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	<p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बदरगाह, कच्छ, गुजरात- 370421 <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:</b> <b>CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</b> <b>PHONE : 02838-271426/271163 FAX :02838-271425</b> <b>E-mail id- group1-mundra@gov.in</b></p>	
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Date:- 24-06-2024

### SHOW CAUSE NOTICE

M/s. Green Polyplast Industries having registered office at Shed No.222 Special Type, Phase-1, KASEZ, Kutch, Gujarat (hereinafter referred to as 'the Importer' for sake of brevity) imported goods declared as "Mix Floor Sweeping" against Bill of Lading No.CCLJEAMUN38124 dated 06.09.2023 [RUD-1]. The goods were supplied by M/s. AL Jazeera Plastic Recycle LLC, New Industrial Ummedra, Umm Al Qwain, UAE. Based on information that the 40 feet container no. GESU4839712 Retain On Board (ROB) i.e. started from Jabel Ali, UAE to Mundra Port, India, but during transit the foreign shipper instructed to the Container line that due to non-requirement of the material i.e. Mix Floor Sweeping by importer to bring back the container containing goods to them i.e. Jabel Ali, UAE. However, on the basis of information, the shipping line was directed to unload the container for SIIB examination to rule out mis-declaration. The details of the shipment are as under :

**Table-A**

Name of Importer	M/s.Green Polyplast Industries
Address of Importer	Registered office at Shed No.222 Special Type, Phase-1, Kasez Kutch, Gujarat.
IGM No.	2354210 dated.08.09.2023, MV.CUSSLER 336E
Container Line Name	Sarang Maritime Logistics Pvt. Ltd.
Bill of Lading No. & Date	CCLJEAMUN38124 Dated 06.09.2023
Container No.	GESU4839712
Description of Goods	Goods declared as Mix Floor Sweeping.
Gross Weight	27,580 kgs
Net Weight	27,250 kgs
Bags	38
Port of loading	Jabel Ali, UAE
Port of Discharge	Mundra

**2.** The Container No.GESU4839712 arrived under Bill of Lading No. CCLJEAMUN38124 Dated 06.09.2023 per Vessel MV.CUSSLER 336E, from Jabel Ali, UAE to Mundra Port, India. The container was unloaded

from the Vessel and through the Truck Trailer of the CFS Exim Yard the container was transported to Exim Yard CFS Mundra. The container was placed at Warehouse 2, Shutter No.09 of Exim Yard, CFS, Mundra and examination of the goods was carried out under Examination Report dated 10.09.2023 [RUD-2], in the presence of Shri Jaymin J. Thakkar, Director of M/s Sarang Maritime Logistics Pvt. Ltd (Container Line) and Shri Bhagirathsinh Zala, Shift In Charge, Exim Yard, CFS, Mundra.

**3.** During the examination, the one-time bottle seal no.0123983 was tallied with the Bill of Lading and cut in the presence of Shri Jaymin J. Thakkar and Shri Bhagirathsinh Zala. On opening the container no.GESU4839712, it was found that there were white PP jumbo bags strapped with wooden pallets. The jumbo bags were cut opened and it was found that the goods were Areca Nuts instead of Mix Floor Sweeping as declared in Bill of Lading. Further, it was found that there were total 41 Jambo PP bags. 37 jumbo bags containing 8 small jute bags, 3 jumbo bags containing 8 PP bags and 1 jumbo bag containing 5 small jute bags. So, the total small bags came to 301 small jute bags & 24 small PP bags. Further, small jute bag and PP bags were randomly selected for weighment and it was found that weight was 79 kgs (Approx) of both bags. The weight of wooden pallets was 11 kgs (Approx). Total Quantity of the areca nuts was 25,675 Kgs ( $301*79 + 24*79 = 25,675$  kgs). The details of goods declared and found during examination are as below in Table-B.

