



सीमा शुल्ककार्यालय का आयुक्त के (निवारक), सीमा शुल्क भवन,
जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास,
जामनगर) गुजरात – (361 001)

Office of the Commissioner of Customs (Preventive),
'Seema Shulk Bhavan', Jamnagar – Rajkot Highway,
Near Victoria Bridge, Jamnagar (Gujarat) – 361 001
Email: commr-custjmr@nic.in; adj-custjmr@nic.in

DIN – 20260171MM000000B367

1. फ़ाइल क्रमांक/ File Number F. No. CUS/5923/2024-Adjn
2. मूल आदेश क्रमांक/
Order-in-Original No. 18/Additional Commissioner/ 2025-26
3. द्वारा पारित/ passed by एन .सृजन कुमार/ N. Srujan Kumar
अपर आयुक्त/ Additional Commissioner,
सीमा शुल्क, निवारक/Customs (Preventive)
जामनगर/ Jamnagar.
4. Date of Order /आदेश दिनांक 08.01.2026
Date of issue / आदेश जारी किया 08.01.2026
5. कारण बताओ नोटिस क्रमांक
एवं दिनांक ADC-21/2025-26 dated 03.11.2025
Show Cause Notice Number
& Date
6. नोटिसी का नाम/
Name of Noticee M/s. Lal Sai Dehy. Foods,
Survey No. 206 P/1, Savarkundla Road,
Taveda Village, Taluka: Mahuva,
Distt.: Bhavnagar (Gujarat).

01. इस आदेश की मूल प्रति संबन्धित व्यक्ति को निशुल्क प्रदान की जाती है।

The original copy of this order is provided free of cost to the person concerned.

02. इस मूल आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम, धारा की 1962 128A)(1)a सीमा शुल्क नियम (अपील), 1982 के नियम 3 के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से 60 दिन के भीतर फॉर्म सीए-1 में निम्नलिखित पते पर अपील दायर कर सकता है।फॉर्म सीए-1 में अपील का प्रपत्र, दो प्रतियों में दायर किया जाएगा और उसके साथ इस आदेश की समान संख्या में प्रतियाँ संलग्न की जाएंगी जिसके विरुद्ध अपील की गई है। कम से कम से जिनमें एक प्रमाणित प्रति हो

आयुक्त (अपील)
चौथी मंजिल, हडको भवन,
ईश्वर भुवन रोड, नवरंगपुरा
अहमदाबाद – 380 009

Commissioner (Appeals),
4th Floor, HUDCO Building,
Ishwar Bhuvan Road,
Navrangpura,
Ahmedabad – 380 009



	Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-1, within sixty days from the date of receipt of this order, under the provisions of Section 128 of the Customs Act, 1962, read with Rule 3 of the Customs (Appeals) Rules, 1982 before the Commissioner (Appeals) at the above mentioned address. The form of appeal in Form No. CA.-1 shall be filed in duplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy).
03.	अपील पर 5/- रुपये का कोर्ट फीस स्टाम्प लगा होना चाहिए। जैसा कि भारतीय स्टाम्प अधिनियम, 1989 के तहत प्रदान किया गया है, या राज्य विधान द्वारा संशोधित किया जा सकता है, जबकि इस अपील के साथ संलग्न आदेश की प्रति पर रुपये 0.50)पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची -I, मद 6 के तहत निर्धारित किया गया है।
	The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paise only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.
04.	अपीलीय ज्ञापन के साथ शुल्क भुगतान /जुर्माना /अर्थ दंड का सबूत भी संलग्न करें अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 128 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।
	Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 128 of the Customs Act, 1962.
05.	अपील प्रस्तुत करते समय यह सुनिश्चित करें की सीमा शुल्क अपील)) नियम, 1982 नियम (प्रोसीजर) प्रक्रिया सिस्टेट और है। हुआ पालन पूरा का नियमो सभी के 1982
	While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects.
06.	इस आदेश के खिलाफ आयुक्त (अपील), सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के 7.5% के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है।
	An appeal, against this order shall lie before the Commissioner (Appeals), on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. Lal Sai Dehy. Foods, Survey No. 206 P/1, Savarkundla Road, Taveda Village, Taluka: Mahuva, Distt.: Bhavnagar (Gujarat) (IEC No. 2414008199) (hereinafter referred to as "Importer") is engaged in export of Dehydrated Onion products.

