



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

Office of the Commissioner of Customs (Preventive),  
'Seema Shulk Bhavan', Jamnagar - Rajkot Highway,  
Near Victoria Bridge, Jamnagar (Gujarat) - 361 001

Email: commr-custjmr@nic.in; adj-custjmr@nic.in

DIN - 20250471MM0000914963

1.	फाइल क्रमांक/ File Number	F. No. CUS/1482/2024-Adjn. (Comp. no. 1183392)
2.	मूल आदेश क्रमांक/ Order-in-Original No.	01/ Additional Commissioner/ 2025-26
3.	द्वारा पारित/ passed by	हरकिरपाल खटाना/ Harkirpal Khatana अपरआयुक्त/ Additional Commissioner, सीमा शुल्क, निवारक/Customs (Preventive) जामनगर/ Jamnagar.
4.	Date of Order /आदेश दिनांक	29.04.2025
	Date of issue / आदेश जारी किया	29.04.2025
5.	कारण बताओ नोटिस क्रमांक एवं दिनांक Show Cause Notice Number & Date	ADC-25/2023-24 dated 21.03.2024
6.	नोटिसी के नाम/ Name of Noticees	1. <b>M/s Polestar Maritime Limited</b> 216/ 218, Venus Apartment, Opp. Cricket Bungalow, Jamnagar - 361001  2. <b>Shri Monsur Uddin SK</b> Master of Tug Boat - MV IRIS Village + Post - Noorpur, Police Station - Ramnagar, Dist - 24 South Pargana, West Bengal - 743 368

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

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



02.	<p>इस मूल आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम, की धारा 1962(128A)(1)a, सीमा शुल्क नियम (अपील), 1982 के नियम 3 के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से 60 दिन के भीतर फॉर्म सीए-1 में निम्नलिखित पते पर अपील दायर कर सकता है। फॉर्म सीए-1 में अपील का प्रपत्र, दो प्रतियों में दायर किया जाएगा और उसके साथ इस आदेश की समान संख्या में प्रतियाँ संलग्न की जाएंगी जिसके विरुद्ध अपील की गई है। जिनमें से कम से कम एक प्रमाणित प्रति हो।</p>		
	<table> <tr> <td> <p>आयुक्त (अपील) वी मंजिल 7, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद - 380 009</p> </td><td> <p>Commissioner (Appeals), 7<sup>th</sup> Floor, Mrudul Tower, Behind Times of India, Ashram Road, Ahmedabad - 380 009</p> </td></tr> </table>	<p>आयुक्त (अपील) वी मंजिल 7, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद - 380 009</p>	<p>Commissioner (Appeals), 7<sup>th</sup> Floor, Mrudul Tower, Behind Times of India, Ashram Road, Ahmedabad - 380 009</p>
<p>आयुक्त (अपील) वी मंजिल 7, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद - 380 009</p>	<p>Commissioner (Appeals), 7<sup>th</sup> Floor, Mrudul Tower, Behind Times of India, Ashram Road, Ahmedabad - 380 009</p>		
	<p>Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-1, within sixty days from the date of receipt of this order, under the provisions of Section 128 of the Customs Act, 1962, read with Rule 3 of the Customs (Appeals) Rules, 1982 before the Commissioner (Appeals) at the above mentioned address. The form of appeal in Form No. CA.-1 shall be filed in duplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy).</p>		
03.	<p>अपील पर 5/- रुपये का कोर्ट फीस स्टाम्प लगा होना चाहिए। जैसा कि भारतीय स्टाम्प अधिनियम, 1989 के तहत प्रदान किया गया है, या राज्य विधान द्वारा संशोधित किया जा सकता है, जबकि इस अपील के साथ संलग्न आदेश की प्रति पर रुपये ) 0.50 पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची -I, मद 6 के तहत निर्धारित किया गया है।</p>		
	<p>The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paise only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.</p>		
04.	<p>अपीलीय ज्ञापन के साथ शुल्क भुगतान /जुर्माना /अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 128 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।</p>		
	<p>Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 128 of the Customs Act, 1962.</p>		
05.	<p>अपील प्रस्तुत करते समय यह सुनिश्चित करे की सीमा शुल्क अपील)) नियम, और सिस्टेट प्रक्रिया 1982 नियम (सीजरप्रो), के सभी नियमों का पूरा पालन हुआ है। 1982</p>		
	<p>While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects.</p>		
06.	<p>इस आदेश के खिलाफ आयुक्त (अपील), सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के %7.5 के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है।</p>		
	<p>An appeal, against this order shall lie before the Commissioner (Appeals), on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute.</p>		