**Table-B**

Goods found	Total no. of bags Declared	Total no. of bags Found	Net weight declared in Bill of Lading (Kgs)	Quantity found (in Kgs)
Arecanuts	38	41	27,250	25,675

#### **4. Investigation at the end of Importer i.e. M/s. Green Polyplast**

**4.1** A letter dated 10.09.2023 was issued to the Specified Officer, KASEZ, Gandhidham with a request to stop all the movements of M/s Green Polyplast Industries. Further, a letter dated. 11.09.2023 was issued to the Deputy Commissioner (SIIB), Customs House, Kandla, for search the premises of the Importer. In reference to this office letter, SIIB officers of Customs House, Kandla visited the premises M/s. Green Polyplast Industries, Shed No.222 Special Type, Phase I, Kandla SEZ, Gandhidham, and conducted the search under Panchnama dated 12.09.2023 [RUD-3], the unit was found locked, after telephonic consent from Shri Parvez Qadri, Partner of M/s.Green Polyplast Industries, Gandhidham, the lock of the unit was cut broken, inside the unit there were goods viz. Plastic regrind, HDPE Regrind (PE) and Plastic Regrind (PE) lying which were placed under seizure on dated 11.08.2023 by the PO of KASEZ, Gandhidham. Further, the PO, Customs, KASEZ identified that goods lying

inside the unit were same, which were placed under the seizure on dated 11.08.2023. The documents found during the course of search were segregated and resumed by the Customs officers.

**5 .** During investigation statements of following persons were recorded under Section 108 of the Customs Act,1962.

**5.1** Statement of Jaymin J. Thakkar, Director of M/s. Sarang Maritime Logistics Private Limited, Gandhidham was recorded under Section 108 of the Customs Act, 1962 on dated 11.09.2023 and submitted documents like email correspondence, BL, Dubai Export Document etc, in his statement he inter-alia stated that:-

- On being asked about the details of shipment of Bill of Lading No.CCLJEAMUN38124 pertaining to Container No.GESU4839712, he stated that container No. GESU4839712 was loaded from Jebel Ali on the vessel CUSSLER 336E whose Mundra local agent was Maersk India Pvt. Ltd but the slot of the container was booked by the agent M/s.Equinox Sertrade Pvt. Ltd, they sent them the Import Arrival Notice for submission of Import General Manifest to the Customs through Maersk India Pvt. Ltd, however upon checking the records they found that they had not sent the Bill of Lading NO. CCLJEAMUN38124 from the port of loading for filing the IGM. Upon checking with the agent of CCL at Dubai they came to know that the mentioned container was marked to be ROB (Retain-On-Board) by the Shipper M/s.Al Jazeera Plastic Recycle LLC, New Industrial Ummedra Umm Al Qwain, UAE,.
- On being asked that how did he knew that the container GESU4839712 was missing for filing of IGM, he stated that for the container GESU4839712 the Import Arrival Notice was not received by them from the port of loading, upon checking with the agent of CCL at Dubai they came to know that the mentioned container was marked to be ROB(Retain-On-Board) by the Shipper M/s.Al Jazeera Plastic Recycle LLC, New Industrial Ummedra Umm Al Qwain, UAE,.
- On being asked about the role of M/s.Equinox Seatrade Pvt. Ltd and why did they approach for ROB, he stated that M/s.Equinox Sertrade Pvt. Ltd, was the agent of M/s.Feeder Lines at Mundra, the Container GESU4839712 was loaded on slot account of M/s.Feeder Lines, Dubai.
- He had been shown the Examination Report dated 10.09.2023, he stated that he was present during the examination of the container No. GESU4839712 and he was satisfied with the examination of the

goods contained in the container No. GESU4839712.

- The container which had been discharged from vessel CUSSLER has not been manifested, hence officially it was not into their account and responsible to get it re-exported within 180 days as per Customs requirement. However, if the Principals insists for this container, they may be allowed to pick-up the container in exchange of domestic purchased container.