2. The importer had re-imported Dehydrated White Onion Powder and filed the Bill of Entry No. 8742947 dated 13.11.2023 for clearance thereof for home-consumption. The said goods were earlier exported under the cover of Shipping Bill No. 8725558 dated 05.03.2022. At the time of export, the importer had availed the benefit of Reward / Export Incentive Scheme viz. MEIS, Drawback, RoDTEP & DFRC. Further, at the time of re-import of the said goods, the importer claimed exemption from payment of Duty of Customs, Integrated Tax and Compensation Cess in terms of Notification No. 45/2017-Customs dated 30.06.2017, as amended, vide Notification No. 46/2023-Customs dated 26.07.2023.

3. The relevant text of the amended Notification No. 45/2017-Customs dated 30.06.2017 (as amended vide Notification No. 46/2023-Customs dated 26.07.2023) is extracted here-in-below for the ease of reference:-

Notification No. 45/2017 -Customs

New Delhi, the 30th June, 2017

G.S.R.(E).-In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods falling within any Chapter of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and specified in column (2) of the Table below when re-imported into India, from so much of the duty of customs leviable thereon which is specified in the said First Schedule, and the whole of the, integrated tax, compensation cess leviable thereon respectively under sub-section (7) and (9) of section 3 of the said Customs Tariff Act, as is in excess of the amount indicated in the corresponding entry in column (3) of the said

Table

Sl. No.	Description of goods	Conditions
(1)	(2)	(3)
1	Goods exported – (a) under claim for drawback of any customs or excise duties levied by the Union (b) under claim for drawback of any excise duty levied by a State	amount of drawback of customs or excise duties allowed at the time of export; amount of excise duty leviable by State at the time and place of



	importation of the goods. allowed at the time of export;
(c) under claim for refund of integrated tax paid on export goods	amount of refund of integrated tax, availed at the time of export;
(d) under bond without payment of integrated tax	amount of integrated tax not paid;
(e) under duty exemption scheme (DEEC/Advance Authorisation/DFIA) or Export Promotion Capital Goods Scheme (EPCG)	amount of integrated tax and compensation cess leviable at the time and place of importation of goods;
(f) under claim for RoDTEP	amount of Remission of Duties and Taxes on Exported Products (RoDTEP) allowed at the time of export;
(g) under claim for RoSCTL”;	<p>amount of Rebate of State and Central Taxes and Levies (RoSCTL) allowed at the time of export and subject to the following conditions applicable for such goods -</p> <p>(i) DEEC book has not been finally closed and export in question is de-logged from DEEC Book; Advance Authorisation/DFIA has not been redeemed and the authorisation holder has not been discharged from the export obligation by DGFT;</p> <p>(ii) In case of EPCG scheme the period of full export performance has not expired and necessary endorsements regarding reimport have been made;</p> <p>(iii) The importer had intimated the details of the consignment re-imported to the Assistant Commissioner of Customs or Deputy Commissioner of Customs in charge of the factory where the goods were</p>



manufactured or the premises from where the goods were supplied and to the licensing authority regarding the fact of re-importation and produces a dated acknowledgement of such intimation at the time of clearance of goods;

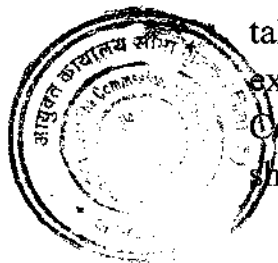
(iv) The manufacturer-exporters may be permitted clearance of such goods without payment of Central Excise duty or integrated tax and compensation cess under transit bond to be executed with the Customs authorities at the port of importation, such bond will be cancelled on the production of certificate issued by the jurisdictional Customs authority about receipt of re-imported goods into their factory or the premises from where the goods were supplied.

