

		<p align="center">OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Phone : 02836-271468/469 Fax: 02836-271467</p>
DIN-20240471ML0000000EBE		
A	File No.	GEN/ADJ/COMM/188/2024-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KND-CUSTM-000-COM-02 and 03 -2024-25
C	Passed by	M. Ram Mohan Rao, Commissioner of Customs, Custom House, Kandla.
D	Date of Order	29.04.2024
E	Date of Issue	29.04.2024
F	SCN No. & Date	Waiver of SCNs
G	Noticee / Party / Importer / Exporter	(i) M/s. Puran Chand Rice Mills Pvt. Ltd. situated at Railway Road, Taraori-132116, Distt. Karnal (Haryana) (ii) M/s. L C Agros Private limited, Chopri Road, Kurak, Taraori-132116 (Karnal), Haryana

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

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

2nd Floor, Bahumali Bhavan Asarwa,

Nr. Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad - 380004

3. Appeal shall be filed within three months from the date of communication of this order.
4. Appeal should be accompanied by a fee of Rs.1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs. 10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.
5. The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.
8. An appeal against this order shall lie before the Appellate Authority on payment of 7.5% of the duty demanded wise duty or duty and penalty are in dispute, or penalty wise penalty alone is in dispute.

BRIEF FACTS OF THE CASE:-

An intelligence was received as per which a CHA firm i.e. M/s Trinity Shipping & Allied Services Private Limited, Gandhidham is exporting the Non-Basmati Parboiled/other rice by declaring it as Basmati Rice, of the following three exporters, details of which are as :

-

TABLE-A

S.No.	Exporter Name	SB No. & Date	No. of containers (20 ft. each)	Quantity (MTS)	Value (Rs.)	Cargo Declared as
1.	M/s Star Global Multi Ventures Private Limited, Gandhidham	8847668 dated 02.04.2024	10	255	1,99,25,062/-	Indian White Sella Basmati Rice
2.	M/s LC Agros Private limited, Haryana.	8814253 dated 01.04.2024	10	255	2,01,34,800/-	Indian 1121 Basmati Sella Rice
3.	M/s Puran Chand Rice Mills Private Limited, Haryana	8843382 dated 02.04.2024	10	255	2,30,71,125/-	Indian Pusa Basmati Sella Rice
		8843375 dated 02.04.2024	10	255	2,30,72,045/-	Indian Pusa Basmati Sella Rice
		8814239 dated 01.04.2024	08	198	1,79,14,050/-	Indian Pusa Basmati Sella Rice
		8843370 dated 02.04.2024	04	102	80,53,920/-	Indian 1121 Basmati Sella Rice
		8814242 dated 01.04.2024	10	250	1,97,40,000/-	Indian 1121 Basmati Steam Rice
		8814257 dated 01.04.2024	10	255	2,30,71,125/-	Indian Pusa Basmati Sella Rice
Total			72	1825	15,49,82,127/-	

2. Accordingly, the cargo was put on hold and examined by a team of SIIB section vide panchnamas dated 06/07.04.2024. During the course of Panchnamas, the samples were drawn from all the 72 containers of above mentioned shipping bills and sent to CRCL, Kandla for testing purpose.

3. As per the CRCL Kandla reports received till 19.04.2024 and after approval of competent authority, the SIIB Section has released the cargo covered under Shipping Bill

Numbers 8847668 dated 02.04.2024 (09 containers), 8843370 dated 02.04.2024 (04 containers) and 8814242 dated 01.04.2024 (10 containers), details of which are as under: -