**5 . 2** Statement of Shri Rajusinh Padiyar, Director of M/s. Equinox Seatrade Pvt. Ltd., Gandhidham was recorded under Section 108 of the Customs Act, 1962 on dated 12.09.2023 wherein he inter-alia stated that:-

- The container GESU4839712 pertaining to BL No.CCLJEAMUN38124 was loaded from Jebel Ali on the vessel CUSSLER 336E. In the vessel CUSSLER 336E M/s.Feeder Lines DMCC at Dubai is the part slot stake holder. M/s. Feeder Lines might be marketing for the slot to the container lines. The principals/agents/ container line of M/s.Sarang Maritime Logistics Pvt. Ltd at Dubai had booked the slot for container GESU4839712 with M/s. Feeder Lines. M/s. Hardip Shipping Logistics Private Limited are the agents of M/s.Feeder Lines in Mundra and we M/s. Equinox Seatrade Pvt. Ltd., are the sub-agents of M/s.Hardip Shipping Logistics Private Limited.
- The container's ROB (Retain-On-Board) request was received by email on 07.09.2023 to M/s. Hardip Shipping Logistics Private Limited and M/s. Equinox Seatrade Pvt. Ltd., from M/s.Feeder Lines. M/s. Feeder Lines submitted a letter dtd.08.09.2023 addressed to the Mundra Customs and Mundra Port authorities for container's ROB (Retain-On-Board) as per the request of email from M/s.TNA Worldwide LLC the agents for respective container line CCL(whom are represented in Mundra by M/s.Sarang Maritime Logistics Pvt. Ltd).
- On being asked what role did they play in the container GESU4839712 being ROB and not mentioned in the IGM No.2354210 of vessel CUSSLER 336E. M/s.Equinox Sertrade Pvt. Ltd had submitted Bill of Lading No. CCLJEAMUN38124 dated.06.09.2023 of container No. GESU4839712, he stated that they do not have any role in the IGM No.2354210 of vessel CUSSLER 336E as the container line agent of CCL, M/s. Sarang Maritime Logistics Pvt. Ltd and vessel agent M/s.MBK Logistics Private Limited had only co-ordinated for ROB. As required by SIIB to permit ROB we had called for Bill of Lading of container No. GESU4839712 which is CCLJEAMUN38124 dated.06.09.2023 from M/s.Sarang Maritime Logistics Pvt. Ltd.,

under copy to M/s. Hardip Shipping Logistics Private Limited and M/s. Feeder Lines and they had received copy of BL from M/s. Feeder Lines which they might have got from respective container line or their agents.

- On being asked he stated that M/s. Feeder Lines, M/s. Hardip Shipping Logistics Private Limited and M/s. Equinox Sertrade Pvt. Ltd are nowhere involved in this issue as they are only slot seller do not possess any shipping documents and its stuffing operation as the container does not belongs to their Principal M/s. Feeder Line.

**5.3** Statement of Shri Lokesh Tandon, General Manager, M/s. Hardip Shipping Logistics Private Limited, Gandhidham was recorded under Section 108 of the Customs Act, 1962 on dated 14.09.2023 wherein he inter-alia stated that:-

- On being asked about the shipment of Bill of Lading No. CCLJEAMUN38124 pertaining to container No. GESU4839712, he stated that M/s. Feeder Lines DMCC at Dubai booked the slots in the vessel MV CUSSLER and M/s. Sarang Maritime's Agent at Dubai represented by M/s. TNA Worldwide LLC had booked the container No. GESU4839712. The said container was loaded on 06.09.2023, M/s. TNA Worldwide LLC informed M/s. Feeder Lines DMCC to ROB(Retain-On-Board) the container on 08.09.2023. They informed M/s. Equinox Seatrade Private Limited on 08.09.2023-12.05 pm, further M/s. Equinox had communicated the same to M/s. MBK Logistix Private Limited, further M/s. MBK Logistix informed that permission of SIIB Section Customs Mundra had to be sought before issuance of ROB, further M/s. Equinox communicated to SIIB Section Customs Mundra for permission of ROB.
- On being asked what role did they (M/s. Hardip Shipping Logistics Private Limited, Gandhidham) play in the container GESU4839712 being ROB and not mentioned in the IGM No. 2354210 of vessel CUSSLER 336E. M/s. Equinox Sertrade Pvt. Ltd had submitted Bill of Lading No. CCLJEAMUN38124 dated 06.09.2023 of container No. GESU4839712, he stated that they did not have any role in the IGM No. 2354210 of vessel CUSSLER 336E as the container line agent of CCL, M/s. Sarang Maritime Logistics Pvt. Ltd and vessel agent M/s. MBK Logistics Private Limited had only co-ordinated for ROB. As required by SIIB to permit ROB they had called for Bill of Lading of container GESU4839712 which is CCLJEAMUN38124 dated 06.09.2023 from M/s. Sarang Maritime Logistics Pvt. Ltd., and

