recovered from Engine Room, Generator Room, etc. revealing the actual identity of MT Melody (IMO No. 8800298) and to apply paper stickers and paint marks mentioning new/fake name everywhere in the vessel. He was, thus, actively involved in manipulating the identity of the vessel MT Melody and abetted with M/s. Blueone General Trading LLC, UAE to sell the same to M/s. Rajendra Ship Breakers Pvt. Ltd and thereby rendered the vessel liable to confiscation under section 111(f) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 and Section 114AA of the Customs Act, 1962.

**101. Noticee No. 5 - Mr. Bilal, Accountant, Dubai Trading Agency** has contended that he was working as an assistant accountant in the firm of Dubai Trading agency (DTA) and his job was only to maintain books of accounts of his company. He was falsely implicated and he has nothing to do with change of IMO number in the vessel. Hence, the allegations levelled against him in the show cause notice may be dropped.

**101.1** In this regard, I find from records that draft MoA in respect of MT Melody was sent to him for obtaining approval of M/s DTA and M/s Blueone General Trading LLC. He changed the name of vessel to MT Harriet and deleted IMO number from the MoA and returned the same to Shri Sunil Narayan of M/s. Teamforce Worldwide, Bhavnagar. Based on the said revised MoA, IGM was filed by Noticee No. 3 mis-declaring the identity of the vessel, which rendered the vessel liable to confiscation under Section 111(f) of the Act. He abetted with M/s DTA and M/s Blueone General Trading LLC and thereby rendered himself liable to penalty under Section 112 and Section 114AA of the Customs Act, 1962.



**102. Noticee No. 8 - Shri Amresh, M/s. Dubai Trading Agency (DTA),** Dubai has contended that he was employee of M/s Dubai Trading Agency and his work was to look after repair and maintenance of ships. He has no role to play in entire transaction. He has not played any role in changing the IMO number of the vessel. Hence, the allegations levelled against him in the show cause notice may be dropped.

**10.2.1** In this regard, I find from records that Noticee No. 8 communicated with Shri Rahul Choudhary, Captain of the alleged vessel during voyage to SBY Alang. As per the instructions of Shri Amresh Kumar, Captain Rahul Choudhary navigated the vessel to Alang. All the reporting related to the vessel were made by Shri Rahul Choudhary to the Noticee No. 8 through whatsapp group named as 'MT Harriet'. This way Noticee No. 8 had assisted and abetted Captain of the vessel MT Melody to circumvent the international prohibitions on the vessel and thereby rendered the imported vessel liable to confiscation under Section 111(f) of the Act and rendered himself liable to penalty under Section 112 and Section 114AA of the Customs Act, 1962.

**103 Noticee No. 9 - Shri Anish Gupta, Authorised person, M/s Rajendra Ship Breakers Pvt. Ltd and Noticee No. 10- Shri Rajendra Gupta, Director, M/s Rajendra Ship Breakers Pvt. Ltd** have contended that they were not aware of the original name of the seized vessel at all. They came to know about the mis-declaration of the name of the vessel only after seizure of the same. In these circumstances, they have no role to play in importation of vessel which was sanctioned by US OFAC and also not having any knowledge of such facts. Therefore, the penalty is not imposable upon them.

**103.1** In this regard, I find that Shri Soham Narayan, Manager of M/s. Teamforce Worldwide, Bhavnagar, who brokered the deal between Noticee No. 1- M/s Rajendra Ship breakers Pvt Ltd and Noticee No. 2- M/s. Blueone General Trading LLC, had deposed in his statement dated 16.12.2021 that mis-declaration of the vessel MT Melody as MT Harriet with IMO 8716514 was in the knowledge of Shri Rajendra Gupta and Shri Anish Gupta, both Authorised persons of Noticee No. 1. So, Noticee No. 1 executed MoA with M/s. Blueone General Trading LLC for import of vessel MT Harriet (IMO No. 8716514) and also filed prior Bill of entry dated 09.12.2021 despite knowing the fact that vessel arriving was MT Melody having IMO 8800298 and not MT Harriet (IMO No. 8716514). This way Noticee No. 9 and Noticee No. 10 abetted with M/s. Blueone General Trading LLC and acted in a manner which rendered the vessel MT Melody liable for confiscation under Section 111(f) of the Act and rendered them liable for penalty under Section 112 of the Customs Act, 1962.

