

		OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA- 370421 Phone No.02838-271165/66/67/68 FAX.No.02838- 271169/62
A. File No.	:	CUS/ASS/MISC/372/2023-EA-O/o Pr-Commr-Cus-Mundra
B. Order-in-Original No.	:	MCH/ADC/MK/130/2024-25 dated 03.09.2024
C. Passed by	:	Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D. Date of order /Date of issue	:	03.09.2024/06-09-2024
E. Show Cause Notice No. & Date	:	CUS/ASS/MISC/372/2023 dated 13.06.2023.
F. Noticee(s)/Party/Exporter	:	M/s Accent Dealtrade Private Limited, 18, Rabindra Sarani, Poddar Court, 7 th Floor, Gate No.2, Room No.5, Kolkata-700001
G. DIN	:	20240931M00000212612

- यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त (अपील),
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”

- उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.
- उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by -

- (i) उक्त अपील की एक प्रति और A copy of the appeal, and
 (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
 Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.
6. अपील प्रस्तुत करते समय, सीमा शुल्क अन्य के, अधिनियम शुल्क सीमा और 1982, अपील) नियम)।
 चाहिए जाना किया पालन का मामलों सभी तहत के प्रावधानों सभी
 While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.
7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।
 An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Subject :- Mis-declaration of cargo in Shipping Bill No.5656874 dated 23.11.2022 & Shipping Bill No.6760245 dated 06.01.2023 filed by M/s. Accent Dealtrade Pvt. Ltd.-Reg.

BRIEF FACTS OF THE CASE :

M/s Accent Dealtrade Private Limited, 18, Rabindra Sarani, Poddar Court, 7th Floor, Gate No.2, Room No.5, Kolkata-700001, having IEC No.0207020761, have filed Shipping Bill No.5656874 dated 23.11.2022 & Shipping Bill No.6760245 dated 06.01.2023 through their CHA M/s G. S. Infraport Private Limited for export of goods declared as "Parboiled Rice" classified under CTH-10063010.

2. As per Board Instruction No.29/2022-Customs dated 28.10.2022, representative sample were drawn and sent to CRCL, Kandla vide Test Memo and the cargo has been allowed for export on provisional basis on submission of Test Bond submitted by the Exporter which were accepted by the Deputy Commissioner (Export), Customs House, Mundra.

3. Respective Test Reports have been received against the Test Memo wherein it is mentioned that "Based on the physical appearance, forms and analytical findings, it appears to be "Other than Parboiled Rice" and "Parboiled Rice (with BROKEN RICE 40.04%), against the declared export cargo in the Shipping Bills as "Parboiled Rice". The details of Shipping Bills and their corresponding Test Reports are as under :

Sr. No.	Shipping Bill No. & Date	Net Wt.	Test Report No. & Date	FOB Declared in SB (in Rs.)	Summary of Test Result
1.	5656874 Dt. 23.11.2022	318 MTs	6815 Dt. 06.12.2022	77,95,039	Rice Waste. It is Other than Parboiled Rice
2.	6760245 Dt. 06.01.2023	162 MTs	8445 Dt. 13.01.2023	39,42,942	Parboiled Rice (about 40.04% Broken)
TOTAL				1,17,37,981	

4. A copy of the said Test Reports have been provided to the Exporter, viz., M/s Accent Dealtrade Private Limited for their information with a specific request to submit their submission within 10 days of the communication as to why the proceedings should not be initiated under Customs Act, 1962 as the instant case were seen fallen under the purview of Mis-declaration of the Export cargo.

5. With reference to Sr. No.1 in the Table above at Para-3, the Exporter has classified the same goods as "Parboiled Rice" classified under CTH-10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be "Other than Parboiled Rice". As per Customs Tariff, *Rice other than Semi-milled or wholly milled Parboiled Rice and Basmati Rice* is classifiable under CTH-10063090 and therefore the goods already exported as per Sr. No.1 in the Table above is required to be classified under CTH-10063090 and attracts 20% Customs duty/Cess as per Notification No.49/2022-Customs dated 08.09.2022 issued by the Board. The relevant extracts of the said Notification is re-produced here-in-below :

(ii) after Sl. No. 7 and the entries relating thereto, the following Sl. No. And entries relating thereto shall be inserted, namely :-

(1)	(2)	(3)	(4)
"7A	1006 30 90	<i>Semi-milled or wholly-milled rice, whether or not polished or glazed (other than Paraboiled rice and Basmati rice)</i>	20%"