TABLE-B

S.No.	Exporter Name	SB No. & Date	Cargo Declared as	CRCL Kandla Report	Container Number (total 23 containers)
1.	M/s Star Global Multi Ventures Private Limited, Gandhidham	8847668 dated 02.04.2024	Indian White Sella Basmati Rice	Paraboiled Rice (Basmati) in all 9 containers (report of container number HLBU1385956 was awaited, hence could not be released)	HLBU3562325
					HLXU1377011
					HLBU3490009
					HLBU1044672
					HLXU1330014
					UACU3975487
					TGHU3232727
					FBIU0486020
					UACU4155754
2.	M/s Puran Chand Rice Mills Private Limited, Haryana	8843370 dated 02.04.2024	Indian 1121 Basmati Sella Rice	Parboiled Rice (Basmati) in all 04 containers	TEMU1973436
					HLBU1230656
					GESU3645219
					GLDU9496926
		8814242 dated 01.04.2024	Indian 1121 Basmati Steam Rice	Basmati Rice in all 10 containers	HLXU3563334
					HLXU1388823
					HLXU1346010
					NIDU2356861
					LYGU8067575
					NIDU2310182
					HLXU1333250
					NIDU2322901
					HLXU3527980
					NIDU2311867

3.1 The test report of all the remaining containers of above mentioned shipping bills as mentioned in Table-A has been received from CRCL, Kandla and the outcome of the reports is as under : -

TABLE-C

S.No.	Exporter Name	SB No. & Date	Cargo Declared as	CRCL Kandla Report	Container Number
1.	M/s Star Global Multi Ventures Private Limited, Gandhidham	8847668 dated 02.04.2024	Indian White Sella Basmati Rice	Parboiled Rice (Basmati) in 10 containers	HLBU1385956
2.	M/s LC Agros Private limited, Haryana.	8814253 dated 01.04.2024	Indian 1121 Basmati	Parboiled Rice (Basmati) in 9 containers.	HLG6252691
					HLG6252692
					HLG6252693
					HLG6252694

3.	M/s Puran Chand Rice Mills Private Limited, Haryana		Sella Rice	Parboiled Rice (Non-Basmati) in 01 container	HLG6252695
					HLG6252696
					HLG6252698
					HLG6252699
					HLG6252700
					HLG6252697
		8843382 dated 02.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 10 containers	HLXU1376530
					NIDU2335703
					UACU3510577
					UETU2820675
					HLBU2369841
					FCIU6504776
					HLBU2304542
					HLXU1349787
					RFCU2259505
					HAMU1064051
		8843375 dated 02.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 10 containers	FBIU0053626
					CAIU6682975
					TEMU2207517
					HLXU3455089
					TLLU2522720
					HLBU2963278
					CAIU2683377
					UACU4169676
					HLXU1183567
		8814239 dated 01.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 08 containers	UACU3942930
					HLXU1145335
					TCLU3017685
					CXDU1517952
					GLDU5639464
					HLBU2339770
					TLNU2005936
					FTAU1546995
		8814257 dated 01.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 10 containers	TCLU3096180
					UACU3897445
					UACU3935421
					UACU3951905
					UACU3779057
					UACU3925280
					UACU3923755
					UACU3955201
					UACU3826415
					PCIU1635731
					UACU3972240

4. Further it is pertinent to mention here that CBIC vide Notification No. 49/2023-CUSTOMS Dated 25th August 2023 levied export duty on parboiled rice by including it in 2nd Schedule of Customs Tariff Act, detail of which as:-

In the Second Schedule to the Customs Tariff Act, after Sl. No. 6B and the entries relating thereto, the following Sl. No. and entries relating thereto shall be inserted, namely: -

S.No.	Sub Heading or Tariff Item	Description of goods	Rate of Duty
"6C"	10063010	Rice, parboiled	20%"

5. Further, vide notification 12/2024-Customs dated 21.02.2024, the amendment was made in Principal notification No. 55/2022 - Customs, dated 31.10.2022 in order to remove end date on export duty on Parboiled Rice.