### **Brief Facts of the case:**

**M/s Polestar Maritime Limited**, 216/ 218, Venus Apartment, Opp. Cricket Bungalow, Jamnagar (Gujarat) - 361 008 (hereinafter referred as "**M/s PML**"), are engaged in providing the services of Tugs for the various port operations. They have 18-Tugs which are involved in port operation works at different ports in India. They have IEC Code No. 0305065874 and GSTIN No. 24AAACL6265D1ZS (27AAACL6265D1ZM for Maharashtra). M/s PML has leased out 5-Tugs to M/s. Reliance Port and Terminal Limited (In brief - **RPTL**) for various port operation works viz. line boat for transportation of persons to mainline vessels, berthing of small vessels at berth, carrying passengers, as hose boat (in emergency) and miscellaneous handling work within the capacity of the vessel in port limits of Sikka.

2. Based on intelligence that the smuggled Cigarettes of Foreign Origin have been concealed in the Tugboat MV IRIS, a search was conducted on the Tugboat MV IRIS on the night of 08.11.2023 by the Officers of the Customs (Preventive), Jamnagar. In the search operation, 440 Cartons of Foreign Made Cigarettes of different brands containing 88,000 Cigarette Sticks were recovered. During the search proceedings of the said Tug, on being inquired and as emerged from the interrogation of the said Tug Master, it was found that Shri Monsur Uddin SK, Master of the Tugboat MV IRIS, was fully aware about the said goods and had concealed the said contraband goods in the said Tug. The Master also failed to produce any valid import documents or any justification for the said goods on board the Tugboat MV IRIS. During the search proceedings, on examination of the Foreign Origin Cigarettes, it was observed that none of the Cigarette Packets have any retail sale price or maximum retail price either printed or embossed on it. The said goods were of foreign origin by nature and no documents showing legal purchase/ import were available on board Tugboat MV IRIS, hence the said 440 Cartons of Foreign Origin Cigarettes were found to be offending in nature and smuggled. Therefore, 440 Cartons of Foreign Origin Cigarettes of different brands (i.e. 88,000 Sticks in quantity), value of which was ascertained through local inquiry at the material time to be Rs. 17,60,000/- was seized under the Panchnama dated 08.11.2023 under the reasonable belief that the same were liable to confiscation under the provisions of the Customs Act, 1962. The said seized goods were taken over by the Officers for safe custody and for further investigation in the matter. Further, as the said Tugboat MV IRIS was found to be used in the transportation and concealment of the smuggled Foreign Origin Cigarettes by the Master of the Tugboat MV IRIS, therefore, it was also seized under the Panchnama dated 08.11.2023 under the reasonable belief that the same was also liable to confiscation under the provisions of the Customs Act, 1962. During the search proceeding of the Tugboat MV IRIS, no documents evidencing value of the Tugboat was found available on board. However, later on the Director of the owner company of Tugboat i.e. M/s Polestar Maritime Ltd., presented the Marine Insurance of the Tugboat in his statement dated 21.11.2023, and as per which the value of the same was ascertained to be Rs. 4.40 Crore.

3. Later on, the seized Tugboat MV IRIS, valued at Rs. 4.40 Crore was released provisionally to M/s Polestar Marine Pvt. Ltd., on executing Bond for full value of Tugboat and on



furnishing of the Bank Guarantee No. 560GT01233280001 dated 24.11.2023 for Rs. 20,00,000/- as surety issued by the HDFC Bank, Gandhidham Branch.