6. With reference to Sr. No.2 in the Table above at Para-3, the Exporter has classified the same goods as "Parboiled Rice" classified under CTH-10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be "Broken Rice". As per Customs Tariff, Broken Rice is classifiable under CTH-10064000 and therefore the goods already exported as per Sr. No. 2 in the Table above is required to be classified under CTH-10064000 and to be confiscated being Prohibited Goods as per Notification No.31/2015-2020-Customs dated 08.09.2022 issued by the Board. The relevant extracts of the said Notification is re-produced here-in-below :

ITC HS	Description	Export	Revised Export Policy
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Codes		Policy	
10064000	Only for broken rice	Free	Prohibited

7. Whereas, the Exporter under the Customs Bond has bound themselves to the effect that in the event of failure of cargo in the Test Report, the Exporter will pay the duty alongwith interest, fine and/or penalty, if any imposed for contravention of the Customs Act, 1962 and other allied Acts. And on the basis of Customs Bond submitted by the Exporter, the goods have been allowed for ultimate export provisionally.

8. Subsequently, the Test Reports have confirmed the export goods were "*Other than Parboiled Rice*". Accordingly, Shipping Bill mentioned at Sr. No.1 in the Table above at Para-3 needs to be assessed finally on the basis of Test Report. On the basis of Test Report, the classification of the goods declared in the Shipping Bill needs to be re-classified to CTH-10063090. Consequently, the Exporter is required to pay duty on the goods exported under these Shipping Bills @ 20% ad valorem.

9. Whereas, the Exporter appears to have failed to declare the correct classification of the export cargo in the Shipping Bill. It appears that the Exporter has resorted to mis-classification and mis-declaration of the export cargo in order to evade payment of export duty/cess leviable on the export cargo. Thus, the Exporter has contravened the provisions of the Section 50 of the Customs Act, 1962, which is re-produced here-in-below :

SECTION 50 : Entry of goods for exportation -

(1).....

(2) *The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.*

(3) *The exporter who presents a shipping bill or bill of export under this section, 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.*

10. Whereas, the acts of omission and commission made by the Exporter rendered the export cargo liable for confiscation under Section 113 (i) of the Customs Act, 1962 and the same is reproduced here-in-below :

SECTION 113. Confiscation of goods attempted to be improperly exported, etc. -

The following export goods shall be liable to confiscation as per:

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(i) any goods entered for exportation which do not correspond in respect of value or any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77.

11. Whereas, on account of export goods liable for confiscation, the Exporter has made themselves liable for penal action under Section 114 (ii) of the Customs Act, 1962 and the same is reproduced here-in-below :

SECTION 114 : Penalties for attempt to export goods improperly, etc. - Any person 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 113, or abets the doing or omission of such an act, 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 three times the value of the goods as declared by the exporter or the value as determined under this Act, 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.*

12. Whereas on account of contravention of the provisions of Section 50 of the Customs Act, 1962, the Exporter has made themselves liable for penal action under Section 117 of the Customs Act, 1962 and the same is reproduced here-in-below :

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.

13. In view of above, SCN No.CUS/ASS/MISC/372/2023 dated 13.06.2023 was issued to the exporter, M/s Accent Dealtrade Private Limited, 18, Rabindra Sarani, Poddar Court, 7th Floor, Gate No.2, Room No.5, Kolkata-700001 to show cause in writing to the Additional Commissioner of Customs (Export), Customs House, Mundra having office at PUB Building 5B, Adani Port, Mundra, as to why:

(i) The classification of the goods declared by the Exporter should not be rejected and re-classified under CTH-10063090 for Shipping Bill No.5656874 dated 23.11.2022 and under CTH-10064000 for Shipping Bill No.6760245 dated 06.01.2023;

(ii) The Customs duty/Cess amounting to Rs.15,59,008/- (Rupees Fifteen Lakhs Fifty Nine Thousand and Eight only) as leviable on the goods classified under CTH-10063090 having FOB Value as Rs.77,95,039/- (Rupees Seventy Seven Lakhs Ninety Five Thousand and Thirty Nine only) for Shipping Bill No.5656874 dated 23.11.2022 should not be recovered alongwith applicable interest at the appropriate rate under Section 28AA from the Exporter;

(iii) The goods covered under Shipping Bills tabulated above should not be confiscated under Section 113 (d) and 113(i) of the Customs Act, 1962;

(iv) The penalty under Section 114 (i) and (ii) of the Customs Act, 1962 should not be imposed upon the Exporter;

(v) The penalty under Section 117 of the Customs Act, 1962 should not be imposed upon the Exporter;

RECORDS OF PERSONAL HEARING :

14. Personal Hearing dated 08.12.2023, 22.02.2024 & 19.03.2024 were scheduled but neither the Exporter nor their authorised representative attended the personal hearing.

