

	कार्यालयः प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421 PHONE:02838-271426/271423 FAX:02838-271425 Email: adj-mundra@gov.in	
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DIN-20250371MO0000020570

Dated : - 19.03.2025

SHOW CAUSE NOTICE**1. Intelligence:**

A specific intelligence was received in the office of the Directorate of Revenue Intelligence (Hqrs.), 7th Floor, Drum Shaped Building, I. P. Bhawan, I. P. Estate, New Delhi (hereinafter referred to as 'DRI') which indicated undervaluation in the export of rice. The intelligence further indicated that after imposition of duty on export of rice with effect from 09.09.2022, several exporters, including **M/s Shri Rathi Agro Industries**, 5, Shreenathji Society, Opp. Thkkar Vadi, Nr. Somnath Society, Ahmedabad Road, Sanand, Ahmedabad, Gujarat – 382110, having IEC No. **0810007797** (hereinafter referred to as 'the exporter' for sake of brevity), were engaged in short payment of export duty by resorting to undervaluation by claiming abatement of duty from the assessable value. Thus, export duty was not being paid on the transaction value of the export goods (i.e. FOB Value) as provided u/s 14 of the Customs Act, 1962, instead the same was being paid on a reduced value by wrongly declaring the same as FOB Value thus causing short-payment of the appropriate duty of Customs.

2.1 Preliminary analysis of the Intelligence revealed that export duty at the rate of 20% *ad valorem* was imposed on export of rice vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022.

2.2 Scrutiny of the export data pertaining to the said exporter revealed that they were evading duty on export of rice by adopting two different methods i.e. (i) by claiming wrongful deduction of export duty from the transaction value, and (ii) by declaring excess freight amounts.

2.3 The exporter used to negotiate a specific price for sale of their export consignment which was received by them from the overseas buyer as '**consideration**' for sale of rice. Thus the '**consideration/negotiated price**' was '**the actual transaction value**' for their export consignment on which the exporter ought to have paid the 20% export duty. However, to evade duty, the exporter had artificially bifurcated the afore-said negotiated price/total consideration, in two parts i.e. (i) '**price of goods**' and (ii) '**export duty amount**'. The exporter had declared the reduced value '**price of goods**' as their transaction value and the other part of the consideration which was equal to the '**export duty amount**' was not included by them in their '**transaction value**'. Instead, the same was claimed as 'deduction' and was declared in the Shipping Bills under the Head "**Deduct/Deduction**". Thus, a part of consideration, equal to the '**export duty amount**', was not included in the transaction value for payment of export duty causing short payment of duty.

2.4 In several other cases of export of rice on CIF/CF incoterm basis, investigation revealed that the exporter had declared excess freight amounts than the actual freight amounts paid by them to the shipping lines/freight forwarders. In such shipments, FOB price is deduced from the CIF/CF prices by deducting the actual freight amounts paid by the exporter. By claiming excess freight amounts in the shipping bills, the exporter had wrongly deducted a part of the consideration/transaction value which is equal to the excess freight

amounts claimed by them. Thus, a part of consideration, was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.5 From the preliminary scrutiny of the export data, discussed in above paras, it appeared that the exporter had treated the actual transaction value (i.e. actual FOB Value) of their export goods as cum-duty FOB Value and they have declared the lesser transaction value by wrongly claiming abatement of duty from the actual transaction value and by claiming excess freight amounts in the shipping bills. By adopting the above-mentioned modus operandi, the exporter had been evading the payment of duty on the differential value between the actual transaction value of the export goods (i.e. FOB Value) and their declared reduced FOB value.

2.6 Valuation of the goods is covered by Section 14 of the Customs Act, 1962 which provides that 'the value of the ... export goods shall be **the transaction value** of such goods, that is to say, the price actually paid or payable for the goods when sold ... for export from India **for delivery at the time and place of exportation**. **Further**, Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR, 2007) notified vide [M.F. (D.R.) Notification No. 95/2007-Cus (N.T.), dated-13-09-2007] also provide that value of the export goods shall be its transaction value. Rule 2 (1) (b) of the CVR, 2007 defines the term 'transaction value' as the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962. Further rule 3(1) of CVR, 2007 also stipulates that subject to rule 8 (providing for rejection of the declared value), the value of export goods shall be the transaction value. CVR, 2007 came into effect from 10.10.2007.

2.7 This practice of payment of export duty on cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard stipulated that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

Initiation of investigation:

3.1 Pursuant to the afore-said intelligence and apparent undervaluation of the export goods, investigation was initiated against various exporters of the said commodity including **M/s Shri Rathi Agro Industries**, 5, Shreenathji Society, Opp. Thkkar Vadi, Nr. Somnath Society, Ahmedabad Road, Sanand, Ahmedabad, Gujarat – 382110, having IEC No. **0810007797**, by issuance of summons under the provisions of section 108 of the Customs Act, 1962. It was a partnership firm having four partners Shri Hemraj Rathi, Mrs. Bhagwati Rathi, Mrs. Vimlaben Rathi and Shri Vishesh Kumar Rathi who were the family members (father, mother, wife and brother) of **Sh. Sandip Rathi**, Authorized signatory of M/s Shri Rathi Agro Industries who was handling all the work of the said export firm.

3.2 Vide summons dated 27.10.2023, 14.11.2023, 19.01.2024, 04.07.2024 and 13.01.2025 issued to **M/s Shri Rathi Agro Industries** under the provisions of the Customs Act, 1962, documents related to the investigation such as shipping bills, export invoices, freight invoices, bill of lading and Bank Realization Certificates etc. were requested from the exporter.

3.3 In pursuance of the summons issued to **M/s Shri Rathi Agro Industries**, vide letter dated 28.11.2023 (**RUD-1**), **M/s Shri Rathi Agro Industries** submitted copies of the export documents in respect of the export to rice for the period from July, 2022 to Sept., 2023 including the copies of the export invoice cum packing list, Shipping Bill, Bill of Lading, Bank Realization Certificate, proforma invoice/contract executed with the overseas buyer.

3.4 Vide email dated 21.07.2024 (**RUD-2**), **M/s Shri Rathi Agro Industries**, submitted the details of payments received in respect of each shipping bill and expenses made towards payments of ocean freight & insurance charges in respect of consignments exported on basis of CF, CI and CIF inco terms.

3.5 Further, vide emails dated 27.01.2025 (**RUD-3**), **M/s Shri Rathi Agro Industries** submitted the copies of the freight invoices in respect of the shipments of rice exported by them on CF, CI and CIF inco-term basis.

4. During investigation, statements dated 28.11.2023 of Sh. Sandip Rathi, Authorized signatory of M/s Shri Rathi Agro Industries (RUD-4) was recorded u/s 108 of the Customs Act, 1962.

5.1 Vide his statement dated 28.11.2023, Sh. Sandip Rathi, Authorized signatory of M/s Shri Rathi Agro Industries stated that M/s Shri Rathi Agro Industries was incorporated in 2010 and there were four partners in the said company namely **Shri Hemraj Rathi** (his father), Mrs. Bhagwati Rathi (his mother), Mrs. Vimlaben Rathi (his wife) and Shri Vishesh Kumar Rathi (his brother); that each partner has 25% share of the firm and get proportional remuneration from the profit of the firm; that he looked after all the sales and marketing work of the said company for the last 8-10 years; that it being a family business he used to look after the sales work of the said company; that he got a monthly salary of Rs. 37500/- in his bank account through cheque; that he was also the authorized signatory/mandate holder of in the bank account of the said firm in the Bank of Baroda, Sanand Branch; that he looked after the sales including the export sales and marketing work of the said firm; his father looked after the business related to overall management and financing of the said firm; that his younger brother looked after the purchase and procurement related work of the said firm; that other two partners, his mother and his wife, were namesake partners of the said firm and did not look after any specific work of the said firm.

5.2 He further stated that Shri Rathi Agro Industries was engaged in the business of milling and trading of wheat and rice; that for the last 3-4 years they had started the export of rice to overseas customers also; that their first export of rice was made in the month of Feb-2020; that they exported IR-64 variety of rice which is described in the export documents as 'Indian Long Grain White Rice'; that they had also exported a few consignments of parboiled rice also but their major exports were of white rice only; that their major clients are M/s Falcon Foods FZE, UAE and M/s Wilmer Rice Trading Pte. Ltd., Singapore; that their export cargo is delivered in the African countries such as Angola, Camerone, Kenia, Congo etc.

5.3 He further stated that they procured the rice/peddy mainly from traders based in Uttar Pradesh, Gujarat, Karnataka, and Maharashtra; that they procured the rice directly from the farmers in Gujarat; that after procurement, they processed the rice/peddy which involves the work of cleaning, whitening or polishing, silky, grading and sorting work; that processing was done depending upon the type of rice procured; that complete process was done in respect of raw

peddy where in case of semi-milled rice, the work of polishing, silking, grading-sorting etc. was done; that after processing, the rice was dumped in the godowns/warehoused of the Custom Brokers for export purpose; that exports were made mainly from Kandla and Mundra Ports.

5.4 He was asked to see and explain the contents of the documents pertaining to **purchase contract No. EXP/SRAI/35/2022-23 dated 20.03.2023**, at page no 303 to 317 of the file number File No. 3 submitted by him vide his letter dated 28.11.2023. He stated that the purchase contract No. EXP/SRAI/35/2022-23 dated 20.03.2023 was for sale of rice executed between **M/s. Shri Rathi Agro Industries** (Seller) and **Falcon Foods FZE, UAE** (Buyer), for supply of 662.5 MTs of Indian White Rice at the rate of USD 310 per MTs FOB; that the said purchase contract had the following details:

- i. Seller Name: M/s Shri Rathi Agro Industries
- ii. Buyer Name: M/s Falcon Foods FZE, UAE
- iii. Product: Indian Long Grain White Rice 5% Broken
- iv. Quantity: 662.5 MTs +- 5%
- v. Price: USD 310 per MT
- vi. Total Contract value: USD 205,375 +-5%
- vii. Basis: FOB
- viii. Destination: Mombasa, Kenya

5.5 He was asked to see the documents pertaining to **SB No. 9801347 dated 05.05.2023** and was asked to explain the same in context to his above answer/statement. He stated that the said Shipping bill, shown to him, was for the export shipment of 662.5 MTs of Indian Long Grain White Rice to the consignee M/s Export Trading Company ltd., Mombasa, Kenya by M/s Shri Rathi Agro Industries, at a price of USD 310 per MT FOB (Total value USD 205375); that the corresponding commercial invoice no for the Shipping Bill no 9810347 dated 05.05.2023 was **No. 7 dated 05.05.2023 (Part A)**, for supply of 662.5 MTs of Indian Long grain white rice at a price of USD 310 per MT (total amount **USD 205375**); that they had generated another invoice i.e. Reimbursement Invoice No. 7 (Part B) dated 05.05.2023 wherein quantity is mentioned as 662.5 MT the rate has been mentioned as USD 62 per MT (Total Value = **41075 USD**).

