

	सीमा शुल्क आयुक्त का कार्यालय, Office of the Commissioner of Customs, नया सीमा शुल्क सदन, New Custom House, Near Balaji Temple, नया कांडला – ३७० २१०. New Kandla – 370 210. दूरभाष /Tel. 02836-271468-469, फैक्स/Fax. 02836-271467 E-mail : adjcustomskandla22@gmail.com
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DIN-20240371ML000000DFFD**SHOW CAUSE NOTICE**

(ISSUED UNDER SECTION 124 OF CUSTOMS ACT, 1962)

An intelligence was received from Directorate of Revenue Intelligence, DRI, Chennai Zonal Unit which was forwarded to this office via DRI Regional Unit, Gandhidham vide F.no.DRI/AZU/GRU/GI-Misc/2019/1983 dated 13.05.2019 wherein it was submitted that cigarettes and other contraband items were being smuggled in containers MSKU1309828 and MRKU5740430 (covered under B/L No.968501618 dated 07.04.2019) and containers CAIU7237017, DAYU6108731, MRKU2057740 and MSKU8539416 (covered under B/L No.968778100 dated 28.04.2019). The said containers were lying at A.V.Joshi, CFS, Gandhidham and bills of entry were not filed till then. Intelligence received indicated that both the shipper and the importer were fake and non-existent and it appeared that the gang involved in this case might clear the goods from the CFS using forged documents.

2. Acting upon the intelligence, a Panchnama was drawn at M/s. AV Joshi, CFS, Gandhidham on 17.07.2019 (**RUD-1**) to examine the containers MSKU1309828 and MRKU5740430 covered under B/L No.968501618 dated 07.04.2019. The Panchnama was drawn in presence of Shri Mahesh Kuksal, Operation Manager, M/s AV Joshi, CFS, Gandhidham. During the course of Panchnama, the officers found that the containers were loaded/filled with brown colored corrugated boxes of same sizes. On further examination, the officers found that the corrugated boxes contains polythene bags having thick chocolate brown color viscous substance having pungent smell which prima facie appeared to be tobacco products. The details of goods are as under: -

S. NO.	Bill of Lading & date	Container No.	Goods Description as per B/Ls	Goods description as physically found	Weight as per B/Ls (K.Gs)	Weight as per Weighing Slip of CFS	No of Boxes as per B/Ls	Actual Box Found
1	968501618 dated 07.04.2019	MSKU1309828	Tobacco	Thick chocolate brown color viscous substance in brown colored corrugated boxes	26500	27450	2600	1300

2		MRKU5740430	Tobacco	Thick chocolate brown color viscous substance in brown colored corrugated boxes	26500	27400	2600	1300
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The officers in presence of the panchas had drawn the samples from both the container mentioned above in a transparent polythene bag and placed the same inside a cloth and sealed it by affixing dated signatures on it.

3. Further, Panchnamas were drawn at M/s AV Joshi, CFS, Gandhidham on 19.07.2019 (**RUD-2**) and 22.07.2019 (**RUD-3**) to examine the goods imported in container numbers CAIU7237017, MSKU8539416, MRKU2057740 & DAYU6108731 covered under bill of lading number 968778100 dated 28.04.2019. The Panchnamas were drawn in presence of Shri Mahesh Kuksal, Operation Manager of AV Joshi, CFS. Details of cargo found during Panchnamas are as under: -

S. NO.	Bill of Lading & date	Container No.	Goods Description as per B/Ls	Goods description as physically found	Weight as per B/Ls (K.Gs)	Weight as per Weighing Slip of CFS	No of Boxes as per B/Ls	Actual Box Found
1.	968778100 dated 28.04.2019	MSKU8539416	Tobacco Products	Brown Coloured fine powder / Brown Coloured Coarse Powder having pungent smell.	13591	17350	99	99
2.		CAIU7237017	Tobacco Products	Thick chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder having pungent smell.	13591	16710	99	99
3.		MRKU2057740	Tobacco Products	Thick chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder having pungent smell.	13591	11990	99	99
4		DAYU6108731	Tobacco Products	Thick chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder having pungent smell.	13591	16530	99	99

The officers in presence of the panchas had drawn the samples from all the four containers mentioned in above table in a transparent polythene bag and placed it inside the cloth and sealed it by affixing the signature on it.

4. M/s AV Joshi, CFS, Gandhidham vide letter no.AVJ-CFS/CONF./209-20/43 dated 19.07.2019 **(RUD-4)** submitted that they had received total 17 containers of 40 feet of the same importer and nobody had come forward to clear the cargo.

5. A further panchnama was drawn on 02.08.2019 **(RUD-5)** at the premises of M/s AV Joshi, CFS, Gandhidham in presence of Shri Mahesh Kuksal, Operation Manager of M/s AV Joshi for the container number MSKU9384089 covered under bill of lading number 969010154 dated 19.05.2019. The details are as under :-

S. NO.	Bill of Lading & date	Container No.	Goods Description as per B/Ls	Goods description as physically found	Weight as per B/Ls (K.Gs)	Weight as per Weighing Slip of CFS	No of Boxes as per B/Ls	Actual Box Found
1.	969010154 dated 19.05.2019	MSKU9384089	Cigarettes & Tobacco	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	26115.34	27150	1300	1300

6. Another Panchnama was drawn on 07.08.2019 **(RUD-6)** at the premises of M/s AV Joshi, CFS, Gandhidham in presence of Shri Mahesh Kuksal, Operation Manager of AV Joshi for the container numbers MRKU2510100 covered under Bill of Lading Number 968817250 dated 05.05.2019 alongwith container number TCKU6130933 covered under bill of lading number 969010154 dated 19.05.2019. The details are as under :-

S. NO.	Bill of Lading & date	Container No.	Goods Description as per B/Ls	Goods description as physically found	Weight as per B/Ls (K.Gs)	Weight as per Weighing Slip of CFS	No of Boxes as per B/Ls	Actual Box Found
1.	969010154 dated 19.05.2019	TCKU6130933	Cigarettes & Tobacco	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27000	27370	1300	1300
2	968817250 dated 05.05.2019	MRKU2510100	Tobacco & Tobacco Products	Brown Coloured fine powder / Brown Coloured Coarse Powder having pungent smell.	16445	9250	489	70

The officers in presence of the panchas had drawn the sample from container MRKU2510100 in a transparent polythene bag and placed the same inside a cloth and sealed it by affixing dated signature on it.

