

	<b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT &amp; SPL ECONOMIC ZONE, MUNDRA-370421 Phone No.02838-271423/271426</b>
A. File No.	: GEN/SHED/MISC/367/2024-Docks Examn-O/o Pr-Commr-Cus-Mundra
B. Order-in- Original No.	: MCH/ADC/MK/280/2024-25 dated 04.02.2025
C. Passed by	: Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D. Date of order /Date of issue	: 04-02-2025 / 07-02-2025
E. Show Cause Notice No. & Date	: SCN and PH Waiver
F. Noticee(s)/Party/ Exporter	: M/s Biscon Tiles LLP, Opp. Gurukrupa Hotel, Near Lenico, Poly, Halwad Road, Andarna, Morbi, Gujarat-363642.
G. DIN	: 20250271MO000022102F

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 -में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

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

“सीमा शुल्क आयुक्त (अपील), 7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS),  
Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,  
Ashram Road, Ahmedabad-380 009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

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

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 सं०-6 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 ऊटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

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

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

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 माग 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:**

M/s Biscon Tiles LLP (IEC-AATFB1948H), (hereinafter referred to as 'the Exporter') having address Opp. Gurukrupa Hotel, Near Lenico, Poly, Halwad Road, Andarna, Morbi, Gujarat-363642 has filed Shipping Bill No. 5869719 dated 24.11.2024 of export of "Misc. Mix Items i.e. Ceramic Glazed Floor Tiles, Cable HDMI, Camera and other items" at Mundra Port through their Customs Broker M/s Access Worldwide Cargo.

2. The said SB was registered on 26-11-2024 and was marked for check-packet by the ICES System on the same date. The cargo was examined on 27-11-2024 in the presence of CHA and on preliminary examination by Docks Officer it is noticed that the cargo contains Dettol Antiseptic liquid Packets of various size which was not declared in the shipping bill. So the CHA was requested by docks officers to destuff the containers GESU1456556 and TCKU1755810 covered under the said shipping bill.

The containers was destuffed on 29-11-2024 and detailed examination was carried out under the supervision of Appraiser and in presence of CHA. A detailed list of goods found in both the containers along with a comparison of details of goods mentioned in the said Shipping bill is produced below:

#### **Container: TCKU1755810**

S. NO.	Goods	Description	Quantity found during examination	Declared in SB	Item Sr No. in SB
1	Tiles	2438 Boxes	2438	Total-4806 in both containers in total	1
2	Aashirvad Aata	150 KGS (15 bags of 10 kg each)			
3	Grocery Items	1 Box (20 KG Toor Dal, 20 KG Tea, 20 packets Namkeen, Sugar 10 KG)			

4	Biscuits & Sugar Confectionery	1 Box (2 jars of candies, 400 gm each, and biscuits 30 small packages)	
5		150 Boxes (96 pieces of 125 ml bottles in 01 box each, MRP of Rs. 80.52/- each)	
6	Dettol	23 Boxes (60 pieces of 250 ml bottles in 01 box each, MRP of Rs. 154.59/- each bottle)	Undeclared
7		75 Boxes (200 pieces of 60 ml bottles in 01 box each, MRP of Rs. 40.24/- each bottle)	
8	Basmati Rice	10 Bags of 10 kg each (Dawat Rice)	
9	God Idol of Bronze	1 (6-8 inch size)	

Container: GESU1456556

S. No.	Goods	Description	Quantity Found during examination	Declared in Shipping Bill	Item Sr No. in SB
1	Tiles	2435 Boxes	2435	Total- 4806 in Both containers in total	1
2	HDMI Cable	2 Pieces	2	2	3
3	Dual Light Audio Fixed Camera	10 Pieces	10	10	4
4	Camera CCTV Dual Light Auto Fix	8 Pieces	8	8	5

5	CCTV Camera Connecting Wire	40 Pieces	5	40	6
6	Micro Glass Cover	1 Box	100	100	7
7	Turbo HD DVR	2 Pieces	2	18002	8
8	Turbo HD DVR	1 Piece	1	1	9
9	Medical Recording Chart Paper	22 packs	22	18020	10
10	Microscopic Slides	4 Boxes (400 packets)	19508	19508	11
11	Blood Glucose Test Strips	1 Box (24 packets)	24	30	12
12	Mechanical Hard Drive	3 Pieces	3	3	13
13	CCTV Camera Junction Box	1 Box (10 pieces)	10	4508	15
14	CCTV Power Supply	2 Pieces	2	2	16
15	CCTV Power Supply	1 Piece	1	1	17
16	Sony Thermal Print Media	5 Boxes (10 pieces per box)	50	50	19
17	Medical Hand Tightening Belt	1 Box	100	2000	20
18	Biscuits	4 Boxes of 20-20 biscuit (720 pieces total, MRP Rs. 5/- per piece)			
19	Vim Liquid	3 Boxes (36 pieces per box)			

20	Maggi	3 Boxes (96 pieces per box, MRP Rs. 10/- per piece)	
21	Automotive MOP	1 Piece (MRP Rs. 11,863/-)	
22	1 Suitcase	1 piece of 26 inch size approx.	
23	Pulse Oximeter	50 Pieces (MRP Rs. 1,731/- each)	
24	Miscellaneous	1 Box (Jeans trousers - 1, curtains - 5, namkeen - 10 packets, hair dryer - 1, utensils)	Undeclared Goods
25	Dettol	38 Boxes (96 pieces of 125 ml bottles in 01 box each, MRP of Rs. 80.52/- for each bottle)	
		96 Boxes (60 pieces of 250 ml bottles in 01 box each, MRP of Rs. 154.59/- for each bottle)	
		106 Boxes (200 pieces of 60 ml bottles in 01 box each, MRP of Rs. 40.24/- for each bottle)	
		3 Boxes (30 pieces of 550 ml bottles in 01 box each, MRP of Rs. 259/- for each bottle)	

Details of the undeclared goods found during the examination container-wise is as follows:

S.				MRP of each	

NO.	Goods	Description	Quantity	piece found on goods	Container No.
1	Biscuits	4 Boxes of 20-20 biscuit (720 pieces total, MRP Rs. 5/- per piece)	720	Rs 5/-	
2	Vim Liquid	3 Boxes (36 pieces per box)	108		
3	Maggi	3 Boxes (96 pieces per box, MRP Rs. 10/- per piece)	288	Rs 10/-	
4	Automotive MOP	1 Piece (MRP Rs. 11,863/-)	1	Rs 11863/-	
5	1 Suitcase	1 piece of 26 inch size approx.	1		
6	Pulse Oximeter	50 Pieces (MRP Rs. 1,731/- each)	50	Rs 1731/-	
7	Miscellaneous	1 Box (Jeans trousers - 1, curtains - 5, namkeen - 10 packets, hair dryer - 1, utensils)	18		GESU1456556
8	Dettol	38 Boxes (96 pieces of 125 ml bottles in 01 box each, MRP of Rs. 80.52/- for each bottle)	3648	Rs 80.52/-	
		96 Boxes (60 pieces of 250 ml bottles in 01 box each, MRP of Rs. 154.59/- for each bottle)	5760	Rs 154.59/-	
		106 Boxes (200 pieces of 60 ml bottles in 01 box each, MRP of Rs. 40.24/- each bottle)	21200	Rs 40.24/-	
		3 Boxes (30 pieces of 550 ml bottles in 01 box each, MRP of Rs. 259/- for each bottle)	90	Rs. 259/-	