5.6 He stated that the Amount as per statement of Bank Realisation against shipping Bill no 9810347 dated 05.05.2023 is **USD 205345**; that, however, amount of **USD 41075** was received by them from the buyer in their bank account number which was reflected in their bank account; that the price according to the contract was USD 310 per MT; that on Invoice (No. 7 dated 05.05.2023 Part A) the price is mentioned as USD 310 per MT FOB, which has been received by them from the foreign supplier and for which BRC has been generated; that the export clearance charge of USD 62 per MT i.e. USD 6200 has also been received by them from the foreign buyer against the Reimbursement Invoice No. 7 dated 05.05.2023 (part B) and the same has not been included by them in the calculation of the FOB value for payment of export duty; that the actual total invoice value (FOB) was USD 346450 (Unit Price 372 USD per MT), however they had bifurcated the invoice value in two parts and had claimed a deduction equal to USD 62 per MT at the time of declaring the value of the export goods for the purpose of payment of Customs Duty.

5.7 Further he stated that they had deducted the said amount as mentioned in reimbursement invoice from the total transaction value of the shipment

received by them from the buyer of the export goods as reimbursement of the export duty paid by them for effecting the export clearance of the said shipment; that the value declared by them to the Customs Authority for payment of the export duty did not reflect the true transaction value of the export shipment; that the actual transaction value for the said shipment was USD 372 / MT FOB, however, to save themselves from payment of some duty they had deducted a part of the transaction value (i.e. USD 62/MT) from the total actual transaction value and had paid duty on the balance amount of USD 310/MT; that the value declared by them for the purposes of the payment of Customs duty was cum duty FOB value (USD 372- USD 62= USD 310) instead of the actual FOB Value of USD 372/MT.

5.8 He was shown a printout of section 14 of the Customs Act, 1962 along with copy of CBIC Circular No. 18/2008-cus dated 10.11.2008. In this regard, he stated that as per the said section 14, the value of the export goods for payment of export duty shall be the transaction value of the export goods i.e. the price paid or payable for delivery of the export goods at the time and place of exportation; that the CBIC circular also provides that the value for charging export duty shall be the FOB value of the export goods and the practice of calculation of the FOB value as cum-duty price has been discontinued by the CBIC with effect from 01.01.2009 as per the said circular.

5.9 On being asked as to whether the clearance charges mentioned in the reimbursement invoice (which are equivalent to the export duty paid by them) raised by them to the buyer of the exported rice is includable in the transaction value for calculation of the export duty, he stated that since these clearance charges are also part of their cost and expenses occurred by them for effecting the export of goods on FOB basis and the same has been received by them from the supplier, the same should be included in the transaction value for calculation of the export duty; that after the imposition of duty on export of rice with effect from September, 2022, they started paying the appropriate export duty on the FOB price; that in March 2023, as per the practice followed by some other exporters, they started to bifurcate the actual FOB Value in two parts and started claiming reimbursement of the export duty from the overseas buyer; that for facilitating the bank remittances, they had generated/issued Reimbursement invoices to the buyer having unit price equivalent to the export clearance charges.

5.10 He stated that on being shown the above printout of Section 14 and CBIC Circular No. 18/2008-cus dated 10.11.2008, he had understood that for payment of export duty, transaction value of the export goods has to be arrived at and the transaction value of the export goods is the price of the goods inclusive of all expenses and costs up to the loading of the goods in the vessel after clearance by customs authority; that they had paid the duty by treating the FOB value as cum duty FOB value instead of the actual FOB value of the export goods causing short payment of duty on export of rice; that they had adopted the said practice for exports made by around 12 Shipping Bills during the months of March, 2023 to May, 2023; that it was done by them on being advised by some other exporters of rice; that thereafter, they started paying export duty on the actual full FOB value of the export goods; that they would submit the details of the shipping bills wherein the export duty has been paid by them by treating the FOB value as cum duty FOB value.

6. Vide letter dated 31.01.2024 (**RUD-5**), Partner of M/s Shri Rathi Agro Industries, submitted that they have calculated their differential duty payable

on account of wrong claim of deduction amount out of FOB value of the exports and submitted two Demand Drafts, for voluntary payment of the differential duty amounting to **Rs. 1,61,84,364/-**. The two Demand Drafts submitted by M/s. Shri Rathi Agro Industries were deposited in the government account at the respective ports as below:

- i. Demand Draft No. 231042 dated 29.01.2024 for Rs. 81,29,440/- in favour of Commissioner of Customs, Kandla A/c Rathi Agro Industries payable at Kandla for payment of duty by M/s Shri Rathi Agro Industries. Deposited at the Kandla Port vide this office letter dated 01.02.2024. (**RUD-6**)
 - ii. Demand Draft No. 231041 dated 29.01.2024 for Rs. 80,54,924/- in favour of Commissioner of Customs, Mundra A/c Rathi Agro Industries payable at Mundra payable at Mundra for payment of duty by M/s Shri Rathi Agro Industries. Deposited at the Mundra Port vide Challan no. 2312 dated 16.02.2024. (**RUD-7**)
7. Summons dated 10.03.2025 under section 108 of the Customs Act 1962 were also issued to Sh. Vinesh Rathi and Sh. Hemraj Rathi, both Partners of M/s Shri Rathi Agro Industries. However, vide letters dated 11.03.2025 (**RUD-8**) both of the Partners, namely Sh. Vinesh Rathi and Sh. Hemraj Rathi, submitted that their authorized signatory / Manager Sh. Sandip Hemraj Rathi had already appeared, tendered statements and submitted documents, that they have authorized him to represent the firm before Directorate of Revenue Intelligence; that they take responsibility all the acts done by Sh. Sandip Hemraj Rathi and that they agree with all the documents and statements signed and submitted by Sh. Sandip Rathi before Directorate of Revenue Intelligence officers; that their export firm is responsible for all the acts done by Sh. Sandip Rathi.

- 8.1** The export documents and details submitted by the exporter during investigation were analysed and it was revealed that M/s Shri Rathi Agro Industries had exported rice having description as Indian Non-Basmati Raw Rice/ Indian IR-64 White Rice / Indian Long Grain Rice etc. by classifying the same under CTH 10063090 which were liable to export duty @ 20% *ad valorem* vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022 and 49 /2023-Customs dated the 25th August, 2023. In their export documents (Shipping Bills), they have declared the following three values (i) Total Value, (ii) Invoice Value and (iii) FOB Value. The Total Value declared by them was inclusive of export duty and indicated the total consideration received by them from the overseas buyer. **Invoice Value** was declared after deducting from the Total Value, an amount equal to the export duty paid by them in respect of their export goods. **FOB Value** was declared after deduction of the ocean freight amounts and insurance amounts from the afore-said Invoice Value. Thus, total amount of deductions of **Rs. 8,54,33,249/-** were wrongly claimed by the exporter from the actual FOB Value in respect of their **12** export shipments as shown below.

8.2 Deduction amounts wrongly claimed by the exporter from the actual FOB Value of exports which were equal to the export duty:

Scrutiny of the export documents and details submitted by the exporter during investigation revealed that the exporter had at the time of filing of shipping bills claimed the deduction of an amount of **Rs. 8,54,33,249/-** in respect of the following **12** shipping bills filed by them. The export duty amounts paid by them in respect of these **12** shipping bills were also at **Rs. 8,54,33,249/-**. Therefore, the amounts claimed as 'deduction/deduct' were equal to the export duty amounts paid by them at the time of filing of **12** of these shipping bills.

Investigation has revealed that these amounts claimed as 'deduction/deduct' were also recovered by the exporter from the overseas buyer in their bank accounts. The exporter had also confirmed these facts in his submission and statement recorded u/s 108 of the Customs Act, 1962.

Table: A

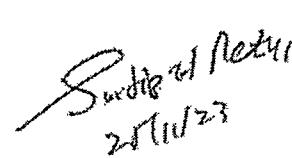
(Deduction amount claimed is equal to Export Duty amount paid by them)								
S. No.	Shipping Bill Number	Shipping Bill Date	Declared FOB Value (INR)	Export duty Paid (INR)	Declared Total Value (INR)	Declared Invoice Value (INR)	Deduction claimed in Shipping Bill (INR)	Amount received through Reimbursement of taxes in INR, as confirmed by the exporter
1	8526837	16-03-2023	2,53,42,500	50,68,500	3,76,05,000	3,25,36,500	50,68,500	50,68,500
2	8691965	23-03-2023	3,36,60,963	67,32,193	4,88,08,396	4,20,76,203	67,32,193	67,32,193
3	8747430	25-03-2023	5,08,09,000	1,01,61,800	6,09,70,800	5,08,09,000	1,01,61,800	1,01,61,800
4	8860201	28-03-2023	15,24,27,000	3,04,85,400	18,29,12,400	15,24,27,000	3,04,85,400	3,04,85,400
5	9119883	06-04-2023	3,36,60,963	67,32,193	4,88,08,396	4,20,76,203	67,32,193	67,32,193
6	9464034	21-04-2023	1,67,17,525	33,43,505	2,00,61,030	1,67,17,525	33,43,505	33,43,505
7	9464040	21-04-2023	1,67,17,525	33,43,505	2,00,61,030	1,67,17,525	33,43,505	33,43,505
8	9558938	26-04-2023	1,67,17,525	33,43,505	2,00,61,030	1,67,17,525	33,43,505	33,43,505
9	9559704	26-04-2023	1,67,17,525	33,43,505	2,00,61,030	1,67,17,525	33,43,505	33,43,505
10	9689567	01-05-2023	2,52,34,000	50,46,800	3,58,16,000	3,07,69,200	50,46,800	50,46,800
11	9801347	05-05-2023	1,66,04,569	33,20,914	1,99,25,483	1,66,04,569	33,20,914	33,20,914
12	9985833	12-05-2023	2,25,57,150	45,11,430	3,20,16,600	2,75,05,170	45,11,430	45,11,430
	Total		42,71,66,244	8,54,33,250	54,71,07,194	46,16,73,945	8,54,33,249	8,54,33,249

8.2.1 For ease of reference, photo of **Shipping Bill No. SB No. 9801347 dated 05.05.2023 (RUD-9)** is pasted below which clearly indicates that the deduction of **Rs. 33,20,914/- (equivalent to USD 41,075)** has been claimed in the Shipping Bill which is equal to the cess amount (i.e. Export Duty) of **Rs. 33,20,914/-** paid by them. The said amount has been deducted by the exporter from the actual transaction value (i.e. FOB Value) and export duty has not been paid on the said differential value of **Rs. 33,20,914/-** which is though part of the consideration received by the exporter from the overseas buyer for sale of the consignment. For receipt and processing of the said export duty amount of **Rs. 33,20,914/- (equivalent to USD 41,075)**, in their bank account, separate Reimbursement Invoice has been issued by the exporter to the buyer which was also submitted to the bank authorities for processing of the receipt of the payment.

