	सीमा शुल्क के प्रधान आयुक्त का कार्यालय **सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात** **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS** **CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT** **Email-adj-mundra@gov.in**	

A	**FILE NO.** फ़ाइल संख्या	GEN/ADJ/ADC/1300/2024-Adjn-O/o Pr. Commr- Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ADC/ZDC/205/2026-27
C	**PASSED BY** जारीकर्ता	**Dipak Zala,** Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	25.06.2026
E	**DATE OF ISSUE** जारी करने की तिथि	25.06.2026
F	**SCN F. No. & Date** कारण बताओ नोटिस क्रमांक	CUS/APR/SCN/704/2024-Gr 1-O/o Pr Commr-Cus-Mundra dated 24.05.2024
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	1.M/s. Vardhman Trading Co (IEC-1807000371) 2.M/s. Aiyer Shipping Agency Pvt. Ltd.

1. यह अपील आदेश संबन्धित को नि:शुल्क 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),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद-380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS),

Having his office at 4th Floor, HUDCO Building, Ishwar Bhuvan Road,

Navrangpura, 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 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 -1870 के मद सं°-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 ड्यूटि/ 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 (अपील) नियम,1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।

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

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

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

BRIEF FACTS OF THE CASE:

Based on specific intelligence developed by the officers of Directorate of Revenue Intelligence, Gandhidham Regional Unit (hereinafter referred to as the "DRI") suspected that M/s. Vardhman Trading Co (IEC-1807000371), Near Electric Substation Industrial Area, Gangyal Jammu Tawi, Jammu & Kashmir-180010 (hereinafter referred to as the "importer") had imported a consignment in Container No. ASLU7027467 vide Bill of Entry No.8103869 dated 01.10.2023 to have contrabands concealed within. Acting on the intelligence, 40' feet container bearing No. ASLU7027467, arrived under Bill of Lading No. DSACJEAMUN2300276AS dated 25.09.2023 from Jebel Ali, UAE to Mundra, it was examined by the Officers of DRI at M/s Mundra CFS Pvt. Ltd., Mundra (hereinafter referred to as the CFS) under Panchnama proceedings dated 06.10.2023 and 11.10.2023.

Examination of goods:

2. During the course of examination of the goods imported in Container No. ASLU7027467, under Panchnama dated 06.10.2023, drawn at M/s Mundra CFS Pvt. Ltd., Mundra, the seal bearing No.1545013 was found intact on the container. However, seal number mentioned in Bill of Lading is 082125 and it was not the same seal which have been found intact on the container. The officer enquired about the same with Shri Prempal Jakhar, representative of Customs Broker firm M/s Bright Shiptrans and Shri Ramashankar R. Prasad, representative of CFS. Both of them told the officers that they were unaware of the reason for the mismatch of the seal intact on the container with the respective Bill of Lading. The seal bearing No.1545013 intact on the container No. ASLU7027467 was cut and after cutting of the seal, the container was opened and it was found to be stuffed with Black Colour Iron drums. The ninety percent of the goods in container were stuffed with single Black Colour

Iron drums without any other Iron drums stack on them whereas the ten percent of the goods were stacked with two black colour Iron Drum declared to stuffed with Bitumen VG30. With the help of forklift the iron drum were unloaded one by one which was marked by the surveyor respectively as 1,2, 3...., 144 & 145. The officer and the surveyor weighted each Iron Drum and the range of weight of the Iron drum was found to be between 185 to 197 Kgs. Further, the cap of each and every Black Colour Iron Drum was opened and all Iron Drum was found to be stuffed with very thick black colour substance appeared to be Bitumen. Thereafter, the iron rod was inserted in the black substance appeared to be bitumen stuffed in randomly selected Iron Drum and did not notice any partition beneath the goods appeared to be Bitumen. The proceedings of examination were stopped on 06.10.2023 due the non-availability of the labour and light was not sufficient for the complete examination of the cargo. Further, the officer instructed the representative of the Mundhra CFS to depute two security guards for the round the clock surveillance and security of the cargo placed in the open area. The representative of the CFS ensured that they will depute two security guards for the round the security of the cargo.

2.1 During the examination on 11.10.2023, Shri Ramashankar R. Prasad stated that the goods pertaining to the Bill of Entry No. 8103869 dated 01.10.2023, examined vide Panchanama dated 06.10.2023 stuffed in a container No. ASLU7027467, was placed at the round the clock surveillance under the CCTV footage. Thereafter, the officers instructed to Shri Ramashankar to arrange the labours to assist the officer in the examination of the cargo. On the arrival of the labours, the officers instructed the labors that they have to verify the concealment or partition in the black colour iron drum containing the cargo declared as Bitumen. During the examination, did not notice any partition or concealment in 145 Black colour Iron Drum on following the procedure as stated in Panchanama dated 11.10.2023. Further, to verify any concealment or partition, Iron Drum marked as 30 vide panchnama dated 06.10.2023 was cut completely and spilled the content of the iron drum declared as Bitumen on the PVC sheet placed on the ground but did not notice any concealment or partition in the Iron Drum. The content found in the Iron drum was thick black colour substance declared as Bitumen. After examination, the goods were handed over to CFS representative for safe custody.

3. DRI issued letter vide F.No. DRI/AZU/GRU/Misc.Corr./2022 dated.20.10.2023 stated that container No. ASLU7027467 was suspected of concealment within so was put on hold but no such contraband was found, further on scrutiny of the documents it appeared that the Country of Origin had been mis declared as UAE as

the said goods were of Iranian Origin and was directed to take necessary action in view of their observation. After receiving the documents after perusal, it was observed that the importer has declared country of origin as United Arab Emirates. However, based on Bill of Lading [BL No. DSACBNDMUN2300276 dated 21.06.2023], it appears that the actual country of origin of the imported goods is Iran. Similarly, the importer has imported 18 more containers vide Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 and wrongly declared to be of UAE origin. While it appears that the goods were of Iran origin and the case has been transferred to this office. The details mentioned in Bill of Lading are as under:-

TABLE-A

Bill of Lading No. & Date	DSACBNDMUN2300276 dated 21.06.2023
Name & Address of the Shipper	M/s Kara International Transport Co. Ltd., Tehran, Iran.
Name & Address of the Consignee	M/s Serena International Trading FZCO., P.O. Box No.48210, Dubai Digital Park, Dubai Silicon Oasis, Dubai, UAE
Vessel	OCEAN LION
Port of Loading	Bandar Abbas Shahid Rajaee, Iran
Port of Discharge	Mundra, India
Description of the goods	Bitumen VG30
Quantity (in Iron Drum)	2750 Iron Drums
Gross Weight	5,22,500 Kgs
Net Weight	4,96,925 Kgs
Container Nos.	ASLU7039827, ASLU7039832, ASLU7045429, ASLU7049403, ASLU7064542, ASLU7000390, ASLU7003784, ASLU7004965, ASLU7006274, ASLU7011413, ASLU7014109, ASLU7025588, ASLU7027467, ASLU7031596, ASLU7006741, ASLU7035230, ASLU7037110, ASLU7037378 & ASLU7037640