7. Another Panchnama was drawn on 27.08.2019 (**RUD-7**) at the premises of M/s AV Joshi, CFS, Gandhidham in presence of Shri Mahesh Kuksal, Operation Manager of AV Joshi for the container numbers MRKU2811079 and MRKU4923226 covered under Bill of Lading Number 968817250 dated 05.05.2019 alongwith container numbers MSKU0183062 and MSKU8335032 covered under bill of lading number 969098190 dated 02.06.2019. The details are as under : -

S. NO.	Bill of Lading & date	Container No.	Goods Description as per B/Ls	Goods description as physically found	Weight as per B/Ls (K.Gs)	Weight as per Weighing Slip of CFS	No of Boxes as per B/Ls	Actual Box Found
1.	968817250 dated 05.05.2019	MRKU2811079	Tobacco & Tobacco Products	Brown Coloured fine powder / Brown Coloured Coarse Powder having pungent smell.	16445	13780	489	99
2		MRKU4923226	Tobacco & Tobacco Products	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	16445	27310	489	1300
3.	969098190 dated 02.06.2019	MSKU0183062	Cigarettes & Tobacco Products	Brown Coloured fine powder / Brown Coloured Flakes / Thick Granules having pungent smell.	14979	18820	477	530
4		MSKU8335032	Cigarettes & Tobacco Products	Brown Coloured fine powder / Brown Coloured Flakes / Thick Granules having pungent smell.	14979	15020	475	368

The officers in presence of the panchas had drawn the samples from containers number MSKU0183062 and MSKU8335032 in a transparent polythene bag and placed the same inside the cloth and sealed it by affixing dated signature on it.

8. Another Panchnama was drawn on 28.08.2019 (**RUD-8**) at the premises of M/s AV Joshi, CFS, Gandhidham in presence of Shri Mahesh Kuksal, Operation Manager of AV Joshi for the container numbers MRKU5771600 covered under Bill of Lading Number 969098190 dated 02.06.2019 and container number SUDU8745555 covered under Bill of Lading Number 969000274 dated 19.05.2019. The details are as under:-

F.No. GEN/ADJ/ADC/588/2024-Adjn-O/o Commr-Cus-Kandla

S. NO.	Bill of Lading & date	Container No.	Goods Description as per B/Ls	Goods description as physically found	Weight as per B/Ls (K.Gs)	Weight as per Weighing Slip of CFS	No of Boxes as per B/Ls	Actual Box Found
1.	969098190 dated 02.06.2019	MRKU5771600	Cigarettes & Tobacco Products	Brown Colored fine powder / Brown Colored Flakes / Thick Granules having pungent smell.	14979	15440	477	460
2	969000274 dated 19.05.2019	SUDU8745555	Cigarettes & Tobacco	Thick chocolate brown color viscous substance in brown colored corrugated boxes	27000	27280	1300	1300

9. Another Panchnama was drawn on 29.08.2019 (**RUD-9**) at the premises of M/s AV Joshi, CFS, Gandhidham in presence of Shri Mahesh Kuksal, Operation Manager of AV Joshi for the container numbers MRSU3428241 & MSKU0077121 covered under Bill of Lading Number 969000274 dated 19.05.2019. The details are as under

S. NO.	Bill of Lading & date	Container No.	Goods Description as per B/Ls	Goods description as physically found	Weight as per B/Ls (K.Gs)	Weight as per Weighing Slip of CFS	No of Boxes as per B/Ls	Actual Box Found
1.	969000274 dated 19.05.2019	MRSU3428241	Cigarettes & Tobacco	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27000	27340	1300	1300
2		MSKU0077121	Cigarettes & Tobacco	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27000	27150	1300	1300

10. The samples drawn vide above panchnamas were sent to CRCL, Kandla to provide the exact nature and classification of the subject goods. The CRCL, Kandla lab vide its reports (**RUD-10**) submitted that out of total 16 samples, 12 samples were found to be Tobacco Products. CRCL, Kandla further submitted that rest 4 samples may be forwarded to CRCL, Delhi to find out the exact composition and nature of the samples.

11. The remaining four samples were sent to CRCL, Delhi for testing purpose and accordingly vide letter dated 03.02.2022 (**RUD-11**), CRCL Delhi submitted that each of the four samples is composed of vegetative matter and does not contain any Alkaloids (as Nicotine).

12. A statement of **Shri Pushpendra Singh Rathore**, Customer Service Manager in M/s MAERSK INDIA PVT LTD at Gandhidham was recorded on 05.09.2019 **(RUD-12)** which is in questionnaire form as under :-

Q. 1 What is your PAN No., Aadhar Number, your profession, your firm name, Address & e-mail ID?

Answer: My PAN Card No. is AIIPR5480R and Aadhar Number is 5954 3025 6658. I am the Customer Service Manager of M/s Maersk India Pvt. Ltd having it office at Plot No 3, 1st Floor, Sec-9A, Tagore Road, Gandhidham. I further state that the Head Office of M/s Maersk India Pvt. Ltd is situated at H.O OFFICE: - M/s Maersk India Pvt. Ltd, 12th Floor, Tower-A, Urmi Estate, 95 Ganpatrao Kadam Marg, Lower Parel (West), Mumbai-400013 and the Branch Office is functional in Gandhidham-Kutch and CIN NO. U63030MH2011FTC214311. I further state that my email ID is rathore.pushpendra@maersk.com. I further state that I have recently joined M/s Maersk India Pvt. Ltd in the month of August-2019.