**103.2** As regards penalty proposed under Section 114AA of the Act, I find that Noticee No. 1 filed Bill of Entry dated 09.12.2021 mis-declaring that they were importing vessel MT Harriet (IMO No. 8716514) at SBY, Alang despite knowing that vessel arriving at SBY Alang was MT Melody having IMO 8800298. Therefore, both the Noticee Nos 9 and 10, being authorised persons of Noticee No. 1, are liable to penalty under Section 114AA of the Customs Act,



**103.3** Though, I have held Noticee No.1 liable for penalty under the provisions of Sections 112(ii) and 114AA, Noticee No. 9 and 10, being Directors of Noticee No. 1, are also liable for penalty under the provisions of Sections 112(ii) and 114AA, as per findings *supra*. The Hon'ble Bombay High Court in the case of **Textoplast Industries** reported as 2011 (272) ELT 513 (Bom.) has held that penalty can be imposed upon Company as well as its Directors if facts of the case warrants imposition of penalty. The relevant portion is reproduced as under:

"16. ... The ratio of the decision of the Supreme Court would indicate the following principles: (i) Both, in the matter of a criminal prosecution and in the imposition of a penalty, following a process of adjudication, the essential basis for the proceeding is a contravention of the provisions of the Act; (ii) The expression "offence" cannot be narrowly confined to a commission of a crime alone, but would comprehend within its purview, the commission of an act which is prohibited by law; (iii) The deeming fiction which is created in the case of an offence by a Company so as to bring within its purview, a person in charge of or responsible for the affairs of the Company as well as its stated officers would apply not only to a criminal prosecution, but to an adjudication as well. This would in our view necessarily extend to a situation where in terms of the explanation, the 'Company' as defined is a partnership firm. In the case of a partnership firm, the expression 'Director' is extended by the explanation to mean a partner of a firm. The principles which have been enunciated by the Supreme Court were sought to be distinguished, however, on the ground that unlike in the case of the FERA, the Customs Act, 1962 contains a separate Chapter on offences and prosecutions and that hence, the deeming fiction can only be confined for the purposes of prosecutions under the Chapter. Hence, it was urged that where an adjudication proceeding is commenced against a partnership firm, it would not be permissible to impose a penalty both upon a firm and its partner. The submission cannot be accepted. Acceptance of this submission would lead an anomalous situation where, for the purposes of a criminal prosecution, a partner of a partnership firm as well as a person who was in charge of and was responsible for the conduct of the business would be held responsible whereas a much narrower construction would have to be imposed while construing who could be proceeded with for the purposes of an adjudication. There is no logical reason why Parliament would intend to make a stricter provision in the matter of an adjudication leading up to the imposition of a penalty as compared to a proceeding in the nature of a criminal prosecution. Secondly, even as a matter of first principle, we have already analysed the provisions of Chapter XIV of the Customs Act, 1962 dealing with the imposition of a penalty and we see no reason or justification to confine the imposition of a penalty only upon a partnership or its partner. The Customs Act, 1962 is *inter alia* intended to regulate the levy of the duty of Customs. Obligations for exacting compliance in revenue legislation are cast upon diverse sets of persons or entities. For the purposes of revenue legislation, it is open to the Legislature to cast an obligation for compliance upon, as in this case, an importer or other person. An importer includes a person who is the owner or one who holds himself out as the importer of the goods. As a matter of first principle, there is no reason to exclude the exercise of power by the enacting Legislature to penalise a partnership, particularly when it is consistent with the overall scheme and object of the Act. Moreover, every person who was in charge of and was responsible to the firm for the conduct of the business of the firm, as well as the firm can be proceeded against. Where the contravention has been committed with the consent of or connivance of or is attributable to the negligence of the partner of a partnership firm, such partner can also be proceed against. This legal position emerges from the overall scheme of the Act. Section 140 only constitutes a statutory recognition of the position and is clarificatory. For these reasons, we are of the view that the submission which has been sought to be urged on behalf of the Appellants in the present appeal cannot be accepted.

... ..

For these reasons, we dispose of the appeal by holding that for the purpose of



imposing penalty, the adjudicating authority under Customs Act, 1962 may in an appropriate case impose a penalty both upon a partnership firm as well as on its partners. ... ..”

**104. Noticee No. 11 - Shri Chirag Narendrabhai Trivedi, Director, M/s. Lotus Danship Pvt. Ltd** has contended that he is a shipping agent and his actual job is to assist for usual port, customs, desk review, vessel delivery, crew sign of formalities, etc. of the vessel and not beyond that, and hence, the Noticee had nothing to do with the buying or selling of the ship. It is not the case of the prosecution that the present Noticee has manipulated any IMO number or he has changed any IMO number. Moreover, the present Noticee has also not made any declaration or any statement by his own.

**104.1** In this regard, I find that Noticee prepared draft MoA in his office for vessel MT Melody having IMO No. 8800298, which was sent to Mr. Bilal of M/S. Blue One General Trading LLC, Dubai through Shri Soham Narayan. He received modified draft MoA in the name of MT Harriet but without mention of IMO No. So, he obtained IMO No from provisional registration certificate and filed IGM declaring arrival of vessel MT Harriet having IMO No. 8716514 at SBY Alang. He admitted that he was aware that the vessel imported was MT Melody in the name of MT Harriet. He was also aware of the fact that M/s. Blueone General Trading LLC had manipulated the name and IMO number of the vessel MT Melody in order to ensure the sale of sanctioned vessel. He was in direct contact with the buyer of the vessel, M/s. Blueone General Trading LLC through Mr. Tahir Lakhani of M/s. DTA. He abetted with M/s. Blueone General Trading LLC and mis-declared identity of the vessel in IGM filed by them, which rendered the vessel liable to confiscation under section 111(f) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 and Section 114AA of the Customs Act, 1962.