3.1 In the said Bill of Lading dated 21.06.2023, the Shipper mentioned as M/s Kara International Transport Co. Ltd., Tehran, Iran and consignee/notify party mentioned as M/s Serena International Trading FZCO.P.O. Box No.48210, Dubai Digital Park, Dubai Silicon Oasis, Dubai, UAE. In the said Bill of Lading, the port of

loading is Bandar Abbas Shahid Rajaee, Iran and there were 19 containers (containers details mentioned in above Table-A) and the port of discharge is mentioned as Mundra, India. However, the said 19 containers were not arrived at Mundra Port and the same were sent to Jebel Ali, UAE. Thereafter, the containers were shipped by the notify party M/s Serena International Trading FZCO, Dubai, UAE and from there another B/L No. DSACJEAMUN2300276S dated 27.06.2023 was issued for shipping of 18 containers from Jebel Ali to Mundra. The details mentioned in Bill of Lading are as under:-

TABLE-B

Bill of Lading No. & Date	DSACJEAMUN2300276S dated 27.06.2023
Name & Address of the Shipper	M/s Serena International Trading FZCO., P.O. Box No.48210, Dubai Digital Park, Dubai Silicon Oasis, Dubai, UAE
Name & Address of the Consignee	M/s. Vardhman Trading Co, Near Electric Substation Industrial Area, Gangyal Jammu Tawi, Jammu & Kashmir 180010. (IEC-1807000371)
Vessel	WADI BANI KHALID
Port of Loading	Jebel Ali, UAE
Port of Discharge	Mundra, India
Description of the goods	Bitumen VG30 (HS Code : 27132000)
Quantity (in Iron Drum)	2605 Iron Drums
Gross Weight	4,94,950 Kgs
Net Weight	4,70,723 Kgs
Container Nos.	ASLU7014109, ASLU7025588, ASLU7031596, ASLU7006741, ASLU7035230, ASLU7037110, ASLU7037378, ASLU7037640, ASLU7039827, ASLU7039832, ASLU7045429, ASLU7049403, ASLU7064542, ASLU7000390, ASLU7003784, ASLU7004965, ASLU7006274 & ASLU7011413

3.2 Further, one container No. ASLU7027467 had shut out at Jebel Ali, UAE, which was later on shipped vide B/L No. DSACJEAMUN2300276AS dated 25.9.2023. The details mentioned in Bill of Lading are as under:-

TABLE-C

Bill of Lading No. & Date	DSACJEAMUN2300276AS dated 25.09.2023
Name & Address of the Shipper	M/s Serena International Trading FZCO., P.O. Box No.48210, Dubai Digital Park, Dubai Silicon Oasis, Dubai, UAE
Name & Address of the Consignee	M/s. Vardhman Trading Co, Near Electric Substation Industrial Area, Gangyal Jammu Tawi, Jammu & Kashmir 180010. (IEC-1807000371)
Vessel	NORTHERN GUARD
Port of Loading	Jebel Ali, UAE
Port of Discharge	Mundra, India
Description of the goods	Bitumen VG30 (HS Code : 27132000)
Quantity (in Iron Drum)	145 Iron Drums
Gross Weight	27,550 Kgs
Net Weight	26,202 Kgs
Container Nos.	ASLU7027467

3.3 In the instant case both these Bills of Lading dated 27.06.2023 & 25.09.2023 were issued to consignee/notify party M/s Vardhman Trading Co., Jammu & Kashmir. The container numbers of the 19 containers pertaining to shipment from Iran to Jabel Ali were tallied with the two shipments (18 containers +1 container) from Jebel Ali to Mundra. Hence, it appears that the actual country of origin of the goods is Iran instead of UAE.

3.4 In the instant case, the importer had filed 2 Bill of Entries for import of Bitumen Grade VG30 declaring country of origin as UAE vide Bill of Entry No.6699686 dated 03.07.2023 for the said 18 containers and Bill of Entry No.8103869 dated 01.10.2023 for import of Bitumen Grade VG30 for the said 01 container. The details mentioned in both Bill of Entries are as under:-

TABLE-D

BE No & date	Description of Goods & CTH declared	Container No(s)	Qty (in Kgs)	Declared Asses. Value (Rs.)	Declared Duty Payable (Rs.)	BL No. & Date	Declared COO

8103869 dated 01.10.2023	Bitumen Grade VG30	ASLU7027467	26202	921228	225608	DSACJEAMUN2300276AS dated 25.09.2023	UAE
6699686 dated 03.07.2023		ASLU7014109, ASLU7025588, ASLU7031596, ASLU7006741, ASLU7035230, ASLU7037110, ASLU7037378, ASLU7037640, ASLU7039827, ASLU7039832, ASLU7045429, ASLU7049403, ASLU7064542, ASLU7000390, ASLU7003784, ASLU7004965, ASLU7006274 & ASLU7011413	47072 3	16372793	4009697	DSACJEAMUN2300276S dated 27.06.2023	

4. <u>Statements and Enquiry:</u>

4.1 Statement of Shri Shyam Sunder Sharma, 'G' card holder of CB firm M/s Bright Shiptrans Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 on 14.11.2023 wherein he interalia stated that:-

- On being asked to offer comments in respect of the Bill of Lading No. DSACENDMUN2300276 dated. 21.06.2023 issued from Bandar Abbas wherein. there are 19 containers mentioned and the shipper is M/s.Kara International Transport Co. Ltd., Tehran Iran and the consignee is M/s.Serena International Trading FZCO, Dubai UAE. He stated that he had seen the Bill of Lading No. DSACENDMUN2300276 dated21.06.2023 which is shown as issued from Bandar Abbas and it pertains to 19 containers. He said that M/s.Serena International Trading FZCO, Dubai UAE is the supplier of Bitumen Grade VG30 to their Importer M/s. Vardhman Trading Co and all the 19 containers are reflecting in the Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023. He stated that he did not know about the above referred B/L issued from Bandar Abbas as the Importer M/s. Vardhman Trading Co had submitted Bill of Lading No. DSACJEAMUN23002768 dated. 27.06.2023 for clearance of 18 containers, thereafter the Importer M/s. Vardhman Trading Co had submitted Bill of Lading No. DSACJEAMUN2300276AS dated. 25.09.2023 for clearance of 01 container. Hence, he did not want to comment on the origin of containers as shown to him.