Q.2 What is your firm's Business profile?

Answer: The business profile of M/s Maersk India Pvt Ltd, Gandhidham is shipping line involved in transport of containers from Global Ports working as per the directions given by our Mumbai Registered Office.

Q.3 Please state your role/designation in M/s MAERSK INDIA PVT LTD and to whom, you have to report further in the firm?

Answer: I am the Customer Service Manager in M/s MAERSK INDIA PVT LTD at Gandhidham. I further state I am looking after all the works related to Customer services /query in the firm. I further state that I report my day-to-day activities to Shri Karan Sabarwal, Gujarat Customer Service Manager of M/s Maersk India Pvt Ltd, whose office is situated at 01/202, Prerna Arcade, Opposite Doctor House, Near Parimal Garden, Ahmedabad, Gujarat.

Q.4 Summons dated 26.07.2019 and 13.08.2019 had been issued to your Gandhidham Office and Summons dated 28.08.2019 to your Mumbai Office, Please offer your comment regarding the delay in appearing for the same.

Answer. The Summons dated 26.07.2019 and 13.08.2019 had been received by Shri Rohit Anjaria, Senior Operational Manager, working in our Gandhidham Office and I had joined the office on 19.08.2019, so I cannot comment on the same. I further state that as the Summons dated 28.08.2019 to our Mumbai Office might have been received by Mumbai Office, so I cannot comment on the same.

Q.5 Kindly peruse the following Bills of Lading with importer's details mentioned as M/s Tital for Import and Export, TRAD Street 12 – 37 Store, PO Box No 1240, Mundra-370421 and offer your comments?

M/s. Tital for Import & Export (AV Joshi, CFS)				
S. NO.	Bill of Lading	Date	Container No.	Goods Description as per B/Ls
1	968501618	07/04/19	MSKU1309828	Tobacco
2			MRKU5740430	Tobacco
3	968778100	28/04/19	MSKU8539416	Tobacco Products

4			CAIU7237017	Tobacco Products
5			MRKU2057740	Tobacco Products
6			DAYU6108731	Tobacco Products
7	968817250	05/05/19	MRKU4923226	Tobacco & Tobacco Products
8			MRKU2811079	Tobacco & Tobacco Products
9			MRKU2510100	Tobacco & Tobacco Products
10			SUDU8745555	Cigarettes & Tobacco
11	969000274	19/05/19	MRSU3428241	Cigarettes & Tobacco
12			MSKU0077121	Cigarettes & Tobacco
13			MSKU9384089	Cigarettes & Tobacco
14	969010154	19/05/19	TCKU6130933	Cigarettes & Tobacco
15			MSKU0183062	Cigarettes & Tobacco Products
16	969098190	02/06/19	MSKU8335032	Cigarettes & Tobacco Products
17			MRKU5771600	Cigarettes & Tobacco Products

Answer. I hereby peruse the above mentioned Bills of Lading with importer's details mentioned as M/s Tital for Import and Export, TRAD Street 12 – 37 Store, PO Box No 1240, Mundra-370421 and in token of having seen the same, I hereby put my dated signature on the same. I further state that all the above-mentioned Bills of Lading had been issued by M/s Maersk India Pvt. Ltd.

Q.6 In respect of answer to Question Number 01 above, it has been mentioned that you have recently joined M/s Maersk India Pvt. Ltd in the month of August-2019, Please inform the person who was handling your work profile prior to your joining the firm?

Answer. The person who was handling our work profile prior to my joining the firm was Shri Zeeshan Haider, Customer Service Manager, sitting at Ahmedabad Office used to visit Gandhidham office regularly and at present, he is sitting at our Ahmedabad Office.

Q.7 Kindly produce the details of above mentioned Bills of Lading regarding the RFS (Received for shipment) or SOB (Ship on board) and the dates on which the said Containers had been arrived in India?

Answer. I hereby produce the details of the above mentioned 17 Containers viz. Empty Container Pick up Date from Jebel Ali, Handed for loading at Jebel Ali, Loaded at Jebel Ali, Discharged at Mundra and Moved to CFS Kandla as detailed below table and I also produce the computer print-outs of the said details as received by e-mail.

Sr. No.	Container No.	BL no.	Empty Container Pick up Date from Jebel Ali	Handed for loading at Jebel Ali	Loaded at Jebel Ali	Discharge d at Mundra	Moved to CFS Kandla
1	MRKU5740430	968501618	28 th Mar	30 th Mar	7 th April	14 th April	17 th April
2	MSKU1309828	968501618	28 th Mar	30 th Mar	7 th April	14 th April	16 th April
3	CAIU7237017	968778100	25 th Apr	25 th Apr	28 th Apr	4 th May	9 th May

