



DIN: 20250371MO0000000EBD

Date:- 12.03.2025

### Show Cause Notice

#### 1. Intelligence:

A specific intelligence was received in the office of the Directorate of Revenue Intelligence (Hqrs.), 7<sup>th</sup> 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 Maheshwari Agro**, New Survey No. 1746 (Old S. No. 949/1/1), Beside Ashirwad Agro, Near Bavla Railway Crossing, Sanand Bavla Road, Bavla, Ahmedabad, Gujarat - 382220, having IEC No. **AARFM0255E** (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 Maheshwari Agro**, New Survey No. 1746 (Old S. No. 949/1/1), Beside Ashirwad Agro, Near Bavla Railway Crossing, Sanand Bavla Road, Bavla, Ahmedabad, Gujarat - 382220, having IEC No. **AARFM0255E**, by issuance of summons under the provisions of section 108 of the Customs Act, 1962. It was a partnership firm having **Sh. Dilip Rathi** and **Sh. Ghanshyam Maheshwari** as its partners.

**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 Maheshwari Agro** under the provisions of Section 108 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 Maheshwari Agro**, vide letter dated 30.11.2023 (**RUD-1**), **Sh. Dilip Rathi**, Partner of M/s Maheshwari Agro submitted copies of the export documents in respect of the export to rice for the period from July, 2022 to Sept., 2023 including copies of the export invoice cum packing list, Shipping Bill, Bill of Lading, Bank Realization Certificate, contract with the overseas buyer/proforma invoice and expense ledger, bank account statements totally consisting of 1780 pages (**RUD-1**).

**3.4** Vide email dated 12.07.2024 (**RUD-2**), **M/s Maheshwari Agro**, 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. Further, vide emails dated 27.01.2025 (**RUD-3**), M/s Maheshwari Agro 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, statement of Sh. Dilip Rathi, Partner of M/s Maheshwari Agro was recorded on 30.11.2023 u/s 108 of the Customs Act, 1962(**RUD-4**).

**5.1** In his statement recorded on 30.11.2023, Sh. Dilip Rathi, Partner of M/s Maheshwari Agro *inter alia* stated that M/s Maheshwari Agro was incorporated in the year 2009 and there are two partners in the said company i.e. he himself and Shri Ghanshyam Maheshwari (his brother-in-law); that both the partners have 50% share in the firm and get proportional remuneration from the profit of the firm.

**5.2** He further stated that, he was the authorized signatory/mandate holder in the bank account of the said firm in the Account of the firm (A/c No. 557905010000121) maintained in the Drive-in Road, Ahmedabad Branch of the Union Bank; **that he looked after the sales including the export sales and marketing work of the said firm**; that his brother-in-law looked after the purchase and procurement related work of the said firm.

**5.3** He further stated that M/s Maheshwari Agro was engaged in the business of milling and trading of Wheat and Rice; that for the last 3-4 years, they had started export of rice to overseas customers; that their first export of rice was made in the month of August 2019; that they mainly, export 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.

**5.4** He further stated that their export cargo is delivered in the African countries; that they procured the rice/paddy mainly from traders based in Uttar Pradesh, Bihar, Chattisgarh Gujarat, Karnataka, Telangana, Madhya Pradesh and Maharashtra; that they also procured the rice directly from the farmers in Gujarat; that after procurement, they process the rice/paddy which involves the work of cleaning, whitening or polishing, making it silky, grading and sorting work of rice; that processing is done depending upon the variety/type of rice

procured; that after processing, the rice is exported from Kandla and Mundra Ports in Gujarat.

**5.5** Further he was asked to see and explain the **documents pertaining to the purchase contract No. 7520002348 dated 03.03.2023, at page no. 428 to 445 of the file number File No. 3 submitted by him vide his letter dated 30.11.2023.** On being shown the above documents he stated that the purchase contract No. 7520002348 dated 03.03.2023 was for the export sale of rice, executed between **Maheshwari Agro** (seller and exporter) and **Wilmar Rice Trading Pte. Ltd.** (overseas buyer) and it had the following details:

- i. Seller Name: Maheshwari Agro
- ii. Buyer Name: M/s Wilmar Rice Trading Pte. Ltd.
- iii. Product: Indian White Rice 25% Broken AICHA Brand
- iv. Quantity: 500 MTs +- 2%
- v. Price: **USD 440 per MT CFR**
- vi. Basis: CFR
- vii. Destination: Lome, Togo

**5.6** On being asked to see and explain the **documents pertaining to the Shipping Bill no 9489510-dated 24.04.2023 along with the supporting export documents and on being asked to explain the same in context to his above answer; he stated that** the said Shipping bill shown to him was for the export shipment of 500 MTs of Indian White Rice to M/s Wilmar Rice Trading Pte. Ltd., Singapore (overseas buyer) which was consigned to M/s Groupe Abayoco SA Zone, Portuaire, Katanga, BP 31080 Lome, Togo with destination Lome, Togo by M/s Maheshwari Agro, at a price of **USD 440 per MT CFR** (Invoice Value USD 189000 and Total value USD 220000); that the corresponding commercial invoice no for the **Shipping Bill no. 9489510 dated 24.04.2023** was **No. 02 dated 24.04.2023 (Part A)**, for supply of 500 MTs of Indian White rice at a price of **USD 310 per MT (FOB)**, **Freight + other Charges** of 68 USD per MT i.e. Total Amount of USD 189000); that they had generated another invoice i.e. **Reimbursement Invoice No. 02 (Part B) dated 24.04.2023** wherein quantity of rice exported was mentioned as 500 MTs and the rate had been mentioned as USD 62 per MT (Total Value = 31000 USD); that on the said **invoice no. 02 (Part B)**, it had also been noted that the said invoice was generated as per buyer requirement and payment was reimbursed separately; that the amount mentioned in **Reimbursement Invoice No. 02 (Part B) dated 24.04.2023** was over and above the amount mentioned in **Invoice No. 02 dated 24.04.2023 (Part A) which was submitted to the Customs Authorities at the time of export.**

**5.7** In this regard on being asked he stated that the Amount received by them from the overseas buyer in respect of the goods exported vide aforesaid Shipping Bill was **USD 188965**, as per the statement of Bank Realisation against shipping Bill no. 9489510 dated 24.04.2023; that, however, an amount of **USD 31000** was received by them from the buyer in the Account Number (08490200005659) which was reflected in their bank account and for which copy of foreign inward remittance advice has been submitted; that they had received the entire amount for which two invoices **invoice no. 02 (Part A) for CIF export price and invoice no. 02 (Part B) for reimbursement of export duty and other expenses**, were raised by them to the buyer.