- On being asked, why did Directorate of Revenue Intelligence had held their shipment of B/L No. DSACJEAMUN2300276AS dated 25.09.2023 of only one container for examination, he had stated that the Importer had sent us the B/L No. DSACJEAMUN2300276AS dated, 25.09.2023 and we had filed the B/E No.8103869 dated 01.10.2023 for ASLU7027467 on routine process. Only when DRI had held the container for examination, it was found on enquiry from the Importer, that the said container was part of the lot of 19 containers and one container ASLU7027467 had shut-out at Jebel Ali port. The Importer had placed order for 500 MTs of Bitumen from the Supplier M/s. Serena International Trading FZCO, Dubai UAE. He supposed the said container ASLU7027467 was examined at Jebel Ali Port as the container seal No.082125 (which is also mentioned in both the Bs/L) was found inside the container, the same was acknowledged by DRI and mentioned in their Panchnama dated 06.10.2023. DRI had held the shipment for examination of drums contained in the container ASLU7027467 and the container was examined.
- On being asked, does the Importer know about the Shipper M/s. Kara International Transport Co. Ltd., Tehran Iran, he stated that he did not think so, as per his knowledge the Importer M/s. Vardhman Trading Co had no contact nor dealt with M/s. Kara International Transport Co. Ltd., Tehran Iran. As the Supplier is based at UAE and the payments of the Imports have been directly made to M/s.Serena International Trading FZCO, Dubai UAE. He had been informed by the Importer Shri Anshul Jain that they have remitted the payment of goods contained in the 19 containers through Yes Bank and the Importer submitted the details vide letter dated 16.11.2023.
- On being asked, he stated that the shipment of container was from Jebel Ali, UAE, and the payment made to Jebel Ali by the Importer.

4.2 Statement of Shri Sudhakar Chikati, Branch Manager of M/s. Aiyer Shipping Agency Pvt. Ltd., Gandhidham on 29.04.2024 wherein he interalia stated that they are the agents of their Principal container line M/s. Dragon Shipping Container Line at Mundra.

- M/s. Dragon Shipping Container Line are having service at Iran whose agents at Iran are M/s. AryaLand Services.
- Their main work related to container line pertaining to Import is to file import manifest of the containers, collect payment of local charges and release delivery Order.

- On being asked to inform about the load port of the goods contained in the containers covered under the said Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 he stated that the load port of goods said to contain Bitumen VG30 covered under 19 containers per Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 was loaded from Bandar Abbas Shahid Rajaee, Iran for discharge at Mundra.
- On being asked that in the Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 for the 19 containers the Shipper has been mentioned as Kara International Transport Co. Ltd., Tehran Iran but the Bill of Lading document filed with the Customs Mundra shows the Shipper as Serena International Trading FZCO, Dubai UAE and had filed Bill of Lading No.DSACJEAMUN23002768 dated 27.06.2023 for 18 containers and DSACJEAMUN2300276AS dated 27.06.2023 for 01 container, he stated that this was the issue of switch Bill of Lading which was done as per request of M/s.Serena International Trading FZCO, Dubai UAE to hide the actual shipper and port of loading, the Bill of Lading were switched.
- that the BL of the goods which originated from Port of Loading Bandar Abbas Shahid Rajaee Iran per Bill of Lading No.DSACBNDMUN2300276 dated 21.06.2023 for the 19 containers the Shipper had been mentioned as Kara International Transport Co. Ltd., Tehran Iran thereafter on the request of the shipper to their agents at Jebel Ali M/s. Serena International Trading FZCO, Dubai UAE the Bill of Lading No.DSACJEAMUN23002768 dated 27.06.2023 for 18 containers and DSACJEAMUN2300276AS dated 27.06.2023 for 01 container have been changed to M/s. Serena International Trading FZCO, Dubai UAE.

05. Summary of the investigation:

5.1 The importer had imported 19 (18+1) containers of Bitumen Grade VG30 declaring the country of origin as UAE vide Bills of Entry No.6699686 dated 03.07.2023 & 8103869 dated 01.10.2023, details of which as per Bill of Ladings are as under:

TABLE - E

Bill of Lading No. & Date	DSACBNDMUN2300276 dated 21.06.2023	DSACJEAMUN2300276S dated 27.06.2023	DSACJEAMUN2300276 AS dated 25.09.2023
Name &	M/s Kara International	M/s Serena	M/s Serena International

Address of the Shipper	Transport Co. Ltd., Tehran, Iran.	International Trading FZCO., P.O. Box No.48210, Dubai Digital Park, Dubai Silicon Oasis, Dubai, UAE	Trading FZCO., P.O. Box No.48210, Dubai Digital Park, Dubai Silicon Oasis, Dubai, UAE
Name & Address of the Consignee	M/s Serena International Trading FZCO., P.O. Box No.48210, Dubai Digital Park, Dubai Silicon Oasis, Dubai, UAE	M/s. Vardhman Trading Co, Near Electric Substation Industrial Area, Gangyal Jammu Tawi, Jammu & Kashmir-180010. (IEC-1807000371)	M/s. Vardhman Trading Co, Near Electric Substation Industrial Area, Gangyal Jammu Tawi, Jammu & Kashmir 180010. (IEC-1807000371)
Vessel	OCEAN LION	WADI BANI KHALID	NORTHERN GUARD
Port of Loading	Bandar Abbas Shahid Rajaee, Iran	Jebel Ali, UAE	Jebel Ali, UAE
Port of Discharge	Mundra, India	Mundra, India	Mundra, India
Description of the goods	Bitumen VG30	Bitumen VG30 (HS Code : 27132000)	Bitumen VG30 (HS Code : 27132000)
Quantity (in Iron Drum)	2750 Iron Drums	2605 Iron Drums	145 Iron Drums
Gross Weight	5,22,500 Kgs	4,94,950 Kgs	27,550 Kgs
Net Weight	4,96,925 Kgs	4,70,723 Kgs	26,202 Kgs
Container Nos.	ASLU7039827, ASLU7039832, ASLU7045429, ASLU7049403, ASLU7064542, ASLU7000390, ASLU7003784, ASLU7004965, ASLU7006274, ASLU7011413, ASLU7014109, ASLU7025588, ASLU7027467, ASLU7031596, ASLU7006741, ASLU7035230,	ASLU7014109, ASLU7025588, ASLU7031596, ASLU7006741, ASLU7035230, ASLU7037110, ASLU7037378, ASLU7037640, ASLU7039827, ASLU7039832, ASLU7045429, ASLU7049403, ASLU7064542, ASLU7000390, ASLU7003784, ASLU7004965,	ASLU7027467
	ASLU7037110, ASLU7037378 & ASLU7037640	ASLU7006274 & ASLU7011413	

5.2 During the course of examination of the goods imported in Container No. ASLU7027467, it was found that the imported goods are Bitumen as declared by the importer and no concealment of contraband was found concealed within.