M/s.Feeder Lines and they had received copy of BL from M/s.Feeder Lines which they might have got from TNA Worldwide LLC.

- On being asked, he stated that M/s.Feeder Lines, M/s.Hardip Shipping Logistics Private Limited and M/s.Equinox Sertrade Pvt. Ltd are nowhere involved in this issue as they are only slot seller do not possess any shipping documents and its stuffing operation as the container does not belongs to our Principal M/s.Feeder Line.

**5.4** Statement of Shri Parvez H.Kadari, Partner of M/s.Green Polyplast Industries was recorded under Section 108 of the Customs Act, 1962 on dated 18.09.2023 [RUD-4] wherein he inter-alia stated that:-

- He had been shown the examination report dated.10.09.2023 of the ROB container No.GESU4839712 mentioned in the Bill of Lading No.CCLJEAJUN38124 dated 06.09.2023 of Coastal Container Lines wherein the goods have been mentioned as 'Mix Floor Sweeping' he stated that he had an agreement with M/s.Al Jazeera Plastic Recycle LLC, New Industrial Ummedra, Umm Al Qwain, UAE, email id aljazeeraplasticuqaq@gmail.com for storing varieties of Plastic products falling in 39 chapter. However M/s.Al Jazeera Plastic Recycle had not yet supplied any goods for warehousing to M/s.Green Poly Plast Industries, KASEZ.
- He was shown letter dated 08.09.2023 from M/s.Feeder Lines, Dubai wherein it is mentioned that ".... due to of huge delay cargo cancelled by consignee reason above referred 1x40' unit (GESU4839712) is now not required to be discharged at Mundra and same is to be retained on board (ROB) for Jebel Ali (JEA)" and asked to reply, he stated that he had not ordered the container 1x40' unit (GESU4839712). He had submitted email dated.12.09.2023 from Setareh Sistan Zamin Yekta setarehsistanzaminyekta@gmail.com addressed to the Commissioner of Customs, Mundra Customs, Mundra Gujarat wherein it is mentioned that "..... But due to serious mistake by staff, the name of notify party was mentioned as M/s. Green Poly Plast Ltd., KASEZ instead of African counter-part. Resultantly, the container was loaded on a ship destined for Mundra by the shipping line. As soon as they noticed this serious mistake, they immediately requested the shipping line through their freight forwarding agent M/s.IGR Agencies to get back or Retain On Board the subject container for delivery at Jabel Ali, Dubai. Acknowledging our request, the shipping line made a request for ROB (TO BE RETAINED ON BOARD) to your good self via mail dated 08.09.2023 before arrival of the ship." With the email there was enclosure of letter dated.08.09.2023.