Provided that the Assistant Commissioner of Customs/Deputy Commissioner of Customs is satisfied that -

(a) *****

(b) in all other cases, the goods other than those exported under Duty Exemption Scheme (DEEC/Advance Authorisation/DFIA) or Export Promotion Capital Goods Scheme (EPCG) or Duty Entitlement Passbook Scheme (DEPB) or any scheme of Chapter 4 of Foreign Trade Policy are re-imported within three years after their exportation or within such extended period, not exceeding two years, as the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, on sufficient cause being shown for the delay may be allowed;

(c) in the case of goods exported under the Duty Exemption Scheme (DEEC/Advance Authorisation/DFIA) or Export Promotion Capital Goods Scheme (EPCG) or Duty Entitlement Passbook Scheme (DEPB) or any scheme of Chapter 4 of Foreign Trade Policy, re-importation of such goods takes place within one year of exportation or such extended period not exceeding one more year as the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, on sufficient cause being shown for the delay may be allowed;



- (d) ***** ***** *****
(e) ***** ***** *****

2. This Notification will apply to the exports for which order permitting clearance and loading under section 51 of the Customs Act, 1962, has been given on or after 01st day of July, 2017.

Explanation - For the purposes of this notification, -

- (a) ***** ***** *****

(b) "Foreign Trade Policy" means the Foreign Trade Policy, 2023, notified by the Government of India in the Ministry of Commerce and Industry vide notification No. 1/2023 dated the 31st March, 2023, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-Section (ii) vide S.O. 1565 (E). dated the 31st March, 2023;

- (c) ***** ***** *****
(d) ***** ***** *****

(e) "RoDTEP" means the Scheme for Remission of Duties and Taxes on Exported Products as per chapter 4 of Foreign Trade Policy.

(f) "RoSCTL" means the Scheme for Rebate of State and Central Taxes and Levies as notified by the Ministry of Textiles

4. It was observed during the course of Post Clearance Audit (PCA) of the relevant records pertaining to Bill of Entry No. 8742947 dated 13.11.2023 that:-

- at the time of export of the goods (now being re-imported) vide Shipping Bill No. 8725558 dated 05.03.2022, the benefit of schemes like MEIS, Drawback, RoDTEP & DFRC was availed by the importer;
- the said goods were exported on 05.03.2022 and re-imported (imported back) on 13.11.2023 i.e. beyond the period of one year from the exportation of such goods, therefore, the re-import of goods is covered by the proviso (c) of Para (1) of aforementioned notification;
- the proviso (c) of Para (1) of aforementioned notification *inter alia* provides that the benefit of exemption from payment of Customs Duty / Integrated Tax / Compensation Cess, if any, payable at the time of re-import of goods, is subject to an extension from the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, on sufficient cause being shown for the delay, in case of re-import of the goods take place after the period of one year from date of its exportation;



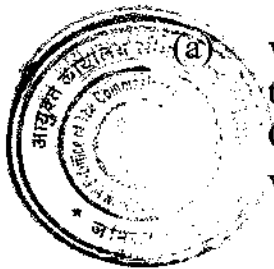
- the extension for re-import of the goods after the period of one year from date of its exportation was not obtained from the Principal Commissioner of Customs or Commissioner of Customs;

In view of the above observations, the importer appeared to be not eligible for exemption from payment of Customs duty by virtue of Notification No. 45/2017-Customs (supra), as a result, appropriate Customs duty become payable on merit at the time of re-importation of the goods sought to be cleared under the said Bill of Entry.