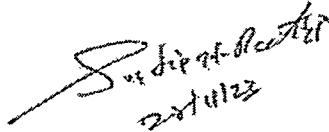
Photo of shipping bill no. 9801347 dated 05.05.2023

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE MINISTRY OF FINANCE GOVERNMENT OF INDIA MUNDRA SEZ PORT, MUNDRA, GUJARAT		Port Code	SB No	SB Date	
		INMUN1	9801347	05-MAY-23	
		IEC/Br	0610007797	1	
		GSTIN/TYPE	24ABSFST279C12W GSN		
		DCB CODE	AIIPB4243LCH006		
		TYPE	INV	ITEM	
		Nos	3	25	
		IPKG	26500	G.WT MTS	
				664.62	
				•SB2215520231912	
PART - II - INVOICE DETAILS					
A. RE REF TRANSACTION PARTIES	1. I.S.No	2. INVOICE No. & Dt	3. P.O. No. & Dt	4. Loc No. & Dt	
	1	07 05/05/2023			
B. CVAL DTLS	1. EXPORTER'S NAME & ADDRESS		2. BUYER'S NAME & ADDRESS		
	SHRI RATHI AGRO INDUSTRIES SURVEY NO. 175/2/1, 175/2/2/1, AND 175/3 VILLAGE-PIPAN TA, SANAND AHMEDABAD 382110		NOTIFY 1. EXPORT TRADING CO LTD., 8TH FLOOR, TEXAS TOWER, NEAR CINEMAX, P.O.BOX NO 99007 - 80107, NYALI MOMBASA, KENYA		
3. THIRD PARTY NAME & ADDRESS		4. BUYER/AEO STATUS			
5. INVOICE VALUE		6. FOB VALUE	7. FREIGHT	8. INSURANCE	9. DISCOUNT
205375		205375	0	0	0
USD		USD	USD	USD	USD
10. COMMISSION		11. DEDUCT	12. P/C	13. EXCHANGE RATE	
		0	41075	1 USD INR 80.85	
14. Item No		15. 2.HS.CD	16. DESCRIPTION	17. QUANTITY	18. SUQC
1		10063090	BRAND. ORANGE FALCON, INDIAN LONG GRAIN WH ITE RICE 5% BROKEN - GRADE 1, PACKING 25KG BOPP BAGS (2% EMPTY BAGS FREE OF COST)	662.5	MTS
				372	246450

Photo of Commercial Invoice No. 07 (Part-A) dated 05.05.2023 submitted to the overseas buyer.

INVOICE CUM PACKING LIST (PART-A)					
SELLER SHRI RATHI AGRO INDUSTRIES 1 SURVEY NO.175/2/1, 175/2/2/1 AND 175/3, VILLAGE-PIPAN TA, SANAND AHMEDABAD 382110		Invoice No. & Date		Exporter's Ref.	
		07 Dated: 05.05.2023		IEC : 0810007797	
Consignee : TO ORDER					
NOTIFY PARTY 1 EXPORT TRADING CO LTD, 8TH FLOOR, TEXAS TOWER, NEAR CINEMAX, P.O.BOX NO 99007 - 80107, NYALI MOMBASA, KENYA.					
NOTIFY PARTY 2 EXPORT TRADING COMMODITIES PTE LTD, #32-11 INTERNATIONAL PLAZA, 10 ANSON ROAD, SINGAPORE 079903.					
NOTIFY PARTY 3 AGRI COMMODITIES & FINANCE FZ - LLC P.O.BOX 40410, DUBAI U.A.E.					
NOTIFY PARTY 4 FALCON FOODS FZE, RAK, UAE					
Pre-Carriage by	Place of Receipt by Pre-Carrier	DELIVERY : FOB MUNDRA, INDIA PAYMENT : 100 % ADVANCE			
Vessel	Port of Loading	MUNDRA, INDIA			
Port of Discharge	Final Destination	MOMBASA, KENYA			
Marks & Nos./ Container No.	No. & Kind Description of Goods Of Pkgs.			Quantity	Rate FOB USD
				MT	Assesable Value
	FOB PRICE PMT			662.500	310.000
	INDIAN LONG GRAIN WHITE RICE 5% BROKEN - GRADE 1 MARKING: ORANGE FALCON PACKING: 25 KG PP BOPP BAG				2,05,375.00
	TOTAL NO. OF BAGS : 26500 BAGS				
	TOTAL NET WT : 662.500 MTS				
	TOTAL GROSS WT : 664.620 MTS				
	2% EMPTY BAGS LOADED FREE OF COST IMPORT PERMIT NO. XXXXXXXX DATED: XXXXX/XXXX FREIGHT PREPAID				
	REMARKS: UNDER LUT BOND ARN NO. AD2404220050122, DATE: 02.04.2022 AG SUPPLY BY UNDER LUT: KNACK PACKAGING PVT LTD - INV NO. 000000000000, GSTIN: 24AAFC077111ZG DUTY AMOUNT WILL BE REIMBURSE FROM BUYER TO SHIPPER THROUGH BANK AS PER INCLUDE IN CONTRACT VALUE DBK SER NO. 1006048, NOTIFICATION NO.07/2020-CUS(NT)				
Amount Chargeable (In words)	US DOLLAR TWO HUNDRED FIVE THOUSAND AND THREE HUNDRED SEVENTY FIVE ONLY SUMMARY DUTY USD. \$ 41,075 WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN			TOTAL	2,05,375.00
Declaration We declare that this invoice shows the actual price of the goods described and that the particulars are true and correct	For SHRI RATHI AGRO INDUSTRIES Authorised Signatory				
 					

Reimbursement Invoice No. Invoice No. 07 (Part-B) dated 05.05.2023

SHRI RATHI AGRO INDUSTRIES				
Manufacturer of Rice & Wheat				
M/s Address :- Survey No.175/18 Short Petrol Pump, Sanand Bavia Road, Vill - (PIPAK)-SANAND Ahmedabad -382110 (Gujrat (24) : Regd. Off. : 5 Shreenathji Society, Opp. Thakkarwadi, Nr. Somnath Society, Ahmedabad Road, Sanand-382110 (Guj) India GSTIN NO. : 24ABSF57229Q1ZW Email : rathi_sandip10@yahoo.in Mail : rathiagro2010@gmail.com				
REIMBURSEMENT INVOICE (PART-B)				
SELLER SHRI RATHI AGRO INDUSTRIES 1 SURVEY NO.175/2/1, 175/2/2/1 AND 175/3, VILLAGE-PIPAK, TA.SANAND, AHMEDABAD 382110	Invoice No. & Date 07 Dated: 05.05.2023	Exporters Ref. IEC : 0810007797		
Consignee & TO ORDER				
NOTIFY PARTY 1 EXPORT TRADING CO LTD, 5TH FLOOR, TEXAS TOWER, NEAR CINEMAX, P.O.BOX NO 99007 - 80107, NYALI MOMBASA, KENYA.				
NOTIFY PARTY 2 EXPORT TRADING COMMODITIES PTE LTD, #32-11 INTERNATIONAL PLAZA, 10 ANSON ROAD, SINGAPORE 079903.				
NOTIFY PARTY 3 AGRI COMMODITIES & FINANCE PTE - LLC, P.O.BOX 40410, DUBAI, U.A.E.				
NOTIFY PARTY 4 FALCON FOODS PTE, DUBAI, UAE				
Pre-Carriage by	Place of Receipt by Pre-carrier			
Vessel	Port of Loading MUNDRA, INDIA			
Port of Discharge	Final Destination MOMBASA, KENYA			
Marks & Nos./ Container No.	No. & Kind Description of Goods Of Pkgs. <small>REIMBURSEMENT AMOUNT AS PER REQUIRED FRO</small> INDIAN LONG GRAIN WHITE RICE 5% BROKEN - GRADE 2 MARKING: ORANGE FALCON PACKING: 25 KG PP BOPP BAG TOTAL NO. OF BAGS : 26500 BAGS TOTAL NET WT : 662.500 MT TOTAL GROSS WT : 664.620 MT	Quantity MT	Rate USD	Assesable Value
				41,075.00
Amount Chargeable (In words) US FORTY ONE THOUSAND SEVENTY FIVE ONLY		<small>NOTE: THIS INVOICE GENERATED AS PER BUYER REQUIREMENT AND PAYMENT WILL BE REIMBURSE SEPARATELY</small> TOTAL 41,075.00		
<small>A/C Name: SHRI RATHI AGRO INDUSTRIES BANK : BANK OF BARODA (BOB) FORER BRANCH: ASHRAM ROAD, AHMEDABAD A/C No: 3403050000025 SWIFT CODE: BARBINGBAH</small>		<small>TOTAL VALUE (PART A+B) 205345</small> <small>FOR SHRI RATHI AGRO INDUSTRIES</small> <small>Authorised Signatory</small>		
				

BRCA details submitted by the exporter indicating receipt of USD 2,05,345 i.e. the Declared FOB amount.

DIRECTORATE GENERAL OF FOREIGN TRADE		
STATEMENT OF BANK REALISATION		
1	Firm's Name	SHRI RATHI AGRO INDUSTRIES
2	Address	5, SHREENATHJI SOCIETY, NR. SOMNATH SOCIETY, OPP-THAKKAR WADI, SANAND Contact No: 224984AHMEDABAD AHMADABAD GUJARAT
3	IEC	0810007797
4	Shipping Bill No	9801347
5	Shipping Bill Date	2023-05-05
6	Shipping Bill Port	INMUN1
7	Bank's Name	BANK OF BARODA
8	Bank's File no and Uploaded Date	BARBO THANAX121020236462023-10-12 17:55:39
9	Bill ID no	0849FBA016731723
10	Bank Realisation Certificate No	BARBO THANAX121020236462023-10-12 Dated 2023-10-12
11	Date of realisation of money by bank	2023-05-20
12	Realised value in Foreign Currency	205345.000
13	Currency of realisation	USD
14	Date & time of printing	2023-11-01 10:50:14 AM

Foreign Remittance Inward details submitted by the exporter indicating receipt of Taxes amounting USD 41,075 vide Reimbursement Invoice No. 07 (Part-B) dated 05.05.2023.