- He was shown the email dated 04.08.2023 sent by M/s.Green Poly Plast Industries, KASEZ and asked whether said email was sent to M/s.Sarang maritime, he confirmed that he had sent email dated.04.08.2023 to M/s.Sarang Maritime, M/s.Al Jazeera Plastic Recycle LLC had planned to send goods for warehousing, hence he had sent the above email on 04.08.2023, however on 11.08.2023 there had been a Customs raid in his warehouse unit (KASEZ) wherein they had seized all the goods in warehouse, so he had telephonically called Amjad, owner of M/s.Al Jazeera Plastic Recycle LLC at his number +971556315924 and refused that shipment.
- M/s.Al Jazeera Plastic Recycle LLC is the foreign firm the copy of agreement is already given in the Panchnama dated 12.09.2023 (to the SIIB Customs House, Kandla officers whom had search the premise)
- On being asked when did they come to know that Container No.GESU4839712 had been examined by SIIB Custom House, Mundra, he stated that he had received a call from his Consultant that a container has been put on hold, at that moment he came to know about the container was to be examined by SIIB Custom House, Mundra.
- On being asked why did the KASEZ Customs seized your goods, he stated that the KASEZ Customs had seized the goods considering them to be Scrap.
- On being asked why did the SIIB Custom House, Kandla raid your warehouse unit at KASEZ, SIIB Custom House, Kandla had come to raid their warehouse in KASEZ for the Arecanuts.
- On being asked did he make any payments for the cargo contained in container No. GESU4839712, he stated that he did not make any payments for the goods contained in the container No. GESU4839712.
- On being shown the panchnama dated.12.09.2023, he read the same and put his dated signature, further he confirmed that the register and other files withdrawn belongs to him, in the said register which is marked at Sr.No.14 of the panchnama wherein the import and DTA

clearance were mentioned.

- On being asked, he stated that he had done warehousing for the Importer M/s.AS Plastic and Trading, Anjar, M/s.JAJ Food, Rajkot, M/s.Agna Trading Co, Surat, and M/s.GW Scrap Trading, Ahmedabad (the goods pertain to M/s.Agna Trading Co, Surat and M/s.GW Scrap Trading Ahmedabad was available in the Warehouse at the time of search of the premise at KASEZ as the Customs Authorities at KASEZ had seized to goods)
- On being asked whether he knew about M/s. Galeon Shipping LLC, M/s.Alphabeta Global, he stated that he did not knew him, however he added that they both might be related with M/s.Al Jazeera Plastic Recycle LLC.
- On being asked why should the Areca nuts go to Iran, he stated that Areca nuts was restricted in Iran
- On being asked he stated that he had participated in the auction and purchased Waste Paper, Plastics, Dry Dates, raw soap materials etc, majorly the goods were not stored, the goods were directly delivered to the buyers from the CFS. Sometimes the goods were stored in his godown at M/s.Green Poly Plast Industries, Plot No.62, GIDC, Anjar, Kutch.
- On being asked when did you sell their godown/warehouse at M/s.Green Poly Plast Industries, Plot No.62, GIDC, Anjar, Kutch, he stated that he had sold the godown in November 2022. However, he had agreed that he had issued Five invoices of Soap Raw Materials to M/s.Green Poly Plast Industries, Plot No.62, GIDC, Anjar, Kutch.
- On being asked that whether he had planned to import Areca nut in the guise of Mix Plastic Floor Sweeping and re-tracked in midway and planned to send back the container, he stated that he had no such plan to import Areca nut in the guise of Mix Plastic Floor Sweeping because the unit at KASEZ were already seized.

**5.5** Statement of Shri Rohit A.Anjaria, Terminal Execution Executive of M/s. Maersk Line India Pvt. Limited was recorded under Section 108 of the Customs Act, 1962 on dated 28.09.2023 wherein he inter-alia stated that :-

- On being asked, he stated that the container GESU4839712(40ft) was loaded from Jebel Ali for discharge at Mundra on the vessel CUSSLER 336E by M/s.GFS(Global Feeder Shipping LLC, Dubai) whose agents in Mundra is M/s.MBK Logistix Private Limited. On 08.09.2023 M/s.GFS requested them of their client (M/s.FeederLines DMCC) that one container GESU4839712(40ft) may not be discharged at Mundra and will remain on board of the vessel for further discharge at Jabel Ali. So based on M/s.GFS did not file the details for the container in the Import Manifest in Mundra for the said container and informed the Terminal to ROB the container the same back to Jebel Ali. So they filed the IGM No.2354210 dated.08.09.2023 of the MV.CUSSLER 336E with the container as Same Bottom Cargo which already submitted on email dated.27.09.2023.
- On being asked to explain the IGM process and state why they had not filed the Container No.GESU4839712, he stated that M/s.GFS (Global Feeder Shipping LLC, Dubai) had requested on 08.09.2023 to them not to discharge the container No.GESU4839712(40ft) as per the request from their principals of their client (M/s.FeederLines DMCC). As the container was to be left in the vessel so they did not file IGM and declared the container to be Same Bottom Cargo and was ROB (Retain On Board) for further discharge at Jebel Ali.