9	Aashirvad Aata	150 KGS (15 bags of 10 kg each)	150 kgs			
10	Grocery Items	1 Box (20 kg Toor Dal, 20 kg Tea, 10 kg sugar, 20 packets Namkeen)				
11	Biscuits & Sugar Confectionery	1 Box (2 jars of candies, 400 gm each, and biscuits 30 small packages)				
12	Dettol	150 Boxes (96 pieces of 125 ml bottles in 01 box each, MRP of Rs. 80.52/- each)	14400	Rs 80.52/-	TCKU1755810	
		23 Boxes (60 pieces of 250 ml bottles in 01 box each, MRP of Rs. 154.59/- each bottle)	1380	Rs 154.59/-		
		75 Boxes (200 pieces of 60 ml bottles in 01 box each, MRP of Rs. 40.24/- each bottle)	15000	Rs 40.24/-		
13	Basmati Rice	10 Bags of 10 kg each (Dawat Rice)	100 kgs			
14	God Idol Bronze	1 (6-8 inch size)	1			

3. The said Shipping Bill was forwarded to the Export Assessment section with approval of competent authority for further necessary action. Export Assessment section noticed that there are only 20 items declared in said Shipping Bill. However, as per details provided by the docks officer there are many miscellaneous items found during the course of examination. Some of the items are Restricted/Prohibited as per Export Policy. With the approval of competent authority the file was forwarded back to docks officer for valuation and to submit proper inventory of the goods item wise as most of the goods are undeclared.

4. The detailed inventory of the goods produced by the Docks Officer for both the containers for the said Shipping Bill is as below:

Details of declared goods found in examination in said Shipping Bill.

**Table-I**

SR.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	PACKAGE

1	Ceramic Glazed Floor Tiles 30X30CM	69072200	4806	BOX
2	CABLE HDMI	854449	2	PCS
3	CAMERA HIKVISION 2MP DOOM C/V+ (DS-2CE76D0T-LPFS)	85258900	10	PCS
4	CAMERA HIKVISION 2MP BULLET (DS-2CE16D0T-LPFS)	85258900	8	PCS
5	CCTV CABLE	854449	5	PCS
6	COVER SLIP 18*18MM	3924	100	PCS
7	DVR HIKVISION 16CHECO (DS-7116HGHI-K1)	852190	2	PCS
8	DVR HIKVISION 8CH ECO (DS-7108HGHI-K1)	852190	1	PCS
9	ECG ROLL 105MM*20MT	3924	220	PCS
10	GLASS SLIDE FROSTED	3924	500	PCS
11	GLUCOST.GLUCO ONE'50 BG03	3004	24	PCS
12	HDD.SEAGATE 2 TB SV	847170	3	PCS
13	JUCTION/PVC BOX	853810	10	PCS
14	POWER SUPPLY SECURE EYE16CH	850440	2	PCS
15	POWER SUPPLY SECURE EYE8CH	850440	1	PCS
16	SONY ROLL (UPP-110S)	3924	50	PCS
17	TOURNICATE(IMORTED)	9018	100	PCS

Details of undeclared goods found in examination in said Shipping Bill.

**Table-II**

SR.NO	DESCRIPTION OF GOODS	Package	Qty
1	BANSURI COMPUND HING	50 X 2BOX	50
2	TATA SALT 25 KG	25 KG	2
3	TIDE NATURAL DETERGENT POWDER	24 X 3 BOX	72
4	VIM DISHWASH GEL 125ML	36 X 3BAG	108
5	P.H. POHA ( PH DALIYA FREE)	20 X 1 BOX	1
6	SHYAM CHAT MASALA	10 X 1PAK	10
7	DAWAT RICE	10X20 KG	10
8	MAGGI	3 BOX	288
9	MAIDA	10 X 1 BAG	1
10	MADHUR SAKAR (SUGAR)	2	2
11	RAI	500GMX2	2
12	JIRA	1KG X 4	4
13	WAGBAKRI CHAI (TEA)	KG	20
14	SAUF (Fennel Seed)	1KG	1
15	BIKAJI NAMKIN BUJIYA	2PCS	2
16	SABKUCHH NAMKIN	2PCS	2
17	KUCHH KUCHH NAMKIN	1PCS	1

18	TANA BANA NAMKIN	PCS	2
19	MUNG DAL NAMKIN	PCS	1
20	MAGGI MEGIC MASALA	3 X 20PCS	3
21	MAKHANA	PCS	5
22	CHANA DAL	5KG	5
23	MUNG DAL	15KG	15
24	MASHUR DAL	15KG	15
25	TUAR DAL	KG	10
26	HALDI / TURMERIC	5KG	5
27	BISCUITS Total 4 Boxes of 20-20 Biscuits	PCS	750
28	STEEL SCURB	6 X 12PCS	6
29	DHANIYA POWDER	5KG	5
30	BESHAN	15KG	15
31	RAJMA	10KG	10
32	CHHOLE	10KG	10
33	CHANE	10KG	10
34	HONEY	PCS	10
35	AACHAR / PICKLE	PCS	4
36	BALL PEN	PCS	10
37	PRINTER ROLL	PCS	20
38	KHAJUR	PCS	5
39	KALI MIRCH	kg	2
40	SHYAM LAL MIRCH	PCS	15
41	RATLAMI SEV	PCS	10
42	BED SET	PCS	3
43	MULETHI	PCS	10
44	KALA NAMAK	PCS	2
45	MAKAI (CORN) KE DANE	KG	1
46	KASURI METHI	BOX	2
47	DALCHINI	1X2KG	2
48	PAVBHAJI MASALA	PCS	10
49	SCRUB PAD	12PCS	3
50	ENO	PCS	4
51	ILAICHI	250G	1
52	CORN FLOUR	5KG	5
53	SHABI BIRIYANI MASALA	5PIC	5
54	CHICKEN MASALA	5PIC	5
55	MONOSODIUM GLUTAMATE(AZINOMOTO)	2X500G	2
56	MASHUR DAL	KG	5
57	TUAR DAL	KG	10
58	SHANDHA NAMAK	KG	2
59	CHANA DAL	KG	5

60	ASHIRWAD CHAKKI AATA	KG	150
61	POOJA THALI	pcs	1
62	AAJWAIN	2X500G	1.5
63	AGARBATI	2KG	2
64	MONG MOGAR DAL	kg	15
65	Water Camper Tuti (Tap / Nal)	pcs	4
66	SHAMPOO AND COLOR	pcs	1
67	ALOVERA GEL	pcs	3
68	BODY LOTION	pcs	3
69	DETTOL ASL REG 550 ML - 30 PCS	PCS	90
70	DETTOL ASL REG 60 ML - 200 PCS	PCS	36200
71	DETTOL ASL REG 125 ML - 96 PCS	PCS	18048
72	DETTOL ASL REG 250 ML - 60 PCS	PCS	7140
73	AUTOMOTIVE MOP	PCS	1
74	SUITCASE	PCS	1
75	PULSE OXIMETER	PCS	50
76	JEANS TROUSER	PCS	1
77	CURTAINS	PCS	5
78	NAMKIN	PCS	10
79	HAIR DRYER	PCS	1
80	UTENSILS	PCS	1
81	SUGAR	KGS	10
82	CANDIES	KGS	0.80
83	God Idol Bronze 6 to 8 Inch Size	PCS	1.00

From the above mentioned both tables it appears that only 17 items out of 20 declared goods found during the course of examination. However, total 83 undeclared goods also found with these 17 items.