4	DAYU6108731	96877810 0	25 th Apr	26 th Apr	28 th Apr	5 th May	9 th May
5	MRKU205774 0	96877810 0	24 th Apr	26 th Apr	28 th Apr	4 th May	9 th May
6	MSKU8539416	96877810 0	25 th Apr	26 th Apr	28 th Apr	4 th May	9 th May
7	MRKU251010 0	96881725 0	1 st May	2 nd May	5 th May	10 th May	19 th May
8	MRKU281107 9	96881725 0	1 st May	2 nd May	5 th May	10 th May	19 th May
9	MRKU492322 6	96882931 9	1 st May	1 st May	5 th May	10 th May	19 th May
10	MRSU3428241	96900027 4	16 th May	18 th May	19 th May	26 th May	29 th May
11	MSKU0077121	96900027 4	15 th May	16 th May	19 th May	26 th May	29 th May
12	MSKU9384089	96901015 4	16 th May	18 th May	19 th May	26 th May	5 th June
13	SUDU8745555	96900027 4	13 th May	16 th May	19 th May	26 th May	29 th May
14	TCKU6130933	96901015 4	16 th May	18 th May	19 th May	26 th May	5 th June
15	MRKU577160 0	96909819 0	30 th May	30 th May	2 nd June	9 th June	11 th June
16	MSKU0183062	96909819 0	30 th May	30 th May	2 nd June	9 th June	11 th June
17	MSKU8335032	96909819 0	30 th May	30 th May	2 nd June	9 th June	11 th June

Q.8 What is the practice being followed regarding import containers as and when the container reached the Port of Discharge / Final Place of Delivery (CFS.)?

Answer. In respect of practice being followed regarding import containers, I state that as and when the container reached the Port of Discharge / Final Place of Delivery (CFS.), the concerned importer usually approaches or make payment and after making all the applicable payments, the Import Delivery Order will be issued and container has to be free and should be handed over to Shipping Line within 05 days of the date when the container reached the Port of Discharge / Final Place of Delivery.

Q.9 As per above mentioned table, it is seen that the container mentioned at Sr. No. 01 has reached CFS, Kandla on 17th April, 2019 and the container mentioned at Sr. No. 07 to 17 had been loaded at Jebel Ali between 05th of May to 2nd of June. As the container mentioned at Sr. No. 01 had not been picked up by the importer and no payments had been made, then why the remaining containers had been loaded from the same shipper? Have you inquired in respect of the same from shipper regarding non-picking of the container by the importer in India; please produce the relevant communications between M/s Maersk India Pvt Ltd. and shipper.

Answer. I agree with the fact that as the container mentioned at Sr. No. 01 had not been picked up by the importer and no payments had been made and still the remaining containers had been loaded from the same shipper. I further state that regarding any inquiry in respect of the non-picking of the container by the

importer in India, I cannot comment and I am also not able to produce the relevant communications between M/s Maersk India Pvt Ltd. and shipper and as the same has been dealt by our Mumbai Head Office and our Mumbai Staff can only comment on the same.

Q.10 *Please produce the details of payment received by your Dubai Branch against the said Bills of Lading and KYC details of the supplier / exporter of the said Bills of Lading as mentioned in the Summons.*

Answer. I state that at present, I am not able to produce the details of payment received by our Dubai Branch against the said Bills of Lading and KYC details of the supplier / exporter of the said Bills of Lading as mentioned in the Summons as the same will be called for from our Dubai Office and the same is being followed by our Mumbai Office.

Q.11 *Kindly produce the e-mail conversation between M/s Maersk India Pvt Ltd. and the Dubai based shipper and the importer.*

Answer. I state that I am not able to produce the e-mail conversation between M/s Maersk India Pvt. Ltd. and the Dubai based shipper and the importer as the same had been dealt by our Mumbai Head Office.

Q.12 *Kindly produce the copies of e-mail conversation / details / documents on the basis of which the Bill of Lading have been prepared. Also inform whether the draft copy of the same has been approved or otherwise and by whom?*

Answer. I state that I am not able to produce the e-mail conversation between M/s Maersk India Pvt. Ltd. and the Dubai based shipper and the importer as the same had been dealt by our Mumbai Head Office.

13. Accordingly summons dated 28.08.2019, 17.09.2019, 04.10.2019, 11.11.2020, 05.03.2021, 22.04.2021 and 09.03.2023 under section 108 of The Customs Act, 1962 were issued to M/s Maersk Line India Private Limited, Mumbai to tender statement, to produce documents and to provide KYC details of supplier/exporter, but nobody appeared to give statement or provide documents.

14. Further summon dated 26.07.2019 under section 108 of The Customs Act, 1962 was issued to M/s Tital for Import & Export, Mundra but the summons returned undelivered as the address was fake and non-existence.

15. It is pertinent to mention here that 10 container of same importer i.e. M/s Tital had arrived at CFS, Mundra Customs during the same period of time. The cargo was examined by DRI, Regional Zonal Unit, Gandhidham. The importer, goods, shipping line and shipper of the goods arrived at CFS, Mundra were same & common for the goods, arrived at CFS, Kandla as well. In case of the goods which arrived at CFS, Mundra, the investigation was carried out by DRI Gandhidham and accordingly Investigation Report was issued on 09.03.2023. Further draft SCN alongwith RUDs were forwarded to The Adjudication Section. Custom House Mundra for issuance and the same had been issued on 26.04.2023 by Mundra Customs.

16. Accordingly, a letter dated 15.02.2024 was issued by SIIB Section, Customs Kandla to DRI, RU, Gandhidham to provide the correspondences in the matter made from their side alongwith Investigation

Report. On going through the documents, it was found that during the course of its investigation, DRI, Gandhdham was not able to trace down the Importer. The address and name of the consignee viz. M/s. Tital for Import and Export as mentioned in Bill of Ladings was 'Trade Street, 12-37 Stor, PO Box No. 1240, 370421 Mundra'. On enquiry with the Dept of Posts vide DRI, GRU Letter Dt 28.01.2020 it was informed by them vide letter Dt. 03.03.2020 (**RUD No. 13, as submitted by DRI**) that the address of the consignee was non-existing and no PO Box has been registered in the name of M/s Tital for Import & Export. The Supdt of Post Offices, Kachch Division through letter Dt 01.11.2021(**RUD No. 14, as submitted by DRI**) issued vide F.No. CR/Inter-Dept-Min/Corrs/2020 had further submitted that "SDI(P) of concerned area visited the Adani Port Branch Post Office and enquired the matter with the localities and it was found that M/s Tital Import & Export " firm did not exist at present and the same was also neither in existence in Adani port area. Further Mobile No.9447251861 was mentioned as the contact number of Consignee in the subject Bill of Lading. The said mobile number was registered in the name of Shri Jose M Thomas (aged about 70 years). During investigation, through letter Dt 07.02.2020 (**RUD No. 15, as submitted by DRI**), Shri Toney Jose, son of Shri Jose M Thomas informed that he did not have any such type of business related to tobacco etc; that he did not know about any such company; that his father was suffering from Carcinoma insitu disease and had undergone two surgeries and he may be excluded from statement taking process.