5.3 Further, it appears that the said goods were originated from Iran, from where the goods were destined to Mundra, India vide Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 in 19 Containers, however, the said 19 containers did not arrive at Mundra Port directly and the same were sent to Jebel Ali, UAE. It further appears that the 19 containers of the same goods were exported as it is, from Jebel Ali, UAE to Mundra vide Bill of Lading No. DSACJEAMUN2300276S dated 27.06.2023 (18 containers) and Bill of Lading No. DSACJEAMUN2300276AS dated 25.09.2023 (1 container) in the same containers as neither the container numbers are different nor the seal number is different on tallying the details in Bill of Lading issued for Iran to India and UAE to India. Therefore, it appears that the goods imported to Mundra port (India) were originated from Iran.

5.4 Hence, it appears that the goods imported by the Importer were originated from Iran and importer has imported the goods by mis-declaring the same as UAE origin. Therefore, the imported goods in 19 containers vide Bill of Entry No.6699686 dated 03.07.2023 & 8103869 dated 01.10.2023 appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962 and the importer is liable for penal action under Section 112(a) of the Customs Act, 1962. However, the goods imported vide Bill of Entry No.6699686 dated 03.07.2023 covered under 18 containers have already been cleared. Hence the same are not available for confiscation.

5.5 Further, it also appears that it was in the knowledge of M/s. Aiyer Shipping Agency Pvt. Ltd., Gandhidham and was having all the documents for the correct fact that 19 containers of the goods were loaded at Bandar Abbas Shahid Rajaee, Iran Port for Mundra, India and the same were not arrived at Mundra Port, India. However, another two Bill of ladings dated 27.06.2023 (for 18 containers) & 25.09.2023 (for 1 container) were prepared for giving the impression that the goods were supplied from Jebel Ali, UAE. In view of the above, it appears that M/s. Aiyer Shipping Agency Pvt. Ltd., Gandhidham is liable for penalty under Section 117 of the Customs Act,1962.

6. Relevant Provisions of law:

The relevant provisions of law pertaining to the present matter are summarized as under:

6.1 Section 46: Entry of goods on importation*:*

(4) The importer while presenting a bill of entry stall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

(4A) The importer who presents a BE shall ensure the following:

(a) accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with restriction or prohibition, if any, relating to the goods under this act or under any other law for the time being in force.

6.2 Section 111: Confiscation of improperly imported goods, etc. *- The following goods brought from a place outside India shall be liable for confiscation:*

…

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54.

…

6.3 Section 112: Penalty for improper importation of goods, etc*.*

Any person,—

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, 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 not exceeding the value of the

goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty 219 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty 220 [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

***6.4 Section 117: Penalties for contravention, etc., not expressly mentioned**. - Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.*

6.5 Section 125: Option to pay fine in lieu of confiscation.

(1)Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] [Inserted by Act 80 of 1985, Section 9 (w.e.f. 27.12.1985).] an option to pay in lieu of confiscation such fine as the said officer thinks fit:[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply: Provided further that]

[Substituted by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.] without prejudice to the provisions of the proviso to sub-section

(2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.(2) [Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges, payable in respect of such goods.] [Substituted by Act 80 of 1985, Section 9, for sub-Section (2) (w.e.f. 27.12.1985).](3)[Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

7. Contravention of Provisions:

7.1. Section 46(4) of the Customs Act, 1962, stipulates that the importer, while presenting a BE shall make and subscribe to a declaration as to the truth of the contents of such BE. Further, Section 46(4A) stipulates that the importer who presents a BE shall ensure the accuracy and completeness of the information given therein, the authenticity and validity of any document supporting it and compliance with restriction or prohibition, if any, relating to the goods under this act or under any other law for the time being in force.

7.2. From the above discussed facts and statutory provisions, it appears that the imported goods i.e. “Bitumen Grade VG30” declared by the importer as UAE origin was originated from Iran. Therefore, the imported goods appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962 and the importer is liable for penal action under Section 112(a) of the Customs Act, 1962.

7.3. It further appears that it was in the knowledge of M/s. Aiyer Shipping Agency Pvt. Ltd., Gandhidham and was having all the documents for the correct fact that the goods were loaded at Bandar Abbas Shahid Rajaee, Iran Port. However, another two Bill of ladings dated 27.06.2023 & 25.09.2023 were prepared for giving the impression that the goods were supplied from Jebel Ali and therefore, it appears that by their said act of omission and commission, M/s. Aiyer Shipping Agency Pvt. Ltd., Gandhidham has rendered themselves liable for imposition of penalty under Section 117 of Customs Act, 1962.

8.1 Accordindgly, M/s. Vardhman Trading Co (IEC-1807000371), Near Electric

Substation Industrial Area, Gangyal Jammu Tawi, Jammu & Kashmir-180010, were called upon to show cause to the Additional Commissioner of Customs, Customs House, Mundra having his office situated at 1st Floor, Custom House, Port User Building, Mundra, within thirty days from the receipt of this notice as to why:

(i) 26,202 Kgs of "Bitumen Grade VG30" imported in 01 Container pertaining to Bill of Entry No. 8103869 dated 01.10.2023 valued at Rs.9,21,228/- (Rupees Nine Lakhs Twenty-One Thousand Two Hundred and Twenty-Eight Only) should not be confiscated under Section 111 (m) of the Customs Act, 1962.

(ii) Penalty should not be imposed upon them under the provisions of Section 112(a) of the Customs Act, 1962 for the goods covered under Bill of Entry No.8103869 dated 01.10.2023.

(iii) 4,70,723 Kga of "Bitumen Grade VG30 imported in 18 Containers pertaining to Bill of Entry No. 6699686 dated 03.07.2023 valued at Rs.1,63,72,793/ (Rupees One Crore Sixty-Three Lakh Seventy-Two Thousand Seven Hundred and Ninety-Three Only) should not be confiscated under Section 111 (m) of the Customs Act, 1962. -

(iv) Penalty should not be imposed upon them under the provisions of Section 112(a) of the Customs Act, 1962 for the goods covered under Bill of Entry No. 6699686 dated 03.07.2023.

8.2 Accordingly, M/s. Aiyer Shipping Agency Pvt. Ltd., Office No.203, 2nd Floor, Plot No.40, Ridhhi Shidhhi -Arcade 2, Sector 08, Gandhidham-370201 was called upon to show cause to the Additional Commissioner of Customs, Customs House, Mundra having his office situated at 1st Floor, Custom House, Port User Building, Mundra, within thirty days from the receipt of this notice as to why:

(i) Penalty should not be imposed upon them under Section 117 of the Customs Act, 1962.