6. Accordingly, the details of Customs Duty to be paid by the exporters i.e. M/s Puran Chand Rice Mills Pvt. Ltd. and M/s LC Agros Private limited, Haryana, are as under :-

TABLE -D

S.No .	Exporter	SB No. & Date	Number of containers	Value (in Rs.)	Customs Duty @20% to be paid (in Rs.)
1.	M/s Puran Chand Rice Mills Private Limited, Haryana	8843382 dated 02.04.2024	All 10 containers	2,30,71,125/-	46,14,225/-
2.		8843375 dated 02.04.2024	All 10 containers	2,30,72,045/-	46,14,409/-
3.		8814239 dated 01.04.2024	All 08 containers	1,79,14,050/-	35,82,810/-
4.		8814257 dated 01.04.2024	All 10 containers	2,30,71,125/-	46,14,225/-
5.	M/s LC Agros Private limited, Haryana	8814253 dated 01.04.2024	Only 01 container	20,13,480/-	4,02,696/-
		Total		8,91,41,825/-	1,78,28,365/-

7. Further, on the basis of above mentioned notifications and CRCL Kandla Reports, the exporter i.e. M/s Puran Chand Rice Mills Private Limited, Haryana and M/s LC Agros Private limited, Haryana are indulged in the export of Parboiled Rice (Non-Basmati) by mis-declaring it as Basmati Rice (to save export duty) and therefore making themselves liable for penal action under section 114 and/or 114A of The Customs Act, 1962 and the goods to be exported under shipping bills no. 8843382 dated 02.04.2024, 8843375 dated 02.04.2024, 8814239 dated 01.04.2024, 8814257 dated 01.04.2024 & 8814253 dated 01.04.2024 having Value of **Rs.8,91,83,772/-** are liable for confiscation under section 113 of The Customs Act, 1962.

8. The Lab reports were forwarded to both the exporters vide letter dated 25.04.2024. Further, a statement of Shri Deepak Pawar, General Manager of both companies, i.e. M/s Puran Chand Rice Mills Private Limited, Haryana and M/s LC Agros Private limited, Haryana, was recorded on 25.04.2024 wherein he agreed with the findings of the CRCL Kandla reports and agreed to pay the unpaid Customs Duty on Parboiled Rice (non-Basmati) amounting to **Rs.1,78,28,365 /- (One Crore Seventy Eight Lakhs Twenty Eight Thousand Three Hundred and Sixty Five only)** along with penalty and other customs obligations. Accordingly, Shri Deepak Pawar, submitted the Demand Draft number 164291 dated 24.04.2024 for an amount of **Rs. 17425700/- (One Crore Seventy Four Lakhs Thirty Six Thousand Seven Hundred only)** paid by M/s Puran Chand Rice Mills Pvt. Ltd. and Demand Draft number 164290 dated 24.04.2024 for an amount of **Rs. 402696/- (Four Lakhs Two Thousand Six Hundred Ninety Six only)** paid by M/s LC Agros Pvt. Ltd. In his statement dated 25.04.2024 Shri Deepak Pawar, on behalf of M/s Puran Chand Rice Mills Private Limited, Haryana and M/s LC Agros Private limited, Haryana, inter alia stated as under : -

1. " I am working in M/s Puran Chand Rice Mills Pvt. Ltd. since 2009. Further, M/s L C Agros Private Limited has been operational from last one year only and I also work as Export Manager in M/s L C Agros Private Limited. I handle all work related to Export including documentation, Bank documentation and coordinating with the buyers.
2. M/s Puran Chand Rice Mills Pvt. Ltd. is a private limited Company involved in the business of manufacturing, processing & marketing of Basmati Rice, Parboiled and Non Basmati rice in the domestic markets as well as in international market through export. The Company is in existence since 1989 and has got the tag of a 3-Star Export from the DGFT. The director of M/s Puran Chand Rice Mill Pvt. Ltd. is Shri Rushil Gupta and Shri Ashit Gupta (brother of Shri Rushil Gupta). I report to Shri Rushil Gupta about my day to day work related to export of rice.
3. M/s LC Agros Private limited is a private limited Company involved in the business of manufacturing, processing & marketing of Basmati and Non-Basmati rice in the domestic market as well as in international market through export. The Company is in existence since last one (01) year only. The director of M/s LC Agros Private limited is Smt. Kanika Singhla (wife of Shri Rushil Gupta) and Smt. Sonal Devi (wife of Shri Ashit Gupta). However, I report to Shri Rushil Gupta about my day to day work related to export and trading of rice.
4. The rice after processing and manufacturing goes to the Lab of quality control department of both the Companys. The Lab incharge of quality Control Department verifies, test and analyzes the rice as per the standard parameters and classify the product as type of Basmati & Non-Basmati. After that, the lab reports of both the Companys are finally authorized and signed by Shri Rushil Gupta and thereafter the same get packed in bags for export purpose.
5. I have perused the above mentioned panchnamas (for rice consignment examination and sample drawal by SIIB section) and in token thereof, I put my dated signature on all of them. I further submitted that I am fully satisfied by the