**105. Noticee No. 12 - Shri Kalpesh Narendrabhai Trivedi, Director, M/s. Lotus Danship Pvt. Ltd** has contended that he was not aware about any manipulation whatsoever of the IMO number of the vessel. He was not handling the said transaction as a shipping agent in person, and as he was not knowing anything precise about the said work, but he has been falsely implicated. That by change of any IMO number of the ship there had been no benefit accrued by him.

**105.1** In this regard, I find that Noticee No. 12 was director of Noticee No. 3 - M/s. Lotus Danship Pvt. Ltd who acted as Custom House Agent of Noticee No.2. Noticee No. 12 admittedly filed IGM dated 6.12.2021 declaring arrival of vessel MT Harriet (IMO 8716514) at SBY, Alang for demolition. It was within the knowledge of Noticee No. 2 and all its directors and staff that vessel that was arriving at SBY Alang was MT Melody having IMO 8800298 and not MT Harriet - IMO No. 8716514. Despite knowing this fact, vessel was mis-declared in IGM filed by Noticee No. 2 and abetted with Noticee No. 2 in selling the disputed vessel, which rendered the vessel liable to confiscation under section 111(f) of the Customs Act, 1962 and Noticee No. 12 rendered himself liable to penalty under Section 112 and Section 114AA of the Customs Act, 1962.

**Noticee No. 13 - Shri Tajagn Vora, Deputy Manager, M/s. Lotus Danship Pvt. Ltd** has contended that he was working as a trainee in the firm Lotus Danship Private Limited and his job in the office was as a typist.



He had not availed any monetary benefit out of the said transaction, as his work was to act upon the instructions of their employer. He was not aware about any manipulation whatsoever of the IMO number of the vessel.

**106.1** In this regard, I find that Noticee No. 13 was working in the office of Noticee No. 3. He was involved in preparing draft MoA of the disputed vessel and dealt with documents related to vessel MT Melody. Apparently, it was within his knowledge that vessel arriving at SBY Alang was MT Melody having IMO 8800298 and not MT Harriet – IMO No. 8716514. Despite this, he assisted and abetted other persons in mis-declaring the vessel and thereby rendered the imported vessel liable to confiscation under section 111(f) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 of the Customs Act, 1962.

**107. Noticee No. 14 - Shri Anthony Ronald Brooks, Manager-in-Charge, M/s. Lotus Danship Pvt. Ltd** has contended that he was an employee of M/s Lotus Danship Private Ltd and his job was to look after the documentation, and to complete various formalities under the advice and instructions of the employer. He had not availed any monetary benefit out of the said transaction, as his work was to act upon the instructions of their employer. The allegation with regard to awareness of change in the IMO number of the vessel is also outrightly denied.

**107.1** In this regard, I find that Noticee No. 14 was working as manager in the office of Noticee No. 3. He was involved in preparing draft MoA of the disputed vessel and communicated with seller of vessel and dealt with documents related to vessel MT Melody. Apparently, it was within his knowledge that vessel arriving at SBY Alang was MT Melody having IMO 8800298 and not MT Harriet – IMO No. 8716514. Despite this, he assisted and abetted other persons in mis-declaring the vessel and thereby rendered the imported vessel liable to confiscation under section 111(f) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 of the Customs Act, 1962.

**108. Noticee No. 15 - Shri Sunil Narayan, Proprietor of M/s. Teamforce Worldwide, Bhavnagar** has submitted affidavit dated 13.1.2022 by email dated 23.4.2025 through his advocate Shri Sunil Kotia. Vide the said affidavit, Noticee No. 15 has retracted his statement dated 16.12.2021 recorded under Section 108 of the Customs Act, 1962 on various grounds as mentioned in the affidavit.

**108.1** I have gone through affidavit dated 13.1.2022, wherein it has been stated that he was not aware about facts mentioned in his statement and that his statement was prepared by DRI and his signature was obtained by force and coercion. On going through his statement dated 16.12.2021, I find that the statement contains plethora of facts which is in the personal domain of the Noticee and cannot be incorporated in the statement unless the same is deposed by the Noticee. For example, Shri Sunil Narayan had deposed that *"the draft MoA was prepared on 01.11.2021 in Mr. Chirag Trivedi's office. Initially, the draft MoA was prepared for MT Melody with IMO No. 8800298, price of which I received from Mr. Tahir Lakhani. The draft MoA was then sent to my son viz. Mr. Soham Narayan, who then forwarded to Mr. Bilal of M/S. Blue One General Trading LLC, Dubai"*. Shri Sunil Narayan here further deposed that, *"In reply, Mr. Bilal of M/S. Blue One General Trading LLC, Dubai sent back an amended draft wherein the name of the vessel was MT Patra and the IMO number was deleted from the MoA"*. This sequence of event was also deposed by Shri



Chirag Trivedi, Director of M/s Lotus Danship Pvt Ltd, Bhavnagar in his Statement dated 16.12.2021 recorded during investigation. So, the contention of the Noticee is devoid of merit.