**5.8** He further stated that, the price according to the sales contract was **USD 440 per MT on CFR** basis; that on Invoice (No. 02 dated 24.04.2023 Part A) the price is mentioned as USD 310 per MT FOB and Freight + other charges USD 68 per MT i.e. Total amount of **USD 189000**; that the said amount of **USD 189000** has been received by them from the foreign supplier and for which BRC dated 19.05.2023 has been generated; that for payment of the duty, they have declared **USD 310 as FOB price (Total 155000)**; that the said FOB value has been arrived by **deducting freight amount USD 68 per MT (Total USD 34000)** and an amount equivalent to the **export clearance charge i.e USD 62 per MT (Total USD 31000)** from the Total Value (i.e. USD 440 per MT) as (440-68-62=310); that **the export clearance charge of USD 62 per MT i.e. USD 31000 has been separately received by them from the foreign buyer against the Reimbursement Invoice No. 02 dated 24.04.2023 (part B) and the same has not been included in the calculation of the FOB value for payment of export duty.**

**5.9** He further stated that the actual total invoice value (CFR) was **USD 220000** (Unit Price 440 USD per MT), however they had bifurcated the invoice value in two parts **one for Cost and Freight** and another **for Export clearance charges (i.e. export duty)** and had claimed a deduction equal to export duty i.e. **USD 62 per MT** at the time of declaring the value of the export goods for the purpose of payment of Customs Duty.

**5.10** He stated that they had deducted the said amount as mentioned in reimbursement invoice from the total FOB 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 440 / MT CFR and thereafter they had deducted freight amounting to **USD 68 per MT to arrive at USD 372 per MT**; that the value calculated after deduction of the freight amount from the CFR value should be the actual FOB value of the export goods i.e. **USD 372 per MT**; that in order to save themselves from payment of some duty they had deducted a part of the transaction value (i.e. equal to **USD 62/MT**) from the total actual FOB 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 calculated by considering the actual FOB Value as cum duty FOB value **[USD 440 (CFR) – USD 68 (Freight) = USD 372 (Actual FOB Value) and then USD 372- USD 62 ( export duty)= USD 310(declared FOB Value)]** instead of the actual FOB Value of USD 372/MT.

**5.11** On being shown the printout of section 14 of the Customs Act, 1962 along with copy of CBIC Circular No. 18/2008-cus dated 10.11.2008 as well as print out of Incoterms from Wikipedia, he put his dated signatures on the said three documents in token of having seen the same and stated that as per section 14 of the Customs Act, 1962, 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 where price is the sole consideration for sale; that further, 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; that further incoterms also indicate that in FOB terms of invoicing, all costs and expenses till loading of the export goods in to the vessel for export should be borne by the buyer. FOB means Free on Board i.e. all charges upto loading of the export goods in the vessel should be included for calculation of the FOB Value.

**5.12** 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 was includible in the transaction value for calculation of the export duty, he accepted and stated that since these clearance charges are also part of their cost and expenses occurred by then for effecting the export of goods on FOB basis and the same had 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 actual FOB price; that however, in March 2023, as per the practice followed by some other exporters of rice, **they started to bifurcate the actual FOB Value in two parts and started claiming reimbursement of the export duty separately from the overseas buyer; that for facilitating the bank remittances, they had generated Reimbursement invoices to the buyer having unit price equivalent to the export clearance charges/export duty.**

**5.13** He further 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 goods has to be arrived at and the transaction value of the export goods is FOB value thereof i.e. 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 considering the actual 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 18 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 had amended the said practice and started paying export duty on the actual full FOB value of the export goods instead of their cum duty FOB value.

**6.** Vide his statement dated 30.11.2023, Shri Dilip Rathi, Partner of M/s Maheshwari Agro, admitted his mistake and undertook to calculate their total differential duty liability on account of such short payment of duty due to wrong claim of deductions amounts by them and undertook to deposit their entire duty liability at the earliest.

**7.** Vide letter dated 31.01.2024 (**RUD-5**), Partner of M/s Maheshwari Agro, 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 amount of **Rs. 1,61,58,959/-**, as below:

- i. Demand Draft No. 241916 dated 29.01.2024 for **Rs. 76,72,159/-** in favour of Commissioner of Customs, Kandla A/c Maheshwari Agro payable at Kandla for payment of duty by M/s Maheshwari Agro. The said demand draft was forwarded to Kandla Port for depositing in the Govt. Account vide DRI Letter dated 01.02.2024. (**RUD-6**)

ii. Demand Draft No. 241915 dated 29.01.2024 for **Rs. 84,86,800/-** in favour of Commissioner of Customs, Mundra A/c Maheshwari Agro payable at Mundra payable at Mundra for payment of duty by M/s Maheshwari Agro. Deposited at the Mundra Port vide Challan no. 2311 dated 16.02.2024. The said demand draft was forwarded to Kandla Port for depositing in the Govt. Account vide DRI Letter dated 01.02.2024. **(RUD-7)**

**8.1 The export documents and details submitted by the exporter during investigation were analysed and it was revealed that M/s Maheshwari Agro** 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 25<sup>th</sup> 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. 8,07,35,276/-** were wrongly claimed by the exporter from the actual FOB Value in respect of their 20 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. 7,61,23,592/-** in respect of the following 18 shipping bills filed by them. The export duty amounts paid by them in respect of these 18 shipping bills were also at **Rs. 7,61,23,593/-**. Therefore, the amounts claimed as 'deduction/deduct' were equal to the export duty amounts paid by them at the time of filing of these 18 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**

Table A1: (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	8382720	10-03-2023	1,26,71,250	25,34,250	1,88,02,500	1,62,68,250	25,34,250	25,34,250
2	8747427	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
3	8860194	28-03-2023	50,80,900	10,16,180	60,97,080	50,80,900	10,16,180	10,16,180
4	8860195	28-03-2023	50,80,900	10,16,180	60,97,080	50,80,900	10,16,180	10,16,180
5	8860200	28-03-2023	5,08,09,000	1,01,61,800	6,09,70,800	5,08,09,000	1,01,61,800	1,01,61,800
6	8873716	28-03-2023	25,40,450	5,08,090	30,48,540	25,40,450	5,08,090	5,08,090
7	8875517	28-03-2023	6,98,62,375	1,39,72,475	8,38,34,850	6,98,62,375	1,39,72,475	1,39,72,475
8	8875518	28-03-2023	38,10,675	7,62,135	45,72,810	38,10,675	7,62,135	7,62,135
9	8875519	28-03-2023	38,10,675	7,62,135	45,72,810	38,10,675	7,62,135	7,62,135