DISCUSSION AND FINDINGS:

15. Three Personal Hearing dated 08.12.2023, 22.02.2024 & 19.03.2024 were scheduled but neither the Exporter nor their authorised representative attended the personal hearing so as per principles of natural justice as provided in Section 122A of the Customs Act 1962 has been complied with and therefore, I proceed to decide the case *ex parte*.

15.1 The issues to be decided by me are:

(i) The classification of the goods declared in Shipping Bill No.5656874 dated 23.11.2022 by the Exporter as "Indian Parboiled Rice" under CTH-10063010 should not be rejected and to be re-classified as "Other Rice (Rice Waste): Semi-milled or wholly-milled rice, whether or not polished or glazed" under CTH-10063090;

(ii) The Customs duty/Cess amounting to Rs.15,59,008/- (Rupees Fifteen Lakhs Fifty Nine Thousand Eight only) as leviable on the goods classified under CTH-10063090 @20% of the FOB Value of Rs.77,95,039/- (Rupees Seventy Seven Lakhs Ninety Five Thousand Thirty Nine only) for Shipping Bill No.5656874 dated 23.11.2022 should not be recovered alongwith applicable interest at the appropriate rate under Section 28AA from the Exporter;

(iii) The goods covered under Shipping Bill No.5656874 dated 23.11.2022 should not be confiscated under Section 113(i) of the Customs Act, 1962;

(iii) Penalty under Section 114 (ii) of the Customs Act, 1962 should not be imposed upon the Exporter;

(vi) The classification of the goods declared in Shipping Bill No.6760245 dated 06.01.2023 by the Exporter as "Indian Parboiled Rice" under CTH-10063010 should not be rejected and to be re-classified as "Broken Rice" under CTH-10064000;

(vi) The goods covered under Shipping Bill No.6760245 dated 06.01.2023 should not be confiscated under Section 113(d) and 113(i) of the Customs Act, 1962;

(iii) Penalty under Section 114 (i) of the Customs Act, 1962 should not be imposed upon the Exporter;

Now, I proceed to decide the case issue-wise.

15.2 I find that the exporter declared the impugned rice exported under Shipping Bill No.5656874 dated 23.11.2022 as "Parboiled Rice" classified under CTH-10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be *"Rice Waste and it is other than Parboiled Rice,"*.

15.3 As per Customs Tariff Act, 1975, CTH-10063090 covers Other Rice i.e. Rice other than, Parboiled and Basmati Rice. The relevant portion of the Customs Tariff is re-produced as under:

1006
1006 10

RICE
-Rice in the husk (paddy or rough):

1006 10 10	---Of seed quality	kg.
1006 10 90	---Other	kg.
1006 20 00	-Husked (brown) rice	kg.
1006 30	-Semi-milled or wholly-milled rice, whether or not polished or glazed :	
1006 30 10	---Rice, parboiled	kg.
1006 30 20	---Basmati rice	kg.
1006 30 90	---Other	kg.
1006 40 00	-Broken rice	kg.

15.4. In view of above, as per above Customs Tariff, Rice other than Semi-milled or wholly milled Parboiled Rice and Basmati Rice is classifiable under CTH-10063090 and therefore the same is required to be classified under CTH-10063090. Therefore, I am of the view that the exporter has mis-classified the goods under CTH-10063010 instead of 10063090 which make the goods liable for confiscation under Section 113(i) of Customs Act, 1962.

15.5 I also find that the goods i.e. Rice other than Semi-milled or wholly milled Parboiled Rice and Basmati Rice falling under CTH-10063090 attracts Customs Duty @20% as per Sr. No.7A of the Schedule-II of the Customs Tariff Act, 1975 as amended by Notification No.49/2022-Customs dated 08.09.2022 issued by the Board.

15.6 I find that the Exporter under the Customs Bond has bind themselves to the effect that in the event of failure of cargo in the Test Report, the Exporter will pay the duty alongwith interest, fine and/or penalty, if any, imposed for contravention of the Customs Act, 1962 and other allied Acts. On the basis of Customs Bond submitted by the Exporter, the goods have been allowed for ultimate export provisionally. Therefore, the duty is also recoverable from them on the basis of provisional to final assessment under Section 18(2) of the Customs Act, 1962 alongwith applicable interest at the appropriate rate under Section 28AA of the Customs Act, 1962.