WRITTEN SUBMISSIONS

9. M/s. Vardhman Trading Co (IEC-1807000371) have submitted their written submissions vide their letter dated 10.06.2024 and additional submission dated 24.02.2025 through their Authorized representative Shri Abhishek Darak, CA, wherein they have inter-alia submitted that:-

- M/s Vardhman Trading Co. in their reply dated 18.06.2024 submitted that they have never come in contact with M/s Kara International Transport Co. Ltd., Tehran, Iran. The subject consignments have not been purchased by them from that party. They had entered into transaction with M/s Serena International Trading FZCO, Dubai, UAE. The Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 was mentioned as "DRAFT". They were not aware of it and received the final Bill of Lading No. DSACJEAMUN2300276S dated 27.06.2023 (mentioned as RUD-5 in the SCN) and another Bill of Lading No. DSACJEAMUN2300276AS dated 25.09.2023 for the shut-out container. They filed the Bills of Entry on the basis of these final Bills of Lading supplied by their supplier M/s Serena International Trading FZCO. Being a "DRAFT" Bill of Lading, they did not give any importance to it and did not ask their overseas supplier about the same. They submitted that if there had been any ill-intent, they would not have presented that 'DRAFT' Bill of Lading to the Department.
- They further submitted that the allegation of Iranian origin of the goods is based merely on the fact that container numbers and seal numbers mentioned in the "DRAFT" Bill of Lading tallied with the actual container numbers and seal numbers. However, it has been ignored that it was merely a draft Bill of Lading and final Bill of Lading had not been issued. The statement of Shri Shyam Sunder Sharma, 'G' card holder of CB firm M/s Bright Shiptrans Pvt. Ltd. has also been relied upon, but there is nothing in it to support the allegations.
- Regarding the tabulated comparison of Bills of Lading, they submitted that no investigation has been made as to whether any final Bill of Lading was issued against the draft Bill of Lading showing loading of subject goods from Bandar Abbas, Iran.
- In respect of the alleged violation of Section 46(4) and Section 46(4A) of the Customs Act, 1962, they submitted that they filed both the Bills of Entry on the basis of the data and information contained in the import documents. There is no restriction or prohibition for import of Bitumen from any of the two countries. The allegation is purely bald and neither factual nor supported by any evidence.
- They submitted that the 'country of origin' becomes relevant to be mentioned in the Bill of Entry only if preferential rate of duty is claimed or if there is any restriction/prohibition for import of such goods. In the present case, they did not claim any preferential rate of duty and there is no restriction/prohibition

for import of Bitumen from Iran. They mentioned the 'country of origin' in the Bills of Entry as per the documents given to them by the supplier based at Dubai.

- Shri Abhishek Darak, CA, submitted that Section 111(m) of the Customs Act, 1962 is not attracted in the present case as the goods fully correspond with the description, value and other particulars mentioned in the Bills of Entry. Since the provision is penal in nature, it has to be strictly construed. Mere incorrect mention of country of origin without availing any benefit does not amount to misdeclaration of goods under Section 111(m). Consequently, no penalty is imposable under Sections 112(a) and 114AA of the Customs Act, 1962, as there is neither undervaluation nor short payment of duty nor any undue benefit availed by the importer.

PERSONAL HEARING

10. Shri Abhishek Darak, CA, Authorized representative of M/s. Vardhman Trading Co. (Noticee no .1) appeared for personal hearing on 21.02.2025, wherein he re-iterated their old submission.

11. Shri Sudhakar Chikati, Manager, appeared for the personal hearing on 29.01.2025, on the behalf of M/s. Aiyer Shipping Agency Pvt. Ltd. (Noticee no. 2), wherein he stated that they lack some important documents for submitting in their defence, therefore he requested for a fresh PH so as to enable them to retrieve the same.

11.1 Accordingly, M/s. Aiyer Shipping Agency Pvt. Ltd. was granted sufficient opportunities of personal hearing on 21.02.2025, 23.07.2025 & 08.12.2025. However, neither the noticees nor any of their authorized representative appeared for personal hearing. Also, they have not filed any written submissions in their defence.

DISCUSSION AND FINDINGS

12. I have carefully gone through the facts of the case, Show Cause Notice dated 24.05.2024 and the noticee's submissions both, in written and in person. I find that in the present case, principle of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules, written submissions and documentary evidences available on record.

13. I now proceed to decide the issues framed in the instant SCN before me. On a

careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided at the stage of adjudication: -

(i) Whether 26,202 Kgs of "Bitumen Grade VG30" imported in 01 Container pertaining to Bill of Entry No. 8103869 dated 01.10.2023 valued at Rs. 9,21,228/- (Rupees Nine Lakhs Twenty-One Thousand Two Hundred and Twenty-Eight Only) is liable for confiscation under Section 111 (m) of the Customs Act, 1962?

(ii) Whether penalty should be imposed upon the Importer M/s. Vardhman Trading Co. under the provisions of Section 112(a) of the Customs Act, 1962 for the goods covered under Bill of Entry No.8103869 dated 01.10.2023?

(iii) Whether 4,70,723 Kgs of "Bitumen Grade VG30" imported in 18 Containers pertaining to Bill of Entry No. 6699686 dated 03.07.2023 valued at Rs.1,63,72,793/- (Rupees One Crore Sixty-Three Lakh Seventy-Two Thousand Seven Hundred and Ninety-Three Only) is liable for confiscation under Section 111 (m) of the Customs Act, 1962?

(iv) Whether penalty should be imposed upon the Importer M/s. Vardhman Trading Co. under the provisions of Section 112(a) of the Customs Act, 1962 for the goods covered under Bill of Entry No. 6699686 dated 03.07.2023?

(v) Whether penalty should be imposed upon M/s. Aiyer Shipping Agency Pvt. Ltd. under Section 117 of the Customs Act, 1962.

14. I find that based on specific intelligence developed by the Directorate of Revenue Intelligence, Gandhidham Regional Unit (DRI), it was suspected that M/s Vardhman Trading Co. (IEC-1807000371) had imported a consignment in Container No. ASLU7027467 vide Bill of Entry No. 8103869 dated 01.10.2023 with possible concealment of contrabands. Acting on the said intelligence, the 40' container bearing No. ASLU7027467, imported under Bill of Lading No. DSACJEAMUN2300276AS dated 25.09.2023 from Jebel Ali, UAE, was examined by DRI officers at Mundra CFS under Panchnama dated 06.10.2023 and 11.10.2023.