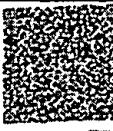
10	8918170	29-03-2023	1,68,30,481	33,66,096	2,01,96,578	1,68,30,481	33,66,096	33,66,096
11	8918208	29-03-2023	1,68,30,481	33,66,096	2,01,96,578	1,68,30,481	33,66,096	33,66,096
12	9192907	10-04-2023	1,33,24,730	26,64,946	1,59,89,676	1,33,24,730	26,64,946	26,64,946
13	9236778	12-04-2023	3,33,11,825	66,62,365	4,83,02,146	4,16,39,781	66,62,365	66,62,365
14	9261811	13-04-2023	3,33,11,825	66,62,365	4,83,02,146	4,16,39,781	66,62,365	66,62,365
15	9353879	17-04-2023	1,66,55,913	33,31,183	1,99,87,095	1,66,55,913	33,31,183	33,31,183
16	9435897	20-04-2023	1,66,55,913	33,31,183	1,99,87,095	1,66,55,913	33,31,183	33,31,183
17	9489510	24-04-2023	1,26,17,000	25,23,400	1,79,08,000	1,53,84,600	25,23,400	25,23,400
18	9900466	09-05-2023	1,66,04,569	33,20,914	1,99,25,483	1,66,04,569	33,20,914	33,20,914
	<b>Total</b>		<b>38,06,17,961</b>	<b>7,61,23,593</b>	<b>47,97,62,066</b>	<b>40,36,38,474</b>	<b>7,61,23,592</b>	<b>7,61,23,592</b>

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.46,11,684/-** in respect of the following 2 shipping bills filed by them. The export duty amounts paid by them in respect of these 2 shipping bills were at **Rs. 29,75,280/-**. Therefore, the amounts claimed as 'deduction/deduct' were higher than to the export duty amounts paid by them at the time of filing of these 2 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. Therefore, the entire deduction claim amount of **Rs.46,11,684/-** which were recovered by them from the overseas buyer are liable to be included in their actual transaction value in respect of these 2 shipping bills.

Table A2: (Deduction amount claimed is more than Export Duty amount paid by them)								
	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	9958698	11-05-2023	71,14,800	14,22,960	93,20,388	71,14,800	22,05,588	22,05,588
2	9959693	11-05-2023	77,61,600	15,52,320	1,01,67,696	77,61,600	24,06,096	24,06,096
	<b>Total</b>		<b>1,48,76,400</b>	<b>29,75,280</b>	<b>1,94,88,084</b>	<b>1,48,76,400</b>	<b>46,11,684</b>	<b>46,11,684</b>

**8.2.1** For ease of reference, photo of **Shipping Bill No. 9489510** dated **24.04.2023 (RUD-8)** is pasted below which clearly indicates that the deduction of **Rs. 25,23,400/- (equivalent to USD 31000)** has been claimed in the Shipping Bill which is equal to the cess amount (i.e. Export Duty) of **Rs. 25,23,400/-** 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. 25,23,400/-** 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. 25,23,400/- (equivalent to USD 31000)**, in their bank account, separate Reimbursement Invoice has been issued by the exporter to the buyer/bank authorities.

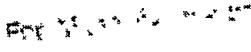
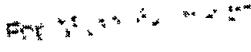
## Photo of shipping bill No. 9489510 dated 24.04.2023