process of sample collection as mentioned in the panchnamas and fully agree with the contents of the Panchnama.

6. Yes sir, I agree that the (above mentioned) shipping bills has been filed by our Companies i.e. M/s Puran Chand Pvt. Ltd. and M/s L C Agros Pvt. Limited with the help of our CHA M/s Trinity Shipping and Allied Services Pvt. Ltd.
7. I have perused all the CRCL Kandla Lab reports of the cargo covered under Shipping Bill Nos. mentioned in Table-A above and in token of proof, I put my dated signatures on all of them.
8. Sir, I have thoroughly perused the all the CRCL Kandla reports of 10 containers belonging to M/s LC Agros Pvt. Ltd. and 52 containers of M/s Puran Chand Rice Mills and I agree and have full faith & integrity in the outcome of the CRCL Kandla reports.
9. Yes sir, I am fully aware about the above mentioned notifications (Notification No. 49/2023-CUSTOMS Dated 25th August 2023, wherein the Central Government levied export duty on parboiled rice) and the same has been informed to Shri Rushil Gupta by me as it is my duty to keep my higher authority updated about any notifications/circulars related to Rice.
10. Sir, on behalf of M/s LC Agros and M/s Puran Chand, I totally agree with the duty calculation method and I am willing to pay the differential customs duty. I am hereby submitting the following demand drafts as payment proof, details of which are as under : -

S.No.	Applicant Name	Pay to; & Bank Name	Amount	DD S.No.	DD Date	Bank Code and Branch
1.	M/s Puran Chand Rice Mills Private Limited	Commissioner of Customs SBI Gandhidham Code : 00373	1,74,25,700/-	122051	24.04.2024	SBI Karnal Code 04047
2.	M/s LC Agros Pvt. Ltd.	Commissioner of Customs SBI Gandhidham Code : 00373	4,02,696/-	168967	24.04.2024	SBI Karnal Code 04047

Further, in future also, if any differential duty arises, our both companies are willing to pay the same (whatever arises) related to this consignment. On behalf of M/s Puran Chand and M/s LC Agros Pvt. Ltd., I am submitting above mentioned Demand Drafts without any pressure, coercion or threat.

11. Sir, after being informed by you and after looking at the provisions of section 113, 114 and 114A of The Customs Act, 1962, I have come to understand all these penal provisions. I state that both our companies are willing to make

payment of any penalty or redemption fine imposed by higher authorities of Customs at the time of adjudication. Further, I request that I don't require any Show Cause Notice, and my both companies matters may be adjudicated at the earliest and our companies remaining containers may be allowed to be exported after payment of all duty calculated and payment of all redemption fine and penalty “.

9. Therefore, on the basis of CRCL, Kandla Reports, findings of the investigation and acceptance of the same by exporter i.e. M/s Puran Chand Rice Mill Pvt. Ltd and M/s LC Agros Private Limited, the cargo mentioned in Table-D above appeared to fall under CTH 10063010 which attracted 20% export duty instead of CTH 10063020 as declared by them.