15.7 I find that the exporter declared the impugned rice exported under Shipping Bill No.6760245 dated 06.01.2023 as "Parboiled Rice" classified under CTH-10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be "Parboiled Rice (Broken Rice 40.04%)".

15.8 I find that as per **Notification No.31/2015-2020-Customs dated 08.09.2022** issued by DGFT, the export of Broken Rice under CTH-10064000 is prohibited **w.e.f. 09.09.2022**. The relevant portion of above notification is re-produced as under:-

The Central Government, in exercise of powers conferred by Section 3 read with section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2015-20, hereby amends the Export Policy of broken rice against ITC (HS) code

1006 40 00 of Chapter 10 of Schedule 2 of the ITC (HS) Export Policy, as under:-

ITC HS Codes	Description	Export Policy	Revised Export Policy
10064000	Only for broken rice	Free	Prohibited

15.9 Pursuance to issuance of above Notification No.31/2015-2020-Customs dated 08.09.2022, DGFT issued Trade Notice No.17/2022-23 dated 28.09.2022 which is reproduced as under:

Reference is invited to the DGFT Notification No.31/2015-20 dated 08.09.2022 wherein export of broken rice have been placed under 'Prohibited' category.

2. *Subsequently, representations have been received from trade and industry inviting attention to the problems being faced by exporters in clearing the consignments of other categories of rice due to presence of certain content of "Broken Rice" in the said consignments.*

3. *Considering the hardships faced by the trade community and in order to facilitate exports, it is clarified that wherever difficulty is being faced, the limit of tolerance of "Broken Rice" in consignments of Rice for export may be allowed in terms of "The Rice Grading and Marketing Rules, 1939".*

15.10 In continuation to above, Trade Notice dated 08.09.2022, DGFT issued Trade Notice No.18/2022-23 dated 04.10.2022 in suppression of the above Trade Notice No.17/2022-23 dated 28.09.2022 which is reproduced as under:

Reference is invited to Notification No.31/2015-2020 dated 8th September, 2022 amending the export policy of Broken Rice under HS code 10064000 under Chapter 10 of Schedule - 2 of the ITC (HS) Export Policy from 'Free' to 'Prohibited' with immediate effect read with Trade Notices No.17/2022-2023 dated 28th September, 2022.

Subsequently, representations have been received regarding Rice (5% and 25%) where irrevocable letter of credit has been issued before 8th September, 2022 is also being stopped at the ports.

Accordingly, in supersession of Trade Notice No.17/2022-23 dated 28.09.2022, it is clarified in respect of normal rice that "Rice (5% and 25%) is already exempted as it is not broken rice but normal rice with permissible limits of

broken rice as per standards. However, it will carry 20% duty as per notification"

15.11 On conjoined reading of the above Notification No.31/2015-2020-Customs dated 08.09.2022 and Trade Notice dated 28.09.2022 and 04.10.2022, I find that the limit of tolerance of "Broken Rice" in consignments of Rice for export in respect of normal rice that "Rice (5% and 25%) is already exempted as it is not broken rice but normal rice with permissible limits of broken rice as per standards. However, in the instant case the prescribed tolerance limit of the Broken Rice has crossed the benchmark fixed by the DGFT which is a policy maker in respect of export from India.

15.12 In view of above discussion and provisions, I am of the view that as the goods declared by the exporter exceeds the tolerance limit of Broken Rice, the same is liable to be classified as Broken Rice otherwise the purpose of making the tolerance policy for Broken Rice in normal rice shall have no meaning. In view of above, as per above Customs Tariff, "Broken Rice" is classifiable under CTH-10064000 and therefore the same is required to be classified under CTH-10064000.

15.13 I find that with effect from 09.09.2022, as per Notification No.31/2015-2020-Customs dated 08.09.2022 issued by Directorate General of Foreign Trade (DGFT), the export of "Broken Rice" classifiable under CTH-10064000 is "Prohibited". I find that the broken percentage of rice was above the permissible limit as per Trade Notice No.18/2022-23 Dated 04.10.2022. The goods were in violation of DGFT Notification No.31/2015-2020-Customs dated 08.09.2022 read with Trade Notice No.18/2022-23 Dated 04.10.2022. It is also pertinent to mention that the exporter has mis-classified the goods under CTH-10063010 instead of 10064000 which make the goods liable for confiscation under Section 113(d) and 113(i) of Customs Act, 1962.