 <b>INDIAN CUSTOMS EDI SYSTEM</b> 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	 SB22210420231913						
		INMUN1	9489510	24-APR-23							
		IEC/Br	AARFM0255E	0							
		GSTIN/TYPE	24AARFM0255E1ZG GSN								
		CB CODE	AAECA9098HCH002								
		TYPE	INV	ITEM	CONT						
		Nos	1	3	20						
		PKG	20000	G.WT MTS	501.6						
						•SB22210420231913					
<b>PART - I - SHIPPING BILL SUMMARY</b>											
<b>A. DECLARATION DETAILS</b>  <b>C. VALUE DETAILS</b>  <b>E. MANIFEST DETAILS</b>	1.MODE	2.ASSESS	3.EXMNR	4.ROBBING	5.MEIS	6.DBK	7.RODTP	8.DEECDRA	9.DFRC	10.RE-EXP	11.LUT
	SEA	Y	Y	N	N	Y	N	N	N	N	N
	12.PORT OF LOADING	INMUN1 (Mundra)					13.COUNTRY OF FINAL DESTINATION	TOGO			
	14.STATE OF ORIGIN	GUJARAT					15.PORT OF FINAL DESTINATION	TGFW (Lome)			
	16.PORT OF DISCHARGE	TGFW (Lome)					17.COUNTRY OF DISCHARGE	TOGO			
	18.EXPORTER'S NAME & ADDRESS	MAHESHWARI AGRO 949/1/1 Beside Ashirwad Agro Near Bavia Rly Crossing, Sanand Bav Ahmedabad					19.CONSIGNEE NAME & ADDRESS	TO ORDER WILMAR RICE TRADING PTE LTD ZONE PORTUAIRE KATANGA BP 31080 LOME ITG 3			
	20.IRCI WAIVER NO. & DT	0200849					21.GSTIN / TYPE	24AARFM0255E1ZG GSN			
	22.CB NAME	ACT INRAPORT LIMITED					23.FOREX BANK A/C NO.	31XXXXXXXXX070			
	24.AEO NO.	ACT					25.DBK BANK A/C NO.	31XXXXXXXXX070			
	26.1.FOB VALUE	12617000					27.1.DBK CLAIM	3750			
27.2.FREIGHT	276700					28.2.IGST AMT					
28.3.INSURANCE	0					29.3.CESS AMT					
29.4.DISCOUNT	0					30.4.IGST VALUE					
30.5.DEDUCTIONS	2523400					31.5.RODTP AMT					
31.6.CIN DT	125-APR-23					32.6.ROBCTL AMT					
32.7.CIN SITE ID	INMUN1					33.7.1.SNO					
33.8.CIN NO.	23PCEG042572352400					34.8.2.INV NO.					
34.9.CIN DT	125-APR-23					35.9.3.INV AMT					
35.10.CIN SITE ID						36.9.4.CURRENC					
36.11.HAWB NO.	2MAWB DT					37.9.1.SNO					
37.12.HAWB NO.	3.HAWB NO.4.HAWB DT-N.O.C					38.9.2.INV NO.					
38.13.CIN NO.	23PCEG042572352400					39.9.3.INV AMT					
39.14.CIN DT	125-APR-23					40.9.4.CAMOUNT					
41.15.CIN SITE ID						41.9.1.SNO					
42.16.CIN NO.						43.9.2.CHALLAN NO.					
43.17.CIN DT						44.9.3.PAYMT DT					
44.18.CIN SITE ID						45.9.4.AMOUNT					
45.19.CIN NO.						46.9.1.SNO					
47.20.CIN DT						48.9.2.INV NO.					
49.21.CIN SITE ID						49.9.3.INV AMT					
50.22.CIN NO.						51.9.4.CAMOUNT					
51.23.CIN DT						52.9.1.SNO					
53.24.CIN SITE ID						54.9.2.CHALLAN NO.					
55.25.CIN NO.						56.9.3.PAYMT DT					
57.26.CIN DT						58.9.4.AMOUNT					
59.27.CIN SITE ID						59.9.1.SNO					
60.28.CIN NO.						61.9.2.CHALLAN NO.					
62.29.CIN DT						63.9.3.PAYMT DT					
64.30.CIN SITE ID						65.9.4.AMOUNT					
66.31.CIN NO.						67.9.1.SNO					
68.32.CIN DT						69.9.2.CHALLAN NO.					
70.33.CIN SITE ID						71.9.3.PAYMT DT					
72.34.CIN NO.						73.9.4.AMOUNT					
74.35.CIN DT						75.9.1.SNO					
76.36.CIN SITE ID						77.9.2.CHALLAN NO.					
78.37.CIN NO.						79.9.3.PAYMT DT					
80.38.CIN DT						81.9.4.AMOUNT					
82.39.CIN SITE ID						83.9.1.SNO					
84.40.CIN NO.						85.9.2.CHALLAN NO.					
86.41.CIN DT						87.9.3.PAYMT DT					
88.42.CIN SITE ID						89.9.4.AMOUNT					
90.43.CIN NO.						91.9.1.SNO					
92.44.CIN DT						93.9.2.CHALLAN NO.					
94.45.CIN SITE ID						95.9.3.PAYMT DT					
96.46.CIN NO.						97.9.4.AMOUNT					
98.47.CIN DT						99.9.1.SNO					
100.48.CIN SITE ID						101.9.2.CHALLAN NO.					
102.49.CIN NO.						103.9.3.PAYMT DT					
104.50.CIN DT						105.9.4.AMOUNT					
106.51.CIN SITE ID						107.9.1.SNO					
108.52.CIN NO.						109.9.2.CHALLAN NO.					
110.53.CIN DT						111.9.3.PAYMT DT					
112.54.CIN SITE ID						113.9.4.AMOUNT					
114.55.CIN NO.						115.9.1.SNO					
116.56.CIN DT						117.9.2.CHALLAN NO.					
118.57.CIN SITE ID						119.9.3.PAYMT DT					
120.58.CIN NO.						121.9.4.AMOUNT					
122.59.CIN DT						123.9.1.SNO					
124.60.CIN SITE ID						125.9.2.CHALLAN NO.					
126.61.CIN NO.						127.9.3.PAYMT DT					
128.62.CIN DT						129.9.4.AMOUNT					
130.63.CIN SITE ID						131.9.1.SNO					
132.64.CIN NO.						133.9.2.CHALLAN NO.					
134.65.CIN DT						135.9.3.PAYMT DT					
136.66.CIN SITE ID						137.9.4.AMOUNT					
138.67.CIN NO.						139.9.1.SNO					
140.68.CIN DT						141.9.2.CHALLAN NO.					
142.69.CIN SITE ID						143.9.3.PAYMT DT					
144.70.CIN NO.						145.9.4.AMOUNT					
146.71.CIN DT						147.9.1.SNO					
148.72.CIN SITE ID						149.9.2.CHALLAN NO.					
150.73.CIN NO.						151.9.3.PAYMT DT					
152.74.CIN DT						153.9.4.AMOUNT					
154.75.CIN SITE ID						155.9.1.SNO					
156.76.CIN NO.						157.9.2.CHALLAN NO.					
158.77.CIN DT						159.9.3.PAYMT DT					
160.78.CIN SITE ID						161.9.4.AMOUNT					
162.79.CIN NO.						163.9.1.SNO					
164.80.CIN DT						165.9.2.CHALLAN NO.					
166.81.CIN SITE ID						167.9.3.PAYMT DT					
168.82.CIN NO.						169.9.4.AMOUNT					
170.83.CIN DT						171.9.1.SNO					
172.84.CIN SITE ID						173.9.2.CHALLAN NO.					
174.85.CIN NO.						175.9.3.PAYMT DT					
176.86.CIN DT						177.9.4.AMOUNT					
178.87.CIN SITE ID						179.9.1.SNO					
180.88.CIN NO.						181.9.2.CHALLAN NO.					
182.89.CIN DT						183.9.3.PAYMT DT					
184.90.CIN SITE ID						185.9.4.AMOUNT					
186.91.CIN NO.						187.9.1.SNO					
188.92.CIN DT						189.9.2.CHALLAN NO.					
190.93.CIN SITE ID						191.9.3.PAYMT DT					
192.94.CIN NO.						193.9.4.AMOUNT					
194.95.CIN DT						195.9.1.SNO					
196.96.CIN SITE ID						197.9.2.CHALLAN NO.					
198.97.CIN NO.						199.9.3.PAYMT DT					
200.98.CIN DT						201.9.4.AMOUNT					
202.99.CIN SITE ID						203.9.1.SNO					
204.100.CIN NO.						205.9.2.CHALLAN NO.					
206.101.CIN DT						207.9.3.PAYMT DT					
208.102.CIN SITE ID						209.9.4.AMOUNT					
210.103.CIN NO.						211.9.1.SNO					
212.104.CIN DT						213.9.2.CHALLAN NO.					
214.105.CIN SITE ID						215.9.3.PAYMT DT					
216.106.CIN NO.						217.9.4.AMOUNT					
218.107.CIN DT						219.9.1.SNO					
220.108.CIN SITE ID						221.9.2.CHALLAN NO.					
222.109.CIN NO.						223.9.3.PAYMT DT					
224.110.CIN DT						225.9.4.AMOUNT					
226.111.CIN SITE ID						227.9.1.SNO					
228.112.CIN NO.						229.9.2.CHALLAN NO.					
230.113.CIN DT						231.9.3.PAYMT DT					
232.114.CIN SITE ID						233.9.4.AMOUNT					
234.115.CIN NO.						235.9.1.SNO					
236.116.CIN DT						237.9.2.CHALLAN NO.					
238.117.CIN SITE ID						239.9.3.PAYMT DT					
240.118.CIN NO.						241.9.4.AMOUNT					
242.119.CIN DT						243.9.1.SNO					
244.120.CIN SITE ID						245.9.2.CHALLAN NO.					
246.121.CIN NO.						247.9.3.PAYMT DT					
248.122.CIN DT						249.9.4.AMOUNT					
250.123.CIN SITE ID						251.9.1.SNO					
252.124.CIN NO.</td											