**6.** During the examination, the goods were found as Arecanuts instead of Mix Floor Sweeping declared in Bill of Lading No. CCLJEAMUN38124 dated 06.09.2023. Therefore, the goods imported in container no. GESU4839712 were placed under seizure on dated 26.12.2023[RUD-5] under Section 110 of the Customs Act,1962 and custody of the said seized goods was handed over to Exim Yard, CFS, Mundra.

**7.** In respect of the valuation of the goods imported under Bill of Lading No. CCLJEAMUN38124 dated 06.09.2023, the value of the goods needs to be determined as the Bill of Entry has not been filed in the instant case. As per DGFT Notification No.57/2015-2020 dated 14.02.2023, where the minimum import price (MIP) of arecanuts is Rs.351/- or above per kg. The value of the goods as per MIP are mentioned in Table-C below:-

**Table-C**

<b>Goods found</b>	<b>Total quantity found (Kgs)</b>	<b>MIP Unit Price as per notification</b>	<b>Value of the imported goods (as per MIP)</b>
Areca Nuts	25,675 kgs	Rs.351/- or above per kg.	Rs.90,11,925/- [25,675 * 351/-]

**7.1** As per Notification No.63/2023-Customs (N.T) dated.31.08.2023 issued vide F.No.467/01/2023-Cus.V, CBIC, the Tariff value of areca nuts

has been fixed at USD 7765 per metric ton. Further, the applicable exchange rate as per No.64/2023-Customs (N.T.) dated 05.09.2023 issued under F.No.468/01/2023-Cus.V, CBIC, for US Dollar has been fixed at Rs.83.95 for imports. Therefore, the value of the impugned goods in terms of the above-mentioned notifications has been determined in Table-D below:-

**Table-D**

Goods found	Total Quantity found	Unit price as per Tariff Value Notification dated 31.08.2023 (In USD/MT)	Exchange rate as per Notification dated 06.09.2023 (in Rs.)	Assessable Value (In Rs.)
Areca nuts	25,675	7765	83.95	1,67,36,807/-

**7.2** Further, the duty in respect of the goods found also has been re-determined and is presented in Table-E below:-

**Table-E**

Sr. No.	Goods description	Total Assessable Value (In Rs.)	CTH	Duty Structure		BCD (In Rs.)	IGST (In Rs.)	Total Duty (In Rs.)
				BCD	IGST			
1	Areca nuts	1,67,36,807/-	08028010	100%	5%	16736807	1673680	18410487

## **8 . RELEVANT PROVISIONS OF THE LAW IN SO FAR AS THEY APPLY TO THIS CASE ARE AS BELOW:**

The relevant legal provisions, in so far as they relate to the facts and circumstances of the subject imports, are as under: -

### ***8.1. Section 2(23) defined the terms "import":***

“import”, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

### ***8.2. Section 2(23) defined the terms "smuggling":***

“smuggling”, in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

### ***8.3. Section 2(33) defined the terms "Prohibited Goods":***

“prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions

subject to which the goods are permitted to be imported or exported have been complied with;

#### **8.4. Section 111 : Confiscation of improperly imported goods, etc.-**

*The following goods brought from a place outside India shall be liable for confiscation:*

...

*(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*

...

*(f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;*

#### **8.5. 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,*

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*(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.

#### **8.6. Section 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 to a penalty not exceeding five times the value of goods.