14.1 I find that during examination, mismatch of seal numbers was noticed (intact seal No. 1545013 on container vis-à-vis seal No. 082125 mentioned in the Bill of Lading). The container was found stuffed with 145 black colour iron drums declared as Bitumen Grade VG30. All drums were opened and examined. One drum was fully cut open. No concealment, partition, or contraband was found inside any of the

drums. The contents were found to be thick black substance consistent with Bitumen.

14.2 Further, I find that scrutiny of documents revealed misdeclaration of Country of Origin. The goods, though declared as of UAE origin, however appeared to be of Iranian Origin based on the draft Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023. It was also observed that the importer had similarly imported 18 more containers under the same Bill of Lading and wrongly declared them as of UAE origin. The details mentioned in the said Bill of Lading are as mentioned in Table-'A' above.

14.3 I find that the original Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 (issued from Iran) showed the shipper as M/s Kara International Transport Co. Ltd., Tehran, Iran, with Port of Loading as Bandar Abbas Shahid Rajaee, Iran. This B/L covered 19 containers. However, these 19 containers did not arrive directly at Mundra. Instead, they were routed via Jebel Ali, UAE, from where a fresh Bill of Lading No. DSACJEAMUN2300276S dated 27.06.2023 was issued by M/s Serena International Trading FZCO, Dubai for 18 containers, showing Port of Loading as Jebel Ali, UAE.

14.4 Further I find that one container (ASLU7027467) was shut out at Jebel Ali and was later shipped under a separate Bill of Lading No. DSACJEAMUN2300276AS dated 25.09.2023, again issued by M/s Serena International Trading FZCO, Dubai, showing Port of Loading as Jebel Ali, UAE. Both the final Bills of Lading (dated 27.06.2023 & 25.09.2023) were issued in the name of the importer M/s Vardhman Trading Co. as consignee. Importantly, the container numbers in the original Iran-originated B/L tallied exactly with the containers shipped from Jebel Ali. Hence, it can be ascertained that the actual country of origin of the goods was Iran, not UAE. The importer, however, filed both the Bills of Entry no. 6699686 dated 03.07.2023 (18 containers) and 8103869 dated 01.10.2023 (1 container), declaring the country of origin as UAE instead of Iran.

15. I find that provisions of Section 46(4) of the Customs Act, 1962, stipulates that the importer, while presenting a BE shall make and subscribe to a declaration as to the truth of the contents of such BE. Further, In terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bill of Entry. Further, in terms of Section 46(4A) of the Customs Act, 1962, the importer who presents a Bill of Entry shall ensure the accuracy and completeness of the information given therein, shall ensure the authenticity and validity of any document supporting it, and shall ensure 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.

15.1 In the instant case, I find that M/s. Vardhman Trading Co., while filing Bills of Entry No. 6699686 dated 03.07.2023 and 8103869 dated 01.10.2023, declared the Country of Origin of the goods i.e. Bitumen Grade VG30 as United Arab Emirates (UAE). However, as established from the investigation and documents discussed in the foregoing paras, the actual country of origin of the goods was Iran, from where the goods were loaded at Bandar Abbas Shahid Rajaee Port and shipped in 19 containers under Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023. The containers were routed via Jebel Ali, UAE, and fresh (switch) Bills of Lading were issued from Jebel Ali to create an impression that the goods originated from UAE. The container numbers and seal numbers in the original Iran-issued Bill of Lading and the UAE-issued Bills of Lading match exactly, which conclusively establishes that the goods were of Iranian origin. By declaring UAE as the Country of Origin in both Bills of Entry, M/s. Vardhman Trading Co. has made an incorrect and incomplete declaration in material particulars, thereby contravening the provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962.

16. CONFISCATION OF GOODS:

16.1 I find that the Show Cause Notice has proposed confiscation of the impugned goods under Section 111(m) of the Customs Act, 1962. The relevant legal provision of Section 111(m) of the Customs Act, 1962 is reproduced below:

> *"(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54."*

16.2 I find that M/s. Vardhman Trading Co. filed two Bills of Entry — BE No. 6699686 dated 03.07.2023 (18 containers, 4,70,723 Kgs, value Rs. 1,63,72,793/-) and BE No. 8103869 dated 01.10.2023 (1 container ASLU7027467, 26,202 Kgs, value Rs. 9,21,228/-) — declaring the Country of Origin of Bitumen Grade VG30 as United Arab Emirates (UAE). As established from the investigation, the original Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 issued at Bandar Abbas Shahid Rajaee, Iran, shows the shipper as M/s Kara International Transport Co. Ltd., Tehran, Iran, with Port of Loading as Bandar Abbas Shahid Rajaee, Iran,

covering all 19 containers. The identical container numbers across the Iran BL and the subsequent UAE BLs conclusively establish that the goods actually originated from Iran and not UAE. The Country of Origin declared in both Bills of Entry as UAE, is thus incorrect and false. The goods declared as originating from UAE do not correspond in a material particular — namely the Country of Origin — with the entry made, thereby making the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

16.3 I have considered the defence raised by M/s. Vardhman Trading Co. that the original Bill of Lading was merely a "draft" and that they dealt only with M/s Serena International Trading FZCO, Dubai, UAE, and that no preferential rate of duty was claimed on account of UAE origin. This defence is examined and rejected for the following reasons:

(i) The declaration of Country of Origin in a Bill of Entry is a material particular required to be correctly declared under Section 46(4) and 46(4A) of the Customs Act, 1962, regardless of whether any preferential duty benefit is claimed. The "country of origin" is an essential element of the declaration of truth subscribed to by the importer. Incorrect declaration of COO — even without availing any concessional duty — constitutes misdeclaration under Section 111(m). The defence that no benefit was claimed from the wrong COO declaration is not a statutory defence to Section 111(m). Section 111(m) does not limit its applicability only to cases where a duty benefit has been wrongly availed — it covers any goods that do not correspond "in any other particular" with the entry made.

(ii) The argument that the original BL was merely a "draft" is not tenable. The statement of Shri Sudhakar Chikati, Branch Manager of M/s Aiyer Shipping Agency Pvt. Ltd., recorded under Section 108 of the Customs Act, 1962, explicitly confirms that the BL switch was done at the request of M/s Serena International Trading FZCO, Dubai to hide the actual shipper and port of loading. This is a telling admission that the switch BL mechanism was deliberately employed to conceal the Iranian origin of the goods. A document created for the specific purpose of concealing the true origin cannot be treated as a legitimate "final" Bill of Lading displacing the documentary evidence of Iranian origin.

(iii) The importer's plea that they had no knowledge of the Iranian origin because they submitted only the final BL from Jebel Ali is not persuasive. It is established that the "draft" BL — which disclosed the Iranian origin — was produced before the Department by the importer themselves (the CHA's representative Shri Shyam Sunder Sharma confirmed that the importer had submitted all documents including

the said BL). The importer cannot claim ignorance of a document that they themselves produced.