10. In view of the above, the following charges were proposed by the SIIB, Kandla vide Investigation report dated 26.04.2024: -

(a) In case of M/s Puran Chand Rice Mills Pvt. Ltd. situated at Railway Road, Taraori-132116, Distt. Karnal (Haryana) India -

- (i) Why the impugned goods should not be reclassified under CTH 10063010 for parboiled Rice instead of the declared classification 10063020 used for basmati rice.
- (ii) Demand of duty amounting to Rs.1,74,25,669/- under section 28(4) of The Customs Act, 1962 alongwith interest under section 28AA of The Customs Act, 1962 should not be demanded and as the exporter M/s Puran Chand Rice Mills Pvt. Ltd. have already paid the said export duty vide challan dated 26.04.2024, why the same should not be appropriated against payment of the said duty and interest.
- (iii) Penalty under section 114 and/or 114 (ii) and/or 114A and/or 114AA of The Customs Act, 1962 should not be demanded.
- (iv) Goods valued at Rs.8,71,28,345/- should not be held liable for confiscation as under section 113(i) of The Customs Act, 1962.

(b) In case of L C Agros Private limited, Chopri Road, Kurak, Taraori-132116 (Karnal), Haryana -

- (i) Why the impugned goods should not be reclassified under CTH 10063010 for parboiled Rice instead of the declared classification 10063020 used for basmati rice.
- (ii) Demand of duty amounting to Rs.4,02,696/- under section 28(4) of The Customs Act, 1962 alongwith interest under section 28AA of The Customs Act, 1962 should not be demanded and as the exporter M/s LC Agros Pvt. Ltd. have already paid the said export duty vide challan dated 26.04.2024, why the same should not be appropriated against payment of the said duty and interest.

- (iii) Penalty under section 114 and/or 114 (ii) and/or 114A and/or 114AA of The Customs Act, 1962 should not be demanded.
- (iv) Goods valued at Rs.20,13,480/- should not be held liable for confiscation under section 113(i) of The Customs Act, 1962.

11. Waiver of Show cause notice-

11.1 This office vide letter dated 26.04.2024 provided the summary of Investigation Report dated 26.04.2024, intimating the charges and contraventions thereof vide, to both the noticees.

Both the noticees vide their letters dated 29.04.2024 requested for waiver of SCN and personal hearing in the instant matter and requested for spot adjudication.

11.2 The Hon'ble Supreme Court (Three Judge Bench) in their Order dated 04.04.2002 in the case of Commissioner of Customs, Mumbai Vs. Virgo Steels reported in 2002 (141) E.L.T. 598 (SC) has held that the Show Cause Notice has to be issued to the party before raising demand and that mandatory requirement of issuing a Show Cause Notice can be waived by the Noticee under Section 28 of the Customs Act. As the right of receiving the Show Cause Notice under Sec 28 is being personal to the person concerned, the same can be waived by that person.

DEFENCE SUBMISSION-

12. The noticees in their submissions dated 29.04.2024 have submitted the following-

- (i) They have already paid the duty amount alongwith applicable interest and penalty equal to 15% of duty amount and requested to conclude the proceedings as per the provisions of Section 28(6) of the Customs Act, 1962.
- (ii) They have further given an undertaking that basis the finalization for relief for the claimed benefits, they shall not be filing any appeal in any forum.
- (iii) They have requested for allowing the export of subject goods.

Discussion and findings:-

13. I have carefully gone through the Investigation report, request letters for waiver of show cause notice and personal hearing and other relied upon documents available on record.