5. From above Table-II at Para 4 it is evident that the goods are undeclared. Hence, the correct classification of the goods needs to be ascertained for verification of exportability of the goods as per Export Policy and other allied act. Therefore, the correct classification of the undeclared goods of Table-II is as below:

**Table-III**

SR.NO	DESCRIPTION OF GOODS	CTH of the goods	Export Policy/Export Conditions
1	BANSURI COMPUND HING	13019013	Shellac and Forest Product Export Promotion Council Certificate required.
2	TATA SALT 25 KG	25010010	Free
3	TIDE NATURAL DETERGENT POWDER	34029011	Free
4	VIM DISHWASH GEL 125ML	34029099	Free
5	P.H. POHA ( PH DALIYA FREE)	19041090	Free
6	SHYAM CHAT MASALA	09109100	Free

7	DAWAT RICE	10063020	Apeda Required
8	MAGGI	19023010	Free
9	MAIDA	11010000	Prohibited
10	MADHUR SAKAR (SUGAR)	17019990	Restricted
11	RAI	12075090	Free
12	JIRA	09092190	Free
13	WAGBAKRI CHAI (TEA)	09021090	Tea Board Certificate Required
14	SAUF (Fennel Seed)	09096139	Free
15	BIKAJI NAMKIN BUJIYA	21069099	Free
16	SABKUCHH NAMKIN	21069099	Free
17	KUCHH KUCHH NAMKIN	21069099	Free
18	TANA BANA NAMKIN	21069099	Free
19	MUNG DAL NAMKIN	21069099	Free
20	MAGGI MEGIC MASALA	21069099	Free
21	MAKHANA	19041090	Free
22	CHANA DAL	07132090	Free
23	MUNG DAL	07132090	Free
24	MASHUR DAL	07132090	Free
25	TUAR DAL	07132090	Free
26	HALDI / TURMERIC	07132090	Free
27	BISCUITS Total 4 Boxes of 20-20 Biscuits	19053100	Free
28	STEEL SCURB	73231000	Free
29	DHANIYA POWDER	09092200	Free
30	BESHAN	11061000	Free
31	RAJMA	07132090	Free
32	CHHOLE	07132090	Free
33	CHANE	07132090	Free
34	HONEY	04090000	Free
35	AACHAR / PICKLE	20019000	Free
36	BALL PEN	96081019	Free
37	PRINTER ROLL	40170030	Free
38	KHAJUR	08041020	Free
39	KALI MIRCH	09041190	Free
40	SHYAM LAL MIRCH	09042219	Free
41	RATLAMI SEV	21069099	Free
42	BED SET	63041910	Free
43	MULETHI	12119049	Free
44	KALA NAMAK	25010090	Free
45	MAKAI (CORN) KE DANE	10059000	Free
46	KASURI METHI	09109990	Free
47	DALCHINI	09061190	Free
48	PAVBHAJI MASALA	09109100	Free

49	SCRUB PAD	73231000	Free
50	ENO	30049099	Drug License/ADC NOC Required
51	ILAICHI	09083290	Free
52	CORN FLOUR	11081200	Free
53	SHABI BIRIYANI MASALA	09109100	Free
54	CHICKEN MASALA	09109100	Free
55	MONOSODIUM GLUTAMATE(AZINOMOTO)	29224220	Free
56	MASHUR DAL	07132090	Free
57	TUAR DAL	07132090	Free
58	SHANDHA NAMAK	25010010	Free
59	CHANA DAL	07132090	Free
60	ASHIRWAD CHAKKI AATA	11010000	Prohibited
61	POOJA THALI	73239990	Free
62	AAJWAIN	09109900	Free
63	AGARBATI	33074100	Free
64	MONG MOGAR DAL	07132090	Free
65	Water Camper Tuti (Tap / Nal)	8481	Free
66	SHAMPOO AND COLOR	33051090	Free
67	ALOVERA GEL	33049990	Free
68	BODY LOTION	33049930	Free
69	DETTOOL ASL REG 550 ML - 30 PCS	30049099	Drug License/ADC NOC Required
70	DETTOOL ASL REG 60 ML - 200 PCS	30049099	Drug License/ADC NOC Required
71	DETTOOL ASL REG 125 ML - 96 PCS	30049099	Drug License/ADC NOC Required
72	DETTOOL ASL REG 250 ML - 60 PCS	30049099	Drug License/ADC NOC Required
73	AUTOMOTIVE MOP	96033090	Free
74	SUITCASE	42021190	Free
75	PULSE OXIMETER	90121090	Free
76	JEANS TROUSER	62034290	Free
77	CURTAINS	63039100	Free
78	NAMKIN	21069099	Free
79	HAIR DRYER	85163100	Free
80	UTENSILS	73239420	Free
81	SUGAR	17019990	Restricted
82	CANDIES	17049090	Free
83	God Idol Bronze 6 to 8 Inch Size	74199930	Free

6. From Table-III at Para 5 it appears that the goods mentioned at Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 are Restricted/Prohibited as per export policy and other allied acts for

requirement of mandatory documents for export. The goods mentioned at Sr. No. 50 and 69-72 required Drug License/ADC NOC for export. The goods mentioned at Sr. No. 1 required Shellac certificate from Shellac and Forest Product Export Promotion Council. The goods mentioned at Sr. No. 7 required consignment wise Apeda Certificate. The goods mentioned at Sr. No. 13 required Tea Board Certificate for export. The goods mentioned at Sr. No. 10 and 81 are restricted as per export policy for export. The goods mentioned at Sr. No. 9 and 60 are prohibited as per export policy for export. However all the 83 items mentioned above were found undeclared in the Shipping Bill.

7. Further, the Exporter has not submitted any of the certificate/ADC NOC required for export of the goods. In fact, The Exporter has declared only 20 items in the said Shipping Bill out of which only 17 items were found during the course of examination. Rest 83 items were found undeclared in the said Shipping Bill to avoid Restriction/Prohibition as per export policy and other allied acts for export.