ADVICE OF FOREIGN INWARD REMITTANCE																															
TO: SHRI RATHI AGRO INDUSTRIES INDIA		DATE: 21/06/2023																													
WE HAVE RECEIVED FOLLOWING FOREIGN INWARD REMITTANCE IN YOUR FAVOUR AS MENTIONED BELOW:																															
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">BILL ID NO:</td> <td colspan="3">0849IRTX17786023 - CRE001</td> </tr> <tr> <td>REMITTING BANK REF NO:</td> <td colspan="3">S063171116AE01</td> </tr> <tr> <td>REMITTER BANK</td> <td colspan="3">CITI BANK, NEW YORK</td> </tr> <tr> <td>VALUE DATE</td> <td colspan="3">20/06/2023</td> </tr> <tr> <td>AMOUNT RECEIVED</td> <td colspan="3">41,075.00 USD</td> </tr> <tr> <td>REMITTER NAME</td> <td colspan="3">FALCON FOODS FZE</td> </tr> <tr> <td>PURPOSE OF REMITTANCE</td> <td colspan="3">Receipts / Refund of taxes</td> </tr> </table>				BILL ID NO:	0849IRTX17786023 - CRE001			REMITTING BANK REF NO:	S063171116AE01			REMITTER BANK	CITI BANK, NEW YORK			VALUE DATE	20/06/2023			AMOUNT RECEIVED	41,075.00 USD			REMITTER NAME	FALCON FOODS FZE			PURPOSE OF REMITTANCE	Receipts / Refund of taxes		
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VALUE DATE	20/06/2023																														
AMOUNT RECEIVED	41,075.00 USD																														
REMITTER NAME	FALCON FOODS FZE																														
PURPOSE OF REMITTANCE	Receipts / Refund of taxes																														
TRANSACTION DETAILS ARE AS BELOW:																															
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2">CHARGE DETAILS</th> <th>CURRENCY</th> <th>CHARGE AMOUNT</th> <th>GST AMOUNT</th> </tr> <tr> <td colspan="2"></td> <td></td> <td></td> <td></td> </tr> </table>		CHARGE DETAILS		CURRENCY	CHARGE AMOUNT	GST AMOUNT						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2">REPAYMENT DETAILS:</th> <th colspan="2"></th> </tr> <tr> <th>LOAN REFERENCE NUMBER</th> <th>ACCOUNT NUMBER</th> <th colspan="2">REPAID AMOUNT</th> </tr> <tr> <td></td> <td></td> <td colspan="2"></td> </tr> </table>		REPAYMENT DETAILS:				LOAN REFERENCE NUMBER	ACCOUNT NUMBER	REPAID AMOUNT											
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08490200005645	Cr	USD 41,075.00	Forty One Thousand and Seventy Five US Dollars																												
<p>Bank GSTN: 24AAACB1534F22B Customer GSTN:</p> <p>***THIS IS A COMPUTER GENERATED ADVICE AND DOES NOT REQUIRE ANY SIGNATURE*** ***THIS IS A TRANSACTION ADVICE AND SHOULD NOT BE TREATED AS A GST INVOICE***</p> <p><i>S. Rathi Agro Industries 26/06/2023</i></p>																															
																															

8.3 For reimbursement of the export duty from the overseas buyer, the exporter had declared RBI Accounting Purpose Code No. P1306 which is for refund of taxes, however, the following discussion indicate that the said purpose code is not meant for the receipt of export duty and export proceeds -

The exporter has claimed that the deduction/ deduct amount claimed by them in the shipping bill have been received by them from the overseas buyers in the form of reimbursement of taxes. The said transactions have been made under the RBI purpose code P1306.

RBI purpose codes are unique identifiers assigned to various international transactions, enabling banks and financial institutions to classify and process remittances accurately. RBI has notified purpose codes for reporting forex transactions for Payment and Receipt purposes.

The Purpose codes for reporting forex transactions (for the purpose of *Receipt of amounts*) are further categorized into 16 different 'Purpose Group Name' which includes Exports (of Goods), Transportation, Travel, Financial Services, Royalties & License Fees, Transfers among others.

The following purpose codes pertaining to Export (of Goods) refers to the receipt of forex in respect of exports made from India.

Gr. No.	Purpose Group Name	Purpose Code	Description
b1	Exports (of Goods)	P0101	Value of export bills negotiated / purchased/discounted etc. (covered under GR/PP/SOFTEX/EC copy of shipping bills etc.)
		P0102	Realisation of export bills (in respect of goods) sent on collection (full invoice value)
		P0103	Advance receipts against export contracts, which will be covered later by GR/PP/SOFTEX/SDF
		P0104	Receipts against export of goods not covered by the GR/PP/SOFTEX/EC copy of shipping bill etc.
		P0105	Export bills (in respect of goods) sent on collection.
		P0106	Conversion of overdue export bills from NPD to collection mode
		P0107	Realisation of NPD export bills (full value of bill to be reported)

Further, the purpose code P1306 referred by the exporter for reimbursement of taxes (i.e. export duty) falls under the group 'Transfer'.

Gr. No.	Purpose Group Name	Purpose Code	Description
13	Transfers	P1301	Inward remittance from Indian non-residents towards family maintenance and savings
		P1302	Personal gifts and donations
		P1303	Donations to religious and charitable institutions in India
		P1304	Grants and donations to governments and charitable institutions established by the governments
		P1306	Receipts/Refund of taxes

From the above, it is evident that the purpose codes under the group 'Transfer' pertains to forex transactions of personal nature such as personal gifts, family maintenance, donations etc. and the accounting purpose code P1306 falling under the said category is clearly not associated with the payments received in respect of exported goods. Thus, **the exporter had used wrong purpose code for receipt of the export duty amounts from the buyers**. Thus, the exporter had mis-represented the facts before the bank authorities also to process the receipt of export duty amounts from the overseas buyer. These amounts are not reflected in the bank realisation certificates obtained by the exporter from the bank.

8.4 Excess Ocean freight amounts wrongly declared in the Shipping Bills:

In addition to the shipments discussed in above para, in respect of the following **07** shipments of rice, the exporter had **declared higher amounts of ocean freight** in comparison to the actual ocean freight amounts paid by them, thus causing short payment of duty on the differential ocean freight amount in respect of these **07** shipments also. The total amount of excess freight declared by the exporter in respect of these shipments stood at **Rs. 83,55,429/-**. During investigation, the exporter had submitted the freight invoices indicating the actual freight amounts paid by them to the Freight forwarders/Shipping line, which clearly indicated that in these **07** shipments, they have declared excess freight amounts.

Table-B

S.No.	Shipping Bill Number	Shipping Bill DATE	Declared FOB Value (INR)	Cess Amount Paid (INR)	Declared Freight Amount as per Shipping Bill (INR)	Actual Freight Amount Paid as per Freight Invoice (INR)	Excess Freight Declared (INR)
1	1927857	22-06-2023	30,40,456	6,08,091	12,34,893	10,39,653	1,95,240
2	2274694	06-07-2023	86,87,773	17,37,555	44,27,962	30,65,349	13,62,613
3	8526837	16-03-2023	2,53,42,500	50,68,500	71,94,000	62,00,738	9,93,263
4	8691965	23-03-2023	3,36,60,963	67,32,193	84,15,241	66,00,007	18,15,233
5	9119883	06-04-2023	3,36,60,963	67,32,193	84,15,241	66,00,007	18,15,233
6	9689567	01-05-2023	2,52,34,000	50,46,800	55,35,200	44,89,210	10,45,990
7	9985833	12-05-2023	2,25,57,150	45,11,430	49,48,020	38,20,163	11,27,858
	Total		15,21,83,805	3,04,36,762	4,01,70,556	3,18,15,127	83,55,429

In respect of these shipments also, the exporter had not declared the true facts, before the customs authorities at the port of export at the time of effecting exports. They have **declared the higher ocean freight amounts in their export documents** such as shipping bills filed by them, in comparison to the actual freight amounts paid by them to the freight forwarders/shipping lines. It is a fact on record that the exporter had recovered the higher freight amounts from the overseas buyers of the export goods in comparison to the amounts paid by them to the freight forwarders & shipping lines in respect of their export shipments. These facts have been confirmed by the exporter in the details of their export shipments submitted by them under the provisions of section 108 of the Customs Act, 1962.

8.4.1 For ready reference, copy of **Shipping Bill Number 8691965 dated 23.03.2023 (RUD-10)** is pasted below. As per the shipping bill, the ocean freight amount declared in respect of the said shipment is **Rs.84,15,241/-** whereas during investigation, the exporter had submitted the actual freight amount paid by them in respect of the aforesaid shipping bill which stood at **Rs.66,00,007**. Thus, excess freight amount declared in respect of the aforesaid shipment works out to be at **Rs.18,15,233/-**. The said excess freight amount has also been recovered by the exporter from the overseas buyer of the export goods but the exporter had not paid duty on **the said excess freight amount which is part and parcel of the actual assessable value of the export goods**.

Photo of shipping bill No. 8691965 dated 23.03.2023 indicating excess freight amounts declared.

PART - I - SHIPPING BILL SUMMARY											
A B C D E F G H I J K L M N O P Q R S T U V W X Y Z	1.MODE SEA	2.ASSESS Y	3.EXMN Y	4.JOBMING N	5.MEIS Y	6.DBK Y	7.RODTP N	8.DEEG/DRIA N	9.DFRC N	10.RE-EXP N	11.LUT Y
	12.PORT OF LOADING INNMUN1 (Mundra)	13.COUNTRY OF FINAL DESTINATION TANZANIA	14.STATE OF ORIGIN GUJARAT	15.PORT OF FINAL DESTINATION T2DAR (Dar Es Salaam)	16.PORT OF DISCHARGE T2DAR (Dar Es Salaam)	17.COUNTRY OF DISCHARGE TANZANIA	18.CONSIGNEE NAME & ADDRESS TO ORDER...	19.CONSIGNEE NAME & ADDRESS TO ORDER...	20.CONSIGNEE NAME & ADDRESS TO ORDER...	21.CONSIGNEE NAME & ADDRESS TO ORDER...	22.CONSIGNEE NAME & ADDRESS TO ORDER...
23.ADVOCATE AHMEDABAD	24.LAWYER Private	25.GSTIN / TYPE 24ABSF57279Q1ZW GSN	26.POREX BANK A/C NO. 31XXXXXXXXXX03	27.DBK BANK A/C NO. 31XXXXXXXXXX06	28.IFSC NO. BARBOSANAND	29.DBK CLAIM 9938	30.IGST AMT 6732193	31.CESS AMT 0	32.ROSCITL AMT 0	33.CURRENT USD	
34.CIN NO 23PCFG0402676761800	35.CIN DT 02-APR-23	36.CIN SITE ID INNMUN1	37.INVOICE SUMMARY	38.INV NO 80	39.INV AMT 513437.5	40.CURRENC USD					

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA		Port Code	SB No	SB Date		
		INMUN1	8691985	23-MAR-23		
		IEC/BP	0810007797	0		
		GSTIN/TYPE	24ABSFS7279Q1ZW GSN			
		CB CODE	AIIPB4243LCH005			
		TYPE	INV	ITEM	CONT	
		Nos	1	3	50	
		PKG	53000	G.WT	MTS	1329.24
		*3822020420231856				
PART - II - INVOICE DETAILS						
A REF TRANSACTION PARTIES	1.S.No	2.INVOICE No. & DL	3.P.O. No. & DL	4.LOC No. & DL	5.Contract No.&DL	6.ADV code
	1	80/23/03/2023			10200849	CF
B PARTIES	1.EXPORTER'S NAME & ADDRESS			2.BUYER'S NAME & ADDRESS		
	SHRI RATHI AGRO INDUSTRIES 5. SHREENATHJI SOCIETY, NR. SOMNATH SOCIETY, OPP. THAKKAR WADI, SANAND 382110			WILMAR RICE TRADING PTE. LTD. 28 BIOPOLIS ROAD SINGAPORE 138568		
C VAL DTS	3.THIRD PARTY NAME & ADDRESS			4.BUYER AEO STATUS		
1.INVOICE VALUE		2.FOB VALUE	3.FREIGHT	4.INSURANCE	5.DISCOUNT	6.COMMISION
513437.5		410750	102687.5	0	0	82150
USD		USD	USD	USD	USD	1 USD INR 81.95
1.Item	SNo	2.HS CD	3.DESCRIPTION	4.QUANTITY	5.UCC	6.RATE
1	10063090	BRAND: VIKING, INDIAN LONG GRAIN WHITE RICE 5% BROKEN, PACKING IN 25KG 2 SIDE BOP 'P' BAG (2% EMPTY BAGS FREE OF COST)	1325	MTS	449.5	595587.5

Freight Invoice no. GIM/GST/DN/294 dated 31.03.2023 indicating Actual Freight Amounts of USD 80,537.50/- (equivalent to Rs. 66,00,007) against EX INV No. 80 - 22-23 pertaining to the aforesaid shipment.