16.1 Further, matter was referred to the Consulate General of India, Dubai and First Secretary (Trade), High Commission of India, London through DRI Hqrs to enquire about shipper of these goods. High Commission of India, London vide letter dated 25.02.2021 (**confidential letter, not to be part of RUD**) intimated that:

- These imports were a part of larger fraudulent activities of some Indian exporters to claim fraudulent export benefits. Low/waste quality tobacco products may be exported to ports like Dubai to claim fraudulent export benefits. Such containers were not cleared in Dubai.
- Further informed that that office did not have any other documents/information regarding this case.

16.2 The consulate General of India, Dubai intimated vide Letter DT 04.03.2021 and 27.07.2021 (**confidential letters, not to be part of RUD**) that:

- The goods were exported from UAE to India by M/s Newaves General Trading FZCO, a free zone establishment with FTA license;
- All the consignments were imported from third country and exported out as transit consignments from free zone in Jebel Ali
- As declared in UAE, the consignments are declared as tobacco/tobacco products / cigarettes
- Regarding enquiries conducted by post on suppliers address, it was revealed that M/s Al Mawada General Trading was registered with Ras Al Khaima Department of Economic Development, Ras Al Khaimah, UAE with license no. 41315, however the license was cancelled during feb 2016 long before the subject exports. M/s Al Haithem Trading LLC registered with Dept. of Economic Development, Dubai, UAE with license no. 550305 which is still valid till 25.10.2021. The firm is owned and managed by one Mr Mamdou Anwar Abdelmaksoud Khalifa (reportedly not Indian).

17. In order to ascertain the value of the goods, the containers containing goods were examined by the officers of SIIB Section in presence of Govt. empanelled Chartered Engineer Shri Kunal Ajay Kumar and independent panchas vide panchanama dated 20.02.2024 (**RUD-16**). For taking samples, the officers choose containers numbers MRKU4923226, MRSU3428241, MSKU0183062, on suggestion by Shri Kunal Ajay Kumar, as different type of Tobacco and flakes were contained therein. Shri Kunal Ajay Kumar, CE, took samples from the material placed inside the containers and packed the samples in plastic packets. Further, the officers in presence of the panchas handed over an excel sheet to Shri Kunal Ajay Kumar which contained the details of 17 containers viz S.no, Bill of Lading Number & date, Container No., Panchnama date, Goods description, weight, numbers etc. The officers further informed that the detailed examination of above mentioned 17 containers was already done once by SIIB officers in the past vide Panchnamas dated 17.07.2019, 19.07.2019, 27.07.2019, 02.08.2019, 07.08.2019, 27.08.2019, 28.08.2019 and 29.08.2019.

18. Examination report: - Chartered Engineer Shri Kunal Ajay Kumar in his report dated 21.02.2024 (**RUD-16**) submitted that “upon meticulous visual and physical examination, the verification process for all imported goods has been meticulously conducted. In accordance with directives from the SIIB Kandla, samples were meticulously collected from the A.V.Joshi, CFS, originating from containers numbered MRKU4923226, MRSU3428241, and MSKU0183062. Under the supervision of the designated officer, the collected samples underwent thorough scrutiny, accompanied by the requisite documentation and permissions.

18.1. Preliminary examination revealed the nature of the collected samples, identifying them as various forms of tobacco products.

Conditions of the Cargo:

1. Upon opening the containers, a strong, pungent, and foul-smelling odor was immediately detected.
2. The presence of bacterial mold, posing potential harm upon contact, was observed within the boxes.
3. Leakage of moisture from the tobacco paste was evident inside the container.
4. The tobacco products exhibited a discernible blackish-brown appearance.

18.2. Furthermore, it is imperative to provide a valuation of the cargo, considering the date of importation, i.e., 05/05/2019. The Detailed valuation information (**RUD-17**) is as: -

SR. NO.	Bill of Lading	Date	Container No.	Goods description as physically found	Weight as per Weighing Slip of CFS (KG)	Market Price per Kg (INR)	Total Price of the cargo (INR)
1	968501618	07.04.2019	MSKU1309828	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27450	₹375.00	₹10,293,750.00
2			MRKU5740430	Thick chocolate brown colour viscous substance in brown	27400	₹375.00	₹10,275,000.00

F.No. GEN/ADJ/ADC/588/2024-Adjn-O/o Commr-Cus-Kandla

				coloured corrugated boxes			
3	96877810 0	28.04.201 9	MSKU853941 6	Brown Coloured fine powder / Brown Coloured Coarse Powder having pungent smell.	17350	₹50.00	₹867,500.00
4			CAIU7237017	Thick chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder having pungent smell.	16710	₹275.00	₹4,595,250.00
5			MRKU205774 0	Thick chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder having pungent smell.	11990	₹275.00	₹3,297,250.00
6			DAYU6108731	Thick chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder having pungent smell.	16530	₹275.00	₹4,545,750.00
7	96881725 0	05.05.201 9	MRKU492322 6	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27310	₹375.00	₹10,241,250.0 0
8			MRKU281107 9	Brown Coloured fine powder / Brown Coloured Coarse Powder having pungent smell.	13780	₹170.00	₹2,342,600.00
9			MRKU251010 0	Brown Coloured fine powder / Brown Coloured Coarse Powder having pungent smell.	9250	₹170.00	₹1,572,500.00
10	96900027 4	19.05.201 9	SUDU8745555	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27280	₹375.00	₹10,230,000.0 0
11			MRSU342824 1	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27340	₹375.00	₹10,252,500.0 0
12			MSKU007712 1	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27150	₹375.00	₹10,181,250.0 0

