

	<p style="text-align: center;"> कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE : 02838-271426/271163 FAX :02838-271425 E-mail id- adj-mundra@gov.in </p>	
---	---	---

A	फा./सं FILE NO.	F. No. GEN/ADJ/ADC/526/2024-Adjn
B	मूल आदेश संख्या/ ORDER-IN-ORIGINAL NO.	MCH/ADC/AKM/337/2024-25
C	द्वारा पारित किया गया/ PASSED BY	अमित कुमार मिश्रा अपर आयुक्त सीमा शुल्क सीमा शुल्क भवन, मुन्द्रा
D	आदेश की तिथि DATE OF ORDER	17.03.2025
E	जारी करने की तिथि DATE OF ISSUE	17.03.2025
F	कारण बताओ नोटिस संख्या & तिथि SCN NUMBER & DATE	GEN/ADJ/ADC/526/2024-Adjn -O/o Pr Commr-Cus-Mundra dt. 14.03.2024
G	आयातक / नोटिस प्राप्तकर्ता IMPORTER / NOTICEE	1. M/s Valiveti Minerals and Commodities Private Limited (IEC No. AAICV2510M) 2. Shri Hareez Abdul Jebbarg. 3. Any person claiming to be the owner of the said seized goods.
H	डिन संख्या /DIN NUMBER	20250371MO000011501B

1. यहआदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमाशुल्कआयुक्त) अपील(,
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA

HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,

NAVRANGPURA, AHMEDABAD-380 009.”

3. उक्तअपील यहआदेश भेजने की दिनांक से 60दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

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

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

5. अपील ज्ञापन के साथ ऊँटि /व्याज /दण्ड /जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

अपील .6 प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5 % भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

Intelligence received by the Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit suggested that a consignment with suspected concealment of high dutiable items has been imported under Bill of Lading No. MAX/SUB/0135/2324 dated 31.07.2023 (Container No. MXCU0033228) in the name of M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 520002 (IEC: AAICV2510M) (hereinafter referred to as “M/s Valiveti/the Importer”) under IGM No. 2352110 dated 16.08.2023 at Mundra Custom House. The intelligence further indicated that no bill of entry has been filed for subject consignment.

2. Acting upon intelligence, the import consignment covered under Bill of Lading No. MAX/SUB/0135/2324 dated 31.07.2023 (Container No. MXCU0033228) was put on hold by the DRI and examination of the goods was carried out under Panchnama dated 22.09.2023 at M/s. Saurashtra Freight Pvt. Ltd., Bharat CFS Zone-1, MPSEZ, Mundra, Kutch (Saurashtra CFS). The details of the import consignment are as follows:-

TABLE-I

Bill of Lading No.	Bill of Lading No. MAX/SUB/0135/2324 dated. 31.07.2023
Shipper	CV. SINAR AGRI JAYA, JALAN SHALEH (PERUM GRAHA PERMATA NO 29) DESA/KELURAHAN BANGETAYU KULON, KEC.GENUK, KOTA SEMARANG, PROVINSI JAWA TENGAH, INDONESIA
Consignee	M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 520002 (IEC: AAICV2510M)
Description of the goods declared	300 Bags of Dried Raw Cashew Nuts in Shells HS Code: 0801 31 00
Net Weight as per Bill of Lading	18000 KGS
Container No. & Seal No.	Container No. MXCU0033228 & Seal No. BCR014025

3. During examination of the imported consignment, it was noticed that the jute bags in the first row were having a green colored strip painted on them and goods were packed in a single jute bag, some of them having small holes through which goods which appear

to be DRIED CASHEW NUTS IN SHELL were visible. It was noticed that from the middle of second row, the bags were in very fresh condition, not having any kind of marking.

The bags were having packing with 2 jute bags. On opening the jute bags of the second row, it was found that the same were stuffed with goods which appear to be split Areca Nut, instead of Cashew with shells. All the bags were destuffed from the container and it was found that 34 bags were containing 'Dried Cashew Nuts in Shells' while other 266 were containing 'Split Areca Nuts'. The net weight of 'Dried Cashew Nuts in Shells' was ascertained as 2007.70 kg and net weight of 'Split Areca Nuts' was ascertained as 16234.10 kg which was found concealed behind 'Dried Cashew Nuts in Shells'.

As the 'Split Areca Nuts' were not declared in Bill of Lading No. MAX/SUB/0135/2324 dated 31.07.2023 and IGM No. 2352110 dated 16.08.2023 filed at Mundra Custom House, said concealed goods along with goods used for concealment were found liable for confiscation and accordingly, the said import consignment was placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 22.09.2023 and handed over the goods to the representative of M/s. Saurashtra Freight Pvt. Ltd., Bharat CFS Zone-1, MPSEZ, Mundra, Kutch (Saurashtra CFS) under Supratnama dated 22.09.2023

4. Investigation:

4.1 Officers of DRI Vijayawada Regional Unit visited the premises of M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 520002. A person who identified herself as Smt. V. Anitha was available in the shop. She informed that Shri Valiveti Teja Sai Santosh is the owner and was not available in the town on that day. She further informed that the firm is dealing in trading of Cast iron safety railings/grills alone, as per the requirement of the customers. When searched the premise, no documents pertaining to M/s Valiveti Minerals and Commodities Private Limited were found. When contacted Shri Valiveti Teja Sai Santosh over phone, he informed that Cast iron safety railing/grills alone is traded in the account of Proprietary firm M/s Valiveti Minerals and Commodities in which he is the Proprietor. He added that one more firm, namely M/s Valiveti Minerals and Commodities Private Limited was established in the year 2021 in which he and his elder sister are Directors, but there was no business activity in this firm till date. He further added that both the firms were issued Importer Exporter Code but no import/export was undertaken so far from the accounts of both the firms. He further added that IEC was taken for the purpose of exporting food stuff like sugar, rice, wheat and oils to Dubai. No document/invoice was found in the name of M/s Valiveti Minerals and Commodities Private Limited. Visit Note dated 22.09.2023 was received from DRI Vijayawada Regional Unit.