## Photo of Commercial Invoice No. 02 dated 24.04.2023 Part-A submitted to the overseas buyer

 <p>MAHESHWARI AGRO</p>		# Street Gamdevi Karmavriksh Dilipbhai : Mo. 9428476423 Ghanshyambhai : Mo. 9426040057	
<h3>MAHESHWARI AGRO</h3> <p>GSTIN : 24AARFM0255E1ZG E-mail : maheshwariagro2919@gmail.com</p> <p>At : New S. No. 1746, B/S Ashirwad Agro, Nr. Railway Crossing, Sanand Bavla Road, Bavla - 382220.</p>			
<b>COMMERCIAL INVOICE (PART-A)</b>			
<b>SELLER</b> MAHESHWARI AGRO 949/1/1 BESIDE ASHIRWAD AGRO, SANAND BAVLA ROAD, BAVLA, AMRODABAD, GUJARAT, INDIA PIN-382220		Service No. & Date 02 Dated: 24.04.23	Exporters Ref. TEC : AARFM0255E
<b>Customer - TO ORDER</b> DILIP (GROUPE ABATOCO S.A ZONE PORTUAIRE XATANGA BP 31080 LOOME TOGO		CONTRACT NO. 7210002348 (Other Reference(s))	
<b>BUYER</b> WILMAR RICE TRADING PTE. LTD. 28 BIOPOLIS ROAD SINGAPORE 138568 TEL: (65) 6316 0244			
		DELIVERY : LOOME, TOGO PAYMENT : DP AT SIGHT	
Vehicle	Port of Loading		
	INDIARA, INDIA		
Port of Discharge	Final Destination		
LOOME, TOGO	LOOME, TOGO		
<b>HS CODE - 10063090</b> 20 X 20FT PCL INDIAN WHITE RICE 25% BROKEN MARKING: AIC/A BRAND PACKING: IN 25KG X 50KG ROPP BAG TOTAL NO. OF BAGS : 20000 BAGS TOTAL NET WEIGHT : 500,000 METRIC TONS TOTAL GROSS WEIGHT : 501,600 METRIC TONS 176 EMPTY BAGS SHIPPED FREE OF CHARGE FREIGHT PREPAID		Quantity MT	Rate FOB USD
		500,000	310.600
			1,55,000.00
		FREIGHT + OTHER	
		500,000	68.000
			34,000.00
REMARKS: UNDER LUT SONG AEN ROAD 340425001736 DATE: 01.04.2022 BAG SUPPLY BY UNDER LUT: RATIO PACKAGING, INVOICE NO. 00000000000000000000, GSTIN: 24AAGCR97481Z DUTY AMOUNT WILL BE REIMBURSE FROM BUYER TO SHIPPER THROUGH BANK AS PER AGREEMENT CASH S/FR NO. 100604 B, NOTIFICATION NO. 07/2020-CUS(NT)		TOTAL Amt 3,89,000.00	
Amount Chargeable (In words) US DOLLAR ONE LAKH EIGHTY NINE THOUSAND ONLY			
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			
			
<i>Dr. R. Patel 20/4/23</i>			

## Reimbursement Invoice No. 02 dated 24.04.2023 Part-B submitted to the overseas buyer

		Mr. Bhavesh Chavhanvi, Mumbai, 40001	Dilipbhai, Mo. 9428476423 Ghanshyambhai, Mo. 9426040057	
 <b>MAHESHWARI AGRO</b> GSTIN : 24AARFM0255E1ZG Email: maheshwariagro291kg@gmail.com At: New S. No. 1746, B/S Ashirwad Agro, Nr. Railway Crossing, Sanand Bavla, Road, Bavla - 382220.				
<b>REIMBURSEMENT INVOICE (PART-B)</b>				
<b>SELLER</b> MAHESHWARI AGRO 949/1/1 BEHIND ASHIRWAD AGRO, SANAND BAVLA ROAD, BAVLA AHMEDABAD, GUJARAT, INDIA PIN-382220		<b>Invoice No. &amp; Date</b> 02, Dated: 24.04.23  <b>Contract No.</b> 7320002348 <b>Other Reference(s)</b>	<b>Exporters Ref.</b> TEC: AARFM0255E	
<b>Consignee : TO ORDER</b>  <b>NOTIFY :</b> GROUPE ABAYOCO S.A. ZONE PORTUAIRE, XATANGA BP 31080 LOME TOGO		<b>BUYER:</b> WILMAR RICE TRADING PTE. LTD. 28 KIOPOLIS ROAD SINGAPORE 128168 TEL (65) 6216 0244		
<b>Year:</b>  <b>Port of Discharge</b> LOME, TOGO	<b>Port of Loading</b>  <b>Final Destination</b> LOME, TOGO			
<b>HS CODE - 10063090</b>  <b>REIMBURSEMENT AMOUNT AS PER REQUIRED FROM BUYER</b> <b>MARKING: AICHA BRAND</b> <b>PACKING: IN 25KG 1 SIDE BOPP BAG</b> <b>TOTAL NO. OF BAGS : 20000 BAGS</b> <b>TOTAL NET WEIGHT : 500,000 METRIC TONS</b> <b>TOTAL GROSS WEIGHT : 501,600 METRIC TONS</b> <b>NOTE: THIS INVOICE GENERATED AS PER BUYER REQUIREMENT AND PAYMENT WILL BE REIMBURSED SEPARATELY</b>		<b>Quantity</b> MT 500,000	<b>Rate</b> USD 63.000	<b>Amount</b> USD 31,000.00
<b>Amount Chargeable</b> <b>(In words)</b> US DOLLAR ONE LAKH EIGHTY NINE THOUSAND ONLY <b>TOTAL \$ ONE TWO LAKH TWENTY THOUSAND ONLY</b>		<b>TOTAL VALUE (PART A+B) :-</b> 2,20,000		<b>TOTAL</b> 31,000.00
<b>WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN</b>				
<b>Declaration</b> We declare that this invoice shows the actual price of the goods described and that the particulars are true and correct		<b>FOR MAHESHWARI AGRO</b> 		
		<b>Authorised Signatory</b> 		