Freight Collection note.						
ACT INFRAPORT LTD						
 PLOT NO. 391/392, SECTOR 1/A NEAR MAMLATDAR'S OFFICE, GANDHIDHAM - KUTCH, REGD. OFFICE NO. 14, SHIPPING HOUSE, GR. FLOOR, KUMPTA STREET, FORT, MUMBAI - 400 001 CINNO. U45200MH2004PLC148978 GSTIN/UIN: 24AAECA9098H1ZE StateName:Gujarat,Code:24						
Reverse Charge	No.	Service Description:				
Financial Year	2022-23	Date of Supply:				
Dobit Note No.	GIM/GST/DN/294	Place of Supply: GUJARAT				
Invoice Date:	31-Mar-23	Commodity:				
Vessel:		Qty:				
Port of Loading:	MUNDRA	Exchange Rate(per USD): \$2.00				
Port of Discharge:						
Buyer(Billto):	Consignee(Ship to):					
SHRI RATHI AGRO INDUSTRIES SURVEY NO.175/2/1,175/2/2/1 AND 175/3, VILLAGE: RIPAN TA, SANAND AHMEDABAD-382110 GSTIN/UIN: 24ABSFS7279Q1ZW State Name: Gujarat, Code:24	SHRI RATHI AGRO INDUSTRIES 1-SURVEY NO.175/2/1,175/2/2/1 AND 175/3, VILLAGE: RIPAN TA, SANAND AHMEDABAD-382110 GSTIN/UIN: 24ABSFS7279Q1ZW State Name: Gujarat, Code:24					
SI. No.	Description of Services	HSN/SAC	Qty	Curr	Rate in Curr	Amount in INR
1	CONTAINER FREIGHT Receive: USD EX INV NO. 01-22-24 S 55,150.00 EX INV NO. 01-22-23 S 80,537.50 EX INV NO. 02-22-23 S 80,537.50 EX INV NO. 02-22-24 S 80,537.50			₹		2,39,50,150.00
	Total					₹2,39,50,150.00
Amount Chargeable (in words) Indian Rupees Two Crore Thirty Nine Lakh Fifty Thousand One Hundred Fifty Only. Company's PAN: AAECA9098H						
Company's Bank Details Bank Name: ICICIBANKLTD-(CURRENTACCOUNT) AC No: 1025905003727 Branch & IFS Code:Gandhidham & ICIC0000259						
E & O.E						
for ACT INFRAPORT LTD						
Authorised Signatory						
						
This is a Computer Generated Document						

Commercial Invoice No. 80 dated 23.03.2023 raised in respect of shipping bill No. 8691965 dated 23.03.2023.

INVOICE CUM PACKING LIST (PART A)			
SELLER: SHRI RATHI AGRO INDUSTRIES SURVEY NO.175/2/1/175/2/2/1 AND 175/3, VILLAGE-PIGAN, TA.SANAND AHMEDABAD-382210, INDIA		Invoice No. & Date: 80 Dated: 23.03.2023 Exporters Ref, IEC : 0810007797	
Condition & TO ORDER: NOTIFY PARTY: WILMAR RICE TANZANIA LIMITED Plot No.667/75, PO Box No. 1206 Industrial Complex, Kibondo Morogoro - Tanzania			
Pre-Carriage by: Vessel: Port of Discharge: DAR ES SALAAM, TANZANIA		Receipt by: Port of Loading: MUNDRA/INDIA Final Destination: DAR ES SALAAM, TANZANIA	
DELIVERY: CFR, DAR ES SALAAM, TANZANIA PAYMENT: DP AT SIGHT			
No. & Kind Description of Goods: Of Pkgs.			
50 X20 FT INDIAN LONG GRAIN WHITE RICE 5% BROKEN FOB PRICE USD MARKING: VIKING BRAND PACKING: IN 25KG 2-SIDE BOPP BAG TOTAL NO. OF BAGS: 50000 BAGS			
FREIGHT USD + OTHER TOTAL NET WEIGHT: 1325.000 METRIC TONS TOTAL GROSS WEIGHT: 1329.240 METRIC TONS 2% EMPTY BAGS HAVE BEEN SHIPPED ALONG WITH GOODS FREIGHT PREPAID			
<small>REMARKS UNDER LUT BOND ARM NO. AD340-220050122 DATE 02.04.2022 BAG SUPPLY BY UNDER LUTI KACK PACKAGING PVT LTD - INV NO. 500000000000, GSTIN 24AAFK0771L1ZG DUTY AMOUNT WILL BE REIMBURSE FROM BUYER TO SHIPPER THROUGH BANK AS PER INCLUDE IN CONTRACT VALUE DBX-SEN NO. 1006048, NOTIFICATION NO.07/2020-CUS(NT)</small>			
Amount Chargeable (In words): US DOLLAR FIVE HUNDRED THIRTEEN THOUSAND FOUR HUNDRED THIRTY SEVEN AND FIFTY CENTS ONLY SUMMARY DUTY USD. \$ 82150			
WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN			
Declaration: We declare that this invoice shows the actual price of the goods described and that the particulars are true and correct		FOR: SHRI RATHI AGRO INDUSTRIES  Authorised Signatory	

9. The aforesaid **deduction amounts** claimed by the exporter, as detailed in **Table A** above and the **excess freight amounts declared** by them in their export documents in respect of the shipments as detailed in **Tables B** above, were not included in the declared FOB Value of goods in respect of these shipments, as discussed in para 8 above. Investigation has revealed that these **deduction amounts** have also been claimed and/or recovered by them from the overseas buyer of the export goods in their bank accounts. Therefore, the deduction amounts taken by the exporter from the overseas buyer in any manner whether or not by declaring the same in the export documents or by mis-declaration of freight amounts in the export documents **appears to be forming part of the consideration received by the exporter** for delivery of the export goods on board the vessel after clearance of the shipments through the customs authorities at the port of export. Thus, these excess freight amounts and deduction amounts claimed by the exporter at the time of filing shipping bills as discussed in above paras, also appear **liable to be included in the FOB Value for the purpose of calculation of the export duty**.

10. Legal Provisions:

10.1 Statutory provisions of the Customs Act, 1962 relevant to this case are enclosed as **Annexure-A** to this Show Cause Notice and the same are briefly discussed below:

10.2 The provisions of section 2(18), section 14 & section 16 of the Customs Act, 1962, Customs Valuation (Determination of Value of Export Goods) Rules, 2007, CBIC Circular No. 18/2008-Cus. dated 10.11.2008 are relevant for understanding various aspects of valuation of the export goods in the context of present case:

- a) The term 'export' has been defined in "Section 2(18) of the Customs Act, 1962 as "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India."
- b) Section **14 of the Customs Act 1962, stipulates that** 'for the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of theexport goods shall be the transaction value of such goods, that is to say, **the price actually paid or payable for the goods** when sold for export from India **for delivery at the time and place of exportation**, where the buyer and seller of the goods are not related and price is the **sole consideration** for the sale subject to such other conditions as may be specified in the rules made in this behalf.
- c) In this provision the terms "**the price actually paid or payable for the goods**" and "**when sold for export from India for delivery at the time and place of exportation**" in the context of present case are very significant. For the process of export to be complete, the goods need to be taken out of India to a place outside India. This event can take place only after goods cross Indian borders. This is more so because the price has to be taken for sale of export goods when sold for export from India 'for delivery at the time and place of exportation'. The wording "**for the delivery-at the time and place for exportation**" has to be legally construed as "for delivery at the time and place of exportation on board the foreign going vessel". Thus, the time and place of delivery of the export goods will be when the goods are on-board the foreign going vessel which takes place after the goods are given a Let Export Order (LEO) by the jurisdictional Customs officer after examining the compliance to Customs law. By implication, all elements of cost that are required to be incurred to bring the goods 'for delivery at the time and place of exportation' to the foreign going vessel will have to be added to invoice price to arrive at a correct transaction value of export goods as per section 14 notwithstanding the manner as to how the financial transaction is organized by the exporter and the overseas buyer. It is amply clear that without incurring associated expenses the export goods cannot be simply brought to the place of exportation at the time of export. Thus, in the impugned case, the price payable for the export goods for delivery at the time and place of exportation can be arrived at only after inclusion of associated costs including the amounts equal to the export duty which have been recovered by the exporters from the overseas buyers of the export goods.
- d) "FOB value" means the price actually paid or payable to the exporter for goods when the goods are loaded onto the carrier at the named port of exportation including the cost of the goods and all costs necessary to bring the goods onto the carrier at included in the term 'FOB Value'. The valuation shall be made in accordance with the World Trade Organisation (WTO) Agreement on Implementation of rule VII of General Agreement on Tariffs and Trade (GATT), 1994. There cannot be an exception to the well laid down principles of valuation.
- e) This method of calculation of 'FOB Value' is prescribed in various trade facilitation agreements such as 'Asean India Free Trade Agreement (AIFTA)' in a very clear manner as follows. FOB value shall be calculated in the following manner, namely:
 - (a) $\text{FOB Value} = \text{ex-factory price} + \text{other costs}$

- (b) Other costs in the calculation of the FOB value shall refer to the costs incurred **in placing the goods in the ship** for export, **including but not limited to**, domestic transport costs, storage and warehousing, **port handling**, brokerage fees, service charges, et cetera.
- f) This in fact lays down the foundation for arriving at the assessable value of the export goods whereby various elements of costs, including the export duty, notwithstanding it is being paid to the exporter directly by the foreign buyer or otherwise, are required to be added to the invoice price. Costing exercise of addition of other cost elements in FOB Value is not limited to transit transportation cost, storage & warehousing alone. Without payment of export duty, let export order cannot be issued by the jurisdictional customs office and the goods cannot be loaded on the foreign going vessel to take them out of India. On this background it is observed that value of the export goods on which duty has been paid by the exporter of rice does not reflect an FOB value i.e. a price payable for delivery of goods at the time and place of exportation which is a basis for export assessment.
- g) This practice of payment of export duty by considering the FOB Value as cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard instructed that the existing practice of computation of the export duty by taking FOB price as the cum-duty price may be continued till 31.12.2008 and all the pending cases may be finalized accordingly. It was also clarified that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.
- h) In order to bring in uniformity, transparency and consistency in assessment of export of Iron Ore, CBIC vide Circular No. 12/2014 – Customs dated 17.11.2014 directed the field formations *inter alia* to monitoring the receipt of Bank Realisation Certificates for the purposes of comparison with the final invoices submitted by the exporter to satisfy the accuracy of the assessed values. It also indicates that the total consideration received by the exporter from the buyer for sale of the export goods have to be considered for assessment of the export goods. In shipments exported on FOB incoterm basis, duty has to be calculated on the total considerations received by the exporter from the buyer whether or not they are included in the BRC. For shipments exported on CIF/CF/CI inco-term basis, FOB Value has to be deduced from the CIF/CF/CI value by deducting the actual freight amounts and/or insurance premium amounts paid by the exporter as the case may be.
- i) Relevance of time of export is further proved as Section 16 of the Customs Act, 1962 which provides for the date for determination of rate of duty and tariff valuation of export goods, stipulate that the rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force,- (a) in the case of goods entered for export under section 50, on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; (b) in the case of any other goods, on the date of payment of duty. The afore-said

statutory provision also indicate that time of export is relevant for valuation of the export goods.