4.2 Statement of Shri Valiveti Teja Sai Santosh, Director of M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 520002 was recorded under Section 108 of the Customs Act, 1962 on 04.10.2023 wherein he inter alia stated that:

(i) On being asked about firms in which he was acting as proprietor, partnership and director, he stated that there are two such firms i.e M/s Valiveti Minerals and Commodities and M/s Valiveti Minerals and Commodities Private Limited. He stated that he is proprietor of M/s Valiveti Minerals and Commodities and one of the directors in M/s Valiveti Minerals and Commodities Private Limited. He stated that his elder sister Swetha Valiveti is the other director in M/s Valiveti Minerals and Commodities Private Limited.

(ii) He stated that M/s Valiveti Minerals and Commodities was established in the year 2020 and registered under GSTIN 37BNYPV4867N1ZF on 13.10.2020. M/s Valiveti Minerals and Commodities Private Limited was established in the year 21.08.2021 under certificate of Incorporation issued by the Ministry of Corporate Affairs.

(iii) On being asked about IECs issued to his firms, he provided details as below:-

TABLE-II

S L N o . .	IEC N o.	Name of th e Firm	Date of Issue	Address
1	BNYP V4867 N	Valiveti Mi nerals and Commoditi es	17.09.2 022	01ST Floor, 27-37-47, Opp. Government Ayu urvedic Hospital, Banda r Road, Vijayawada, K rishna, Andhra Prades h- 520 002
2	AAICV 2510 M	Valiveti Mi nerals and Commoditi es Private L imited	16.03.2 022	27-37-47/1, Opp. Gov ernment Ayurvedic Ho spital Bandar Road, Vi jayawada, Krishna, An dhra Pradesh - 520 00 2

(iv) He stated that M/s Valiveti Minerals and Commodities registered with GST deals in trading of Cast iron safety railings/grills while there are no business operations till date in the name of M/s. Valiveti Minerals and Commodities Pvt. Ltd. He also stated that M/s. Valiveti Minerals and Commodities Pvt. Ltd. is not registered with GST.

(v) On being asked about imports & exports by M/s. Valiveti Minerals and Commodities Pvt. Ltd., he stated that they have not undertaken any imports or exports and also they have not placed any import order till date. They are not concerned in any way with the shipment at Mundra Port/Bill of Lading No. MAX/SUB/0135/2324 or shipper of said shipment at Mundra Port.

(vi) On being asked as to why M/s. Valiveti Minerals and Commodities Pvt. Ltd was established, he stated that as the loans were offered to Private Limited Companies, he decided to establish Private Limited Company. However, loans to this company were not approved. As a result of which there was no business activity in the company till date. Later, they applied for IEC in proprietor concern which also did not materialize. On being asked about the purpose of taking IEC and the commodities he was planning to import/export, he stated that he has taken IEC for the purpose of undertaking exports. He had planned to export food stuff like sugar, rice, wheat, oils etc. He had planned to export food items to Dubai. However, due to problems in obtaining loans, their plans could not be executed. On being asked about having doubt on anybody regarding sharing of IEC, he stated that his IEC was not shared to anyone else.

4.3 Statement of Shri Tarunkumar Joshi, (AGM & Branch Head of M/s Maxicon Shipping Agencies, Gandhidham) was recorded under Section 108 of the Customs Act, 1962 on 27.09.2023 and further on 16.01.2024 wherein he inter alia stated that:

(i) On being asked, he stated that he joined M/s Maxicon Shipping Agencies, Gandhidham in September, 2009. He was looking after overall operations as Branch Head of M/s Maxicon Shipping Agencies, Gandhidham. On being asked about M/s Maxicon Shipping Agencies, he stated that it is a NVOCC container line and has its head office in Mumbai. M/s Maxicon Shipping Agencies is a division of M/s Seaways Liner Agencies Private Limited. M/s Maxicon Shipping Agencies is having its offices in overseas in Malaysia, Singapore, Dubai, Bahrain, Chittagong & Bangkok.

(ii) On being asked about consignment covered under BL No. MAX/SUB/0135/2324 dated 31.07.2023 (Container No. MXCU0033228) he stated that said container was loaded from Surabaya Port (Indonesia). The said container was loaded from Surabaya on vessel MV LEO PERDANA and has arrived at Mundra through transhipment. The said container was offloaded at Mundra Port from vessel MV XPRESS ANGLESEY-23005E on 17.08.2023. In the overseas, there was an agent named M/s Pt. Bahari Cahaya Raya who has got booking. Further, details were not known to him that whether the container was directly booked by shipper through his agent or through any forwarder. They had contacted their overseas agent 'M/s Pt. Bahari Cahaya Raya' through e-mail and informed them that consignee has not taken delivery yet for the

container. He stated that the container was lying at Mundra in M/s Saurashtra CFS after unloading from Mundra Port.