15.14 I find that Section 114 of the Customs Act, 1962 stipulates that:

Any person 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 113, or abets the doing or omission of such an act, 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 ¹[²not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, 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 any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

15.15 I find that the impugned rice exported under Shipping Bill No.5656874 dated 23.11.2022, found to be "Other than Parboiled Rice, Rice Waste" are dutiable goods, therefore, the penalty in this case is imposable under Section 114(ii) of the Customs Act, 1962.

15.16 I find that the impugned rice exported under Shipping Bill No.6760245 dated 06.01.2023 found to be "Broken Rice" are prohibited goods, therefore, the penalty in this case is imposable under Section 114(i) of the Customs Act, 1962.

15.17 I find that the Exporter under the Customs Bond has bind themselves to the effect that in the event of failure of cargo in the Test Report, the Exporter will pay the duty alongwith interest, fine and/or penalty, if any, imposed for contravention of the Customs Act, 1962 and other allied Acts. On the basis of Customs Bond submitted by the Exporter, the goods have been allowed for ultimate export provisionally.

15.18 Further, I do not find any material evidence in the said case that suggests or goes on to proves that the exporter, in addition to the violation envisaged under Section 114(i) & 114(ii) of the Customs Act, 1962, have committed any offence that invites penalty against them under Section 117 of the Act *ibid*. As such I refrain myself from penalizing the exporter under Section 117 of the Customs Act, 1962.

16. In view of the forgoing discussions and findings, I pass the following order:

ORDER

(i) I order to reject the classification of the goods declared in Shipping Bill No.5656874 dated 23.11.2022 by the Exporter as "Indian Parboiled Rice" under CTH-10063010 and order to re-classified as "Other Rice (Rice Waste): Semi-milled or wholly-milled rice, whether or not polished or glazed" under CTH-10063090;

(ii) I order to recover the Customs duty/Cess from the exporter, amounting to Rs.15,59,008/- (Rupees Fifteen Lakhs

Fifty Nine Thousand and Eight only) as leviable on the goods classified under CTH-10063090 @ 20% of the FOB Value of Rs.77,95,039/- (Rupees Seventy Seven Lakhs Ninety Five Thousand Thirty Nine only) for Shipping Bill No.5656874 dated 23.11.2022 on the basis of provisional to final assessment under Section 18(2) of the Customs Act, 1962 alongwith applicable interest at the appropriate rate under Section 28AA from the Exporter;

(iii) I order to confiscate the goods having FOB value of Rs.77,95,039/- covered under Shipping Bill No.5656874 dated 23.11.2022 under Section 113 (i) of the Customs Act, 1962. However, as the goods had already been exported under Bond provisionally, I impose Redemption Fine of Rs. 7,50,000 /- (Rupees Seven Lakh Fifty Thousand only).

(iv) I order to impose and recover Penalty of Rs. 3,25,000/- (Rupees Three Lakh Twenty Five Thousand only) from the exporter in respect of Shipping Bill No.5656874 dated 23.11.2022 under Section 114 (ii) of the Customs Act, 1962;

(v) I order to reject the classification of the goods declared in Shipping Bill No.6760245 dated 06.01.2023 by the Exporter as "Indian Parboiled Rice" under CTH-10063010 and order to re-classified as "Broken Rice" under CTH-10064000;

(vi) I order to confiscate the goods having FOB value of Rs.39,42,942/- covered under Shipping Bill No.6760245 dated 06.01.2023 under Section 113(d) of the Customs Act, 1962. However, as the goods had already been exported under Bond provisionally, I impose Redemption Fine of Rs. 4,00,000/- (Rupees Four Lakh only.)

(vii) I order to impose and recover Penalty of Rs. 2,00,000/- (Rupees Two Lakh only) from the exporter in respect of Shipping Bill No.6760245 dated 06.01.2023 under Section 114 (i) of the Customs Act, 1962;

(viii) I refrain from imposing penalty upon the exporter under Section 117 of the Customs Act, 1962 for the reasons as discussed above;

17. This order is issued without prejudice to any other action that may be contemplated against the exporter or any other person(s) under the provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of

India.

Signed by
Mukesh Kumari
(MUKESH KUMARI)
Date: 06-09-2024 17:30:29
ADDITIONAL COMMISSIONER
Customs House, Mundra

F.No.CUS/ASS/MISC/372/2023-EA

Dated:- 06-09-2024

BY SPEED POST

To,
M/s Accent Dealtrade Private Limited,
18, Rabindra Sarani, Poddar Court,
7th Floor, Gate No.2, Room No.5,
Kolkata-700001

Copy to:- (1) The Deputy Commissioner(TRC)/RRA /Review
Section/EDI/Guard File.