**BRCA details submitted by the exporter indicating receipt of USD 188965 in the BRC**

DIRECTORATE GENERAL OF FOREIGN TRADE		
STATEMENT OF BANK REALISATION		
1	Firm's Name	MAHESHWARI AGRO
2	Address	949/1/1 Beside Ashirwad AgroNear Bavla Ry Crossing, Sanand Bavla Road , BavlaAhmedabad AHMADABAD GUJARAT
3	IEC	AARFM0255E
4	Shipping Bill No	9489510
5	Shipping Bill Date	2023-04-24
6	Shipping Bill Port	INMUN1
7	Bank's Name	BANK OF BARODA
8	Bank's File no and Uploaded Date	BARB0CORAHM230520230012023-05-23 17:50:39 "
9	Bill ID no	0849FBS008193223
10	Bank Realisation Certificate No	BARB0ASHRAM230383820 Dated 2023-05-23
11	Date of realisation of money by bank	2023-05-19
12	Realised value in Foreign Currency	188965.000
13	Currency of realisation	USD
14	Date & time of printing	2023-08-03 05:25:52 AM

**Inward remittance details submitted by the exporter indicating receipt of amount of USD 31000 (equal to the export duty amount paid by them) over and above the BRC amount of USD 188965**

ADVICE OF FOREIGN INWARD REMITTANCE		
TO: MAHESHWARI AGRO		DATE: 22/05/2023 Intr-2
WE HAVE RECEIVED FOLLOWING FOREIGN INWARD REMITTANCE IN YOUR FAVOUR AS MENTIONED BELOW:		
BILL ID NO:	0849IRTX14395523 - CRE001	
REMITTING BANK REF NO:	F9S2305190556700	
REMITTER BANK	Bank Of Baroda New York	
VALUE DATE	19/05/2023	
AMOUNT RECEIVED	31,000.00 USD	
REMITTER NAME	WILMAR RICE TRADING PTE. LTD.	
PURPOSE OF REMITTANCE	Receipts on account of other transportation services (stevedoring, demurrage, port handling charges etc). (Shipping Companies)	
TRANSACTION DETAILS ARE AS BELOW:		
CHARGE DETAILS	CURRENCY	CHARGE AMOUNT
REPAYMENT DETAILS:	ACCOUNT NUMBER	REPAID AMOUNT
DEBIT AND CREDIT ACCOUNT DETAILS	ACCOUNT NUMBER	AMOUNT IN WORDS
08490200005659	Cr	USD 31,000.00
Bank GSTN: 24AAACB1534FZB Customer GSTN:		
***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***		

**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. 1,03,84,094/-**. 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 in the shipping bills in comparison to actual freight amounts paid by them.

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	2075668	28-06-2023	86,87,773	17,37,555	44,27,962	17,37,555	26,90,407
2	2206627	04-07-2023	66,82,903	13,36,581	29,10,296	13,36,581	15,73,715
3	2217432	04-07-2023	66,82,903	13,36,581	29,10,296	13,36,581	15,73,715
4	2217434	04-07-2023	66,82,903	13,36,581	29,10,296	13,36,581	15,73,715
5	8382720	10-03-2023	1,26,71,250	25,34,250	35,97,000	25,34,250	10,62,750
6	9236778	12-04-2023	3,33,11,825	66,62,365	83,27,956	66,62,365	16,65,591
7	9489510	24-04-2023	1,26,17,000	25,23,400	27,67,600	25,23,400	2,44,200
	<b>Total</b>		<b>8,73,36,556</b>	<b>1,74,67,313</b>	<b>2,78,51,407</b>	<b>1,74,67,313</b>	<b>1,03,84,094</b>

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 and freight invoices 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 2075668 dated 28-06-2023 (RUD-9)** is pasted below. As per the shipping bill, the ocean freight amount declared in respect of the said shipment is **Rs.44,27,962/-** 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.17,37,555/-**. Thus, excess freight amount declared in respect of the aforesaid shipment works out to be at **Rs.26,90,407/-**. 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. 2075668 dated 28-06-2023 indicating excess freight amounts declared**

 <b>INDIAN CUSTOMS EDI SYSTEM</b> CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE MINISTRY OF FINANCE GOVERNMENT OF INDIA										Port Code : SB No : SB Date : INMUN1 2076668 28-JUN-23 IEC/BR : AARFM0255E 0 GSTIN/TYPE : 24AARFM0255E1ZG GSN CB CODE : AIPB4243LCH006 TYPE : INV ITEM CONT NOS : 1 2 13 PKG : 13780 G.WT MTS 345.6		 *SB22060620231241	
MUNDRA SEZ/PORT, MUNDRA, GUJARAT													
<b>PART - I - SHIPPING BILL SUMMARY</b>													
<b>A DECLARATION DETAILS</b>	<b>1.MODE</b>	<b>2.ASSESS</b>	<b>3.EXM</b>	<b>4.JOBMING</b>	<b>5.MEIS</b>	<b>6.DBK</b>	<b>7.RODTP</b>	<b>8.DEEC/DFIA</b>	<b>9.DFRC</b>	<b>10.RE-EXP</b>	<b>11.LUT</b>		
	SEA	Y	Y	N	Y	Y	A	N	N	N	Y		
<b>12.PORT OF LOADING</b>		INMUN1 (Mundra)											
<b>14.STATE OF ORIGIN</b>		Gujarat											
<b>16.PORT OF DISCHARGITZDAR</b>		Dar Es Salaam											
<b>1.EXPORTER'S NAME &amp; ADDRESS</b>		MAHESHWARI AGRO 949/1/1 Beside Ashi Wala Rd Near Baya River Crossing, Sanand, Bav Ahmedabad											
<b>2.Type</b>		Private											
<b>3. AD CODE:</b>		9880849											
<b>4.RBI WAIVER NO. &amp; DT</b>													
<b>5.CB NAME</b>		WORLDWIND SHIPPING SERVICES											
<b>6.AEO</b>													
<b>B VALU SUMMA C</b>	<b>1.FOB VALUE</b>	<b>2.FREIGHT</b>	<b>3.INSURANCE</b>	<b>4.DISCOUN</b>	<b>5.COM</b>	<b>6.DEDUCTIONS</b>	<b>7.P/C</b>	<b>8.DUTY</b>	<b>9.CESS</b>	<b>10.RODTP AMT</b>	<b>11.ROSCTL AMT</b>		
	6687773.25	4427962	0	40	0	0	1737555		2584	1737555			
<b>E MANIFEST DETAILS</b>	<b>1.MAWB NO</b>	<b>2.MAWB DT</b>	<b>3.HAWB NO</b>	<b>4.HAWB DT</b>	<b>5.N.O.C</b>	<b>6.CIN NO</b>	<b>7.CIN DT</b>	<b>8.CIN SITE ID</b>	<b>9.CIN NO</b>	<b>10.RODTP AMT</b>	<b>11.ROSCTL AMT</b>		
	23PCEG062988165800	29-JUN-23	INMUN1							0	0		
<b>1.CONTAINER</b> : <b>2.SEAL</b> : <b>3.DATE</b> : <b>4.S No</b> TEMU5612581 277591 28-JUN-23 1													
<b>1.SR.NO</b> : <b>2.CHALLAN NO</b> : <b>3.PAYMT.DT</b> : <b>4.AMOUNT</b> 1 126997 28-JUN-23 1737555													
<b>F INVOICE SUMMARY</b>													
1.SNO : 2.INV NO. : 3.INV AMT. : 4.CURREN 1 27 161226 USD													