(iii) On being asked about persons contacting for delivery of said container, he stated that one call was received from Mb No. +919633088832 on their import desk mobile No. 9924128145 (mentioned on draft BL) on 18th August, 2023. The person over phone from other side asked for container arrival details on phone with BL no. provided by him. He did not tell his name during conversation. After being contacted by that unknown person, he was asked by his office to provide his e-mail id and he provided e-mail id Museerahmedindurafreight@gmail.com and hareezaj727@gmail.com on 18.08.2023 itself. Later on 23rd August, 2023, the said person provided another e-mail id idurafreight@gmail.com. He stated that said unknown person was contacted telephonically as well as through e-mail but he has not responded till date in the matter. Apart from this, no one else has contacted for delivery of the container. He submitted e-mail correspondence and screen shot of text messages chat with mobile no.+919633088832.

(iv) On being asked, he stated that he had asked the details of booking party from overseas and e-mail communication was done by his Head Office located at Mumbai. His head office has confirmed that the booking of container MXCU0033228 was done by 'M/S PT. BEDJO JOYO MAKMUR' having address at 'KENCANA SARI TIMUR, 11/23 RT. 004 RW.006 GUNUNG SARI, DUKUH PAKIS, PIC BU RATNA, INDONESIA, CONTACT +62 821 3103 2674' which is a forwarder party in overseas. Further, Shipper was M/s CV SINAR AGRI JAYA having address at 'Jl. SHALEH (PERUMGRAHA PERMATA NO. 29) DESA/KEL/BANGETAYU KULON KEC. GENUK KOTA SEMARANG, INDONESIA'. In the said matter, no details were received regarding any person related to India. No further details were available with him or his Head Office regarding booking or clearance.

4.4 Investigation was carried out in relation to person who contacted for arrival details of consignment covered under BL No. MAX/SUB/0135/2324 dated 31.07.2023 (Container No. MXCU0033228) and following actions were taken:

(i) As per details retrieved from various sources including GST registration details related to said phone number, it was found that the person with Mobile No. +919633088832 was pertaining to a person named Shri Hareez Abdul Jebbarg and was found to be working in past in various firms including M/s Sahad International Sourcing Private Limited. Following addresses were retrieved during investigation:

i) Shri Hareez Abdul Jebbarg,
4 North View-2, CHS Ltd, Nr Passport Office, Gujarat University

Campus, Navrangpura, Ahmedabad, Gujarat – 38 00 09

- ii) Shri Hareez Abdul Jebbarg,
720/V-I, Kuzhiparambil House, Sy No. 70/3, Rose Village Road,
Ponekkara, Ernakulam, Ernakulam, Kerala – 682 041
- iii) Shri Hareez Abdul Jebbarg,
No. 283, Room No. 01, Anna Sala, Teynampet, Chennai, Tamil Nadu
– 6000 18
- iv) Shri Hareez Abdul Jebbarg,
Adam Complex, 01st Floor, A.M Road, Perumbavoor, Ernakulam,
Ernakulam, Kerala – 683
- v) Shri Hareez Abdul Jebbarg,
7/14, Saddam Road, Kandathara, Perumbavoor, Ernakulam,
Kerala- 683 556
- vi) Shri Hareez Abdul Jebbarg,
No. 120, Arcot Road, Valasaravakkam, Chennai, Tamilnadu- 6000
87

(ii) A visit was carried out in r.o. address at Sr. No. 1 on 26.12.2023 and a visit note dated 26.12.2023 was received. No person named Shri Hareez Abdul Jebbarg or company named M/s Sahad International Sourcing Private Limited was found at said address. Summons vide DIN No. CBIC-DIN-202311DDZ1000021742D dated 02.11.2023, 202311DDZ1000000CD67 dated 22.11.2023 was issued to the Shri Hareez Abdul Jebbarg. Copy of said summons were sent to all address as mentioned above. The summons sent via Speed Post returned undelivered from all the addresses mentioned above. All the summons issued to Shri Hareez Abdul Jebbarg were sent on e-mail ids provided to container line representative. However, Shri Hareez Abdul Jebbarg did not turn up against any summons sent via e-mail.

5. Valuation of the seized goods:

(i) Valuation of ‘Split Areca Nuts’ : The above quantity of 16234.10 kg of ‘Split Areca Nuts’ (CTH 080280) was the item importable at fixed values called “Tariff Values”, under Notification issued under Section 14(2) of the Customs Act, 1962 by the Board. If the tariff values are fixed for any goods, ad valorem duties thereon are required to be calculated with reference to such tariff values only following Rule 2 of the Customs Valuation Rules 2007 and not at the “transaction values” as specified vide Rule 3(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

Vide Notification No. 67/2023-CUSTOMS (N.T.) dated 15.09.2023, tariff value of Areca Nuts was fixed for 7765 USD per MT at exchange price of 1 USD at Rs. 84.05 (Notification dated 21.09.2023). Hence, total value of 16234.10 kg of 'Split Areca Nuts' comes to Rs. 1,05,95,157/-.