14. I find that an intelligence was received as per which a consignment, likely to be entered for export, handled by CHA firm i.e. M/s Trinity Shipping & Allied Services Private Limited, Gandhidham was exporting the Non-Basmati Parboiled/other rice was being declared as Basmati Rice, and the goods pertain to the following three exporters, details of which are as:-

TABLE-A

S.No.	Exporter Name	SB No. & Date	No. of containers (20 ft. each)	Quantity (MTS)	Value (Rs.)	Cargo Declared as
1.	M/s Star Global Multi Ventures Private Limited, Gandhidham	8847668 dated 02.04.2024	10	255	1,99,25,062/-	Indian White Sella Basmati Rice
2.	M/s LC Agros Private limited, Haryana.	8814253 dated 01.04.2024	10	255	2,01,34,800/-	Indian 1121 Basmati Sella Rice
3.	M/s Puran Chand Rice Mills Private Limited, Haryana	8843382 dated 02.04.2024	10	255	2,30,71,125/-	Indian Pusa Basmati Sella Rice
		8843375 dated 02.04.2024	10	255	2,30,72,045/-	Indian Pusa Basmati Sella Rice
		8814239 dated 01.04.2024	08	198	1,79,14,050/-	Indian Pusa Basmati Sella Rice
		8843370 dated 02.04.2024	04	102	80,53,920/-	Indian 1121 Basmati Sella Rice
		8814242 dated 01.04.2024	10	250	1,97,40,000/-	Indian 1121 Basmati Steam Rice
		8814257 dated 01.04.2024	10	255	2,30,71,125/-	Indian Pusa Basmati Sella Rice
Total			72	1825	15,49,82,127/-	

15. Accordingly, the cargo was put on hold and examined by a team of SIIB section vide panchnamas dated 06/07.04.2024. During the course of Panchnamas, the samples were drawn from all the 72 containers of above mentioned shipping bills and sent to CRCL, Kandla for testing purpose.

16. As per the CRCL Kandla reports received till 19.04.2024, the cargo covered under Shipping Bill Numbers 8847668 dated 02.04.2024 (09 containers), 8843370 dated 02.04.2024 (04 containers) and 8814242 dated 01.04.2024 (10 containers) were released.

17. However, the test report of all the remaining containers of above mentioned shipping bills as mentioned in Table-A had been received from CRCL, Kandla and the outcome of the reports is as under :-

TABLE-B

S.No.	Exporter Name	SB No. & Date	Cargo Declared as	CRCL Kandla Report	Container Number
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1.	M/s Star Global Multi Ventures Private Limited, Gandhidham	8847668 dated 02.04.2024	Indian White Sella Basmati Rice	Parboiled Rice (Basmati) in 10 containers	HLBU1385956
2.	M/s LC Agros Private limited, Haryana.	8814253 dated 01.04.2024	Indian 1121 Basmati Sella Rice	Parboiled Rice (Basmati) in 9 containers.	HLG6252691
					HLG6252692
					HLG6252693
					HLG6252694
					HLG6252695
					HLG6252696
					HLG6252698
					HLG6252699
					HLG6252700
				Parboiled Rice (Non-Basmati) in 01 container	HLG6252697
3.	M/s Puran Chand Rice Mills Private Limited, Haryana	8843382 dated 02.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 10 containers	HLXU1376530
					NIDU2335703
					UACU3510577
					UETU2820675
					HLBU2369841
					FCIU6504776
					HLBU2304542
					HLXU1349787
					RFCU2259505
		8843375 dated 02.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 10 containers	HAMU1064051
					FBIU0053626
					CAIU6682975
					TEMU2207517
					HLXU3455089
					TLLU2522720
					HLBU2963278
					CAIU2683377
					UACU4169676
		8814239 dated 01.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 08 containers	HLXU1183567
					UACU3942930
					HLXU1145335
					TCLU3017685
					CXDU1517952
					GLDU5639464
					HLBU2339770
					TLNU2005936
					FTAU1546995
		8814257 dated 01.04.2024	Indian Pusa Basmati Sella Rice	Parboiled Rice (Non-Basmati) in all 10 containers	TCLU3096180
					UACU3897445
					UACU3935421
					UACU3951905
					UACU3779057
					UACU3925280
					UACU3923755
					UACU3955201
					UACU3826415