**Commercial Invoice No. 27 dated 28.06.2023**

		II Shree Ganeshay Namah II		Dilipbhai : Mo. 9428476423 Ghanshyambhai : Mo. 9426040057	
<b>MAHESHWARI AGRO</b>					
GSTIN : 24AARFM0255E1ZG E-mail : maheshwariagro2919@gmail.com					
Al : New S. No. 1746, B/S Ashirvad Agro, Nr. Railway Crossing, Sanand Bavla Road, Bavla - 382220.					
<b>COMMERCIAL INVOICE</b>					
<b>SELLER</b> MAHESHWARI AGRO 949/1/1 BEHDE ASHIRWAD AGRO, SANAND BAVLA ROAD, BAVLA AHMEDABAD, GUJARAT, INDIA PIN-382220		Invoice No. & Date 27 Dated: 28-06-2023		Exporters Ref. TEC : AARFM0255E	
<b>Consignee : TO ORDER</b>  <b>NOTIFY PARTY:</b> SOKOWATCH LIMITED DS, MASORO, PRIME ECONOMIC ZONE P. BOX: 5208 RWANDA Contact Person: Kennedy Rachleg / Country Finance Manager Tel : +250783077910 Email: Kennedy.Rachleg@sokoko.com		<b>BUYER:</b> WILMAR RICE TRADING PTE. LTD. 2B RIOPOLIS ROAD SINGAPORE 138568 TEL (65) 6216 0244			
<b>Pre-Carriage by</b>  <b>Vehicle</b>		<b>Place of Receipt by Pre-carrier</b>  <b>Port of Loading</b>	<b>DELIVERY : CFR DAR ES SALAAM, TANZANIA</b> <b>PAYMENT : DP AT SIGHT</b>		
<b>Port of Discharge</b>  DAR ES SALAAM, TANZANIA		<b>Final Destination</b>  KIGALI, RWANDA			
No. & Kind Of Pkgs.	Description of Goods	Quantity MT	Rate FOB USD	Amount USD	
13 X20 FT	INDIAN LONG GRAIN WHITE RICE 5% BROKEN MARKING: VIKING BRAND PACKING: IN 25KG PP BAG	FOB PRICE USD	344.500	310.000	106755.00
	TOTAL NO. OF BAGS : 13780 BAGS	FREIGHT USD + OTHER	344.500	158.000	54431.00
	TOTAL NET WEIGHT : 344.500 METRIC TONS TOTAL GROSS WEIGHT : 345.600 METRIC TONS 2% EMPTY BAGS HAVE BEEN SHIPPED ALONG WITH GOODS FREIGHT PREPAID				
	<small>"LESS IN EXCISE NO. KIGALI, RWANDA on conditions own cost, risk and responsibility",          REMARKS UNDER L/C NO. APAD 3404230617231, DATED 01.06.2023          BAG SUPPLY BY UNDER L/C NO. 34/312, GSTIN 240KPS724312C          DATE EX. NO. 10/06/2023, MO. 07/2023 (GSTN NO. 07/2023-GST-NIT)</small>				
Amount Chargeable (In words)	TOTAL				161226.00
WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN					
For MAHESHWARI AGRO					
For Maheshwari Agro <i>Ghanshyambhai</i> Partner					

Freight Invoice no. TSS/FCN/2324/0102 dated 28.06.2023 indicating Actual Freight Amounts of Rs. 17,357.555/-.



9. The aforesaid **deduction amounts** claimed by the exporter, as detailed in **Table A1 & A2** 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 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, 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 Maheshwari Agro** vide above mentioned Shipping Bills as discussed in **Tables A1, A2 & 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 A1 and A2** above, the exporter had wrongly claimed the deduction in the shipping bills for export duty amounts and in two shipments even more than duty amount and the exporter had claimed duty/deduction 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 be 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](http://freightos.com/investors).*

*The website of freightos <https://www.freightos.com/freight-resources/fo-b-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-10).** 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".<sup>120</sup> 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 includible 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 **A1, A2 & B** above, it appears that **M/s Maheshwari Agro** 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 and other charges. Hence, it appears that the value declared by **M/s Maheshwari Agro** 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 **A1, A2 & B** above, is liable to be rejected under Rule 8 of the CVR(E), 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(E), 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 Maheshwari Agro** 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 **A1, A2 & B** above appear 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 Maheshwari Agro** 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 **A1, A2 & 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 A1 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. In some of their export shipments mentioned at **Table A2 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 plus some other expenses incurred by the exporter. In such shipping bills, actual transaction value of the export goods has to be re-determined by adding the entire amount of deduction claimed 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.1,61,47,055/-** is liable to be recovered from the exporter in respect of these deduction amounts claimed/recovered in respect of the 20 shipments mentioned in **Table A1 and A2 in para 8 above**. The differential duty amount payable in respect of these 20 shipments is 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	12	20,36,90,386	4,07,38,078	4,23,74,481	4,23,74,481	24,60,64,868	4,92,12,974	84,74,896
INIXY1	8	19,18,03,975	3,83,60,795	3,83,60,795	3,83,60,795	23,01,64,770	4,60,32,954	76,72,159
<b>Total</b>	<b>20</b>	<b>39,54,94,361</b>	<b>7,90,98,873</b>	<b>8,07,35,276</b>	<b>8,07,35,276</b>	<b>47,62,29,638</b>	<b>9,52,45,928</b>	<b>1,61,47,055</b>

**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.20,76,817/-** 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	8,73,36,556	1,74,67,313	2,78,51,407	1,74,67,313	1,03,84,094	9,77,20,650	20,76,817
<b>Total</b>	<b>7</b>	<b>8,73,36,556</b>	<b>1,74,67,313</b>	<b>2,78,51,407</b>	<b>1,74,67,313</b>	<b>1,03,84,094</b>	<b>9,77,20,650</b>	<b>20,76,817</b>

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 24 export shipments have been calculated as shown in below table. Accordingly, the differential duty payable by the exporter M/s Maheshwari Agro works out to be at **Rs. 1,82,23,871/-** as shown in below Table. The detailed calculation of the differential duty amounts has been shown in **Annexure I & II** of this Show Cause Notice.