#### **8.7. 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.

#### **8.8. DGFT vide Notification No.57/2015-2020 dated 14.02.2023:-**

The Central Government hereby amends the Import Policy and policy Condition of items under Chapter 8 and Chapter 21 of Schedule-I (Import Policy) of ITC (HS) 2022, as under:-

ITC (HS) Codes	Description	Existing Import	Revised Import	Existing Policy	Revised Condition	Policy
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		Policy	Policy	Condition	
08028010	-Areca nuts-- Whole	Prohibited	Prohibited	However, import is Free if CIF value free if CIF is Rs.351/- or value is above Rs.251/ and above per Kilogram	<p>a) However, import is Free if CIF value free if CIF is Rs.351/- or value is above Rs.251/ and above per Kilogram.</p> <p>b) MIP Conditions, however, will not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ subject to the condition that no DTA sale is allowed.</p>

**9.1** The Shipper M/s.Al Jazeera Plastic Recycle LLC, New Industrial Ummedra Umm Al Qwain, UAE booked a container No. GESU4839712 with M/s.TNA Worldwide LLC, Dubai. The Container was loaded on slot account of M/s.Feeder Lines, Dubai in the vessel MV.CUSSLER Voy 336E on 06.09.2023, thereafter M/s.TNA Worldwide LLC, Dubai informed M/s.Feeder Lines DMCC, Dubai to ROB(Retain-On-Board) the container on 08.09.2023. Being the agents M/s.Feeder Lines DMCC, Dubai M/s. Hardip Shipping Logistics Private Limited and M/s.Equinox Seatrade Private Limited persuaded the documents with the Customs Authorities for ROB (Retain-On-Board), the ROB was not allowed. The container was not manifested for discharge at Mundra, but it was mentioned in the IGM No. 2354210 dated.08.09.2023 as same bottom cargo which was clarified by Shri Rohit Anjaria, Terminal Execution Executive of M/s. Maersk Line India Pvt. Limited and for the examination of goods contained in the said container, Shri Jaymin J.Thakkar, Director of M/s.Sarang Maritime Logistics Pvt. Ltd, container line agent was present during the goods examination and goods were found arecanuts instead of Mix Floor Sweeping.

**9.2** During the investigation, in the statement Shri Parvez H. Kadri, partner of M/s Green Polyplast Industries stated that he had not placed any such order in respect of the goods contained in Container No.GESU4839712. Whereas, as per the email dated 04.08.2023 [RUD-6] between M/s Sarang Maritime Logistics Private Limited (Container Line) and M/s Green Polyplast Industries, KASEZ, wherein Shri Parvez, partner of M/s Green Polyplast Industries, KASEZ informed to M/s Sarang Maritime that “Our shipment will arrive at Mundra Port for KASEZ, Gandhidham at our unit “Green Poly Plast Industries” and we want to move

*container directly from Mundra port to KASEZ at our unit by self. Therefore, please confirm ETA and other concerned process for delivery order & shipping clearance" which was shown to Shri Parvez H.Kadri during statement and in token of seen he put his dated signature and he confirmed that he had sent email dated.04.08.2023 to M/s.Sarang Maritime, M/s.Al Jazeera Plastic Recycle LLC had planned to send goods for warehousing, hence he had sent the above email on 04.08.2023, however on 11.08.2023 there had been a Customs raid in his warehouse unit (KASEZ) wherein they had seized all the goods in warehouse, so he had telephonically called Amjad, owner of M/s.Al Jazeera Plastic Recycle LLC at his number and refused that shipment. In view of the above, it appears that the importer has attempted to import areca nuts in guise of Mix Floor Sweeping and it seems to be an afterthought of the Supplier and Importer to stop the movement of the container.*

**9.3** Further, it is noticed that in the instant case the shipper is M/s Al Jazeera Plastic Recycle LLC, UAE. The importer and shipper have made an agreement [RUD-7] for storing the goods as mentioned above and stated by importer in his statement dated 18.09.2023. In view of this, considering these findings, it appears that M/s. Green Polyplast Industries, KASEZ has attempted to import goods by way of mis-declaration in terms of description of the goods against said Bill of Lading. Further, the importer has also failed to provide any tangible evidence to support his claim that they have not placed order for the subject consignment. The importer has declared the goods as Mix Floor Sweeping in the Bill of Lading, however on examination the goods were found to be Areca Nuts. Since, any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned makes the goods liable for confiscation. Therefore, in view of the said mis-declaration, goods imported under Bill of Lading No.CCLJEAMUN38124 dated 06.09.2023 appear to be liable for confiscation under Section 111 (d) & Section 111 (f) of the Customs Act, 1962 and required to be seized under Section 110 of the Customs Act, 1962. Therefore, the goods were seized under Section 110 of the Customs Act,1962 vide Seizure Memo dated 26.12.2023.