5. Accordingly, a Pre-Notice consultation letter bearing F.No.CUS/2345/2025-Adjn. dated 14.10.2025 was issued to the Importer, as stipulated under proviso to clause (a) to sub-section (1) of Section 28 of the Customs Act, 1962 read with Pre-Notice Consultation Regulations, 2018, communicating them the grounds for recovery of Customs duty of Rs.11,09,196/- along with interest and penalty. Despite lapse of ample time for filing submission as stipulated under Regulation 3(2) of the Pre-Notice Consultation Regulations, 2018, the Importer did not respond. As a Consultative Letter (CL) bearing No. PCA/JMN/GPPL/CL-5/2024 dated 02.07.2024 as per the provisions of Customs, Post Clearance Audit Manual, 2018 was also issued to the importer with request to pay appropriate Customs Duty and alternatively, the importer was also requested to submit their response in case of their dis-agreement with the above observation to which the importer vide their letter dated Nil (received on 29.07.2024) submitted their response and *inter alia* stated, as under:-

- (i) They have exported Dehydrated White Onion Powder to their Buyer vide Shipping Bill No. 8725558 dated 05.03.2022 and the same was re-imported vide Bill of Entry No. 8742947 dated 13.11.2023 due to rejection of the cargo on account of difference in quality.
- (ii) They have re-paid the Drawback and RoDTEP with 15% interest amounting to Rs.7,545/- and Rs.1,98,842/- vide Challan No.CUS/387/23-24 and No.CUS/388/23-24 both dated 01.11.2023 respectively.
- (iii) They came to understand about requirement of permission from the Commissioner of Customs in case of importation after one year from the export date in case of availed of the RoDTEP benefit.
- (iv) They have stated that they will seek permission in advance and follow the proper procedure in future.

6. It also appeared from the facts & circumstance of the case as well as response submitted by the importer that –



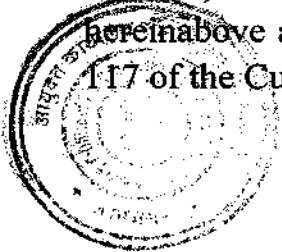
(a) vital condition of time-line of one year for re-import of the goods from the date of its exportation, for availing exemption from payment of Customs Duty, Integrated Cess and Compensation Cess etc. has been violated;

- (b) the Buyer vide its letter dated Nil (received on 29.07.2024) has informed that the goods returned due to rejection of the cargo on account of difference in quality, however, no such supporting documents have been provided. More so, the goods have been rejected almost after long period of 20 months from the date of export. The goods could have been rejected / returned immediately on its arrival at the end of Buyer on this ground and the exporter would have re-imported it well within stipulated period of one year from the date of its exportation, thereby, there is no justifiable reason for delay in re-import of the exported goods;
- (c) The importer is silent with regard to MEIS or DFRC benefit said to have been availed at the time of export of the goods;

7. Accordingly, in view of the aforesaid reasons, the goods imported vide BE No 8742947 dated 13.11.2023 were in contravention of aforesaid notification, therefore, the importer appeared to be not eligible for benefit of exemption from payment of Customs duty Accordingly, the importer is liable to pay Duty along with interest & other liabilities, as under :-

Sr. No.	PARTICULARS	DUTY
(1)	Assessable Value (Rs.)	(Rs.) 33,61,201/-
(2)	Basic Customs Duty (@30%) (Rs.)	(Rs.) 10,08,360/-
(3)	Social Welfare Surcharge (10% of BCD)	(Rs.) 1,00,836/-
(4)	Total Customs Duty (2+3)	(Rs.) 11,09,196/-
(5)	Interest (as per Section 28AA)	As applicable
(6)	Amount already paid : (-) Drawback (Re-paid) (-) RoDTEP (Re-paid)	(Rs.)6043/-+1502/-(Interest) = 7545/- (Rs.)159300+39542(Interest)=198842/- Total : Rs. 206387/-