**108.2** It is not brought to my notice that the said affidavit for retraction was brought to the notice of the officer, who recorded the statement and hence, it has no bearing on the legality of the issue. I rely on case laws of Champion Confectionery reported in 2010 (262) E.L.T. 865 and Gautam Trades & Agencies, reported in 2011 (274) ELT 408 reproduced *supra*.

**108.3** I further find that the said affidavit was produced before the adjudicating authority at the time of hearing. It is a settled legal position that retraction of statement by way of filing affidavit and produced during adjudication after considerable lapse of time (after more than three years) has no effect on the legality of the case. I rely on the case laws of Roopkala Export Corpn reported in 2004 (165) ELT 26 and Anil Kumar reported in 2000 (118) ELT 377 reproduced *supra*.

**108.4** In view of the above, I hold that retraction of statement by Noticee No. 15 by way of filing affidavit is afterthought only and it has no bearing on the outcome of this case.

**108.5** Noticee No. 15 has contended that his role was limited to connecting the proposed purchaser and seller and beyond that he does not have to involve into the documents relating to the vessel as it is neither his job nor he has been given any access for the same by the proposed buyer and the seller and therefore, the change in the IMO number or the change in the name of the vessel cannot be in any way connected with him. Therefore, the allegations levelled against him in the Show Cause Notice are baseless.

**108.6** In this regard, I find that Noticee was actively involved in drafting MoA for sale of MT Melody, along with Shri Chirag Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Bhavnagar. Initially, they prepared MoA in the name of MT Melody but subsequently, name of the vessel was changed to MT Harriet in the MoA as per the directions of Mr. Tahir Lakhani. He brokered the deal between M/s Rajendraship breakers Pvt Ltd and M/s Blueone General Trading LLC. He was aware that the identity of the vessel was MT Melody. However, he abetted with M/s Blueone General Trading LLC in selling the vessel by hiding its actual identity and thereby rendered the vessel liable to confiscation under section 111(f) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 and Section 114AA of the Customs Act, 1962.

**109. Noticee No. 16 - Shri Soham Sunil Narayan, Manager, M/s. Teamforce Worldwide, Bhavnagar** has submitted affidavit dated 30.12.2021 by email dated 23.4.2025 through his advocate Shri Sunil Kotia. Vide the said affidavit, Noticee No. 16 has retracted his statement dated 16.12.2021 recorded under Section 108 of the Customs Act, 1962 on various grounds as mentioned in the affidavit.

**109.1** I have gone through affidavit dated 30.12.2021, wherein it has been stated that he was not aware about facts mentioned in his statement and that the signature on the statement was obtained by force and coercion. On going through his statement dated 16.12.2021, I find that the statement contains plethora of facts which is in the personal domain of the Noticee and cannot be incorporated in the statement unless the same is deposed by the Noticee. For example, Shri Soham Narayan gave details of his other firm by



deposing that, "We have operated the firms Viz. M/s Soham Overseas Pvt Ltd, M/s Teamforce, M/s Soham Ads, M/s West Coast shipping and M/s Soham Enterprise and all firms are based at Bhavnagar. On being asked, I state that I am 50% partner of M/s West Coast Shipping." He also gave email Ids of his firm M/s Teamforce Worldwide, Bhavnagar and details of recent vessels cleared by his firm.

**109.2** It is not brought to my notice that the said affidavit for retraction was brought to the notice of the officer, who recorded the statement and hence, it has no bearing on the legality of the issue. I rely on case laws of Champion Confectionery reported in 2010 (262) E.L.T. 865 and Gautam Trades & Agencies, reported in 2011 (274) ELT 408 reproduced *supra*.

**109.3** I further find that the said affidavit was produced before the adjudicating authority at the time of hearing. It is a settled legal position that retraction of statement by way of filing affidavit and produced during adjudication after considerable lapse of time (after more than three years) has no effect on the legality of the case. I rely on the case laws of Roopkala Export Corpn reported in 2004 (165) ELT 26 and Anil Kumar reported in 2000 (118) ELT 377 reproduced *supra*.

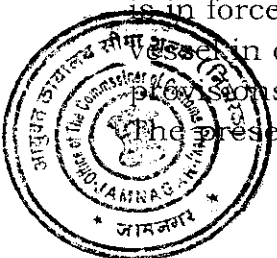
**109.4** In view of the above, I hold that retraction of statement by Noticee No. 16 by way filing affidavit is afterthought only and it has no bearing on the outcome of this case.