(ii) Valuation of 'Dried Cashew Nuts in Shells' : As no invoice was found related to said imports also no bill of entry was filed till date for said consignment, value of imported goods have been taken as per contemporary imports. As per details retrieved, it was noticed that imports of 'Dried Cashew Nuts in Shells' have taken place from Indonesia during year 2023 at Tuticorin Port. Hence, import value of 'Dried Cashew Nuts in Shells' was taken as declared in the imports made in the month of September 2023 at Tuticorin Port which was found uniform at 1.3 USD per kg (BE No. 7730709 dated 08.09.2023, 7859194 dated 16.09.2023 filed at Tuticorin Port – INTUT1). Hence, the value of **2007.70 kg** of 'Dried Cashew Nuts in Shells' comes to **Rs. 2,19,371/-**

6. Liability of imported goods for confiscation:

It is apparent from the above that 16234.10 kg of 'Split Areca Nuts' were concealed behind declared 'Dried Cashew Nuts in Shells'. The same were also not declared in Bill of Lading No. MAX/SUB/0135/2324 dated 31.07.2023 and IGM No. 2352110 dated 16.08.2023 filed at Mundra Custom House. As per the import policy 'Split Areca Nuts' are prohibited if the CIF is less than Rs. 251/- per kg. As the same were not even declared in IGM, the same are liable for confiscation under Section 111(d) and 111(f) of the Customs Act, 1962. The goods 'Dried Cashew Nuts in Shells' were used for concealment of prohibited goods, the 2007.7 kg of 'Dried Cashew Nuts in Shells' are also liable for confiscation under Section 119 of the Customs Act, 1962.

7. Findings of the Investigation:

7.1 It appears that goods declared to be "300 Bags of Dried Raw Cashew Nuts in Shells HS Code: 0801 31 00" under Bill of Lading No. MAX/SUB/0135/2324 dated 31.07.2023 and Container No. MXCU0033228 was imported in the name of M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 520002 (IEC: AAICV2510M) under IGM No. 2352110 dated 16.08.2023 at Mundra Custom House.

7.2 During examination of the imported consignment, it was found

that 34 bags were containing 'Dried Cashew Nuts in Shells' while other 266 were containing 'Split Areca Nuts'. The net weight of 'Dried Cashew Nuts in Shells' was ascertained as 2007.70 kg and net weight of 'Split Areca Nuts' was ascertained as 16234.10 kg which was found concealed behind 'Dried Cashew Nuts in Shells'. As the 'Split Areca Nuts' were not declared in Bill of Lading No. MAX/SUB/0135/2324 dated 31.07.2023 and IGM No. 2352110 dated 16.08.2023 filed at Mundra Custom House, said concealed goods along with goods used for concealment were found liable for confiscation and accordingly, the said import consignment was placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 22.09.2023.

7.3 Since the 2007.70 kg of Split Areca Nuts was not even declared in IGM, and since import of 'Split Areca Nuts' is prohibited if the CIF is less than Rs. 251/- per kg, hence it appears that the same are liable for confiscation under Section 111(d) and 111(f) of the Customs Act, 1962. The goods 'Dried Cashew Nuts in Shells' which were used for concealment of prohibited goods, it appears that the 2007.7 kg of 'Dried Cashew Nuts in Shells' are also liable for confiscation under Section 119 of the Customs Act, 1962.

7.4 Shri Valiveti Teja Sai Santosh, Director of M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 520002 claimed that he was not aware about imported goods under Bill of Lading No. MAX/SUB/0135/2324 dated 31.07.2023 and IGM No. 2352110 dated 16.08.2023 filed at Mundra Custom House. However he could did not inform the DRI about any instance in which he had shared his IEC with other persons. Investigation revealed that name of his company viz. "M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 520002 and his IEC: AAICV2510M" was clearly mentioned in the Bill of Lading and in the IGM filed for the entry of subject goods in India. Even if Shri Valiveti Teja Sai Santosh had lended his IEC to some unknown persons who had imported these goods, M/s Valiveti Minerals and Commodities Private Limited can not be absolved of its legal responsibilities during import of these goods. Hence it appears that by such acts and omissions M/s Valiveti Minerals and Commodities Private Limited have rendered these goods liable to confiscation as detailed above.

Further it appears that they have caused or made to be caused false declarations on the Bill of Lading and IGM in respect of imported goods. Accordingly it appears that M/s Valiveti Minerals

and Commodities Private Limited have rendered themselves liable to penalty under Section 112(a) & 112(b) and Section 114AA of the Customs Act, 1962.

7.5 Shri Hareez Abdul Jebbarg had contacted M/s Maxicon Shipping Agencies, Gandhidham for clearance of subject goods. Despite issuance of multiple summons he did not join the investigation. It appears that he was fully aware of the concealment of "Split Areca Nuts" in the consignment. It appears that since the consignment was seized by DRI he did not proceed for the clearance of subject goods and purposefully did not join the investigation. It appears that by such acts and omissions Shri Hareez Abdul Jebbarg have rendered these goods liable to confiscation as detailed above. Since he was in contact with the Shipping Line, it appears that he has caused or made to be caused false declarations on the Bill of Lading and IGM in respect of imported goods by submitting false details to the Shipping Line. Accordingly it appears that Shri Hareez Abdul Jebbarg has rendered himself liable to penalty under Section 112(a) & 112(b) and Section 114AA of the Customs Act, 1962.

7.6 Since no bill of entry was filed by M/s Valiveti Minerals and Commodities Private Limited till date and since Shri Hareez Abdul Jebbarg did not join the investigation it appears that some unknown person(s) may also be the owner/claimant of the imported goods. By their acts and omissions, such unknown persons have rendered these goods liable to confiscation as detailed above. These unknown person(s) have also caused or made to be caused false declarations on the Bill of Lading and IGM in respect of imported goods by submitting false details to the Shipping Line. Accordingly it appears that such unknown persons(s) have rendered themselves liable to penalty under Section 112(a) & 112(b) and Section 114AA of the Customs Act, 1962.