(iv) The Customs Valuation Rules, the Customs Act and the FTP all require accurate declaration of country of origin. The object of this requirement is not limited to tariff preferences — it serves multiple regulatory purposes including trade statistics, bilateral trade agreements, anti-dumping measures, sanctions compliance, and import policy enforcement. Mis-declaration of COO — regardless of whether duty benefit is claimed — undermines these regulatory objectives and attracts the provisions of Section 111(m) of the Customs Act, 1962.

16.4 Accordingly, I find that the goods covered under both Bills of Entry i.e. Bitumen Grade VG30 imported by M/s. Vardhman Trading Co. by misdeclaring the Country of Origin as UAE instead of Iran do not correspond in the material particular of Country of Origin with the entries made under the Act, and are therefore liable for confiscation under **Section 111(m)** of the Customs Act, 1962. The total goods involved are 4,96,925 Kgs (19 containers) having total declared assessed value of **Rs. 1,72,94,021/- (Rupees One Crore Seventy Two Lakh Ninety Four Thousand and Twenty One Only)**.

17. IMPOSITION OF REDEMPTION FINE IN LIEU OF CONFISCATION UNDER SECTION 125 OF THE CUSTOMS ACT, 1962:

17.1 As the impugned goods have been held liable for confiscation under Section 111(m) of the Customs Act, 1962, I now proceed to consider whether an option to redeem the goods on payment of redemption fine in lieu of confiscation under Section 125 of the Customs Act, 1962 should be given to the importer.

17.2 Section 125(1) of the Customs Act, 1962 reads as under:

> *"Section 125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods … an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

17.3 In the present case, Bitumen Grade VG30 (CTH 27132000) is a freely importable commodity — it is neither prohibited nor restricted under the Foreign Trade Policy from any country including Iran. There is no import prohibition on Bitumen from Iran in the relevant notifications or FTP provisions. The goods are

dutiable goods (not prohibited goods). Accordingly, in terms of Section 125(1) of the Customs Act, 1962, I give the owner of the goods an option to pay a fine in lieu of confiscation. I therefore give M/s. Vardhman Trading Co. an option to redeem the goods upon payment of redemption fine.

17.4 As regards the goods covered under Bill of Entry No. 8103869 dated 01.10.2023 (1 container ASLU7027467, value Rs. 9,21,228/-), the goods are available and an option to redeem is hereby given to the importer M/s. Vardhman Trading Co. on payment of Redemption Fine under Section 125 of the Customs Act, 1962.

17.5 However, as regards the goods covered under Bill of Entry No. 6699686 dated 03.07.2023 (18 containers, value Rs. 1,63,72,793/-), I find that the said goods have already been cleared for home consumption prior to the issuance of the Show Cause Notice. The goods are therefore not available for physical confiscation. Further, I find that the Hon'ble courts in various judicial pronouncements have held that the physical availability of the goods does not have any significance for imposition of redemption fine under Section 125 of the Act. In this regard, I place my reliance on the following judgments:

(i) *In case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) regarding imposition of Redemption Fine in absence of goods liable for confiscation, after observing decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc. reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), the Hon'ble Madras High Court held in para 23 of the judgment that "The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is*

not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."

(ii) *In the case of Synergy Fertichem Pvt. Ltd. Vs State of Gujarat as reported in 2019(12) TMI 1213, the Hon'ble High Court of Gujarat, relying on the judgement of the Apex Court in the case of Weston Components Ltd. vs. Commissioner of Customs, New Delhi, has observed that "The per-requisite for making an offer of fine under Section 130 of the Act is pursuant to the finding that the goods are liable to be confiscated. In other words, if there is no authorisation for confiscation of such goods, the question of making an offer by the proper officer to pay the "redemption fine", would not arise. Therefore, the basic premise upon which the citadel of Section 130 of the Act rests is that the goods in question are liable to be confiscated under the Act. It, therefore, follows that what is sought to be offered to be redeemed, are the goods, but not the improper conduct of the owner to transport the goods in contravention of the provisions of the Act or the Rules."*

It is amply clear from the said section that, where the confiscated goods are not prohibited for import, discretion has been vested in the adjudicating authority to decide the issue on the basis of the facts and circumstances involved. Accordingly, even though the goods are not physically available for confiscation as they have already been cleared for home consumption, I am empowered to impose Redemption Fine in lieu of confiscation. Therefore, I hold that the imported goods are liable to confiscation under Section 111(m) of the Customs Act, 1962. Since the goods are not prohibited goods, I give an option to the importer M/s. Vardhman Trading Co. to redeem the goods of Bill of Entry No. 6699686 dated 03.07.2023 on payment of Redemption Fine under Section 125 of the Customs Act, 1962.

DISCUSSION ON IMPOSITION OF PENALTIES ON NOTICEES

18. Penalty on M/s. Vardhman Trading Co. (Importer):

18.1 I find that M/s. Vardhman Trading Co. filed two Bills of Entry — BE No. 6699686 dated 03.07.2023 and BE No. 8103869 dated 01.10.2023 — declaring the Country of Origin of Bitumen Grade VG30 as UAE, whereas the actual country of origin of the goods was Iran, as established from the original Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023 issued at Bandar Abbas, Iran, in which all 19 container numbers tally exactly with the 19 containers imported into India.

The switch Bill of Lading mechanism was employed by M/s Serena International Trading FZCO, Dubai, the overseas supplier of M/s. Vardhman Trading Co., to give the false impression of UAE origin and to hide the Iranian origin of the goods. The statement of Shri Sudhakar Chikati of M/s Aiyer Shipping Agency Pvt. Ltd. explicitly confirms that the Bills of Lading were switched at the request of M/s Serena International Trading FZCO to hide the actual shipper and port of loading. The importer's supplier had thus consciously structured the transaction to obscure the Iranian origin of the goods.

18.2 I find that M/s. Vardhman Trading Co. placed import orders with M/s Serena International Trading FZCO, Dubai and received shipping documents including Bills of Lading showing UAE as the port of loading. They also had access to the original Bill of Lading issued from Bandar Abbas, Iran — which they themselves submitted to the Department — and yet declared the Country of Origin as UAE in both Bills of Entry. A trader dealing in Bitumen — a petroleum product — from the Middle East region over multiple consignments (19 containers across two BEs) cannot claim ignorance of the supply chain and the actual origin of the goods, particularly when the original Bill of Lading clearly discloses the Iranian shipper and Iranian port of loading. By filing both Bills of Entry with UAE declared as the Country of Origin when the goods were actually of Iranian origin, the importer made an incorrect declaration in a material particular — namely the Country of Origin — contrary to the requirement of Section 46(4) and 46(4A) of the Customs Act, 1962. The Customs Valuation Rules, the Customs Act and the FTP all require accurate declaration of country of origin. The object of this requirement is not limited to tariff preferences — it serves multiple regulatory purposes including trade statistics, bilateral trade agreements, anti-dumping measures, sanctions compliance, and import policy enforcement. Mis-declaration of COO — regardless of whether duty benefit is claimed — undermines these regulatory objectives. This act of omission has rendered the goods liable to confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, M/s. Vardhman Trading Co. has rendered themselves liable for penalty under the provisions of **Section 112(a)** of the Customs Act, 1962.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously amounts to imposition of double penalty; therefore, I refrain from imposition of penalty under Section 112(b) of the Act.