4. During the course of inquiry, a statement of Shri Monsur Uddin SK, the Master of the Tugboat, was recorded on 10.11.2023, under Section 108 of the Customs Act, 1962, wherein he *inter alia* stated that he was the Master on the Tugboat MV IRIS since 2011 and since Sept. 2023, he was on board; that as per the practice being adopted, he was not checking the goods being unloaded on his Tugboat and transported subsequently and also he was not asking for identity details of the persons who board the Tugboat MV IRIS for reaching the Vessels arriving at Sikka Port for loading and unloading of Export and Import cargos; that the said stock of Foreign Made Cigarettes was brought by the shipping agent M/s Atlantic Shipping Pvt. Ltd.; that on being asked as to why he did not stopped the agent to unlawfully bring such smuggled goods to the Tugboat, he stated that his main duty was to ferry the passengers and the goods from the Reliance Jetty to Vessels at anchorage and he was engaged only in managing the navigation and maintenance of the Tugboat and so he did not ask them not to leave the goods on his Tugboat; that he was aware that the Foreign Made Cigarettes were illegal in nature and due to the said reason as stated above, he placed reliance on the shipping agent and did not ask them anything in this regard.

5. A statement of Shri Anirudh Dhirajlal Bhammar, Director of M/s Polestar Maritime Ltd., was recorded on 21.11.2023, wherein he *inter alia* stated that the Tugboat MV IRIS was being used as line boat at Sikka Port, for berthing of small vessels, carrying of passengers, as hose boat (in emergency), and miscellaneous handling work within capacity of the vessel operating at Sikka Port; that as regards seizure of the 440 Cartons of Foreign Made Cigarettes valued at Rs. 17,60,000/- found concealed in Tugboat MV IRIS, he stated that their said Tugboat was being utilized for ferrying the Customs staff and Shipping Agent staff for boarding of the mainline ships at Sikka Port/ anchorage and as per their understanding they might have arranged to discharge seized items and decided to keep same on board the Tugboat IRIS till they clear on shore by them at their responsibility; that as confirmed by the Master of Tug IRIS, he or crew or owners of the Tugboat were not authorized to board mainline ships or open or handle items to/ from mainline ships; that in this matter tug-owners were not responsible; that the Master of the Tugboat IRIS and the Crews never informed them about this and therefore, they were not aware of such activities happening on board; that it was all under general belief that Tugboat MV IRIS was being used to complete the Customs formalities and for other related works as designated under work scope; that he acknowledged that seized Foreign Made Cigarettes recovered from Tugboat MV IRIS was contraband in nature.

6. A statement of Shri Dheeraj Shamji Maheria, Manager of M/s Atlantic Global Shipping Pvt. Ltd. (In brief – AGSPL) was recorded on 22.11.2023, wherein he *inter alia* stated that, he was not going onboard the vessel for inward/ outward formalities and only shipping executives board the vessels; that as regards statement of the Master Shri Monsur Uddin SK, he stated that M/s Atlantic Shipping was not aware of any such action being done by any agent; that as the Manager of M/s Atlantic Global Shipping Ltd., he had not received any such information from M/s Polestar Marine Ltd., therefore, he denied the allegation made by the Master of Tugboat MV IRIS. On further being asked whether shipping executives were involved in the said activities or if



he ever was informed of such thing, he stated that he had never been informed by Shipping Executives regarding this; that if any such activity was done by shipping executives on board, it was in their personal capacity and M/s Atlantic Shipping was not involved in any such activity.

7. Inquiry was extended to examine the role of the Customs Inspectors posted at the Customs House, Sikka and their statements were recorded. The Inspectors of Customs have in their respective statements denied to have any role in keeping and carrying any goods contraband in nature from vessels as they were boarding and also they denied having anything to do with the seized stock of Cigarettes; that any such smuggling of Cigarettes from the mainline vessels had never come into their notice.