From the above, it is evident that from 01.01.2009 onwards, the transaction value shall be the FOB Value of the export goods and the FOB value shall not be treated as the Cum-duty price of the export goods. The above practice has to be followed for all export commodities irrespective of the description of the export goods.

11. The investigation into undervaluation of rice shipments exported by **M/s Shri Rathi Agro Industries** vide above mentioned Shipping Bills as discussed in **Tables A & B** above, revealed deliberate mis-statement and suppression of facts on part of the exporter, who was actively involved in mis-declaration of the FOB value of export goods, with an intention to evade appropriate export duty leviable on *ad valorem* basis on such goods. As discussed in above paras, the exporter had mis-declared the ocean freight amounts whereas they were very well aware of the actual freight amounts paid by them in respect of these shipments exported vide Shipping Bills mentioned in **Table B** above. In respect of the goods exported by them through shipping bills as discussed in **Table A** above, the exporter had wrongly claimed the deduction in the shipping bills for export duty amounts and the exporter had claimed duty amounts by raising separate Reimbursement invoices to the buyer but have not declared the same in the shipping bills and export invoices submitted to the customs authorities and thus have mis-declared the actual transaction value. Thus, the exporter had not declared the actual FOB Values in the shipping bills thereby intentionally evading the applicable duties of customs on such undue deduction amounts/excess freight amounts.

12.1 As discussed in above paras, the valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14 ibid, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [hereinafter referred as 'CVR (E), 2007']. As per the provisions of Section 14 of the Customs Act, 1962, the value of export goods shall be the 'transaction value' of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation (i.e., the FOB price) when price is the sole consideration. As such, the sum total of price paid by the overseas buyer for delivery at the time and place of exportation would be the 'transaction value' of such goods.

12.2 Further, for the purpose of charging export duty, the value to be considered is the FOB price. This is so because, the terms "*for export from India for delivery at the time and place of exportation*" appearing in Section 14 of the Customs Act, 1962, means to FOB (Free On Board) value only. This has been clarified also by the Central Board of Excise and Customs (CBEC) vide Circular No. 18/2008, dated 10.11.2008, wherein it stated that in case of export shipments, *for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation*.

12.3 In this case, the value of the export goods shall be the transaction value thereof when the price is the sole consideration. As such, for determination of the transaction value of the export goods, the sole consideration received by the exporter from the buyer should be taken in to account, then it should be seen as to which prices are compulsory for delivery of the export goods on board the

vessel. In this case, the exporter is insisting that the export duty is on reimbursement basis from the overseas buyer of the export goods. By doing so, the exporter is separately receiving a part of the export proceeds from the overseas buyer and not including the same in the assessable value of the export goods. It can be stated that the seller has imposed a condition on the buyer of the export goods which states that if the buyer does not pay him a fixed amount (equal to the 20% export duty on their declared lesser FOB value), they would not sell the export goods to the overseas buyer and would not deliver the same at the time and place of exportation. Thus, all such agreements wherein the seller had imposed a condition on the buyer by which buyer has to pay a part of the payment separately in the bank accounts of the seller on account of sale of the export goods, such payments are necessarily part of the consideration received by the seller for sale of the export goods. Likewise, the excess ocean freight amounts declared by the exporter are also part of the consideration received by the exporter from the buyer for sale of the export goods as such excess ocean freight amounts have not been paid by them to the shipping lines/freight forwarders for the transportation of the export goods. All such amounts which are equal to the export duty amounts claimed/recovered from the buyer and excess ocean freight amounts declared in the shipping bills are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon.

13.1 The **method of calculation of FOB Value** has been provided at the website of various reputed platforms such as 'Freightos', which also support the contention of DRI that export duty is also includible in the FOB Value if the same has been recovered by the seller from the buyer.

The description of the said platform as available on their website under the heading 'About Freightos' states that

Freightos® (NASDAQ: CRGO) is the leading, vendor-neutral booking and payment platform for international freight, improving world trade. WebCargo® by Freightos and 7LFreight by WebCargo form the largest global air cargo booking platform, connecting airlines and freight forwarders. Over ten thousand freight forwarder offices, including the top twenty global forwarders, place thousands of eBookings a day on the platform with over fifty airlines. These airlines represent over 2/3rds of global air cargo capacity. Alongside ebookings, freight forwarders use WebCargo and 7LFreight to automate rate management, procurement, pricing and sales of freight services, across all modes, resulting in more efficient and more transparent freight services. More information is available at freightos.com/investors.

The website of freightos <https://www.freightos.com/freight-resources/fob-calculator> was visited which provide FOB calculator tools for the ease of international freight industry. As per the said website, *FOB (Free on Board) Calculator is a tool used in international trade to determine the total cost of goods when they are shipped from the seller's location to the buyer's destination. The FOB price includes the cost of the goods, as well as various expenses incurred until the goods are loaded onto the vessel, such as packaging, loading, and inland transportation to the port of departure. It does not include the freight charges for transporting the goods from the port of departure to the port of destination or any other charges or taxes beyond the point of loading.*

From the above details available on their website, it is evident that all taxes before the point of loading of the export goods on board the vessel are included in the term 'FOB'. In the case of export of goods, loading of the export goods starts after issuance of the 'Let Export Order (LEO)' by the proper officer of the Customs. LEO is issued after payment of the export duty. As the export duty is leviable before the point of loading of the export goods on to the vessel the same is includable in the FOB Value of the export goods.

13.2 The above contention of DRI is also supported by the **Incoterms** which are widely used in the international transactions. Incoterm or International Commercial Terms which are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law. These incoterms define the responsibility of the importers and exporters in the arrangement of shipments and transfer of liability involved at various stages of transaction. They are widely used in the international commercial transactions and procurement processes. These incoterms rules are accepted by governments, legal authorities worldwide for the interpretation of most commonly used terms in the international trade. They are intended to reduce or remove altogether uncertainties arising from the differing interpretations of the rules in different countries. As per Wikipedia, the Incoterms 2020 is the ninth set of international contract terms published by the International Chamber of Commerce with the first set published in 1936 (RUD-11). As per Incoterms 2020 published by ICC, the term 'FOB' has been defined as under-

FOB – Free on Board (named port of shipment)

Under FOB terms the seller bears all costs and risks up to the point the goods are loaded on board the vessel. The seller's responsibility does not end at that point unless the goods are "appropriated to the contract" that is, they are "clearly set aside or otherwise identified as the contract goods".^[20] Therefore, FOB contract requires a seller to deliver goods on board a vessel that is to be designated by the buyer in a manner customary at the particular port. In this case, the seller must also arrange for export clearance. On the other hand, the buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination.

As per the allocation of costs to buyer/seller according to incoterms 2020, in FOB terms, all costs related to loading of the export goods at origin, **export custom declaration**, carriage to the port of export, unloading of truck in port of export, loading on vessel/airplane in the port of export have to be borne by the seller of the goods and other expenses such as carriage to the port of import, insurance, unloading in port of import, loading on truck in port of import, carriage to the place of destination, import custom clearance, import duties and taxes and unloading at destination have to be borne by the buyer of the goods. Thus, all cost until the loading of the export cargo on board the foreign going vessel have to be borne by the seller of the export goods which also include export customs declaration and cost related to it. Thus, it is evident that the export duty is includable in the FOB Value and the same have to be borne by the seller and it cannot be recovered by the seller from the overseas buyer. If the same is recovered, it becomes part of the consideration for sale of the export goods and thus becomes liable to be included in the FOB Value of the export goods.

14. Rejection & Redetermination of the Transaction Value:

14.1 As discussed in the above paragraphs, valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14, *ibid*, read with

the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [here-in-after referred as the CVR (E), 2007]. The export proceeds receivable in full consequent to negotiation and finalization of sale price between the exporter from India and their overseas buyer form 'transaction value' of such goods. The export Customs duty is leviable on the actual sale price at which the goods were sold. Where such sale price has been mis-declared and under-stated by the exporter, the actual sale price, i.e. the Transaction Value, needs to be taken into account for the purpose of valuation of the impugned export goods.

14.2 In respect of the shipments of rice covered by the Shipping Bills as shown in the Tables **A & B** above, it appears that **M/s Shri Rathi Agro Industries** negotiated and finalized one price with their overseas buyer but in the contracts, the said price was intentionally bifurcated in two parts. The amount of duty payable by the exporter was deducted from the transaction value. In the shipping bills filed by the exporter, such undervalued and mis-declared transaction value was shown, which was lesser than the price that was actually finalized with the overseas buyer as consideration for the export goods. A part of the consideration was intentionally excluded from the transaction value of the export goods by adopting two different modus operandi as discussed in para 8 above. The difference between the actual price finalized with the overseas buyer and the price shown in the export documents were recovered/claimed by the exporter from the buyer separately by an arrangement of the buyer and the seller in this regard. The exporter and buyer may enter into any contract (oral or written), they may sell and purchase the export goods on any terms (such as FOB, CIF, CF, CI or ex-works basis) but for the purposes of calculation of the export duty, the transaction value in terms with the provisions of Section 14 of the Customs Act, 1962 has to be derived and such transaction value is the FOB Value of the export goods as discussed in above paras and for the purpose of calculation of the FOB Value of the export goods, abatement of the export duty is not available as per Section 14 of the Customs Act, 1962 read with CBIC Circular No. 18/2008- Customs dated 10.11.2008.