19. Penalty on M/s. Aiyer Shipping Agency Pvt. Ltd.:

19.1 I find that M/s. Aiyer Shipping Agency Pvt. Ltd., Gandhidham, is the agent of

the container line M/s Dragon Shipping Container Line at Mundra. Shri Sudhakar Chikati, Branch Manager of M/s. Aiyer Shipping Agency Pvt. Ltd., in his voluntary statement dated 29.04.2024 recorded under Section 108 of the Customs Act, 1962, made crucial admissions. He confirmed that the goods were originally loaded at Bandar Abbas Shahid Rajaee, Iran, under Bill of Lading No. DSACBNDMUN2300276 dated 21.06.2023, with M/s Kara International Transport Co. Ltd., Tehran, Iran as the shipper. He further confirmed that the 19 containers did not arrive at Mundra and were instead sent to Jebel Ali, UAE. Critically, he admitted that the Bill of Lading switch — i.e. the issuance of fresh Bills of Lading from Jebel Ali showing UAE as the port of loading and M/s Serena International Trading FZCO as the shipper — was done at the request of M/s Serena International Trading FZCO, Dubai, to hide the actual shipper and port of loading. This admission establishes beyond doubt that M/s. Aiyer Shipping Agency Pvt. Ltd. was fully aware of the actual Iranian origin of the goods and the switch BL mechanism adopted to conceal the same.

19.2 M/s. Aiyer Shipping Agency Pvt. Ltd., as the shipping agent of the container line at Mundra, was in possession of all the documents — including the original Iran BL — which correctly disclosed the actual shipper, port of loading and country of origin of the goods. Despite this knowledge, they facilitated — and participated in — the issuance and filing of switch Bills of Lading which falsely showed UAE as the port of loading. By knowingly allowing the switch BL to be filed with Customs in place of the original Iranian BL, M/s. Aiyer Shipping Agency Pvt. Ltd. actively facilitated the misdeclaration of Country of Origin in both Bills of Entry filed by the importer. M/s. Aiyer Shipping Agency Pvt. Ltd. neither appeared for any of the three personal hearing dates granted to them on 21.02.2025, 23.07.2025 and 08.12.2025, nor filed any written submissions in their defence. No explanation or rebuttal has been offered to the specific findings and admissions of their own Branch Manager recorded under Section 108 of the Customs Act, 1962.

19.3 The act of M/s. Aiyer Shipping Agency Pvt. Ltd. in knowingly facilitating the issuance of switch Bills of Lading to conceal the Iranian origin of the goods constitutes a contravention of the provisions of the Customs Act, 1962, for which no express penalty is elsewhere provided under the Act, rendering them liable for penalty under **Section 117** of the Customs Act, 1962.

20. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

i. I order confiscation of **26,202 Kgs of Bitumen Grade VG30** imported in container No. ASLU7027467 vide Bill of Entry No. 8103869 dated 01.10.2023, having declared assessed value of **Rs. 9,21,228/- (Rupees Nine Lakh Twenty One Thousand Two Hundred and Twenty Eight Only)** by M/s. Vardhman Trading Co. under Section 111(m) of the Customs Act, 1962. However, I give an option to the Importer to redeem the said goods upon payment of redemption fine of **Rs. 90,000/- (Rupees Ninety Thousand Only)** under Section 125 of the Customs Act, 1962.

ii. I order confiscation of **4,70,723 Kgs of Bitumen Grade VG30** imported in 18 containers vide Bill of Entry No. 6699686 dated 03.07.2023, having declared assessed value of **Rs. 1,63,72,793/- (Rupees One Crore Sixty Three Lakh Seventy Two Thousand Seven Hundred and Ninety Three Only)**, already been cleared for home consumption, under Section 111(m) of the Customs Act, 1962, and impose redemption fine of **Rs. 16,00,000/- (Rupees Sixteen Lakh Only)** in lieu of confiscation under Section 125 of the Customs Act, 1962.

iii. I impose a penalty of **Rs. 5,000/- (Rupees Five Thousand Only)** (since there is no duty sought to be evaded) on **M/s. Vardhman Trading Co.**, under Section 112(a)(ii) of the Customs Act, 1962, for the goods covered under Bill of Entry No. 6699686 dated 03.07.2023.

iv. I impose a penalty of **Rs. 5,000/- (Rupees Five Thousand Only)** (since there is no duty sought to be evaded) on **M/s. Vardhman Trading Co.**, under Section 112(a)(ii) of the Customs Act, 1962, for the goods covered under Bill of Entry No. 8103869 dated 01.10.2023

v. I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on **M/s. Aiyer Shipping Agency Pvt. Ltd.**, under Section 117 of the Customs Act, 1962.

21. This OIO is issued without prejudice to any other action that may be taken against the Noticees under the provisions of the Customs Act, 1962 or rules made thereunder or under any other law for the time being in force.

22. The Show Cause Notice issued vide F. No. CUS/APR/SCN/704/2024-Gr 1-O/o Pr Commr-Cus-Mundra dated 24.05.2024 is hereby disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 25-06-2026 16:11:07

DIPAK ZALA

ADDITIONAL COMMISSIONER OF CUSTOMS,

MUNDRA CUSTOMS HOUSE

To,

By Speed Post/Email

(i) M/s. Vardhman Trading Co (IEC-1807000371),
Near Electric Substation Industrial Area,
Gangyal Jammu Tawi, Jammu & Kashmir-180010

(ii) M/s. Aiyer Shipping Agency Pvt. Ltd.,
Office No.203, 2nd Floor, Plot No.40,
RidhhiShidhhi -Arcade 2, Sector 08,
Gandhidham-370201

Copy to:-

1. The Deputy Director, DRI, Gandhidham Regional Unit,
2. The Deputy Commissioner (SIIB), Customs House, Mundra
3. The Deputy Commissioner, Group 1/1A, Customs House, Mundra
3. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
4. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... *(with the direction to upload on the official website immediately)*