7.1. As per Notification No. 39/2015-2020-Customs dated 14.10.2022 issued by DGFT; the export of "Wheat or Meslin Flour (Atta), Maida, Samolina Rava/Sirgi), Wholemeal atta and resultant atta" under CTH-1101 is prohibited w.e.f. 14.10.2022. Thus the goods mentioned at Sr. No. 9 and 60 are prohibited as per above said notification. The relevant portion of above notification is re-produced as under:-

*In exercise of powers conferred by Section 3 read with Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2015-20, the Central Government hereby amends the Notification No. 30/2015-2020-Customs dated 27.08.2022, as under:-*

S. No.	ITC HS Codes	Description	Export Policy	Revised Export Policy
64	1101	<i>Wheat or Meslin Flour (Atta), Maida, Samolina Rava/Sirgi), Wholemeal atta and resultant atta</i>	Prohibited	<i>However, export of Wheat Flour (Atta) will be allowed against Advancxe Authorization, and by Export Oriented Units (EOUs) and units in SEZs.</i>

7.2. As per Sr. No. 57 of Schedule 2 of Export Policy, for export of Basmati Rice, Exports allowed subject to registration of contracts with the APEDA , New Delhi and same is re-produced below:

				<p>i) Exports allowed subject to registration of contracts with the APEDA , New Delhi;</p> <p>(ii) Grain of rice to be exported shall be more than 6.61 mm of length and ratio of length to breadth of the grain shall be more than 3.5;</p> <p>(iii) Export shall be through Custom EDI ports. Export is also permitted through the non-EDI Land Custom Stations (LCS) on Indo-Bangladesh and Indo-Nepal border subject to registration of quantity with DGFT. Regional Authorities (RAs) Kolkata &amp; Patna and such other RAs as</p>
1006		Basmati Rice (Dehusked (Brown),		

57	30 20	Kg	semi milled, milled both in either par-boiled or raw condition).	Free	<p>notified by DGFT from time to time will be the designated RAs for the purpose of such registration of quantity;</p> <p>(iv) Export to EU Member States and European countries, namely Iceland, Liechtenstein, Norway and Switzerland permitted subject to issuance of certificate of Inspection by Export Inspection Council/Export Inspection Agency.</p> <p>(v) Certificate of Inspection by Export Inspection Council / Export Inspection Agency shall be mandatory for export to remaining European countries with effect from 1st January, 2022</p>
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In view of the above the goods mentioned at Sr. No. 7 are restricted as per export policy.

7.3. Tea Board registration certificate/License is compulsory for export of goods mentioned at Sr. No. 13, As per Para 17 & 18 of Tea Act, 1952 and same is reproduced below:

17. Control of export of tea and tea seed.—

1. No tea shall be exported unless covered by a licence issued by or on behalf of the Board.
2. No tea seed shall be exported unless covered by a permit issued by or on behalf of the Central Government.
3. No tea or tea seed shall be taken by land, sea or air out of any State to any of the 2\*\*\* Portuguese Settlements bounded by India, unless covered by a permit issued by or on behalf of the Board.

18. Tea or tea seed for export to be covered by licence or permit.—

1. No consignment of tea or tea seed shall be shipped or waterborne to be shipped for export or shall be exported until the owner has delivered to the Customs-collector a valid export licence or special export licence or a valid permit issued by or on behalf of the Board or the Central Government, as the case may be, covering the quantity to be shipped.
2. No consignment of tea or tea seed shall be shipped or waterborne to be shipped for carriage (or shall be taken by land or air) to any of the 1\* \* \* Portuguese Settlements bounded by India until the owner has delivered to the Customs-collector a permit issued by or on behalf of the Board covering the quantity to be shipped.
3. No permit for the passage of any tea or tea seed by land into any of the 1\* \* \* Portuguese Settlement bounded by India shall be granted under sub-section (1) of section 5 of the Land Customs Act, 1924 (19 of 1924), unless the application for such permit is accompanied by a permit granted in this behalf by the Board covering the quantity to be passed.

7.4. For Export of Medicine/Antiseptic liquid and other goods of 3004 Chapter, requirement of ADC NOC for export is compulsory for the merchant exporter as per CDSCO ACT, 1940. However, the exporter has not produced the ADC NOC for the goods mentioned at Sr. No. 50 and 69-72 in said Shipping Bill. In fact the exporter has not even declared the goods in said Shipping Bill to avoid conditions of CDSCO Act, 1940.

7.5 Further, as per Notification no. 10/2015-20 dated 24.05.2022 (RUD 2) issued by DGFT, export policy of Sugar was amendment from 'Free' to 'Restricted' with effective from 01.06.2022 up to 31.10.2022. Thus the goods mentioned at Sr. No. 10 and 81 are restricted as per said notification. The relevant extracts of the said Notification are re-produced here-in-

below:

Sr. No.	ITC (HS) Code	Description	Existing Policy	Revised Policy	Policy Conditions
93	1701 14 90 1701 99 90	Sugar (Raw sugar, Refined Sugar and white Sugar)	Free	Restricted	(i) With effect from 1 <sup>st</sup> June, 2022 upto 31 <sup>st</sup> October 2022 or until further orders whichever is earlier, export of sugar is allowed with specific permission from Directorate of Sugar, department of FOOD and Public Distribution (DFPD), Ministry of consumer affairs, Food and Public Distribution.

Further, vide Notification No. 40/2015-20 dated 28.10.2022 the restriction was extended beyond 31.10.2022 till 31.10.2023 (RUD 3) and vide Notification no. 36/2023 dated 18.10.2023, the restriction was extended beyond 31.10.2023 till further.

7.6 As per Sr. No. 87 of Schedule 2 of Export Policy, for export of Shellac and All Forms of Lac, Exports allowed subject to registration with Tribal Cooperative Marketing Development Federation of India Ltd. or Shellac & Forest Products Export Promotion Council and Production of quality certificate from Shellac & Forest Products Export Promotion Council and same is reproduced below:

Sr. No.	ITC (HS) Code	Unit	Description	Export Policy	Policy Conditions
87	1301	Kg	Shellac and All Forms of Lac	Free	<p>i) Registration with Tribal Cooperative Marketing Development Federation of India Ltd. or Shellac &amp; Forest Products Export Promotion Council;</p> <p>(ii) Production of quality certificate from Shellac &amp; Forest Products Export Promotion Council.</p>

8. From above, it is evident that most of the goods have been found undeclared in said Shipping Bill and out of these undeclared goods, some of the goods are restricted/prohibited for export as per export policy and other allied acts. Accordingly, the value of the goods needs to be ascertain as per Customs Valuation Rules, 2007.

#### **8.1. Customs Valuation (Determination of Value of Export Goods) Rules, 2007:**

Rule 4. Determination of export value by comparison. —

(1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

Rule 6. Residual method. —

(1) Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

.....

Rule 8. Rejection of declared value. —

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation. - (1) For the removal of doubts, it is hereby declared that-

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said enquiry in consultation with the exporter.

(iii) The proper officer shall have the powers to raise doubts on the declared value based on certain reasons

which may include -

(a) the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.

(b) the significantly higher value compared to the market value of goods of like kind and quality at the time of export.

(c) the misdeclaration of goods in parameters such as description, quality, quantity, year of manufacture or production.