14.3 The receipt of these deduction amounts from the overseas buyers was apparently never disclosed to the concerned Customs authorities. The said amounts were received from the overseas buyer, as reimbursement of taxes/duties under **wrong RBI Purpose code P1306** which is not meant for receipt of the export duty. The reduced FOB Value declared in the export documents was presented as the true Transaction Value being paid for the export goods by the overseas buyer as the deduction amount was not reflected in the Bank Realization Certificate (BRC) in respect of these export shipment. The deduction amount was recovered separately in their bank account as reimbursement of taxes. Hence, it appears that the value declared by **M/s Shri Rathi Agro Industries** to the concerned Customs authorities as the Transaction Value of the export cargo in respect of the shipments of rice covered by the Shipping Bills as shown in the Tables **A & B** above, is liable to be rejected under Rule 8 of the CVR(Export), 2007 and the impugned export goods are liable to be valued at their actual Transaction Value as established by the present investigation, in accordance with the provisions of Section 14 of the Customs Act, 1962, read with Rule 3 of the CVR(Export), 2007.

14.4 The amount wrongly excluded from the FOB price was indeed part of the consideration negotiated and finalized between the exporter **M/s Shri Rathi Agro Industries** and their respective overseas buyers and the said amount which was excluded from the FOB Value was duly claimed /received by the exporter

from the overseas buyer in their bank account. Therefore, the differential value (equal to the deduction amount/excess freight amount as shown in the Tables A & B above appears to be includable in the declared value (FOB Value) of the respective export shipments to arrive at the correct transaction value at which the said goods were sold for export from India for delivery at the time and place of exportation and export Customs duty as per the prevailing rate needs to be charged on the said value. **M/s Shri Rathi Agro Industries** appears to be liable to pay the resultant differential duty in addition to the duty already paid by them.

14.5 In view of the above, in accordance with the provisions of Section 14 of the Customs Act, 1962, the amount of differential customs duty in respect of the Shipping Bills as mentioned in the Tables **A & B** at Para 8 above, wherein a part of export proceeds was apparently not declared to the concerned Customs authorities, and the same was not included in the declared transaction value, has to be worked out on the basis of actual Transaction Value of the export goods revealed during the investigation.

15. Calculation of Differential Duty:

15.1 As discussed in above paras, the exporter had undervalued their export shipments of rice. For this two modus operandi were adopted by the exporter. In some of their export shipments mentioned at **Table A in para 8 above**, the FOB price were undervalued by an amount equal to the amount of export duty paid by them at the time of export. In such shipping bills, actual transaction value of the export goods has to be re-determined by adding the amount of export duty which were wrongly claimed as deduction in the shipping bills. These deduction amounts are liable to be included in the actual assessable value of the export goods and differential duty of **Rs.1,70,86,649/-** is liable to be recovered from the exporter in respect of these deduction amounts as summarized below. The detailed calculation of differential duty is shown in **Annexure- I** to this Show Cause Notice.

Table-C

Port Code	No of SBs	Declared FOB Value in Rs.	Cess Amount Paid in Rs.	Deduction amounts claimed from FOB in Rs.	Reimbursement amount received from overseas buyer (INR)	Re-determined FOB value (after adding the Deduction amount) in Rs.	Duty payable on re-determined FOB in Rs.	Differential duty due to deductions claimed in Rs.
INMUN1	10	22,39,30,244	4,47,86,050	4,47,86,049	4,47,86,049	26,87,16,293	5,37,43,259	89,57,209
INIXY1	2	20,32,36,000	4,06,47,200	4,06,47,200	4,06,47,200	24,38,83,200	4,87,76,640	81,29,440
Total	12	42,71,66,244	8,54,33,250	8,54,33,249	8,54,33,249	51,25,99,493	10,25,19,899	1,70,86,649

15.2 Apart from the above, in several shipments of rice, as detailed in **Table B in para 8 above**, the exporter had declared excess freight amounts in comparison to the actual freight amounts paid by them to the freight forwarders/shipping lines for transportation of the export goods to the country of destination. Only the ocean freight amounts actually paid by the exporter are eligible for deduction from the CIF/CF value for calculation of the FOB Value of the export goods. Therefore, the excess freight amounts declared by the exporter are not eligible/allowed for deduction as per the provisions of Section 14 of the Customs Act, 1962. These excess freight amounts claimed by the exporter are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs.16,71,085/-** is liable to be

recovered from the exporter in respect of these excess freight amounts also. The detailed calculation of differential duty is shown in **Annexure- II** to this Show Cause Notice.

Table - D

Port Code	No of SBs	Declared FOB value in Rs.	Cess Amount Paid in Rs.	Declared Freight Amount as per Shipping Bill (INR)	Actual Freight Amount Paid as per Freight Invoice (INR)	Excess Freight claimed (INR)	Re-determined FOB on account of excess freight (INR)	Differential Duty (INR)
INMUN1	7	15,21,83,805	3,04,36,762	4,01,70,556	3,18,15,127	83,55,429	16,05,39,234	16,71,085
Total	7	15,21,83,805	3,04,36,762	4,01,70,556	3,18,15,127	83,55,429	16,05,39,234	16,71,085

15.3 In view of the above-mentioned two modus operandi followed by the exporter for evasion of export duty, their re-determined assessable value in respect of total **14** export shipments have been calculated as shown in below table. Accordingly, the differential duty payable by the exporter M/s Shri Rathi Agro Industries works out to be at **Rs. 1,87,57,734/-** as shown in below Table. The detailed calculation of the differential duty amounts has been shown in **Annexure I & II** to this Show Cause Notice.

The port wise summary of differential duty payable by M/s Shri Rathi Agro Industries is as under:

Table-E

Port Code	No of SBs	Declared FOB Value in Rs.	Cess Amount (INR)	Re-determined FOB (INR)	Differential Duty on account of excess amount/ deduction amount received from overseas Buyers	Differential Duty on account of Excess Freight claimed in SBs	Total differential duty in Rs.
INMUN1	12	23,56,58,473	4,71,31,696	28,87,99,951	89,57,209	16,71,085	1,06,28,294
INIXY1	2	20,32,36,000	4,06,47,200	24,38,83,200	81,29,440		81,29,440
Total	14	43,88,94,473	8,77,78,896	53,26,83,151	1,70,86,649	16,71,085	1,87,57,734

16. Obligation under Self-assessment and Reasons for raising duty demand by invoking extended period:

16.1 The exporter had subscribed to a declaration as to the truthfulness of the contents of the Shipping Bill in terms of Section 50(2) of the Customs Act, 1962, in all their export declarations. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, '**Self-Assessment**' had been introduced in Customs. Section 17 of the Customs Act, 1962, effective from 08.04.2011, provides for self-assessment of duty on export goods by the exporter himself by filing a Shipping Bill, in electronic form. Section 50 of the Customs Act, 1962 makes it mandatory for the exporter to make an entry for the export goods by presenting a Shipping Bill electronically to the proper officer. As per Regulation 4 of the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulation, 2019 (issued under Section 157 read with Section 50 of the Customs Act, 1962), the Shipping Bill shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which was defined as particulars relating to the export goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Shipping

Bill number was generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it was the exporter who must doubly ensure that he declared the correct classification / CTH of the export goods, the applicable rate of duty, value, the benefit of exemption notification claimed, if any, in respect of the export goods while presenting the Shipping Bill. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 08.04.2011, it was the added and enhanced responsibility of the exporter to declare the correct description, value, Notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the export goods.

16.2 In view of the discussion supra, it is evident that the **partners/ authorized signatory** of the export firm **M/s Shri Rathi Agro Industries**, were well aware about the actual transaction value of the export goods. They have knowingly got indulged in preparation and planning of forged / manipulated export documents, which they used to forward to the Customs broker in relation to Customs clearance of the said export goods at the time of exportation by way of wilful mis-declaration and intentional suppression of these facts in the Shipping Bills filed by them and thus they appear to have evaded the applicable Customs duty on export of rice.

16.3 In the event of short levy of Customs duty by reason of collusion, any wilful mis-statement or suppression of facts by the exporter or the agent or employees of the exporter, such duty can be recovered by invoking extended period of five years as provided in **Section 28(4) of the Customs Act, 1962**. In this case, it appears that the exporter has knowingly and deliberately mis-declared the transaction value (i.e. FOB Value) of the export goods. Hence, the extended period of five years is rightly invokable in this case to recover the differential duty as detailed in **Annexure -I and Annexure -II** of this Show Cause Notice. Further, **M/s Shri Rathi Agro Industries** is also liable to pay interest on their said differential duty liability as per the provisions of Section 28 AA of the Customs Act, 1962, at applicable rate.

17. From the scrutiny of the documents gathered/submitted during investigation by the exporter M/s Shri Rathi Agro Industries, scrutiny of the export data and statements of Sh. Sandip Rathi, Authorized signatory of M/s Shri Rathi Agro Industries of the said export firm who was involved in export of rice from various ports of India, it appears that—

- i. Shri Hemraj Rathi, Partner and Sh. Sandip Rathi, Authorized signatory of M/s Shri Rathi Agro Industries were the key persons who on behalf of M/s Shri Rathi Agro Industries negotiated and finalized the sale price of rice, exported by M/s Shri Rathi Agro Industries to various overseas buyers, vide **14 Shipping Bill** as detailed in **Tables A & B in para 8** above.
- ii. The declared FOB value in respect of shipping bills listed in **Tables A & B** did not reflect the correct transaction value of the export goods;
- iii. As discussed in above paras, the actual transaction value (i.e. FOB Value) was not declared by them in their export documents. They have undervalued and mis-declared their transaction value with intent to evade applicable duty of customs which is leviable @ 20% *ad valorem* on the actual transaction value of the export goods in following manners:

- In respect of Shipping bills listed in **Table A** above, the FOB Value was undervalued by them by an amount equal to the amount of export duty paid on export of rice and the said amount was wrongly claimed as deduction in the shipping bills and the said amount was recovered from the overseas buyer on the basis of separate reimbursement invoices raised to the buyer.
- In respect of the shipping bills listed in **Table B**, the declared FOB Value was further undervalued by an amount equal to the excess freight amounts declared by the exporter in the shipping bills which were over and above the actual freight amounts paid by them. The ocean freight amounts actually paid by the exporter are eligible deductions from the CIF Value. By declaring the excess freight amounts, exporter had wrongly claimed excess deductions of freight amounts which are not eligible. Thus, exporter had out rightly mis-declared the actual transaction value at the time of export.

Thus, the declared FOB value in respect of all these shipments did not reflect the correct transaction value of the goods for delivery of the export goods at the time and place of exportation (i.e. on board the foreign going vessel after clearance from the customs authorities at the port of export).