**9.4** The seized goods are liable to confiscation under Section 111 (d) & Section 111(f) of the Customs Act, 1962 thereby the importer has rendered themselves liable for penalty under Section 112 and Section 114 AA of the Customs Act, 1962.

**10.** Now, therefore, M/s Green Polyplast Industries, Shed No.222 Special Type, Phase-1, KASEZ, Kutch, Gujarat, are hereby called upon to show cause to the Additional Commissioner of Customs (Import), 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. 25,675 Kgs of "Areca nuts" imported in Container No. GESU4839712 covered under Bill of Lading No.CCLJEAMUN38124 dated 06.09.2023 valued (as per MIP) at Rs.90,11,925/- (Rupees Ninety Lakhs Eleven Thousand Nine Hundred and twenty Five Only) should not be

confiscated under Section 111 (d) and Section 111 (f) of the Customs Act, 1962;

ii. Penalty should not be imposed upon them under the provisions of Section 112 and Section 114AA of the Customs Act, 1962;

**11.** This show cause notice is being issued without prejudice to any other action that may be taken against the noticee to this show cause notice or any other person(s) whether mentioned herein above or not under the Customs Act, 1962 or any other law for the time being in force in India.

**12.** The department reserves the right to add, amend, modify or delete any part or portion of this notice any such addition, amendment, modification or deletion if made shall be deemed to be part and parcel of this notice.

**13.** This aforesaid noticee are directed to submit their written replies within the stipulated time of 30 days from the date of receipt of this notice. In their replies they should clearly state whether they wish to be heard in person or not. If no cause is shown within the stipulated time or within such other time as may be provided by the adjudicating authority on a request being made in that regard, or, if they do not appear when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences available on record without making any further reference to them.

Arun Kumar  
ADDITIONAL COMMISSIONER  
Custom House, Mundra

To

M/s Green Polyplast Industries,  
Shed No.222 Special Type, Phase-1,  
KASEZ, Kutch, Gujarat,

Copy to;

- i. The Additional Commissioner (SIIB), Customs House, Mundra.
- ii. Guard file/Office Copy.

**Annexure-A**

List of the documents relied upon for issuance of Show Cause Notice to M/s Green Polyplast Industries, Shed No.222 Special Type, Phase-1, KASEZ, Kutch, Gujarat in respect of imported goods in Container No.GESU4839712 covered under Bill of Lading No. CCLJEAMUN38124 dated 06.09.2023:-

Sr. No.	Description of the document	Remarks
1.	Copy of Bill of Lading No.CCLJEAMUN38124 dated 06.09.2023	Copy enclosed
2	Copy of Examination Report dated 10.09.2023	Copy enclosed
3.	Copy of Panchanama dated 12.09.2023 drawn at M/s. Green Polyplast Industries, Shed No.222 Special Type, Phase I, Kandla SEZ, Gandhidham, by the SIIB officers of Customs House, Kandla.	Copy enclosed
4.	Copy of statement of Shri Parvez H.Kadari, Partner of M/s.Green Polyplast Industries, recorded under Section 108 of the Customs Act, 1962 on dated 18.09.2023.	Copy enclosed
5.	Copy of Seizure Memo dated 26.12.2023	Copy enclosed
6.	Copy of email dated 04.08.2023 sent by Shri Parvez H. Kadari, partner of M/s Green Polyplast Industries to M/s Sarang Maritime Logistics Pvt. Ltd, Gandhidham.	Copy enclosed
7.	Copy of service agreement between M/s Al Jazeera plastic Recycle LLC and M/s Green Polyplast Industries	Copy enclosed