8. Therefore, M/s Valiveti Minerals and Commodities Private Limited, Shri Hareez Abdul Jebbarg or any person claiming to be the owner(s) of the said seized goods, seized vide Seizure Memo dated 22.09.2023 were called upon to show cause in writing to the Additional Commissioner of Customs, Customs House, Mundra having office situated at office of the Customs House Mundra, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 as to why:-

a. The seized goods i.e. 'Split Areca Nuts' (**Qty . 16234.10 kg** valued at Rs. **1,05,95,157/-** seized vide Seizure Memo dated 22.09.2023 should not be confiscated under section 111(d) and 111(f) of the

Customs Act,1962.

b. The declared imported goods 'Dried Cashew Nuts in Shells'(Qty. 2007.70 kg) valued at Rs. 2,19,371/-, used for the purpose of concealment of smuggled 'Split Areca Nuts' and seized vide Seizure Memo dated 22.09.2023 should not be confiscated under the provisions of Section 119 of the Customs Act, 1962.

c. Penalty should not be imposed separately upon him or them under Section 112(a), 112(b) and 114AA of the Customs Act, 1962.

Personal Hearing and Written Submission:-

9. Sh. Hareez Abdul Jebbarg attended the Personal Hearing through virtual mode on 20.02.2025 and stated that he only provided transport services to a consignment of cashew. He know nothing else about the same.

Further, Sh. Naqeeb Ahmed, Advocate appeared on behalf of M/s Valiveti Minerals and Commodities Pvt Ltd attended the Personal Hearing through virtual mode on 20.02.2025. He stated that his client has not done any business on his IEC and he could not procure any loan from the bank. His client has no relation to the current consignment. He further stated that he will submit his additional submission within 02 weeks. Further, M/s Valiveti Minerals and Commodities Private Limited sent their written submission dated. 10.03.2025 through e-mail **dated. 11.03.2025** and stated the following in their written submission:-

- *In response to the personal hearing had on 20-02-2025, on request to submit written submissions in our defense, your good selves accommodated us two weeks and the same was extended till today i.e., 10-03-2025.*
- *At the outset as per the contention of the show cause notice dt. 14-03-2024, that a consignment with suspected concealment of high dutiable items has been imported under bill of Lading No.MAX/SUB/0135/2324 dt.31-07-2023 (Container No. MXCU0033228) in our company's name under IGM No.2352110 dt. 16-08-2023 at Mundra Custom House. As per the said show cause notice the shipper is "CV. Sinar Agri Jaya, Jalan Shaleh (Perum Graha Permata No.29) Desa/Kelurahan Bangetayu Kulon, Kec. Genuk, Kota Semarang Provinsi Jawa Tengah, Indonesia. This shows that the shipping was taken place at 'Indonesia'. In the show cause notice our company was shown as the consignee. It was also stated in the show cause notice that there is no Bill of entry No. and date.*

- *Further as per the show cause notice the bill of lading was issued by M/s. Maxicon Shipping Agencies of Gandhidham, Gujarat and the same is having its overseas branches in Malaysia, Singapore, Dubai, Bahrain, Cittagong and Bangkok BUT NOT IN INDONESIA. Therefore, the said shipping agency is not the actual agency for the shipment of dried cashew/split areca nuts. Further the consignment was arrived through transshipment and the same was done by the Agent M/s. Pt. Bahari Cahaya Raya who has got booking. No documentary proof was supplied to us that M/s. Pt. Bahari Cahaya Raya is the agent of the said Maxicon Shipping Agency. The whole show cause notice is silent on where and how the transshipment was taken place. It is unknown how the Maxicon shipping Agency raised bill of lading when it has got no branch in Indonesia. As per the statement of Tarun Kumar Joshi, initially the container was loaded on vessel 'MV Leo Perdana" and transshipment was taken place in another vessel MV Xpress Anglesey-23005E. But in the E-mail communications the B/L No. for Xpress Anglesey 23005W was mentioned as "SUB 25072023-3" This B/L number was not found in the show cause notice. It is also not found whether any enquiry was made with regard to the said B/L number. In the whole correspondence taken between Maxicon shipping agency or their alleged overseas agents, no role was played by us or our company. Ought our company is involved in the alleged import of goods, we have made enquiries from our end. But it was not done. We are not aware about the alleged shipment till the authorities from your end visited our premises and recorded the statements. Our bank statements which are enclosed herewith are proof positive to say that no financial transaction was taken place between the alleged consignor and our company. This was crystal clear from the show cause notice at para 4.3 (iv) where in it was stated that "In the said matter, no details were received regarding any person related to India. No further details were available with him or his head office regarding booking or clearance".*
- *As per the statement of Tarun Kumar a query has been made with regard to the delivery of container through phone No. +9196330888832 and there has been text message chats with the import desk mobile No.9924128145 and email correspondence. Except the said conversation no one has contacted about the delivery of container. This is another Instance to say that our company or its personnel has any involvement in the said transaction.*
- *The name of the consignee in alleged bill of lading was mentioned as Valiveti Minerals and Commodities Private Limited whereas GSTIN number FSSAI number mentioned therein pertains to proprietorship concern. Moreover, the FSSAI number was expired on 05-10-2022 itself. The FSSAI number for the proprietor concern was renewed again*

on 02-03-2023 and new number was allotted as 10123020000228. The said number was also number was also expired on 06-03-2024. Therefore, it is very much apparent that our IEC code was misused by some miscreants for their illegal gain and to cause wrongful loss to us.