- iv. The FOB value of export goods in all these cases was mis-declared by **M/s Shri Rathi Agro Industries** to the Customs authorities in the shipping bills filed by them which was supported by their export invoices for lower value, resulting in suppression and mis-declaration of actual transaction value at the time of assessment of the export goods. As such, the value of export goods in respect of all these Shipping Bills was mis-represented to be lower than the actual transaction value, thereby causing evasion of export duty leviable on rice shipments exported by them;
- v. The value of export goods pertaining to each of these Shipping Bills are liable to be rejected and reassessed as per their actual transaction value as ascertained during investigation, by taking into account the amount which was excluded from the declared value at the time of assessment, as brought out in above paras;
- vi. The balance amount not included in the declared FOB Value and wilfully suppressed by not declaring to Customs with an intention to misrepresent the transaction value of the export goods, is liable to be assessed to duty at the applicable rate as detailed in '**Annexure -I and Annexure -II**' of this Show Cause Notice and the same is recoverable along with interest at applicable rate;
- vii. The act of undervaluation and mis-declaration of actual transaction value in respect of Shipping Bills listed in **Tables A & B** above by **M/s Shri Rathi Agro Industries** has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962 and consequently, **M/s Shri Rathi Agro Industries** has rendered themselves liable to a Penalty under the provisions of Section 114A and Section 114AA of the Customs Act, 1962;

viii. Shri Hemraj Rathi, Partner of M/s Shri Rathi Agro Industries and Sh. Sandip Rathi, Authorized signatory of M/s Shri Rathi Agro Industries, appear to be the persons who knowingly or intentionally either made, signed and used or caused to be made, signed and used, the custom purpose export invoices, exporter and banking purpose export invoices and Shipping Bills for export of rice by M/s Shri Rathi Agro Industries, which were incorrect as regards to the value of export goods for payment of export duty. The goods covered under Shipping Bills listed in **Tables A & B** above, contained the declarations made by M/s Shri Rathi Agro Industries which were false and incorrect in material particulars relating to the value of the impugned goods. The contracts with the buyer for sale and export of rice as well as the export documents submitted to Customs were finalized/signed in the overall supervision of its Partner, **Shri Hemraj Rathi**, who was handling the entire business of the export firm. This fact has been admitted by **Sh. Sandip Rathi** in his statement recorded u/s 108 of the Customs Act, 1962. These facts have also been admitted by Sh. Hemraj Rathi and Sh. Vinesh Rathi in their submissions vide letters dated 11.03.2025. In view of this, it appears that **Shri Hemraj Rathi and Sh. Sandip Rathi** are the key persons who has orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty on export of rice through his firm M/s. Shri Rathi Agro Industries. **Shri Hemraj Rathi and Sh. Sandip Rathi** are, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by M/s Shri Rathi Agro Industries. The act of **Shri Hemraj Rathi and Sh. Sandip Rathi** regarding under valuation and mis-declaration of actual transaction value in respect of Shipping Bills filed by **M/s Shri Rathi Agro Industries** has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, **Shri Hemraj Rathi and Sh. Sandip Rathi** have rendered themselves liable to penal action under the provisions of Section 114 (ii) and 114AA of the Customs Act, 1962 for intentionally and knowingly done acts of commission and omission by him.

18. CBIC vide Notification No. 28/2022-Customs (N.T.) dated 31.03.2022 had stipulated that in cases of multiple jurisdictions as referred in Section 110AA of the Customs Act, the report in writing, after causing the inquiry, investigation or audit as the case may be, shall be transferred to officers described in column (3) of the said Notification along with the relevant documents. For cases involving short levy, non-levy, short payment or non-payment of duty, as provided in Section 110AA (a) (ii), the functions of the proper officer for exercise of powers under Section 28 of the Customs Act, 1962 have been assigned to the jurisdictional Pr. Commissioner/ Commissioner of Customs in whose jurisdiction highest amount of duty is involved. Since, in the present case, exports have been made from **two (02) different ports**, as mentioned in **Table E in para 15.3 above**, however the highest amount of differential export duty is in respect of **Mundra Port, Gujarat**. Hence, **Mundra Port, Gujarat**, being the port involving highest revenue, this Show Cause Notice is being made answerable to **Principal Commissioner/ Commissioner of Customs, Mundra Port, Gujarat**, for the purpose of issuance as well as adjudication of Show Cause Notice under Section 110AA read with Notification No. 28/2022-Customs (N.T) dated 31.03.2022.

19.1 Now therefore, **M/s Shri Rathi Agro Industries** having its registered office at 5, Shreenathji Society, Opp. Thkkar Vadi, Nr. Somnath Society, Ahmedabad Road, Sanand, Ahmedabad, Gujarat – 382110 (bearing Importer Exporter Code No. **0810007797**), **through its Partners**, are hereby called upon to show cause within 30(thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., **the Principal Commissioner/ Commissioner of Customs, Mundra, 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat - 370421 (INMUN1)** as to why—

- i. The declared assessable value of **Rs. 43,88,94,473 /-** in respect of 14 shipments of rice exported vide Shipping Bills detailed in Table-E above and '**Annexure-I & II**', should not be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3(1) ibid and Section 14(1) of the Customs Act, 1962;
- ii. The actual assessable value in respect of Shipping Bills detailed in '**Annexure-I & II**', should not be re-determined at **Rs. 53,26,83,151/-** under the provisions of Section 14 (1) of the Customs Act, 1962 read with Rule 3 (1) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 by taking into account – **(a)** the amounts claimed as deduction in the shipping bills, which were equivalent to amount of export duty claimed by them; **(b)** excess ocean freight amounts claimed/ recovered from the overseas buyers as discussed in **Para 8 & 15** of this Show Cause Notice;
- iii. The differential (export) duty amounting to **Rs. 1,87,57,734/-** payable, as calculated and shown in '**Annexure-I and II**' to this Show Cause Notice, in respect of Shipping Bill filed by them at two different ports, should not be demanded and recovered from them, by invoking the extended period of limitation available under the provisions of Section 28(4) of the Customs Act, 1962;
- iv. The applicable interest on the afore-said total differential duty amount of **Rs.1,87,57,734/-** should not be demanded and recovered from them under the provisions of Section 28AA of the Customs Act, 1962;
- v. The voluntary deposit of **Rs. 1,61,84,364/-** made during investigation should not be appropriated against their aforesaid differential duty liability;
- vi. The shipments of rice exported vide Shipping Bills detailed in '**Annexure-I & II**' to this Notice having re-determined assessable value of **Rs.53,26,83,151/-**, should not be held liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962;
- vii. Penalty under the provisions of section 114 A and Section 114 AA should not be imposed upon them for the acts of commission and omission as brought out in the Show Cause Notice.

19.2 Now therefore, **Shri Hemraj Rathi, Partner of M/s Shri Rathi Agro Industries and Sh. Sandip Rathi, Authorized signatory of M/s Shri Rathi Agro Industries** (having Importer Exporter Code No. **0810007797**), Residents of No. 5, Shreenathji Society, Opp. Thakkar Vadi, Nr. Somnath Society, Ahmedabad Road, Sanand, Ahmedabad, Gujarat – 382110, are hereby called upon to show cause within 30 (thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., i.e., the Principal Commissioner/ Commissioner of Customs, Mundra, 5B, Port User Building, Mundra Port, Mundra, Kutch,

Gujarat -370421 (INMUN1) as to why penalty under the provisions of Section 114(ii) and Section 114AA of the Customs Act, 1962 should not be imposed upon them for their acts and omissions in evasion of Customs Duty amounting to **Rs.1,87,57,734/-** on export of rice through their export firm.

20. The noticees are further called upon to intimate in writing as to whether they wish to be heard in person by the adjudicating authority before the case is adjudicated within 30 days from the date of receipt of this Show Cause Notice. If no reply of this notice is received and / or they fail to appear before the adjudicating authority, when the case is posted for hearing, the case will be decided ex-parte on the basis of the evidences available on record without any further notice to them.

21. The original copies of the relied upon documents, if required, can be inspected by the noticee / noticees in the office of the Principal Director General, Directorate of Revenue Intelligence, 7th Floor, 'D' Block, I. P. Bhavan, I.P. Estate, New Delhi during office hours on any working day with prior appointment.

22. This Show Cause Notice is issued without prejudice to any other action that may be taken against the noticee / notices mentioned hereinabove or any other persons / firms connected with the case under the Customs Act, 1962 or any other law for the time being in force.

23. Documents relied upon are detailed in **Annexure -'R'** attached to this Show Cause Notice. Scanned copy of the Relied Upon documents is also attached with this Show Cause Notice.

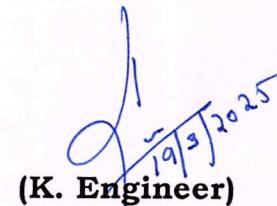
24. The Non-RUDs may also be collected, if required, by the notice/ noticees from the office of the Principal Director General, Directorate of Revenue Intelligence, 7th Floor, 'D' Block, Indraprastha Bhavan, I.P. Estate, New Delhi during office hours on any working day with prior appointment within 30 days of receipt of this notice.

25. A copy of the Show Cause Notice is also transmitted to M/s Shri Rathi Agro Industries, its **Partner, Shri Hemraj Rathi, Partner and and Sh. Sandip Rathi, Authorized signatory of M/s Shri Rathi Agro Industries** at their email ids rathiagro2010@gmail.com and rathi_sandip10@yahoo.in in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962 so that such service through email shall be deemed to have been received by the noticees in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962.

26. The noticee have the option to avail the facility under the provisions of Section 28(5) of the Customs Act, 1962, which reads "where any 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 willful 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 fifteen percent 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" and get the proceedings initiated by this Notice concluded under the provisions of Section 28(6) of the Customs Act, 1962.

27. The Noticee(s) also have an option to make an application under Section 127B of the Customs Act, 1962 prior to adjudication of the case to the Hon'ble Settlement Commission to have the case settled in such form and in such manner specified in the rules.

28. The department also reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.



(K. Engineer)

Pr. Commissioner of Customs
Custom House, Mundra

By Post/E-mail/Notice Board.

To Noticees,

- 1) M/s Shri Rathi Agro Industries, 5 Shreenathji Society, Opp. Thkkar Vadi, Nr. Somnath Society, Ahmedabad Road, Sanand – 382110, Gujarat .
- 2) Shri Hemraj Rathi, 5 Shreenathji Society, Opp. Thkkar Vadi, Nr. Somnath Society, Ahmedabad Road, Sanand – 382110, Gujarat.
- 3) Sh. Sandip Rathi, S/o Shri Hemraj Rathi, Authorized signatory of M/s. Shri Rathi Agro Industries, R/o: 5 Shreenathji Society, Opp. Thkkavadi, Nr. Somnath Society, Ahmedabad Road, Sanand – 382110. Also at: P-202, Indraprastha 6, Opposite Auda Garden, Satellite, Ahmedabad, Gujarat.

Copy for necessary action to: -

- 1) The Principal Commissioner/ Commissioner of Customs, Kandla, Kandla Custom House, Near Balaji Temple, Kandla-370210 (INIXY1), **Email: commr-cuskkandla@nic.in**
- 2) The Director General, Central Economic Intelligence Bureau, 6th Floor, B-Wing, Janpath Bhawan, Janpath, New Delhi-110001.
- 3) Deputy Director, CI Section, Directorate of Revenue Intelligence (Headquarters) 7th Floor, Drum Shaped Building, D- Block, IP Bhawan, IP Estate, New Delhi -110002
- 4) The Dy. Commissioner (EDI), Custom House, Mundra.
- 5) Notice Board.
- 6) Guard file.