8. The seized foreign origin Cigarettes in 440 Cartons packed in boxes of different sizes were deposited in the godown of the Customs Division, Jamnagar, and as being perishable in nature, an inspection was carried out for its valuation purpose by Shri Pankaj N Udani, the Government Approved Valuer, on 02.01.2024 who vide his letter dated 02.01.2024 reported as follows by considering the following points:

- Rule 11(1) of the IPR (Imported Goods) Enforcement Rules, 2007, where it is found that the goods detained or seized have infringed intellectual property rights and have been confiscated under section 111(d) of Custom Act, 1962.
- The Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011, apply to packaged commodity which includes cigarettes. As the imported cigarette packs are intended for retail sale, they are covered under the Legal Metrology (Packaged Commodity) Rules, 2011, which require a declaration on the packs containing the name and address of the manufacturer or importer or Packer, quantity of the product, month and year of manufacturing or prepacking or importation, the retail sale price, etc. In terms of the said Act and Rules, it is illegal to manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless the package is in such standard quantities or number and bears thereon such declarations and particulars in such a manner as prescribed. The cigarette packet shall have *inter alia* specified health warning to cover 85% of the principal display area of the package, 60% shall cover pictorial warning and 25% shall cover textual health warning, the placement of the warning, the language to be used on the packages.
- Product counterfeiting and illicitly manufactured are required to be destroyed in terms of Rule 11 of the Intellectual Property Rights Rules, 2007 (IPR Rules), which is the responsibility of the right holder, strict compliance to the provision of the Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011, is required. In cases, where such counterfeit goods are restricted, the customs law does not permit the release into the market for consumption.
- All above points are thoroughly checked and inspected during the inspection of seized cigarettes of foreign origin and found that none of the above conditions are fulfilled. All the seized cigarettes of Foreign Origin on inspection are found not for use and sale in India and are without any specific date of expiry.
- Further to this, all the boxes containing seized cigarettes of foreign origin were opened one by one and thoroughly checked for printing of textual and pictorial health warning in



specific format, colour resolution, font and languages as mandated under Circular No. 09/2017 - Customs dated 29<sup>th</sup> March 2017 and which are in breach of Rule 11(1) of the IPR (imported goods) Enforcement Rules, 2007, which provides that the goods detained or seized have infringed intellectual property rights and have been confiscated under section 111 (d) of Custom Act, 1962.

- All tobacco products (whether domestically manufactured and sold or imported) are required to comply with the requirements contained in the Cigarettes and Other Tobacco Products [(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003 (COTPA 2003)] and the rules framed there under. Ministry of Health and Family Welfare vide Notification GSR 727 (E) dated 15.10.2014 notified the Cigarettes and Other Tobacco Products (Packaging and Labelling) Amendment (COTP) Rules, 2014, which came into effect from 01.04.2016 [G.S.R. 739(E) dated 24.09.2015] The COTP Rules are strict in nature and their compliance requires the printing of pictorial and textual warning on cigarette packets in specified format, colours, resolution, font and language.
- It is observed during inspection that none of the seized cigarette packages of foreign origin have specific health warning in text form as well as in pictorial form details as required as per Circular No. 09/2017- Customs dated 29.03.2017. Also no date of manufacturing and date of expiry are written on cigarette packets, there are different sizes of cigarettes in cigarette packets with no reference to any intended sale and use in India.
- Further to ascertain the value of seized Cigarettes of Foreign Origin, Numbers / Quantity of cigarettes were counted and found to be 88,000 Pcs of Cigarettes of Foreign Origin. Samples were also drawn for market survey and checking of specific details with respect to make, mark, packaging, health warning etc. as per the above mentioned provisions of Customs Circular and COTP. The details of numbers/ Quantity of cigarettes of foreign origin, brand of cigarette, packing style and total numbers of cigarettes found in each carton is as mentioned below :-

Brand of Cigarettes	Packing Style	Total no. of Cigarettes found in one carton
Marlboro Gold	234 * 10 * 20	46800
Marlboro 100	28 * 10 * 20	5600
Marlboro 100 Red	6 * 10 * 20	1200
Marlboro	46 * 10 * 20	9200
Marlboro Red	35 * 10 * 20	7000
Parliament Aqua Blue	10 * 10 * 20	2000
Winston Blue	20 * 10 * 20	4000
Winston Silver	1 * 10 * 20	200
Manchester	2 * 10 * 20	400
American Legend	1 * 10 * 20	200
Assos Red	4 * 10 * 20	800
Karelia Red	5 * 10 * 20	1000
Benson & Hedges Gold	3 * 10 * 20	600
Double Happiness	1 * 10 * 20	200
L & M Red Label	32 * 10 * 20	6400
L & M Blue Label	12 * 10 * 20	2400
<b>TOTAL</b>		<b>88000</b>



- As per the market survey of equivalent type of foreign origin cigarettes, of various brands and different sizes, it is assessed that the average value of the total 88,000 Nos. of seized foreign origin cigarette of different make and sizes is Rs. 8,48,000/- (Rupees eight lakh and forty eight thousand only).