8.2. In view of above, the valuation of the goods conducted by customs Authorised Chartered Engineer. The reports of valuation of both the declared and undeclared goods are as below:

**Valuation of the declared goods:**

**Table-IV**

SR.NO	DESCRIPTION OF GOODS	QUANTITY	PACKAGE	RATE IN INR/PACK	TOTAL AMOUNT IN INR
1	Ceramic Glazed Floor Tiles 30X30CM	4806	BOX	225.21	1,082,359.26
2	CABLE HDMI	2	PCS	64.00	128.00
3	CAMERA HIKVISION 2MP DOOM C/V+ (DS-2CE76D0T-LPFS)	10	PCS	1126.00	11,260.00
4	CAMERA HIKVISION 2MP BULLET (DS-2CE16D0T-LPFS)	8	PCS	1,352.00	10,816.00
5	CCTV CABLE	5	PCS	1126.00	5,630.00
6	COVER SLIP 18*18MM	100	PCS	241.00	24,100.00
7	DVR HIKVISION 16CHECO (DS-7116HGHI-K1)	2	PCS	18.00	36.00
8	DVR HIKVISION 8CH ECO (DS-7108HGHI-K1)	1	PCS	2702.50	2,702.50
9	ECG ROLL 105MM*20MT	220	PCS	67.60	14,872.00
10	GLASS SLIDE FROSTED	500	PCS	61.80	30,900.00
11	GLUCOST.GLUCO ONE'50 BG03	24	PCS	525.50	12,612.00
12	HDD.SEAGATE 2 TB SV	3	PCS	6394.30	19,182.90
13	JUCTION/PVC BOX	10	PCS	19.00	190.00
14	POWER SUPPLY SECURE EYE16CH	2	PCS	957.10	1,914.20
15	POWER SUPPLY SECURE EYE8CH	1	PCS	10116.25	10,116.25
16	SONY ROLL (UPP-110S)	50	PCS	450.50	22,525.00
17	TOURNICATE(IMORTED)	100	PCS	37.55	3,755.00
Total Value Rs.					<b>12,53,099.11/-</b>

**Valuation of the undeclared goods:**

**Table-V**

SR.No	NAME	QYT	RATE	AMOUNT
1	BANSURI COMPUND HING	50	20.00	1000.00
2	TATA SALT 25 KG	2	600.00	1200.00
3	TIDE NATURAL DETERGENT POWDER	72	71.06	5116.32
4	VIM DISHWASH GEL 125ML	108	17.45	1884.60
5	P.H. POHA ( PH DALIYA FREE)	1	1320.00	1320.00
6	SHYAM CHAT MASALA	10	39.00	390.00

7	DAWAT RICE	10	1320.00	13200.00
8	MAGGI	288	10.00	2880.00
9	MAIDA	1	400.00	400.00
10	MADHUR SAKAR (SUGAR)	2	1200.00	2400.00
11	RAI	2	50.00	100.00
12	JIRA	4	350.00	1400.00
13	WAGBAKRI CHAI (TEA)	20	175.00	3500.00
14	SAUF (Fennel Seed)	1	220.00	220.00
15	BIKAJI NAMKIN BUJIYA	2	200.00	400.00
16	SABKUCHH NAMKIN	2	175.00	350.00
17	KUCHH KUCHH NAMKIN	1	215.00	215.00
18	TANA BANA NAMKIN	2	175.00	350.00
19	MUNG DAL NAMKIN	1	95.00	95.00
20	MAGGI MEGIC MASALA	3	90.00	270.00
21	MAKHANA	5	350.00	1750.00
22	CHANA DAL	5	75.00	375.00
23	MUNG DAL	15	112.00	1680.00
24	MASHUR DAL	15	78.00	1170.00
25	TUAR DAL	10	176.00	1760.00
26	HALDI / TURMERIC	5	340.00	1700.00
27	BISCUITS Total 4 Boxes of 20-20 Biscuits	750	5.00	3750.00
28	STEEL SCURB	6	99.00	594.00
29	DHANIYA POWDER	5	140.00	700.00
30	BESHAN	15	100.00	1500.00
31	RAJMA	10	150.00	1500.00
32	CHHOLE	10	130.00	1300.00
33	CHANE	10	80.00	800.00
34	HONEY	10	244.70	2447.00
35	AACHAR / PICKLE	4	130.00	520.00
36	BALL PEN	10	54.00	540.00
37	PRINTER ROLL	20	75.00	1500.00
38	KHAJUR	5	180.00	900.00
39	KALI MIRCH	2	750.00	1500.00
40	SHYAM LAL MIRCH	15	57.00	855.00
41	RATLAMI SEV	10	169.00	1690.00
42	BED SET	3	470.00	1410.00
43	MULETHI	10	40.00	400.00
44	KALA NAMAK	2	50.00	100.00
45	MAKAI (CORN) KE DANE	1	170.00	170.00
46	KASURI METHI	2	439.00	878.00
47	DALCHINI	2	480.00	960.00
48	PAVBHAJI MASALA	10	42.50	425.00
49	SCRUB PAD	3	96.00	288.00
50	ENO	4	50.00	200.00
51	ILAICHI	1	900.00	900.00
52	CORN FLOUR	5	60.00	300.00
53	SHAHIBIRIYANI MASALA	5	70.60	353.00
54	CHICKEN MASALA	5	78.20	391.00

55	MONOSODIUM GLUTAMATE(AZINOMOTO)	2	125.00	250.00
56	MASHUR DAL	5	234.00	1170.00
57	TUAR DAL	10	176.00	1760.00
58	SHANDHA NAMAK	2	40.00	80.00
59	CHANA DAL	5	99.00	495.00
60	ASHIRWAD CHAKKI AATA	150	41.40	6210.00
61	POOJA THALI	1	200.00	200.00
62	AAJWAIN	1.5	140.00	210.00
63	AGARBATI	2	150.00	300.00
64	MONG MOGAR DAL	15	112.00	1680.00
65	Water Camper Tuti (Tap / Nal)	4	30.00	120.00
66	SHAMPOO AND COLOR	1	5490.00	5490.00
67	ALOVERA GEL	3	80.00	240.00
68	BODY LOTION	3	250.00	750.00
69	DETTOOL ASL REG 550 ML - 30 PCS	90	259.00	23310.00
70	DETTOOL ASL REG 60 ML - 200 PCS	36200	40.24	1456688.00
71	DETTOOL ASL REG 125 ML - 96 PCS	18048	80.52	1453224.96
72	DETTOOL ASL REG 250 ML - 60 PCS	7140	154.59	1103772.60
73	AUTOMOTIVE MOP	1	11863.00	11863.00
74	SUITCASE	1	800.00	800.00
75	PULSE OXIMETER	50	1731.00	86550.00
76	JEANS TROUSER	1	800.00	800.00
77	CURTAINS	5	500.00	2500.00
78	NAMKIN	10	20.00	200.00
79	HAIR DRYER	1	750.00	750.00
80	UTENSILS	1	250.00	250.00
81	SUGAR	10	45.00	450.00
82	CANDIES	0.80	700.00	560.00
83	God Idol Bronze 6 to 8 Inch Size	1.00	4500.00	4500.00
				42,37,170.48/-

## 9. LEGAL PROVISIONS:

9.1. Various provisions of **Customs Act, 1962** are applicable in the instant case:

### Clearance of export goods:

#### Section 50. Entry of goods for exportation. -

(1) The exporter of any goods shall make entry thereof by presenting electronically] on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner.