13	969010154	19.05.2019	MSKU9384089	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27150	₹375.00	₹10,181,250.00
14			TCKU6130933	Thick chocolate brown colour viscous substance in brown coloured corrugated boxes	27370	₹375.00	₹10,263,750.00
15	969098190	02.06.2019	MSKU0183062	Brown Coloured fine powder / Brown Coloured Flakes / Thick Granules having pungent smell.	18820	₹170.00	₹3,199,400.00
16			MSKU8335032	Brown Coloured fine powder / Brown Coloured Flakes / Thick Granules having pungent smell.	15020	₹170.00	₹2,553,400.00
17	MRKU5771600			Brown Coloured fine powder / Brown Coloured Flakes / Thick Granules having pungent smell.	15440	₹170.00	₹2,624,800.00
				Total	353340		₹107,517,200.00

19. Observation: Looking to the aforesaid facts, revealed during investigation conducted so far, it is evident that the entire case is circulating around the declaration given in the Bills of Lading and the same declaration made by the Shipping Agent in the IGM, when no claimant or owner of the goods in India was identifiable. Further, no body has come forward to claim ownership of the goods and filed Bill of Entry with intent to clear the goods. It is almost impossible that any person would come forward, because the address and name of the consignee viz. M/s. Tital for Import and Export, Mundra Trade Street, 12-37 Store, PO Box No. 1240, 370421 Mundra', as mentioned in respect of aforesaid cases and also in respect of some more cases of similar nature found during recent past, is found fake. It can be concluded that such fake identity was created to dump those goods into India as a façade to get relief from the burden of keeping the goods with them in the countries like UAE, where stringent legal provisions are enforced. Taking into consideration all those aspects and after having overall consideration of the facts came to the notice so far during investigation, It would be pertinent to mention here that the examination suggested in intelligence was with reference to suspected cigarette containers only and that intelligence was not found workable in the context of the fact that the goods were already described in the B/L and IGM as "Cigarettes and Tobacco Products". However, these Cigarettes and Tobacco did not bear mandatory pictorial warnings on their packets and thereby contravened provisions of Tobacco and other products (Packaging & Labeling) Rules 2008 & Tobacco and other products (Packaging & Labeling) Amendment Rules 2014.

20. Relevant Legal Provisions

20.1 Section 2(33) in the Customs Act, 1962

"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;

20.2 In terms of General Note 13 of Schedule-I of Import Policy, the import of cigarettes or any other tobacco products are subject to the provisions contained in the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2009. Import of cigarettes is subject to provisions contained in Section 7(3) of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, as amended, read with Cigarettes and other Tobacco Products (Packaging and Labeling) Rules, 2008 and Cigarettes and other Tobacco Products (Packaging and Labeling) Amendment Rules, 2014, as amended. In the light of these provisions, all Tobacco products manufactured / packaged/ imported for sale into India have to bear the specified pictorial health warnings.

20.3 Sec 111 in the Customs Act, 1962

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;

20.4 Section 112 in the Customs Act, 1962

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, to a penalty [not exceeding the duty sought to be evaded on such goods or five thousand rupees], whichever is the greater;

(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.]

20.5 Section 114AA in the Customs Act, 1962

[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.]

20.6 Section 117 of the Customs Act, 1962

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.

21. Since the thick chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder/ Thick Granules/tobacco products did not bear mandatory pictorial warnings on their packets and thereby contravened provisions of Tobacco and Other Products (Packaging & Labeling) Rules 2008 & Tobacco and Other Products (Packaging & Labeling) Amendment Rules 2014. Hence, as discussed in Para 10.1 above, subject Tobacco Products, under Panchanamas dated 17.07.2019, 19.07.2019, 27.07.2019, 02.08.2019, 07.08.2019, 27.08.2019, 28.08.2019 and 29.08.2019, being prohibited goods are liable for confiscation as per provisions of Customs Act, 1962 and hence duty is not being demanded under this Notice. However, for reference, duties of customs leviable, as per the assessable value ascertained as per the reports of the Chartered Engineer placed as RUD No. 16 and 17.

22. Value of Cigarettes and Tobacco products:

22.1 As Bill of Entry is not filed; therefore, price of goods i.e. chocolate brown colour viscous substance / Brown Colour Flakes /Brown Coloured Coarse Powder/ Thick Granules/tobacco products was required to be determined.

22.2 Thus, samples of chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder/ Thick Granules/tobacco products were drawn under Panchanama dated 20.02.2024 were got examined and valued by Chartered Engineer and Government approved Valuer Shri Kunal Ajay Kumar vide his Certificate CUS/340/23-24 dated 21.02.2024. The CE has found the aggregate value Rs. **10,75,17,200/- (ten crore, seventy five lakhs, seventeen thousand and two hundred only)** of all the goods imported vide 17 containers.