					PCIU1635731
					UACU3972240

18. CBIC vide Notification No. 49/2023-CUSTOMS Dated 25th August 2023 levied export duty on parboiled rice by including it in 2nd Schedule of Customs Tariff Act, detail of which as :-

In the Second Schedule to the Customs Tariff Act, after Sl. No. 6B and the entries relating thereto, the following Sl. No. and entries relating thereto shall be inserted, namely: -

<i>S.No.</i>	<i>Sub Heading or Tariff Item</i>	<i>Description of goods</i>	<i>Rate of Duty</i>
<i>"6C"</i>	<i>10063010</i>	<i>Rice, parboiled</i>	<i>20%"</i>

19. Further, vide notification 12/2024-Customs dated 21.02.2024, the amendment was made in Principal notification No. 55/2022 - Customs, dated 31.10.2022 in order to remove end date on export duty on Parboiled Rice.

20. In view of the above notifications and CRCL Kandla Reports, it is amply clear that, the exporters i.e. M/s Puran Chand Rice Mills Private Limited, Haryana and M/s LC Agros Private limited, Haryana have indulged in the mis-declaration of their goods i.e. Parboiled Rice (Non-Basmati) as Basmati Rice (to save export duty). Therefore, they are liable to pay duty of Customs as tabulated below under the provisions of Section 28 of the Customs Act, 1962.

TABLE- M/s. Puran Chand Rice Mills

S.No .	Exporter	SB No. & Date	Number of containers	Value (in Rs.)	Customs Duty @20% to be paid (in Rs.)
1.	M/s Puran Chand Rice Mills Private Limited, Haryana	8843382 dated 02.04.2024	All 10 containers	2,30,71,125/-	46,14,225/-
2.		8843375 dated 02.04.2024	All 10 containers	2,30,72,045/-	46,14,409/-
3.		8814239 dated 01.04.2024	All 08 containers	1,79,14,050/-	35,82,810/-
4.		8814257 dated 01.04.2024	All 10 containers	2,30,71,125/-	46,14,225/-
		Total		87,12,83,45/-	1,74,25,669/-

TABLE-M/s. LC Agros Private Limited

S.No.	Exporter	SB No. & Date	Number of containers	Value (in Rs.)	Customs Duty @20% to be paid (in Rs.)
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1.	M/s LC Agros Private limited, Haryana	8814253 dated 01.04.2024	Only 01 container	20,13,480/-	4,02,696/-
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21. As per the provisions of Section 50(2) of the Customs Act, 1962 the exporter has been entrusted with the responsibility of presenting a Shipping Bill or Bill of Export and subscribe to a declaration as to the truth of its contents. In the instant matter, the exporters have clearly violated the provisions of Section 50(2) of the Customs Act, 1962. Had the investigation not been initiated against the exporters the fact of mis-declaration and consequent evasion of customs duty would never have been unearthed. This act of suppression and mis-statement of facts clearly attracts the provisions of Section 28(4) of the Customs Act, 1962.

In view of the above, I hold that the exporters are liable to pay customs duty of Rs. 1,78,28,365/- under the provisions of Section 28(4) of the Customs Act, 1962.

22. I find that the noticees have paid the differential duty of Customs alongwith interest at applicable rate and penalty at 15% under the provisions of Section 28(5) of the Customs Act, 1962 and requested to conclude the proceedings under Section 28(6) of the Customs Act, 1962.