8. Whereas, on introduction of self-assessment through amendment in Section 17 of the Customs Act, 1962 vide Finance Act, 2017, it is the responsibility of the importer to correctly declare the description, classification, applicable exemption notification, applicable duties, rate of duties and its relevant notifications etc. in respect of the said imported goods and pay appropriate duty accordingly and comply with the conditions of the notifications. In the instant case, it appeared that the importer had wrongly availed the benefit of exemption notification in contravention of the vital condition of the notification. It, therefore, appeared that the importer had violated the provisions of Section 17(1) of the Customs Act, 1962 in as much as they failed to correctly self-assess the impugned goods and also wilfully violated the condition of Notification No. 45/2017-Cus. (as amended) read with sub-section (a) and (aA) of Section 46 of the Customs Act, 1962. The act and omission as discussed hereinabove appeared to have rendered the importer liable to penalty under Section 117 of the Customs Act, 1962.



9. In view of above, it appeared that the importer had indulged in wilful mis-declaration in order to wrongly avail of the benefit of exemption notification in as much as they have reversed / paid-back export incentives of Drawback / RoDTEP (along with interest) totally amounting to Rs. 2,06,387/- and wrongly claimed the ineligible benefit of exemption from payment of Customs duty in contravention of vital condition, as discussed hereinabove, with an intent to evade payment of Customs duty. The said acts of omission and commission on the part of the importer have resulted in short levy of Customs duty to the tune of Rs. 11,09,196/- (Rupees Eleven Lakhs Nine Thousands One Hundred and Ninety Six only) (as calculated hereinabove), which appeared recoverable from them under the provisions of Section 28(1) of the Customs Act, 1962 along with interest as applicable, under Section 28AA of the Customs Act, 1962.

10. Accordingly, a Show Cause Notoce No. ADC-21/2025-26 dated 03.11.2025 was issued to the importer asking them, as to why:

- (i) the benefit of exemption from payment of Customs Duty on re-import of the subject goods i.e. Dehydrated White Onion Powder availed, as per Notification No. 45/2017-Cus. (as amended), should not be denied and why the subject Bill of Entry should not be re-assessed on merit accordingly;
- (ii) Differential Customs duty amounting to Rs.11,09,196/- (Rupees Eleven Lakhs Nine Thousands One Hundred Ninety Six only) should not be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;
- (iii) Interest should not be recovered from them on the differential Customs duty mentioned at (ii) above under Section 28AA of the Customs Act, 1962;
- (iv) Penalty should not be imposed upon them under the provisions of Section 117 of the Customs Act, 1962 for short-payment of duty mentioned at (ii) above.

DEFENCE REPLY

11. The Importer vide his letter dated 22.12.2025 in his written defense put forth following points:

- (i) They were issued SCN as part of audit para on the grounds that they had not obtained necessary permission to re-import the goods exported vide the Shipping Bill No. 8725558 dated 05.03.2022 even though goods re-imported beyond the period of one year.
- (ii) Subsequently, they had filed an application dated 26.11.2025 for condonation of delay in re-import of goods exported vide the said Shipping Bill on the grounds stated therein in the said Application before the Commissioner, Customs (Preventive), Jamnagar.



- (iii) As communicated vide letter dated 17.12.2025, the Commissioner, Customs (Preventive), Jamnagar in terms of provision (c) of Para-1 of Notification No. 45/2017-Customs dated 30.06.2017 as amended vide Notification No. 46/2023- Customs dated 26.07.2023 has accorded post facto permission to them to re-import goods exported vide the above said Shipping Bill.
- (iv) In view thereof, they requested to drop the proceedings initiated vide the said Show Cause Notice.

PERSONAL HEARING:

12. The personal hearing in the subject case was granted on 07.01.2026 in virtual mode as a natural justice, which was attended by Shri Snjay N. Darji, Branch Manager, M/s. Vishal Shipping, duly authorized by the Noticee. During the personal hearing, he re-iterated submissions made vide their written submission dated 22.12.2025. He stated that they have submitted all the documents and got required approval for re-import after one year. Accordingly, they requested to drop the proceedings.