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

(3) *The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: -*

- (a) *the accuracy and completeness of the information given therein;*
- (b) *the authenticity and validity of any document supporting it; and*
- (c) *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

### **113. Confiscation of goods attempted to be improperly exported, etc.**

- The following export goods shall be liable for confiscation:-

- (a) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods;
- (b) any goods attempted to be exported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the export of such goods;
- (c) any goods brought near the land frontier or the coast of India or near any bay, gulf, creek or tidal river for the purpose of being exported from a place other than a land customs station or a customs port appointed for the loading of such goods;
- (d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (e) any goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation;
- (f) any goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;
- (g) any goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;
- (h) any goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;]
- (ia) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;
- (j) any goods on which import duty has not been paid and which are entered for exportation under a claim for drawback under section 74;
- (ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this act or any

other law for time being in force;

(k) any goods cleared for exportation which are not loaded for exportation on account of any wilful act, negligence or default of the exporter, his agent or employee, or which after having been loaded for exportation are unloaded without the permission of the proper officer;

(l) any specified goods in relation to which any provisions of Chapter IV-B or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.

#### **Section 114: Penalty for attempt to export goods improperly, etc. -**

*Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable for confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -*

*(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 1[2[not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act]], whichever is the greater;*

*(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:*

***Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable for be paid by such person under this section shall be twenty-five per cent of the penalty so determined;]***

*(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.*

#### **114AA. Penalty for use of false and incorrect material.**

*- If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable for a penalty not exceeding five times the value of goods.*

#### **9.2. Customs Valuation (Determination of Value of Export Goods) Rules, 2007:**

Rule 4. Determination of export value by comparison. —

(1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

Rule 6. Residual method. —

(1) Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

.....

Rule 8. Rejection of declared value. —

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation. - (1) For the removal of doubts, it is hereby declared that-

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said enquiry in consultation with the exporter.

(iii) The proper officer shall have the powers to raise doubts on the declared value based on certain reasons

which may include -

(a) the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.

(b) the significantly higher value compared to the market value of goods of like kind and quality at the time of export.

(c) the misdeclaration of goods in parameters such as description, quality, quantity, year of manufacture or production.

9.3. (i) As per sub-section 2 of Section 3 of the Foreign Trade (Development and Regulation) Act, 1992, the Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology. Further, sub-section 2 of Section 3 of the Foreign Trade (Development and Regulation) Act, 1992, all goods to which any Order under sub-section (2) applies shall be deemed to

be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly. For ease of reference Section 3 of the Foreign Trade (Development and Regulation) Act, 1992 is reproduced as under:-

***Section 3: Powers to make provision relating to imports and exports.***

***3. (1) The Central Government may by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.***

***(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.***

***Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefit under the foreign trade policy or is dealing with specified services or specified technologies.***

***(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.***

(ii) Para-2.01 of the Foreign Trade Policy, 2023 deals with the Restricted/Prohibited/Free with some condition goods as stipulated below:

***2.01 Policy regarding import /Exports of goods***

***(a) Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', 'Restricted', and STE items can be viewed under 'Regulatory Updates' at <https://dgft.gov.in>***

***(b) Further, there are some items which are 'Free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.***

(iii) ***As per Section 11 of the Customs Act, 1962 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there under and the foreign trade policy for the time being in force.***

**10. OUTCOME OF THE CASE:**

10.1. From the facts discussed in the above paras and material evidences available on record, it appears that as per Chartered Engineer report the re-determined value of goods found for Shipping Bill No. 5869719 dated 24.11.2024 is Rs.54,90,269/-.

10.2. Further, it appears that the impugned goods mentioned at Table-IV of Para 8.2.2 having re-determined value of Rs.12,53,099/- are found declared in Shipping Bill and same are used for export of undeclared restricted/prohibited goods. Therefore, the impugned goods are liable for confiscation under Section 113(i) and 119 of the Customs Act, 1962.

10.3. Further it appears that the goods other than Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 of Table-V of Para 8.2.2 having value of Rs.1,72,814/- which were not declared in Shipping Bill No. 5869719 dated 24.11.2024 are liable for confiscation under Section 113(h) and 113(i) of the Customs Act, 1962.

10.4. Further, it appears that the impugned goods mentioned at Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 of Table-V of Para 8.2.2 having value of Rs.40,64,356/- are Restricted/Prohibited as per export policy and other allied acts. Therefore, the impugned goods are liable for confiscation under section 113(d), 113(h) and 113(i) of the Customs Act, 1962.

#### **11. In view of the above facts, it appears**

- (i) The declared value of the impugned goods of Rs.42,86,730/- found under Shipping Bill no. 5869719 dated 24.11.2024 needs to be rejected and re-determined at Rs.54,90,269/- under Customs Valuation Rules, 2007.
- (ii) The impugned goods mentioned at Table-IV of Para 8.2.2 covered under Shipping Bill no. 5869719 dated 24.11.2024 having Re-determined value of Rs.12,53,099/- are liable for confiscation under Section 113(i) and 119 of the Customs Act, 1962.
- (iii) The impugned goods other than Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 of Table-V of Para 8.2.2 having value of Rs.1,72,814/- which were not declared in Shipping Bill No. 5869719 dated 24.11.2024 are liable for confiscation under Section 113(h) and 113(i) of the Customs Act, 1962.
- (iv) The impugned goods mentioned at Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 at Table-V of Para 8.2.2 having value of Rs. 40,64,356/- which was not declared in Shipping Bill No. 5869719 dated 24.11.2024 are liable for confiscation under section 113(d), 113(h) and 113(i) of the Customs Act, 1962.
- (v) The exporter is liable for penalty under Section 114(i) of the Customs Act, 1962 of the Customs Act, 1962.
- (vi) The exporter is liable for penalty under Section 114(iii) of the Customs Act, 1962 of the Customs Act, 1962.
- (vii) The exporter is liable for penalty under Section 114AA of the Customs Act, 1962 of the Customs Act, 1962.

#### **RECORDS OF PERSONAL HEARING:**

12. The exporter vide letter dated 09.12.2024 submitted that certain goods which are not declared in Shipping Bill were inadvertently stuffed into the containers. Further they submitted that they take full responsibility for this mistake and their CB M/s Access Worldwide cargo was not involved in this mis-declaration. They also requested for waiver of Show Cause Notice and personal hearing in this matter and are ready to pay fine and penalty as per provisions of Customs. The exporter requested for Back To Town of the goods.

#### **DISCUSSION AND FINDINGS:**

13. I have carefully gone through the records of the case. The exporter requested for waiver of Show Cause Notice and personal hearing and requested to decide the matter on merit. Thus, I find that the principles of natural justice as provided in Section 122A of the Customs Act 1962 has been complied with and therefore, I proceed to decide the case on the basis of the documentary evidence available on records.