**109.5** Noticee No. 16 has contended that by change of any IMO number of the ship, there had been no benefit accrued to him. That even in the Show Cause Notice also it has been mentioned that the exchange of MOA had taken place between the purchaser and seller and the documents of the vessel to be submitted before the concerned departments were provided by the buyer and seller to the shipping agent and not by the present noticee who is just a trainee broker.

**109.6** In this regard, I find that Noticee was involved in drafting MoA for sale of MT Melody, along with Sunil Narayan of M/s. Teamforce Worldwide, Bhavnagar and Shri Chirag Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Bhavnagar. Initially, they prepared MoA in the name of MT Melody but subsequently, name of the vessel was changed to MT Harriet in the MoA as per the directions of Mr. Tahir Lakhani. His firm brokered the deal between M/s Rajendraship breakers Pvt Ltd and M/s Blueone General Trading LLC. Despite knowing about the actual identity of the vessel, he abetted with M/s Blueone General Trading LLC in selling the vessel by preparing MoA in the name of MT Harriet and thereby rendered the vessel liable to confiscation under section 111(f) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 and Section 114AA of the Customs Act, 1962.

#### **Invocation of Section 112 of the Act :**

**110.** Noticee No. 1 to 16 have been held liable to penalty under Section 112 of the Act as per detailed discussion in foregoing paras. Clause (i) of Section 112 is attracted 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. Since, the vessel in dispute MT Melody is not prohibited goods, as held in foregoing paras, none of clause (i) of Section 112 of the Act are not attracted in this case. The present case is covered under clause (ii) of Section 112, which is attracted



in the case of dutiable goods, other than prohibited goods. I, therefore, hold that Noticee No. 1 to 16 are liable to penalty under Section 112(ii) of the Customs Act, 1962.

### **Invocation of penal provisions under Handling of Cargo in Customs Areas Regulations, 2009**

**111.** The show cause notice has proposed to take penal action against Noticee no. 4 to 16 for violations of the Handling of Cargo in Customs Areas Regulations, 2009 on the grounds that the Shipping Agent and the persons acting on their behalf have contravened and violated the provisions of the Rules and Regulations.

**111.1** I have examined the provisions contained in Handling of Cargo in Customs Areas Regulations, 2009 in backdrop of the facts of the present case. The relevant provisions are reproduced as under:

**“REGULATION 2. Definitions. -** (1) In these regulations, unless the context otherwise requires, -

(a) ...

(b) “Customs Cargo Services provider” means any person responsible for receipt, storage, delivery, dispatch or otherwise handling of imported goods and export goods and includes a custodian as referred to in section 45 of the Act and persons as referred to in sub-section (2) of section 141 of the said Act;

(c) ...

**REGULATION 3. Application. —** These regulations shall be applicable to the handling of imported and export goods in [ports, airports, inland container depots, land customs stations and in customs area approved or specified under Section 8]

... ..

**REGULATION 9. Application for approval of Customs Cargo Service provider. —** (1) An application to act as a Customs Cargo Service provider for custody of imported or export goods and for handling of such goods in a customs area shall be made in the form of a letter to the jurisdictional Commissioner of Customs containing details as prescribed in ‘Form A’. [See Customs Series Form No. 126 in Part - 5]

(2) The [Principal Commissioner of Customs or Commissioner of Customs, as the case may be] shall dispose of the application within forty five days of the receipt of the application.

**REGULATION 10. Approval of appointment of a Customs Cargo Service provider and review thereof. —** (1) Where the [Principal Commissioner of Customs or Commissioner of Customs, as the case may be] is satisfied that the applicant has fulfilled the conditions prescribed in regulation 5, he may approve such an applicant as a Customs Cargo Service provider, for a period of two years from the date of issue of such approval :”

**111.2** I find that the said regulation is applicable to Customs cargo service providers for handling operations and cargo at Seaports, Airports, Inland Container Depots, (ICDs), Container Freight Stations (CFSs) and Land Customs Stations (LCS). They are responsible for the receipt, storage, delivery, dispatch, or general handling of imported and export goods in designated Customs areas. Any firm willing to operate as Customs cargo service provider / custodian has to apply to the jurisdictional Commissioner of Customs under Regulation 9 ibid. The Commissioner approves appointment of Customs cargo



service provider under Regulation 10, if the applicant fulfils conditions mentioned in Regulation 5.

**111.3** On examining the present case in backdrop of the above provisions, I find that none of the noticees were approved to work as Customs cargo service provider / custodian. Consequently, provisions of Handling of Cargo in Customs Areas Regulations, 2009 are not applicable to them and no penal action can be initiated against Noticee no. 4 to 16.