- *In this regard I would like to say that ever since the inception of our company we did not do or transact any business in our company's name.*
- *After incorporating our company, we tried to obtain loan in order to do business. As we cannot avail loan for initiating business, we were constrained from doing any sort of business in our company's name till date. It can very well be verified from our IEC number. Even our company's bank account statement discloses that neither there was sufficient amount lying in the account to import the alleged 'dried cashew nuts in shells' and 'split areca nuts nor any amount has been transferred from the sald account to any of the company or person for the alleged import. This is proof positive from the bank account statements and income tax returns as well.*
- *Our company has no dealing whatsoever with any of the company or its agents mentioned in the show cause notice. As per the contents of the show cause notice, it is very much clear that there is no involvement of our company in the alleged importing goods i.e., 'dried cashew nuts in shells' and 'split areca nuts'.*
- *We reiterate that we never transacted or undertake or done any import or export business much less the transaction under the show cause notice in the name of our company. Our company is no way concern with product i.e., 'dried cashew nuts in shells' and 'split areca nuts'.*
- *In view of the reasons assigned above, we have no objection whatsoever to confiscate the goods 1.e., 'dried cashew nuts in shells' and 'split areca nuts' since our company is not involved in the said consignment and no way concern with the said products.*
- *Therefore, we request your good selves to drop the proceedings under the show cause notice against our company.*

Discussion and Findings

10. I have carefully gone through the facts of the case, material, documents, and submission available on records and Show Cause Notice dated. 14.03.2024 issued vide F.No. GEN/ADJ/ADC/526/2024-Adjn by the ADC/Adjudication Section,

Mundra Custom House.

11. I find that DRI, Gandhidham, put on hold a Container No. MXCU 0033228 covered under Bill of Lading No. MAX/SUB/01352324 dated. 31.07.2023 and the examination of the goods stuffed inside the said container was carried out under Panchnama dated. 22.09.2023 in M/s Saurashtra CFS falling under the jurisdiction of Mundra Commissionerate.

The Bill of Lading contains the details of Shipper as '**CV. SINAR AGRI JAYA, JALAN SHALEH (PERUM GRAHA PERMATA NO. 29) DESA/KELURAHAN BANGETAYU KULON, KEC. GENUK, KOTA SEMARANG, PROVINSI JAWA TENGAH, INDONESIA**' and Consignee as 'M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh - 520002 (IEC : AAICV2510M). Further, the Bill of Lading indicates 300 bags of Dried Raw Cashew Nuts in Shells HS Code ; 08013100.

12. I find that during examination total two items were found, 'Dried Cashew Nuts in Shells' (34 bags, weight 2007.70 Kgs) and 'Split Areca Nuts' (266 bags, weight 16234.10 Kgs). I further also find that 'Split Areca Nuts' was not mentioned in the Bill of Lading. However, the same was found concealed behind the bags of 'Dried Cashew Nuts in Shells'. Since, the 'Split Areca Nuts' were not declared in Bill of Lading No. MAX/SUB/0135/2324 dated. 31.07.2023 and IGM No. 2352110 dated. 16.08.2023 filed at Mundra Custom House, the same were seized vide Seizure Memo dated. 22.09.2023 and handed over to the representative of M/s Saurashtra CFS.

13. I find when the officers of DRI, Vijayawada Regional Unit visited the premises of M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh - 520002, a lady who identified herself as Smt. V. Anitha was available in the ship. She informed that Sh. Valiveti Teja Sai Santosh is the owner of the shop and was not available in the town on that day. She further informed that the firm is dealing in trading of Cast iron safety railings/grills alone. When the premise was searched, no documents pertaining to M/s Valiveti Minerals and Commodities Private Limited were found. Shri Valiveti Teja Sai Santosh over phone, he informed that Cast iron safety railing/grills alone is traded in the account of Proprietary firm M/s Valiveti Minirals and Commodityes in which he is the proprietor. He further added that one more firm, namely M/s Valiveti Minerals and Commodites Private Limited was established in the year 2021 in which he and his elder sister are Directors, but there was no business activity in this firm till date. He further added that both the firms were issued IEC Code but no import/export was undertaken so far from the accounts of both the firms. He further added that IEC was taken for the purpose of exporting food stuff like

sugar, rice, wheat and oils to Dubai. No document/invoice was found in the name of M/s Valiveti Minerals and Commodites Private Limited.

13.1 I further find that during statement, Sh. Valiveti Teja Sai Santosh stated that :-

- a) He was acting as proprietor, and director in two firms M/s Valiveti minerals and Commodites and M/s Valiveti Minerals and Commodites Private Limited.
- b) He stated that he is proprietor of M/s Valiveti Minerals and Commodites and one of the directors in M/s Valiveti Minerals and Commodites Private Limited. He further stated that his elder sister Swetha Valiveti is the other director in M/s Valiveti Minerals and Commodites Private Limited.
- c) He stated that M/s Valiveti Minerals and Commodities was established in the year 2020 and registered under GSTIN 37BNYPV4867N1ZF on 13.10.2020. M/s Valiveti Minerals and Commodities Private Limited was established in the year 21.08.2021 under certificate of Incorporation issued by the Ministry of Corporate Affairs. Further he provided the details/IEC of his firms as mentioned above in **Table-II**.
- d) He stated that M/s Valiveti Minerals and Commodities registered with GST deals in trading of Cast iron safety railings/grills while there were no business operations till the time of record of statement in the name of M/s. Valiveti Minerals and Commodities Pvt. Ltd. He also stated that M/s. Valiveti Minerals and Commodities Pvt. Ltd. is not registered with GST.
- (e) He stated that they had not undertaken any imports or exports and also they had not placed any import order till the time of record of statement. They are not concerned in any way with the shipment at Mundra Port/Bill of Lading No. MAX/SUB/0135/2324 or shipper of said shipment at Mundra Port.
- (f) He further stated that as the loans were offered to Private Limited Companies, he decided to establish Private Limited Company. However, loans to this company were not approved. As a result of which there was no business activity in the company till date. Later, they applied for IEC in proprietor concern which also did not materialize. He stated that he has taken IEC for the purpose of undertaking exports. He had planned to export food stuff like sugar, rice, wheat, oils etc. He had planned to export food items to Dubai. However, due to problems in obtaining loans, their plans could not be executed. Further, he stated that his IEC was not shared to anyone else.