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

Table-E

Port Code	No. of SBs	Declared FOB Value in Rs.	Cess Amount (INR)	Re-determined FOB (INR)	Total differential duty payable (INR)
INMUN1	16	23,24,26,867	4,64,85,376	28,51,85,442	1,05,51,712
INIXY1	8	19,18,03,975	3,83,60,795	23,01,64,770	76,72,159
<b>Total</b>	<b>24</b>	<b>42,42,30,842</b>	<b>8,48,46,171</b>	<b>51,53,50,212</b>	<b>1,82,23,871</b>

#### 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 of the exporter firm M/s Maheshwari Agro, 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 Maheshwari Agro** 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 Maheshwari Agro, scrutiny of the export data and statements of **Sh. Dilip Rathi, Partner of M/s Maheshwari Agro** of the said export firm who was involved in export of rice from various ports of India, it appears that—

- i. **Sh. Dilip Rathi, Partner of M/s Maheshwari Agro** was the key person who on behalf of M/s Maheshwari Agro negotiated and finalized the sale price of rice, exported by M/s Maheshwari Agro to various overseas buyers, vide **24 Shipping Bill** as detailed in Tables **A1, A2 & B** in para 8 above.
- ii. The declared FOB value in respect of shipping bills listed in Tables **A1, A2 & 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 **A1** 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 Shipping bills listed in Table **A2** above, the FOB Value was undervalued by them by an amount higher than the amount of export duty paid on export of rice. Thus apart from the expenses of duty several other expenses were also recovered by them from the overseas buyer and all such expenses were wrongly claimed as deduction in the shipping bills. The entire deduction 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 Maheshwari Agro** 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 **A1, A2 & B** by **M/s Maheshwari Agro** has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962 and consequently, **M/s Maheshwari Agro** has rendered themselves liable to a Penalty under the provisions of Section 114A and Section 114AA of the Customs Act, 1962;
- viii. **Sh. Dilip Rathi, Partner of M/s Maheshwari Agro**, appears to be the person 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, reimbursement invoices and Shipping Bills for export of rice by M/s Maheshwari Agro, 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 **A1, A2 & B** above, contained the declarations made by M/s Maheshwari Agro 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 **Sh. Dilip Rathi** who was handling the entire export business of the said export firm. This fact has been admitted by **Sh. Dilip Rathi** in his statement recorded u/s 108 of the Customs Act, 1962. In view of this, it appears that **Sh. Dilip Rathi** is the key person who has orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty. **Sh. Dilip Rathi** is, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by **M/s Maheshwari Agro**. The act of **Sh. Dilip Rathi** regarding under valuation and mis-declaration of actual transaction value in respect of Shipping Bills filed by **M/s Maheshwari Agro** has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, **Sh. Dilip Rathi** has rendered himself 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 Maheshwari Agro** having its registered office at New Survey No. 1746 (Old S. No. 949/1/1), Beside Ashirwad Agro, Near Bavla Railway Crossing, Sanand Bavla Road, Bavla, Ahmedabad, Gujarat - 382220, (bearing Importer Exporter Code No. AARFM0255E), **through its partners Sh. Dilip Rathi and Sh. Ghanshyam Maheshwari**, 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 of Customs, Mundra, 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat -370421 (INMUN1) as to why—

- i. The declared assessable value of **Rs. 42,42,30,842/-** in respect of 24 shipments of rice exported vide Shipping Bills detailed in '**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. 51,53,50,212/-** 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 and other expenses claimed/recovered 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. 1,82,23,871/-** 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 interest on the afore-said total differential duty amount of **Rs. 1,82,23,871/-** 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. 1,61,58,959/-** 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. 51,53,50,212/-**, 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, **Sh. Dilip Rathi**, Partner of M/s Maheshwari Agro (having Importer Exporter Code No. AARFM0255E), Resident of – A-1/703, Green Acre Flat, Prahaladnagar, Ahmedabad-380015, Gujarat, Also at – Sivajee Park, Dhanera, Banaskatha, Gujarat- 385310, is 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 him for his acts and omissions in evasion of Customs Duty amounting to **Rs. 1,82,23,871/-** on export of rice through his 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, 7<sup>th</sup> 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 / noticees 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 Maheshwari Agro** and **Sh. Dilip Rathi**, Partner of M/s Maheshwari Agro at their email ids diliprathi2006@gmail.com and maheshwariagro2919@gmail.com 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(s) 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.

**27.** 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

**F. No. GEN/ADJ/COMM/137/2025-Adjn-O/o Pr Commr-Cus-Mundra**

**To the Noticee by Hand/Email/Post,**

- 1) M/s. Maheshwari Agro, M/s Maheshwari Agro, New Survey No. 1746 (Old S. No. 949/1/1), Beside Ashirwad Agro, Near Bavla Railway Crossing, Sanand Bavla Road, Bavla, Ahmedabad, Gujarat – 382220.
- 2) Sh. Dilip Rathi S/o Late Shri Jasroopdas Rathi, R/o: A-1/703, Green Acre Flat, Prahaladnagar, Ahmedabad – 380015  
Also at Sivajee Park, Dhanera, Banaskatha, Gujarat – 385310

**• Copy for necessary action to: -**

- 1) SIO, B-Cell, CI Section, Directorate of Revenue Intelligence (Headquarters)  
7th Floor, Drum Shaped Building, D- Block, IP Bhawan, IP Estate, New  
Delhi -110002**
- 2) The Commissioner of Customs, Kandla, Kandla Custom House, Near  
Balaji Temple, Kandla-370210 (INIXY1), Email: [commr-cuskandla@nic.in](mailto:commr-cuskandla@nic.in)**
- 3) The Director General, Central Economic Intelligence Bureau, 6th Floor, B-  
Wing, Janpath Bhawan, Janpath, New Delhi-110001**