**(viii) Whether reference is required to be made to DG Shipping to initiate penal action against Noticee No. 4,6,7,8,11 and 12 for violation of provisions of Sections 417,418, 421 and 423 to 425 of the Merchants Shipping Act, 1958, or not?**

**112.** The show cause notice has proposed to refer the matter to DG Shipping to initiate penal action against Noticee No. 4,6,7,8,11 and 12 for violation of provisions of Sections 417,418, 421 and 423 to 425 of the Merchants Shipping Act, 1958.

**112.1** I examine the relevant provisions of the Merchants Shipping Act, 1958, as under:

**“PART XV  
SAILING VESSELS**

**415. Application of Part.**—Save as otherwise provided, this Part applies to every sea-going sailing vessel owned by a citizen of India or a company or a co-operative society which satisfies the requirements specified in clause (b) or, as the case may be, clause (c) of section 21.

**416. ... ..**

**417. Certificate of registry.**—(1) Every sailing vessel 3[(other than a sailing vessel solely engaged in fishing for profit)] shall be registered in accordance with the provisions of this section.

**418. Particulars relating to sailing vessel to be painted.**—The owner of every sailing vessel so registered shall, before the vessel begins to take any cargo or passengers, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the sailing vessel, the name by which the vessel has been registered, the number assigned to the vessel by the registrar and the port to which she belongs, and shall take all steps to ensure that the vessel remains painted as required by this section.

**421. Certificate of inspection.**—(1) No sailing vessel shall ply or proceed to sea unless there is in force in respect of that vessel a certificate of inspection granted under this Part, the same being applicable to the voyage on which she is about to ply or proceed.

**423. Registry of alterations.**—When a sailing vessel is so altered as not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such vessel shall make a report of such alteration to the registrar of the port where the vessel is registered, and the registrar shall either cause the alteration to be registered, or direct that the vessel be registered anew, in accordance with such rules as may be made in this behalf.

**424. Transfer of registry.**—The registry of a sailing vessel may be transferred from one port to another in India on the application of the owner or tinal of the vessel in accordance with such rules as may be made in this behalf.



**425. Closure of registry.**—If a sailing vessel is lost, destroyed or rendered permanently unfit for service, the owner of such vessel shall with the least practicable delay report the fact to the registrar of the port where the vessel is registered and also forward to him along with the report, the certificate of registry in respect of the vessel; and thereupon the registrar shall have the registry of the vessel closed."

**112.2** As per Section 417, every sailing vessel is required to be registered in accordance with the provisions of this section. Section 418 prescribes that the owner of every sailing vessel so registered shall, before the vessel begins to take any cargo or passengers, permanently paint the name by which the vessel has been registered, the number assigned to the vessel by the registrar and the port to which she belongs. Section 421 prescribes that every sailing vessel shall ply or proceed to sea only after obtaining a certificate of inspection. Section 423 to 425 pertains to alteration/ transfer / closure of registration of a sailing vessel. Further, as per section 415, the provisions contained in Part XV is applicable to any sea going vessel owned by a citizen of India or a company or a co-operative society.

**112.3** I find that as per Section 2(1) of the Merchants Shipping Act, 1958, the provisions of the said Act is applicable to any vessel which is registered in India. The provisions of Section 2(1) are reproduced as under:

"Application of Act.—

(1) Unless otherwise expressly provided, the provisions of this Act which apply to—

- (a) any vessel which is registered in India; or
- (b) any vessel which is required by this Act to be so registered; or
- (c) any other vessel which is owned wholly by persons to each of whom any of the descriptions specified in clause (a) or in clause (b) or in clause (c), as the case may be, of section 21 applies, shall so apply wherever the vessel may be."

**112.4** On examining the present case, I find that the vessel MT Melody was registered in Sao Tome and Principe, a small island nation off the west coast of Africa. Since, the vessel MT Melody was not registered in India, the provisions of Merchants Shipping Act, 1958 are not applicable to vessel in dispute in view of Section 2(1) of the Merchants Shipping Act, 1958. Further, the provisions of Sections 417, 418, 421 and 423 to 425 of the Merchants Shipping Act, 1958 can be applied only to any vessels owned by a citizen of India or a company or a co-operative society, as provided under Section 415 *ibid*. Since, the disputed vessel was not owned by Noticee No. 4, 6, 7, 8, 11 and 12 consequently, no action is warranted against them for violation of the said provisions, as proposed in the show cause notice.