13.1. The issues to be decided by me are:

- (i) The declared value of the impugned goods of Rs. 42,86,730/- found under Shipping Bill no. 5869719 dated 24.11.2024 needs to be rejected and re-determined at Rs. 54,90,269/- under Customs Valuation Rules, 2007.
- (ii) The impugned goods mentioned at Table-IV of Para 8.2 declared under Shipping Bill no. 5869719 dated 24.11.2024 having Re-determined value of Rs. 12,53,099/- are liable for confiscation under Section 113(i) and 119 of the Customs Act, 1962.
- (iii) The impugned goods other than Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 of Table-V of Para 8.2 having value of Rs. 1,72,814/- which was not declared in Shipping Bill No. 5869719 dated 24.11.2024 are liable for confiscation under Section 113(h) and 113(i) of the Customs Act, 1962.
- (iv) The impugned goods mentioned at Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 at Table-V of Para 8.2 having value of Rs. 40,64,356/- which was not declared in Shipping Bill No. 5869719 dated 24.11.2024 are liable for confiscation under section 113(d), 113(h) and 113(i) of the Customs Act, 1962.
- (v) The exporter is liable for penalty under Section 114(i) of the Customs Act, 1962 of the Customs Act, 1962.
- (vi) The exporter is liable for penalty under Section 114(iii) of the Customs Act, 1962 of the Customs Act, 1962.
- (vii) The exporter is liable for penalty under Section 114AA of the Customs Act, 1962 of the Customs Act, 1962.

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

13.2. I find that the exporter has declared total 20 item in the Shipping Bill No. 5869719 dated 24.11.2024. However, on examination out of 20 items 17 items along with 83 undeclared items were found. Out of 83 undeclared items total 12 items were found restricted/prohibited as per export policy and other allied acts and exporter tried to export the goods by violating export policy.

13.3. I find that From Table-III at Para 5 the goods mentioned at Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 are Restricted/Prohibited as per export policy and other allied acts in requirement of mandatory documents for export. The goods mentioned at Sr. No. 50 and 69-72 required Drug License/ADC NOC for export. The goods mentioned at Sr. No. 1 required Shellac certificate from Shellac and Forest Product Export Promotion Council. The goods mentioned at Sr. No. 7 required Apeda Certificate. The goods mentioned at Sr. No. 13 required Tea Board Certificate for export. The goods mentioned at Sr. No. 10 and 81 are restricted as per export policy for export. The goods mentioned at Sr. No. 9 and 60 are prohibited as per export policy for export.

13.4. I find that as per Notification No. 39/2015-2020-Customs dated 14.10.2022 issued by

DGFT; the export of “Wheat or Meslin Flour (Atta), Maida, Samolina Rava/Sirgi), Wholemeal atta and resultant atta” under CTH-1101 is prohibited w.e.f. 14.10.2022. Thus the goods mentioned at Sr. No. 9 and 60 are prohibited as per above said notification. The relevant portion of above notification is re-produced as under:-

*In exercise of powers conferred by Section 3 read with Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2015-20, the Central Government hereby amends the Notification No. 30/2015-2020-Customs dated 27.08.2022, as under:-*

S. No.	ITC HS Codes	Description	Export Policy	Revised Export Policy
64	1101	<i>Wheat or Meslin Flour (Atta), Maida, Samolina Rava/Sirgi), Wholemeal atta and resultant atta</i>	Prohibited	<i>However, export of Wheat Flour (Atta) will be allowed against Advance Authorization, and by Export Oriented Units (EOUs) and units in SEZs.</i>

13.5. I find that as per Sr. No. 57 of Schedule 2 of Export Policy, for export of Basmati Rice, Exports allowed subject to registration of contracts with the APEDA , New Delhi and same is re-produced below:

57	1006 30 20	Kg	Basmati Rice (Dehusked (Brown), semi milled, milled both in either par-boiled or raw condition).	<ul style="list-style-type: none"> <li>i) Exports allowed subject to registration of contracts with the APEDA , New Delhi;</li> <li>(ii) Grain of rice to be exported shall be more than 6.61 mm of length and ratio of length to breadth of the grain shall be more than 3.5;</li> <li>(iii) Export shall be through Custom EDI ports. Export is also permitted through the non-EDI Land Custom Stations (LCS) on Indo-Bangladesh and Indo-Nepal border subject to registration of quantity with DGFT. Regional Authorities (RAs) Kolkata &amp; Patna and such other RAs as notified by DGFT from time to time will be the designated RAs for the purpose of such registration of quantity;</li> <li>(iv) Export to EU Member States and European countries, namely Iceland, Liechtenstein, Norway and Switzerland permitted subject to issuance of certificate of Inspection by Export Inspection Council/Export Inspection Agency.</li> <li>(v) Certificate of Inspection by Export Inspection Council / Export Inspection Agency shall be mandatory for export to remaining European countries with effect from 1st January, 2022</li> </ul>
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In view of the above the goods mentioned at Sr. No. 7 are restricted as per export policy.

13.6. I find that Tea Board registration certificate/License is compulsory for export of goods mentioned at Sr. No. 13, As per Para 17 & 18 of Tea Act, 1952 and same is reproduced below:

17. Control of export of tea and tea seed.—

1. No tea shall be exported unless covered by a licence issued by or on behalf of the Board.
2. No tea seed shall be exported unless covered by a permit issued by or on behalf of the Central Government.
3. No tea or tea seed shall be taken by land, sea or air out of any State to any of the 2\*\*\* Portuguese Settlements bounded by India, unless covered by a permit issued by or on behalf of the Board.

18. Tea or tea seed for export to be covered by licence or permit.—

1. No consignment of tea or tea seed shall be shipped or waterborne to be shipped for export or shall be exported until the owner has delivered to the Customs-collector a valid export licence or special export licence or a valid permit issued by or on behalf of the Board or the Central Government, as the case may be, covering the quantity to be shipped.
2. No consignment of tea or tea seed shall be shipped or waterborne to be shipped for carriage (or shall be taken by land or air) to any of the 1\* \* \* Portuguese Settlements bounded by India until the owner has delivered to the Customs-collector a permit issued by or on behalf of the Board covering the quantity to be shipped.
3. No permit for the passage of any tea or tea seed by land into any of the 1\* \* \* Portuguese Settlement bounded by India shall be granted under sub-section (1) of section 5 of the Land Customs Act, 1924 (19 of 1924), unless the application for such permit is accompanied by a permit granted in this behalf by the Board covering the quantity to be passed.

13.7. I find that For Export of Medicine/Antiseptic liquid and other goods of 3004 Chapter, requirement of ADC NOC for export is compulsory for the merchant exporter as per CDSCO ACT, 1940. However, the exporter has not produced the ADC NOC for the goods mentioned at Sr. No. 30 and 69-72 in said Shipping Bill. In fact the exporter has not even declared the goods in said Shipping Bill to avoid conditions of CDSCO Act, 1940.

13.8. I find that as per Notification no. 10/2015-20 dated 24.05.2022 (RUD 2) issued by DGFT, export policy of Sugar was amendment from 'Free' to 'Restricted' with effective from 01.06.2022 upto 31.10.2022. Thus the goods mentioned at Sr. No. 10 and 81 are restricted as per said notification. The relevant extracts of the said Notification are re-produced here-in-below:

Sr. No.	ITC (HS) Code	Description	Existing Policy	Revised Policy	Policy Conditions
93	1701 14 90 1701 99 90	Sugar (Raw sugar, Refined Sugar and white Sugar)	Free	Restricted	(i) With effect from 1 <sup>st</sup> June, 2022 upto 31 <sup>st</sup> October 2022 or until further orders whichever is earlier, export of sugar is allowed with specific permission from Directorate of Sugar, department of FOOD and Public Distribution (DFPD), Ministry of consumer affairs, Food and Public Distribution.