DISCUSSIONS AND FINDINGS:

13. I have carefully gone through the facts of the case, Show Cause Notice and written defense submissions and submission made during the personal hearing held on 07.01.2026 as well as available records on hand. The issues that arise for determination are:

- (i) Whether the exemption under Notification No. 45/2017-Customs dated 30.06.2017 as amended vide Notification No. 46/2023- Customs dated 26.07.2023 is admissible in view of post-facto permission granted by the Commissioner.
- (ii) Whether the demand of duty, interest and penalty proposed in the impugned Show Cause Notice survives.

14. I find that the sole ground for denial of the exemption and for raising the demand of customs duty in the present case is the alleged non-obtaining of permission/extension for re-import beyond the period of one year, as stipulated under proviso (c) to Para-1 of Notification No. 45/2017-Customs dated 30.06.2017, as amended by Notification No. 46/2023-Customs dated 26.07.2023.

14.1 It is an undisputed fact that the competent authority, the Commissioner of Customs (Preventive), Jamnagar, has accorded post-facto permission for re-import of the subject goods vide letter dated 17.12.2025. I observe that proviso (c) to Para-1 of the said Notification expressly vests the Principal Commissioner/Commissioner of Customs with the authority to permit re-import within an extended period, upon sufficient cause being shown.

14.2 In view of the aforesaid, once such permission has been granted by the competent authority, the statutory condition prescribed under the Notification stands duly complied with. Consequently, the very basis for issuance of the Show Cause Notice stands extinguished and thereby ceases to exist. Accordingly, the benefit of exemption under Notification No. 45/2017-Customs dated 30.06.2017, as amended by Notification No. 46/2023-Customs dated 26.07.2023, becomes admissible. When the exemption itself is held to be admissible, the demand of Customs duty under Section 28(1), the recovery of interest under Section 28AA, and the imposition of penalty under Section 117 of the Customs Act, 1962, are not sustainable in law.

15. In view of the foregoing discussion and findings, I pass the following order:

ORDER

- (i) I hold that the importer M/s. Lal Sai Dehy. Foods, Survey No. 206 P/1, Savarkundla Road, Taveda Village, Taluka: Mahuva, Distt.: Bhavnagar (Gujarat) is eligible for exemption under Notification No. 45/2017-Customs dated 30.06.2017 as amended in respect of re-import of Dehydrated White Onion Powder covered under Bill of Entry No. 8742947 dated 13.11.2023, in view of post-facto permission granted by the Commissioner of Customs (Preventive), Jamnagar.
- (ii) I drop the demand of Customs duty amounting to Rs. 11,09,196/- under Section 28(1) of the Customs Act, 1962.
- (iii) I drop the proposal for recovery of interest under Section 28AA of the Customs Act, 1962.
- (iv) I drop the proposal for imposition of penalty under Section 117 of the Customs Act, 1962.

The Show Cause Notice No. ADC-21/2025-26 dated 03.11.2025 is hereby disposed of accordingly.

16. This order is issued without prejudice to any other action which may be contemplated against the Importer or any other person in terms of any of the provisions of the Customs Act, 1962 and/or any other law for the time being in force.

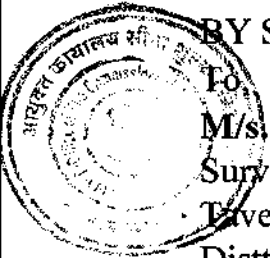


(N. Srujan Kumar)
Additional Commissioner
Date: 08.01.2026

DIN - 20260171MM000000B367

BY Speed Post A.D

To
M/s. Lal Sai Dehy. Foods,
Survey No. 206 P/1, Savarkundla Road,
Taveda Village, Taluka: Mahuva,
Distt.: Bhavnagar (Gujarat)-364290.



Copy to:-

- i. The Commissioner, Customs (Preventive), Jamnagar [Kind Attention: the Superintendent (Review-HQ), Customs (Preventive), Jamnagar]
- ii. The Assistant Commissioner of Custom House, Pipavav for information and further necessary action.
- iii. Guard File.