22.1 Before proceeding further, it is pertinent to examine the payments made by the noticees in the matter.

22.2 In this regard, I find that the notice M/s. Puran Chand has paid the liability of Rs. 1,74,25,669/- vide Challan No. 31 dated 26.04.2024 alongwith interest amount of Rs. 2,07,676/- and Rs. 26,13,851/-(15% penalty) vide Challan No. 36 dated 29.04.2024. The interest and penalty calculation is given below:-

Interest & Penalty Calculation						
S.No.	Exporter	SB No. & Date	Value	Duty	Interest @ 15% till 29.04.2024	Penalty
1	M/s Puran Chand Rice Mills Pvt. Ltd.	8843382 dated 02.04.2024	23071125	4614225	54991.44863	692133.8
2		8843375 dated 02.04.2024	23072045	4614409	54993.64151	692161.4
3		8814239 dated 01.04.2024	17914050	3582810	42699.24247	537421.5
4		8814257 dated 01.04.2024	23071125	4614225	54991.44863	692133.8
	TOTAL		87128345	17425669	207675.78	2613850.35

22.3 Further, I find that the noticee M/s. LC Agros has paid the liability of Rs. 1,02,696/- vide Challan No. 30 dated 26.04.2024 alongwith interest amount of Rs. 47,800/- and Rs. 60,405/-(15% penalty) vide Challan No. 37 dated 29.04.2024. The duty, interest and penalty calculation is given below:-

Interest & Penalty Calculation						
S.No.	Exporter	SB No. & Date	Value	Duty	Interest @ 15% till 29.04.2024	Penalty
1.	M/s LC Agros	8814253 dated 01.04.2024	2013480	402696	47800	60405

	Private Limited					
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22.4 I find that the noticees have paid the differential duty of Customs alongwith applicable interest and penalty at 15% under the provisions of Section 28(5) of the Customs Act, 1962 and requested for conclusion of proceedings under Section 28(6) of the Customs Act, 1962. In this regard, it is pertinent to reproduce the extract of relevant sections:

“28. (5) Where any 12[duty has not been levied or not paid or has been short-levied or short paid] or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to 13 [fifteen per cent.] of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

22.5 Therefore, in terms of provisions under Section 28(6)(i) of the Customs Act, 1962, the proceedings, in respect of the both the noticees to whom the Investigation Report dated 26.04.2024 proposed to show cause under the provisions of Section 28(4) of the Customs Act, 1962, shall be deemed to be conclusive as to the matters stated in the said Investigation report.

23. Since the goods were attempted to be exported by way of mis-declaration and mis-classification, the same are held liable for confiscation under Section 113(i) of the Customs Act, 1962. However, since the proceedings are deemed to be concluded under clause (i) of sub-section (6) of Section 28, the redemption fine can be imposed only if the goods are either prohibited or restricted as per the first proviso to Section 125 of the Customs Act, 1962, reproduced below:-

125. Option to pay fine in lieu of confiscation.

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:-

[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:

24. In this regard, it is clear that the goods in question are dutiable hence the redemption fine shall not be imposable as per the provisions of Section 125 of the Customs Act, 1962 read with Section 28(5) and Section 28(6) of the Customs Act, 1962, and the conclusion of proceedings in terms of Section 28(5) and 28(6) will take effect.

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

In terms of the provisions of Section 28(6) of the Customs Act, 1962, the issues stated in Investigation report dated 26.04.2024 are deemed to be concluded as above without prejudice to the provisions of Section 135, 135A and 140 of the Customs Act, 1962. Further, I allow the export of subject goods without any further conditions.

26. This order is issued without prejudice to any other action that may be taken against the exporters or any other person under the Customs Act, 1962 or any other law for the time being in force.

(M. Ram Mohan Rao)
Commissioner of Customs,
Custom House, Kandla

F.No. GEN/ADJ/COMM/188/2024-Adjn

DIN-20240471ML0000000EBE

To,

- (i) M/s. Puran Chand Rice Mills Pvt. Ltd. situated at Railway Road, Taraori-132116, Distt. Karnal (Haryana)
- (ii) M/s. L C Agros Private limited, Chopri Road, Kurak, Taraori-132116 (Karnal), Haryana

Copy to:-

- (i) The Assistant Commissioner, SIIB, Kandla for information.

- (ii) The Chief Commissioner, Customs Zone, Ahmedabad for the purpose of Review.
- (iii) The Superintendent (EDI/TRC), Custom House Kandla, for further necessary action.
- (iv) Guard File.