9. Accordingly, as per the above referred Valuation Inspection Report dated 02.01.2024, the seized goods i.e. 440 Cartons of Foreign Origin Cigarettes of different brands (i.e. 88,000 Sticks) as seized under Panchnama dated 08.11.2023, are valued at Rs. 8,48,000/- (Rupees eight lakh and forty eight thousand only). The said Report dated 02.01.2024, also summed up that the seized Cigarettes Packets do not conform to the (i) mandatory provisions of Specific Health Warning as per the Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011, (ii) the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003 (COTPA 2003) and the rules framed thereunder. Ministry of Health and Family Welfare vide Notification GSR 727(E) dated 15.10.2014 notified the Cigarettes and Other Tobacco Products (Packaging and Labeling) Amendment (COTP) Rules, 2014, which came into effect from 01.04.2016 [G.S.R. 739(E) dated 24.09.2015].

10. Statements of the Shipping Executives of the Shipping Agent M/s Atlantic Global Shipping Limited were recorded under the provisions of the Customs Act, 1962. Brief of their statements are as under:-

10.1. Statement of Shri Harshadbhai L. Patel, Shipping Executive of M/s Atlantic Global Shipping Pvt. Ltd., Jamnagar was recorded on 19.01.2024 wherein besides other thing he, *inter alia*, stated that, under scope of work as Shipping Executive he was to look after the following works :-

- (i) To intimate the Customs House, Sikka regarding ETA of the vessels arriving at Sikka Port for loading and discharging of the cargo.
- (ii) To attend the vessels at Sikka Port (Sikka Port and terminal, GSFC Jetty, DCC Jetty) for completion of boarding and other Customs related Procedures, he usually board the vessels which are berthed on jetty and coastal vessels. If there is staff scarcity, then he goes for the boarding of foreign run vessels.
- (iii) To prepare the IGM and EGM of vessels and submit to Customs.
- (iv) To complete Customs related procedures in Sign On and Sign Off of the crews and any other services required by the vessel.

That in addition to above any other work asked by the Company, he had to attend; that final decision on all the above works were being taken locally by the Manager Shri Dhiraj Shamji Maheria, to whom he reported for his duty;

- On being asked about the Tugs and Boats were being used for reaching the mainline vessels arriving at Sikka Port and Terminal Limited (SPTL) by him for completing Customs procedures, he stated that MV Aster Star, Parijat, Hazel, Blue Bell and IRIS were used for completion of Customs boarding procedures and for deliverance of Port Clearance, as per availability;