**113.** In view of the above discussion, I pass the following order :

### ORDER

- (i) I order for confiscation of vessel MT Melody having IMO No. 8800298 seized vide Seizure Memo dated 12.12.2021 valued at Rs. 10,04,38,363/- under Section 111(f) of the Customs Act, 1962. Since, the vessel was provisionally released under bond, I impose redemption fine of **Rs. 50,00,000/-** (Rupees Fifty Lakh only) in lieu of



- confiscation under Section 125(1) of the Customs Act, 1962;
- (ii) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon M/s Rajendra Shipbreakers Pvt Ltd, Bhavnagar under Section 112 of the Customs Act, 1962;
  - (iii) I impose penalty of **Rs. 25,00,000/-** (Rupees Twenty Five Lakh only ) upon M/s Rajendra Shipbreakers Pvt Ltd, Bhavnagar under Section 114AA of the Customs Act, 1962;
  - (iv) I impose penalty of **Rs. 2,00,000/-** (Rupees Two Lakh only) upon M/s Rajendra Shipbreakers Pvt Ltd, Bhavnagar under Section 117 of the Customs Act, 1962;
  - (v) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon M/s. Blue One General Trading LLC, UAE through its Proprietor, Shri Asif Khanda under Section 112 of the Customs Act, 1962;
  - (vi) I impose penalty of **Rs. 25,00,000/-** (Rupees Twenty Five Lakh only) upon M/s. Blue One General Trading LLC, UAE through its Proprietor, Shri Asif Khanda under Section 114AA of the Customs Act, 1962;
  - (vii) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon M/s. Lotus Danship Pvt. Ltd, Bhavnagar under Section 112 of the Customs Act, 1962;
  - (viii) I impose penalty of **Rs. 15,00,000/-** (Rupees Fifteen Lakh only) upon M/s. Lotus Danship Pvt. Ltd, Bhavnagar under Section 114AA of the Customs Act, 1962;
  - (ix) I impose penalty of **Rs. 2,00,000/-** (Rupees Two Lakh only) upon M/s. Lotus Danship Pvt. Ltd, Bhavnagar under Section 117 of the Customs Act, 1962;
  - (x) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Chirag Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Bhavnagar under Section 112 of the Customs Act, 1962;
  - (xi) I impose penalty of **Rs. 15,00,000/-** (Rupees Fifteen Lakh only) upon Shri Chirag Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Bhavnagar under Section 114AA of the Customs Act, 1962;
  - (xii) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Kalpesh Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Bhavnagar under Section 112 of the Customs Act, 1962;
  - (xiii) I impose penalty of **Rs. 15,00,000/-** (Rupees Fifteen Lakh only) upon Shri Kalpesh Trivedi, Director of M/s. Lotus Danship Pvt. Ltd., Bhavnagar under Section 114AA of the Customs Act, 1962;
  - (xiv) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Gajanan Karanjikar, Operations Manager, M/s. Dubai Trading Agency under Section 112 of the Customs Act, 1962;
  - (xv) I impose penalty of **Rs. 5,00,000/-** (Rupees Five Lakh only) upon Shri Gajanan Karanjikar, Operations Manager, M/s. Dubai Trading Agency under Section 114AA of the Customs Act, 1962;



- (xvi) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Tahir Lakhani through M/s. Dubai Trading Agency, Dubai under Section 112 of the Customs Act, 1962;
- (xvii) I impose penalty of **Rs. 25,00,000/-** (Rupees Twenty Five Lakh only) upon Shri Tahir Lakhani through M/s. Dubai Trading Agency, Dubai under Section 114AA of the Customs Act, 1962;
- (xviii) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Rahul Choudhary, Captain of the vessel MT Melody under Section 112 of the Customs Act, 1962;
- (xix) I impose penalty of **Rs. 25,00,000/-** (Rupees Twenty Five Lakh only) upon Shri Rahul Choudhary, Captain of the vessel MT Melody under Section 114AA of the Customs Act, 1962;
- (xx) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Amresh Kumar, M/s. Dubai Trading Agency, Dubai under Section 112 of the Customs Act, 1962;
- (xxi) I impose penalty of **Rs. 5,00,000/-** (Rupees Five Lakh only) upon Shri Amresh Kumar, M/s. Dubai Trading Agency, Dubai under Section 114AA of the Customs Act, 1962;
- (xxii) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand Only) upon Shri Bilal, Accountant, M/s. Dubai Trading Agency, Dubai under Section 112 of the Customs Act, 1962;
- (xxiii) I impose penalty of **Rs. 5,00,000/-** (Rupees Five Lakh only) upon Shri Bilal, Accountant, M/s. Dubai Trading Agency, Dubai under Section 114AA of the Customs Act, 1962;
- (xxiv) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Rajendra Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd, Bhavnagar under Section 112 of the Customs Act, 1962;
- (xxv) I impose penalty of **Rs. 15,00,000/-** (Rupees Fifteen Lakh only) upon Shri Rajendra Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd, Bhavnagar under Section 114AA of the Customs Act, 1962;
- (xxvi) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Anish Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd, Bhavnagar under Section 112 of the Customs Act, 1962;
- (xxvii) I impose penalty of **Rs. 15,00,000/-** (Rupees Fifteen Lakh only) upon Shri Anish Gupta, Authorized Signatory of M/s. Rajendra Ship Breakers Pvt. Ltd, Bhavnagar under Section 114AA of the Customs Act, 1962;
- (xxviii) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Sunil Narayan, Proprietor M/s. Teamforce Worldwide, Bhavnagar under Section 112 of the Customs Act, 1962;