13.2 I find that statement of Sh. TarunKumar Joshi, (AGM & Branch Head of M/s Maxicon Shipping Agencies, Gandhidham) was recorded and during statement, he inter-alia stated that :-

a. The said container was loaded from Surabaya on vessel MV LEO PERDANA and has arrived at Mundra through transhipment. The said container was offloaded at Mundra Port from vessel MV XPRESS ANGLESEY-23005E on 17.08.2023. In the overseas, there was an agent named M/s Pt. Bahari Cahaya Raya who has got booking. Further, details were not known to him that whether the container was directly booked by shipper through his agent or through any forwarder. They had contacted their overseas agent 'M/s Pt. Bahari Cahaya Raya' through e-mail and informed them that consignee has not taken delivery yet for the container. He stated that the container was lying at Mundra in M/s Saurashtra CFS after unloading from Mundra Port.

(b) On being asked about persons contacting for delivery of said container, he stated that one call was received from Mb No. +919633088832 on their import desk mobile No. 9924128145 (mentioned on draft BL) on 18th August, 2023. The person over phone from other side asked for container arrival details on phone with BL no. provided by him. He did not tell his name during conversation. After being contacted by that unknown person, he was asked by his office to provide his e-mail id and he provided e-mail id Museerahmedindurafreight@gmail.com and hareezaj727@gmail.com on 18.08.2023 itself. Later on 23rd August, 2023, the said person provided another e-mail id idurafreight@gmail.com. He stated that said unknown person was contacted telephonically as well as through e-mail but he has not responded till date in the matter. Apart from this, no one else has contacted for delivery of the container. He submitted e-mail correspondence and screen shot of text messages chat with mobile no.+919633088832.

(c) he further stated that he had asked the details of booking party from overseas and e-mail communication was done by his Head Office located at Mumbai. His head office has confirmed that the booking of container MXCU0033228 was done by 'M/S PT. BEDJO JOYO MAKMUR' having address at 'KENCANA SARI TIMUR, 11/23 RT. 004 RW.006 GUNUNG SARI, DUKUH PAKIS, PIC BU RATNA, INDONESIA, CONTACT +62 821 3103 2674' which is a forwarder party in overseas. Further, Shipper was M/s CV SINAR AGRI JAYA having address at 'Jl. SHALEH (PERUMGRAHA PERMATA NO. 29) DESA/KEL/BANGETAYU KULON KEC. GENUK KOTA SEMARANG, INDONESIA'. In the said matter, no details were received regarding any person related to India. No further details were available with him or his Head Office regarding booking or clearance.

13.3 I further find that investigation was carried out in relation to person who contacted for arrival details of consignment covered

under BL No. MAX/SUB/0135/2324 dated 31.07.2023. I find that as per details retrieved from various sources including GST registration details related to said phone number, it was found that the person with Mobile No. +919633088832 was pertaining to a person named Shri Hareez Abdul Jebbarg and was found to be working in past in various firms including M/s Sahad International Sourcing Private Limited.

13.4 I find that all the summons issued to Sh. Hareez Abdul Jebbarg were sent on e-mail ids provided to container line representative. However, Sh. Hareez Abdul Jebbarg did not turn up against any summons sent via e-mail. Sh. Hareez Abdul Jebbarg represented himself in the P.H. He stated that he only provided transport services to a consignment of cashew. He know nothing else about the same.

14. I find that name of M/s Valiveti Minerals and Commodities Private Limited, 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh - 520002 and IEC :AAICV2510M was clearly mentioned in the Bill of Lading and in the IGM filed for the entry of subject goods in India. Even if Sh. Valiveti Teja Sai Santosh had lended his IEC to some unknown persons who had imported these goods, M/s Valiveti Minerals and Commodites Private Limited cannot be absolved of its legal responsibilities during import of these goods. Hence, by such acts and omissions M/s Valiveti Minerals and Commodites Private Limited have rendered these goods liable to confiscation.

Further, it is observed that M/s Valiveti Minerals and Commodites Private Limited have caused or made to be caused false declarations on the Bill of Lading and IGM in respect of imported goods.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on M/s Valiveti Minerals and Commodites Private Limited under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

Hence, M/s Valiveti Minerals and Commodites Private Limited have rendered themselves liable to penalty under **Section 112(a) (i) and Section 114 AA** of the Customs Act, 1962.

15. I find Shri Hareez Abdul Jebbarg had contacted M/s Maxicon Shipping Agencies, Gandhidham for clearance of subject goods. Despite issuance of multiple summons he did not join the investigation. Further it is observed that he was fully aware of the concealment of "Split Areca Nuts" in the consignment.

Further, it is observed that the consignment was seized by DRI, Shri Hareez Abdul Jebbarg did not proceed for the clearance of

subject goods and purposefully did not join the investigation. Shri Hareez Abdul Jebbarg by such acts and omissions have rendered these goods liable to confiscation. Since he was in contact with the Shipping Line, it is observed that he had caused or made to be caused false declarations on the Bill of Lading and IGM in respect of imported goods by submitting false details to the Shipping Line.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on Shri Hareez Abdul Jebbarg under Section 112(a) of the Act wherever, penalty under Section 112(b) of the Customs Act, 1962, is to be imposed.