23. Confiscation of the goods - The declared description of goods as per respective Bills of lading is "Tobacco and Cigarette". However different types and quantity of goods were found during examination i.e. chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder/ Thick Granules/tobacco products. Hence, it appears that the goods are liable to confiscation under Sec 111(d) of Customs Act 1962. Further in terms of General Note 13 of Schedule I of Import policy, the import of chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder/ Thick Granules/tobacco products are subject to the provisions contained in the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules 2009. Import of cigarettes is subjected to

the provisions contained in Section 7(3) of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003, as amended, read with the Cigarettes and Other Tobacco Products (Packaging and Labeling) Rules 2014, as amended. In the light of these provisions, all Tobacco products manufactured / packaged/ imported for sale into India have to bear the specified pictorial health warnings. However, examination of goods under Panchnama and report of Chartered Engineer has found that packages of chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder/ Thick Granules/tobacco products were not having any specified pictorial health warnings. In view of above the 17 Containers mentioned above appear liable for confiscation under Sec 111(d) of Customs Act 1962.

24. Penalties

(i) M/s. Tital for Import and Export, Mundra 'Trade Street, 12-37 Store, PO Box No. 1240, 370421 Mundra has imported the goods to India which were not bearing mandatory pictorial warnings on their packets and thereby contravened the provisions of Tobacco and other products (Packaging & Labelling) Rules 2008 & Tobacco and other products (Packaging & Labelling) Amendment Rules 2014. The importer M/s Tital for Import and Export, Mundra has violated the provisions of section 111(d) of the Customs Act, 1962. They have rendered themselves liable for penalty under Section 112(a) & (b) of Customs Act 1962. Further they have presented fake documents to customs by way of providing fake address of Consignee and thus they have rendered themselves liable to penalty under Sec 114AA of Customs Act. M/s Tital for Import and Export did not cooperate in the investigation. Therefore M/s Tital is also liable for penalty under section 117 of Customs Act, 1962.5

(ii) M/s Al Mawada General Trading has exported the goods to India without verifying the mandatory pictorial warnings on their packets and thereby contravened the provisions of Tobacco and other products (Packaging & Labelling) Rules 2008 & Tobacco and other products (Packaging & Labelling) Amendment Rules 2014, making the goods liable for confiscation under Section 111(d) of Custom Act, 1962.

They have rendered themselves liable for penalty under Section 112(a) & (b) of Customs Act 1962. Further they have presented fake documents to customs by way of providing fake address of Consignee and thus they have rendered themselves liable to penalty under Sec 114AA of Customs Act. Due to non compliance of various provisions of Customs Act 1962, M/s AL Mawada is also liable for penalty under Section, 117 of Customs Act, 1962

(iii) M/s Maersk Line India Pvt Ltd., PD Plaza, 1st Floor, Plot No.03, Sector 09A, Tagore Road, Gandhidham, India 370201, has carried, removed, deposited, harbored and kept the goods which he knew or had reason to believe that were liable for confiscation under section 111 of Customs Act, 1962 and thus have rendered themselves liable to penalty under Section 112(a) & (b) of Customs Act 1962. Further the documents presented appear to contain fake details of Consignee. Thus they have rendered themselves liable to penalty under Sec 114AA of Customs Act. M/s Maersk has failed to comply with the various provisions of Customs Act 1962 and therefore they are also liable for penalty under Section 117 of Customs Act, 1962

(iv) M/s Al Haithem Trading LLC, M/s. AL Haithem Trading LLC, Saif Abdul Rehman Bldg Office, 101, Salemedoih Deira, 112762 Dubai, a forwarder has acquired the possession of prohibited goods. i.e. chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder/ Thick Granules/tobacco products. M/s. AL Haithem Trading LLC has forwarded the prohibited goods which did

not contain mandatory pictorial warnings on their packets and thereby contravened provisions of Tobacco and Other Products (Packaging & Labeling) Rules 2008 & Tobacco and Other Products (Packaging & Labeling) Amendment Rules 2014. As the goods are liable for confiscation under Section 111 (d) of Customs Act, 1962, it appears that M/s. AL Haithem Trading LLC is liable for penalty under Section 112(a) & (b) of Customs Act, 1962. As the document contain false and incorrect details to carry out the smuggling of prohibited goods, therefore M/S Al Haithem also appears to be liable for penalty under section 114AA of Customs Act, 1962 Due to non compliance of various provisions of Customs Act 1962, M/S AL Haithem is also liable for penalty under Section 117 of Customs Act, 1962.

25. Now, therefore,

25.1 M/s. Tital for Import & Export Trade Street 12-37 Stor PO BOX: 1240 370421, Mundra, and any persons having claim over 353340 kg of chocolate brown colour viscous substance / Brown Colour Flakes / Brown Coloured Coarse Powder/ Thick Granules/tobacco products identified as Tobacco Products seized vide panchnamas dated 17.07.2019, 19.07.2019, 27.07.2019, 02.08.2019, 07.08.2019, 27.08.2019, 28.08.2019 and 29.08.2019 are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Kandla having his office situated at New Customs House Building, Near Balaji Temple, Kandla – 370210, within thirty days from the receipt of this notice as to why:

(i) 353340 kg of thick chocolate brown viscous substance, brown color fined powder, brown colour flakes, thick granules identified as Tobacco Products, having aggregate value of Rs. **10,75,17,200/-**, should not be confiscated under the provisions of Section 111(d) of the Customs Act, 1962;

(ii) Penalty should not be imposed upon them under Section 112 (a)& (b), 114AA and/or section 117 of the Customs Act, 1962;

25.2 AL Mawada General Trading, AL Nakheel Office 214 PO Box: 26998, RAS AL Khaima, UAE and any persons having claim over 353340 kg of thick chocolate brown viscous substance, brown color fined powder, brown colour flakes, thick granules identified as Tobacco Products seized vide panchnamas dated 17.07.2019, 19.07.2019, 27.07.2019, 02.08.2019, 07.08.2019, 27.08.2019, 28.08.2019 and 29.08.2019 are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Kandla having his office situated at New Customs House Building, Near Balaji Temple, Kandla – 370210, within thirty days from the receipt of this notice as to why:

(i) 353340 kg of thick chocolate brown viscous substance, brown color fined powder, brown colour flakes, thick granules identified as Tobacco Products, having aggregate value of Rs. **10,75,17,200/-**, should not be confiscated under the provisions of Section 111(d) of the Customs Act, 1962;

(ii) Penalty should not be imposed upon them under Section 112 (a)& (b), 114AA and/or section 117 of the Customs Act, 1962;

25.3 M/s. Maersk Line India Pvt. Ltd., PD Plaza, 1 Floor, Plot No. 03, Sector-9A, Tagore Road, Gandhidham, India – 370201 and any persons having claim over 353340 kg of thick chocolate brown viscous substance, brown color fined powder, brown colour flakes, thick granules identified as Tobacco Products seized vide panchnamas dated 17.07.2019, 19.07.2019, 27.07.2019, 02.08.2019, 07.08.2019, 27.08.2019, 28.08.2019 and 29.08.2019 are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Kandla having his office situated at New Customs House Building, Near Balaji Temple, Kandla – 370210, within thirty days from the receipt of this notice as to why:

F.No. GEN/ADJ/ADC/588/2024-Adjn-O/o Commr-Cus-Kandla

(i) Penalty should not be imposed upon them under Section 112 (a)& (b), 114AA and/or section 117 of the Customs Act, 1962;

25.4 M/s. AL Haithem Trading LLC, Saif Abdul Rehman Bldg Office, 101, Salemedoih Dehra, 112762 Dubai, a forwarder and any persons having claim over 353340 kg of thick chocolate brown viscous substance, brown color fined powder, brown colour flakes, thick granules identified as Tobacco Products seized vide panchnamas dated 17.07.2019, 19.07.2019, 27.07.2019, 02.08.2019, 07.08.2019, 27.08.2019, 28.08.2019 and 29.08.2019 are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Kandla having his office situated at New Customs House Building, Near Balaji Temple, Kandla – 370210, within thirty days from the receipt of this notice as to why:

(i) Penalty should not be imposed upon them under Section 112 (a)& (b), 114AA and/or section 117 of the Customs Act, 1962;

26. The noticees are hereby required to produce at the time of showing cause all the evidences upon which they intend to rely in support of their defense. They are further required to indicate in their written explanation as to whether they desire to be heard in person before the case is adjudicated. If no mention is made about this in their written explanation, it will be presumed that they do not desire a personal hearing.

27. If no cause is shown by them against the action proposed to be taken within 30 days of receipt of this notice or if they do not appear before the adjudicating authority when the case is posted for hearing, the case would be liable to be adjudicated on the basis of evidences on records.

28. This notice is issued without prejudice to any other actions that may be taken against the persons involved in the subject case, under the provisions of the Customs Act, 1962 or any other Allied Acts for the time being in force.

Additional Commissioner
Customs House,
Kandla

F.No. GEN/ADJ/ADC/588/2024-Adjn-O/o Commr-Cus-Kandla

DIN- 20240371ML000000DFFD

To,

1. M/s Tital for Import & Export Trade Street: 12-37 Stor PO Box: 1240, Mundra-370421. (tital.ie@yahoo.com)
2. M/s Al Mawada General Trading: Al Nakheel Office 214, PO Box-26998, Ras Al Khaima, UAE, email -mawada1228@gmail.com
3. M/s Maersk Line India Pvt. Ltd. Plot No. 03, 1st Floor, PD Plaza, Sector-9A, Tagore Road, Gandhidham, Gujarat-370201. (rathore.pushpendra@maersk.com)
4. M/s AL Haithem Trading LLC, Saif Abdul Rehman Building Office, 101, Salemedoih Dehra, 112762 , Dubai. (khmamdoh@eim.ae)

Copy to-

1. The Assistant Commissioner, SIIB, Kandla
2. The Additional Director General, DRI, Chennai Zonal unit, Chennai.
3. The Additional Director General, DRI, Gandhidham Regional unit, Gandhidham.

Annexure-R**List of Relied Upon Documents to SCN issued to M/s Tital for Import & Export, Mundra.**

Sr. No.	Documents Description
1.	Panchanama dated 17.07.2019 drawn at M/s AV Joshi, CFS, Gandhidham
2.	Panchanama dated 19.07.2019 drawn at M/s AV Joshi, CFS, Gandhidham
3.	Panchanama dated 22.07.2019 drawn at M/s AV Joshi, CFS, Gandhidham
4.	Letter dated 19.07.2019 from M/s AV Joshi, CFS, Gandhidham
5.	Panchanama dated 02.08.2019 drawn at M/s AV Joshi, CFS, Gandhidham
6.	Panchanama dated 07.08.2019 drawn at M/s AV Joshi, CFS, Gandhidham
7.	Panchanama dated 27.08.2019 drawn at M/s AV Joshi, CFS, Gandhidham
8.	Panchanama dated 28.08.2019 drawn at M/s AV Joshi, CFS, Gandhidham
9.	Panchanama dated 29.08.2019 drawn at M/s AV Joshi, CFS, Gandhidham
10.	CRCL, Kandla Lab reports
11.	CRCL, Delhi Lab reports
12.	Statement of Shri Pushpendra Singh Rathore, Customer Service Manager in M/s MAERSK INDIA PVT LTD at Gandhidham
13.	Dept of Posts letter Dt. 03.03.2020 informing DRI
14.	The Supdt of Post Offices, Kachch Division letter Dt 01.1.2021 informing DRI
15.	Reply letter dated 07.02.2020 from Shri Toney Jose, son of Shri Jose M Thomas
16.	Panchanama dated 20.02.2024 drawn at M/s AV Joshi, CFS, Gandhidham
17.	Chartered Engineer Shri Kunal Ajay Kumar examination report dated 21.02.2024
18.	The Detailed valuation report dated 21.02.2024 by Chartered Engineer Shri Kunal Ajay Kumar