- (xxix) I impose penalty of **Rs. 10,00,000/-** (Rupees Ten Lakh only) upon Shri Sunil Narayan, Proprietor M/s. Teamforce Worldwide, Bhavnagar under Section 114AA of the Customs Act, 1962;
- (xxx) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Soham Sunil Narayan, Manager of M/s. Teamforce Worldwide, Bhavnagar under Section 112 of the Customs Act, 1962;
- (xxxii) I impose penalty of **Rs. 10,00,000/-** (Rupees Ten Lakh only) upon Shri Soham Sunil Narayan, Manager of M/s. Teamforce Worldwide, Bhavnagar under Section 114AA of the Customs Act, 1962;
- (xxxiii) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Tajagn Vora, Deputy Manager of M/s. Lotus Danship Pvt. Ltd., Bhavnagar under Section 112 of the Customs Act, 1962;
- (xxxiv) I impose penalty of **Rs. 5,00,000/-** (Rupees Five Lakh only) upon Shri Tajagn Vora, Deputy Manager of M/s. Lotus Danship Pvt. Ltd., Bhavnagar under Section 114AA of the Customs Act, 1962;
- (xxxv) I impose penalty of **Rs. 5,000/-** (Rupees Five Thousand only) upon Shri Anthony Brooks, Manager of M/s. Lotus Danship Pvt. Ltd under Section 112 of the Customs Act, 1962;
- (xxxvi) I impose penalty of **Rs. 5,00,000/-** (Rupees Five Lakh only) upon Shri Anthony Brooks, Manager of M/s. Lotus Danship Pvt. Ltd under Section 114AA of the Customs Act, 1962;

( Amit Kumar Singh )  
Additional Commissioner  
Customs (Prev.), Jamnagar

By Speed Post / Email

To,

1. M/s. Rajendra Ship Breakers Pvt. Ltd., Plot No. DM -79, Behind Ram Mantra Mandir, Kaliabid, Bhavnagar.
2. Shri Asif Khanda, Owner of M/s. Blueone General Trading LLC, 1608, Fahidi Heights, Bur Dubai, Dubai, UAE. (Through Shri Sunil P. Kotia, Advocate).
3. M/s. Lotus Danship Pvt. Ltd. No. 110 & 111, Eva Complex, Opp. Gulista Ground, Waghawadi Road, Bhavnagar - 364 002.
4. Mr. Tahir Lakhani, Dubai Trading Agency, 8<sup>th</sup> Floor, DWC Building, Maritime City Dubai, UAE. (Through Shri Sunil P. Kotia, Advocate).
5. Mr. Bilal, Accountant, Dubai Trading Agency, 8<sup>th</sup> Floor, DWC Building, Maritime City Dubai, UAE. (Through Shri Sunil P. Kotia, Advocate).



6. Shri Rahul Choudhary, Penthouse No. 1, Tulji Bhawani CHS, Plot No. 46, Sector – 16, Koparkhairne, Navi Mumbai, Thane – 400709.
7. Shri Gajanan Bhalchandra Karajikar, Plot No. 17, Palan Gangapur Road, Sharda Nagar, Nashik – 422 013.
8. Shri Amresh, M/s. Dubai Trading Agency (DTA), Dubai. (Through Shri Sunil P. Kotia, Advocate).
9. Shri Anish Gupta, Plot No. DM – 79, Kaliabid, Behind Ram Mantra Mandir, Bhavnagar – 364 002.
10. Shri Rajendra Gupta, Plot No. DM – 79, Kaliabid, Behind Ram Mantra Mandir, Bhavnagar – 364 002.
11. Shri Chirag Narendrabhai Trivedi, Swara Panchshil, Plot No. 110, Block No. 401/402, Hariyala Plot, Bhavnagar – 364001.
12. Shri Kalpesh Narendrabhai Trivedi, Swara Panchshil, Plot No. 110, Block No. 401/402, Hariyala Plot, Bhavnagar – 364001.
13. Shri Tajagn Vora, C-404, Himalaya Sky, Iscon Mega City, Bhavnagar.
14. Shri Anthony Ronald Brooks, Chamunda Nagar, Plot No. 77, Village – Akwada, Taluka – Bhavnagar, Bhavnagar.
15. Shri Sunil Narayan, Plot No. 2697/A, Sanskar Mandal, Near H.K. Dave Bungalow, Hill Drive, Takheshwar, Bhavangar -364002.
16. Shri Soham Sunil Narayan, Plot No. 2697/A, Sanskar Mandal, Near H.K. Dave Bungalow, Hill Drive, Takheshwar, Bhavangar -364002.

**Copy to:**

1. The Commissioner, Customs (Prev.), Jamnagar.
2. The Additional Director General, DRI, AZU, Ahmedabad.
3. The Deputy Director, DRI, Jamnagar.
4. The Asst. Commissioner, Customs Division, Bhavnagar.
5. Guard File.