Hence, Shri Hareez Abdul Jebbarg has rendered himself liable to penalty under **Section 112(b)(i)** and **Section 114 AA** of the Customs Act, 1962.

16.1 I find that 16234.10 kg of 'Split Areca Nuts' (CTH 080280) was the item importable at fixed values called "Tariff Values", under Notification issued under Section 14(2) of the Customs Act, 1962 by the Board. If the tariff values are fixed for any goods, ad valorem duties thereon are required to be calculated with reference to such tariff values only following Rule 2 of the Customs Valuation Rules 2007 and not at the "transaction values" as specified vide Rule 3(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Vide Notification No. 67/2023-CUSTOMS (N.T.) dated 15.09.2023, tariff value of Areca Nuts was fixed for 7765 USD per MT at exchange price of 1 USD at Rs. 84.05 (Notification dated 21.09.2023). Hence, total value of 16234.10 kg of 'Split Areca Nuts' comes to Rs.

1,05,95,157/-.

16.2 Valuation of 'Dried Cashew Nuts in Shells' : As no invoice was found related to said imports also no bill of entry was filed till date for said consignment, value of imported goods have been taken as per contemporary imports. As per details retrieved, it is noticed that imports of 'Dried Cashew Nuts in Shells' have taken place from Indonesia during year 2023 at Tuticorin Port. Hence, import value of 'Dried Cashew Nuts in Shells' was taken as declared in the imports made in the month of September 2023 at Tuticorin Port which was found uniform at 1.3 USD per kg (BE No. 7730709 dated 08.09.2023, 7859194 dated 16.09.2023 filed at Tuticorin Port – INTUT1). Hence, the value of **2007.70 kg** of 'Dried Cashew Nuts in Shells' comes to **Rs. 2,19,371/-**

17. In view of the above discussion and findings, I pass the following order:-

- i. I order for absolute confiscation of the goods i.e. 'Split Areca Nuts' (**Qty 16234.10 kg**) valued at **Rs. 1,05,95,157/-** and seized vide Seizure Memo dated 22.09.2023 under section 111(d) and 111(f) of the Customs Act,1962. Unless an appeal against such order is pending, the said impugned goods would be liable for Disposal as per instructions and guidelines in CBIC disposal manual, 2019.
- ii. I order for absolute confiscation of the goods i.e 'Dried Cashew Nuts in Shells'(Qty. 2007.70 kg) valued at **Rs. 2,19,371/-**, used for the purpose of concealment of smuggled 'Split Areca Nuts' and seized vide Seizure Memo dated 22.09.2023 under the provisions of Section 119 of the Customs Act, 1962. Unless an appeal against such order is pending, the said impugned goods would be liable for Disposal as per instructions and guidelines in CBIC disposal manual, 2019.
- iii. I impose penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) on **M/s Valiveti Minerals and Commodities Private Limited (IEC No. AAICV2510M)** under Section 112(a)(i) of the Customs Act, 1962.
- iv. I impose penalty of Rs. 5,00,000/- (Rupees Five Lakhs Only) on **M/s Valiveti Minerals and Commodities Private Limited (IEC No. AAICV2510M)** under Section 114AA of the Customs Act, 1962.
- v. I refrain from imposing any penalty on **M/s Valiveti Minerals and Commodities Private Limited (IEC No. AAICV2510M)** under Section 112(b) of the Customs Act, 1962 for the reasons as discussed above.
- vi. I impose penalty of Rs. 10,00,000/- (Rupees Ten Lakhs Only) on **Shri Hareez Abdul Jebbarg** under Section 112(b)(i) of the Customs Act, 1962.
- vii. I impose penalty of Rs. 5,00,000/- (Rs Five Lakhs Only) on **Shri Hareez Abdul Jebbarg** under Section 114AA of the Customs Act, 1962.
- viii. I refrain from imposing any penalty on **Shri Hareez Abdul Jebbarg** under Section 112(a) of the Customs Act, 1962 for the reasons as discussed above.
- ix. I impose penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) on **'any person claiming to be the owner of the said seized goods'** under Section 112(b)(i) of the Customs Act, 1962.
- x. I impose penalty of Rs. 5,00,000/- (Rupees Five Lakhs Only) on **'any person claiming to be the owner of the said seized goods'** under Section 114AA of the Customs Act, 1962.
- xi. I refrain from imposing any penalty on **'any person claiming to be the owner of the said seized goods'** under Section 112(a) of the Customs Act, 1962.

AMIT KUMAR MISHRA

ADDITIONAL COMMISSIONER

To,

- i. M/s Valiveti Minerals and Commodites Private Limited (IEC No. **AAICV2510M**), 27-37-47/1, Bandar Road, Opp. Vijaya Krishna Super Market, Vijayawada, Krishna, Andhra Pradesh – 52 00 02
- ii. Shree Hareez Abdul Jebbarg, Adam Complex, 1st Floor, A.M Road, Perumbavoor, Ernakula, Kerala – 68 35 42
- iii. **Any person claiming to be the owner of the said seized goods.**

Copy to :-

1. The Additional Director, DRI, Regional Unit, Gandhidham (Kutch).
2. The Deputy Commissioner (Adjudication), Customs House, Mundra.
3. The Deputy Commissioner (EDI), Customs House, Mundra to upload the same on office website.
4. Notice Board/Guard File.