Further, vide Notification No. 40/2015-20 dated 28.10.2022 the restriction was extended beyond 31.10.2022 till 31.10.2023 (RUD 3) and vide Notification no. 36/2023 dated 18.10.2023, the restriction was extended beyond 31.10.2023 till further.

13.9. As per Sr. No. 87 of Schedule 2 of Export Policy, for export of Shellac and All Forms of Lac, Exports allowed subject to registration with Tribal Cooperative Marketing Development Federation of India Ltd. or Shellac & Forest Products Export Promotion Council and Production of quality certificate from Shellac & Forest Products Export Promotion Council and same is reproduced below:

Sr. No.	ITC (HS) Code	Unit	Description	Export Policy	Policy Conditions
87	1301	Kg	Shellac and All Forms of Lac	Free	<p>i) Registration with Tribal Cooperative Marketing Development Federation of India Ltd. or Shellac &amp; Forest Products Export Promotion Council;</p> <p>(ii) Production of quality certificate from Shellac &amp; Forest Products Export Promotion Council.</p>

13.10. In view of the above, **I find that:**

- I. From the facts discussed in the above paras and material evidences available on record, it appears that as per Chartered Engineer report the re-determined value of Shipping Bill No. 5869719 dated 24.11.2024 is Rs. 54,90,269/-.
- II. Further, it appears that the impugned goods mentioned at Table-IV of Para 8.2 having re-determined value of Rs. 12,53,099/- are found declared in Shipping Bill and same are used for export of undeclared/restricted/prohibited goods. Therefore, the impugned goods are liable for confiscation under Section 113(i) and 119 of the Customs Act, 1962.
- III. Further it appears that the goods other than Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 of Table-V of Para 8.2 having value of Rs. 1,72,814/- which were not declared in Shipping Bill No. 5869719 dated 24.11.2024 are liable for confiscation under Section 113(h) and 113(i) of the Customs Act, 1962.
- IV. Further, it appears that the impugned goods mentioned at Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 of Table-V of Para 8.2 having value of Rs. 40,64,356/- are Restricted/Prohibited as per export policy and other allied acts in requirement of mandatory documents for export. Therefore, the impugned goods are liable for confiscation under section 113(d), 113(h) and 113(i) of the Customs Act, 1962.

13.11. Further, I find that:

**Section 50. Entry of goods for exportation. -**

*(1) The exporter of any goods shall make entry thereof by presenting electronically] on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed:*

*Provided that the Principal Commissioner of Customs or Commissioner of*

*Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner.*

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

**(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: -**

- (a) the accuracy and completeness of the information given therein;**
- (b) the authenticity and validity of any document supporting it; and**
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.**

### **113. Confiscation of goods attempted to be improperly exported, etc.**

- The following export goods shall be liable for confiscation:-

- (a) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods;**
- (b) any goods attempted to be exported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the export of such goods;**
- (c) any goods brought near the land frontier or the coast of India or near any bay, gulf, creek or tidal river for the purpose of being exported from a place other than a land customs station or a customs port appointed for the loading of such goods;**
- (d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;**
- (e) any goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation;**
- (f) any goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;**
- (g) any goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;**
- (h) any goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;**
- (i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;]**
- (ia) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;**
- (j) any goods on which import duty has not been paid and which are entered for**

exportation under a claim for drawback under section 74;

(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this act or any other law for time being in force;

(k) any goods cleared for exportation which are not loaded for exportation on account of any wilful act, negligence or default of the exporter, his agent or employee, or which after having been loaded for exportation are unloaded without the permission of the proper officer;

(l) any specified goods in relation to which any provisions of Chapter IV-B or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.

#### **Section 114: Penalty for attempt to export goods improperly, etc. -**

*Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable for confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -*

*(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 1[2[not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act]], whichever is the greater;*

*(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:*

***Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable for be paid by such person under this section shall be twenty-five per cent of the penalty so determined;]***

*(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.*

#### **114AA. Penalty for use of false and incorrect material.**

*- If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable for a penalty not exceeding five times the value of goods.*

13.12. In view of the above, it appears that the exporter has attempted to export the impugned undeclared goods along with some declared goods to avoid the restriction/prohibition as per export policy and other allied acts. Therefore, the impugned goods having total re-determined value of Rs. 54,90,269/- are liable for confiscation under Section 113(d), 113(h), 113(i) and 119 of the Customs Act, 1962. Further, the exporter for their acts of omission and commission is also liable for pay penalty action under Section 114(i), 114(iii) and 114AA of Customs Act, 1962 Customs Act, 1962.

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

**ORDER**

- i. I order to reject the declared value of impugned goods of Rs.42,86,730/- were found under Shipping Bill No. 5869719 dated 24.11.2024 and order to be re-determined at Rs.54,90,269/-.
- ii. I order to confiscate the impugned goods mentioned at Table-IV of Para 8.2 declared under Shipping Bill No. 5869719 dated 24.11.2024 having Re-determined value of Rs.12,53,099/- under section 113(i) and 119 of the Customs Act, 1962. However, I give the option to the exporter to redeem the same on payment of a Redemption Fine of Rs. 1,50,000/- (Rupees One Lakhs Fifty Thousand Only) under Section 125 of the Customs Act, 1962;
- iii. I order to confiscate the impugned goods other than Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 of Table-V of Para 8.2 having value of Rs.1,72,814/- which was not declared in Shipping Bill No. 5869719 dated 24.11.2024 under section 113(h) and 113(i) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same on payment of a Redemption Fine of Rs. 50,000/- (Rupees Fifty Thousand Only) under Section 125 of the Customs Act, 1962;
- iv. I order to confiscate the impugned goods mentioned at Sr. no. 1, 7, 9, 10, 13, 50, 60, 69-72 and 81 at Table-V of Para 8.2 having value of Rs. 40,64,356/- which was not declared in Shipping Bill No. 5869719 dated 24.11.2024 under section 113(d), 113(h) and 113(i) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same on payment of a Redemption Fine of Rs. 6,00,000/- (Rupees Six Lakhs Only) under Section 125 of the Customs Act, 1962;
- v. I order to impose and recover Penalty of Rs. 3,00,000/- (Rupees Three Lakhs Only) from the exporter under Section 114(i) of the Customs Act, 1962.
- vi. I order to impose and recover Penalty of Rs. 1,50,000/- (Rupees One Lakhs Fifty thousand Only) from the exporter under Section 114(iii) of the Customs Act, 1962.
- vii. I order to impose and recover Penalty of Rs. 3,00,000/- (Rupees Three Lakhs Only) from the exporter under Section 114AA of the Customs Act, 1962.

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

**MUKESH KUMARI  
ADDITIONAL COMMISSIONER  
ADC/JC-I-O/o Pr Commissioner-Customs-Mundra**

F. No. GEN/SHED/MISC/367/2024-Docks Examn

Date: 07-02-2025

**BY SPEED POST**

To,  
M/s Biscon Tiles LLP (IEC-AATFB1948H),  
Opp. Gurukrupa Hotel, Near Lenico, Poly,  
Halwad Road, Andarna, Morbi,

Gujarat-363642.

Copy to-

- 1) The Deputy/Assistant Commissioner, TRC / RRA / EDI, Custom House Mundra.
- 2) Guard File.