- On being asked about the kind of goods or any baggage he carried to the mainline vessels while going for boarding and rummaging works or for any other duties, he stated that he carried boarding book, to be signed by the Master of the vessel and he carried some wafers and other eatables for personal consumption; that at the time of return from the mainline vessel, signed documents and other import documents viz. cargo documents, original Crew list, original Crew Declaration, copy of the certificates of the vessels etc., were carried from the mainline Vessels; that other than this, he did not carry anything from the mainline vessels;
- On being asked as to how boarding procedure was completed and how much time this would take, he stated that boarding Officer and he would board any of the tugboat viz. MV Aster Star, Parijat, Hazel, Blue Bell and IRIS, as per availability of the same, from the Reliance jetty; that after going on board the mainline vessel, documents are kept ready by the Master of vessel, and then Master of the vessel sign and stamp the documents and boarding officer performs the regular checking of the vessel and collects the import report; that Bond store is checked and sealed by the Customs Officer after verification with the declarations submitted by the Master and then after proper checking and verification, entry inwards is granted by the boarding officer and Customs Officer and he disembark from the vessel; that this complete procedure usually takes 45 minutes to 1 hour;
- He was asked to specify whether on returning after completing boarding or any other customs procedures on board the mainline vessels, if he carried any baggage or luggage of any kind to what he replied that other than signed documents and import report, he didn't carry anything from the mainline vessel; that sometimes bunker samples were being carried with him for sampling purpose, as per owner's requirement;
- He was shown the Panchnama dated 08.11.2023 drawn at Tugboat MV IRIS vide which 440 Cartons of Foreign Origin Cigarettes of different brands were recovered & seized the Tugboat IRIS, and was asked whether he had brought the said goods from mainline vessels to on board Tugboat, MV IRIS, to what he replied that he had not brought any of the goods from the mainline vessel to the Tugboat IRIS; that he had never received any of the goods from the Master or crew of the mainline vessel;
- He was further shown Statement of Master of tugboat IRIS dated 10.11.2023, wherein it was alleged by the Master that the seized goods were brought by the Agents of M/s Atlantic Global Shipping Pvt. Ltd. and was asked whether he agreed to the allegation to what he denied all the allegations made by the Master of tugboat IRIS and stated that he was not aware of any of the goods placed on board the tugboat IRIS; that it is their company's policy to not to bring anything from mainline vessels;
- He was further asked as to when he and Customs Officer boarded the tugboats for Boarding formalities, where did he usually sit in the tugboat to what he replied that in IRIS tugboat, passenger cabin was available, so the Customs Officer and he would sit in the passenger's cabin of the tugboat; that sometimes they sat on the wheelhouse of the tugboat or outside deck was used sometimes, for sitting purpose; that Crew's cabins have never been used by him for any purpose;



- He was further asked as who brought the said goods from the mainline vessels or from any other foreign run vessels or any other place to Tugboat MV IRIS to what he replied that he did not have any idea about this; that he had never taken anything from the mainline vessel;
- He had been using the said Tugboat for accessing the mainline vessels for the Customs related procedures along with the Customs Officers and other concerned persons, so why not it be considered that the said consignment of seized Foreign Origin Cigarettes belonged to him. On asking the above, he replied that he had never received any thing from the main line vessel; that he did not have any idea of goods being on board tugboat IRIS; that it was their company's policy to not to bring anything from mainline vessels; that the Master of every vessel would sign the feedback form regarding services by agents of M/s Atlantic Global Shipping Pvt. Ltd., wherein it is marked by the Master that we have not received any gift/ complements on board;
- On being asked to explain as how these goods contraband in nature were brought on Tugboat MV IRIS he stated that he did not have any idea;
- Shri Harshadbhai L. Patel was further asked whether he ever received any goods from Master or any other crews of the mainline vessels arriving at SPTL while returning after completing boarding procedures or any other work he denied and stated that he had never received any goods from Master or any other crews of the mainline vessels arriving at RPTL while returning after completing boarding procedures or any other work;
- On being asked about the persons other than the Customs Officers, who accompanied him to the mainline vessels he attended as the shipping agent, he stated that many other persons like Technicians, Surveyors, Superintendents of vessels, Vetting Inspectors, Loading Master, Safety Officers, Insurance Agents would visit the mainline vessel, as per requirement of vessel owners; that the permission for visit of these persons is granted by the Customs Office; that usually they don't accompany at the time of boarding, but they board the vessels after the Customs boarding is completed, and where they also use the same tugboats viz. MV Aster Star, Parijat, Hazel, Blue Bell and IRIS, as per availability of the tugboat, for reaching the mainline vessels.

**10.2** Statement of Shri Divyesh Joshi, Shipping Executive of M/s Atlantic Global Shipping Pvt. Ltd., Jamnagar was recorded on 19.01.2024 wherein besides other thing, he, *inter alia* stated that, he has been using services of Tugboats namely MV Aster Star, MV Parijat, MV Hazel, MV Blue Bell and MV IRIS for completion of Customs boarding procedures and for deliverance of Port Clearance; that whenever pilot is to disembark from the mainline vessel, pilot boat is provided by the Reliance;

- On being asked about the goods or any baggage he carried to the mainline vessels while going for boarding and rummaging works or for any other duties, he stated that he would carry documents related to the boarding procedures, to be signed by the Master of the vessel; that at the time of return from the mainline vessel, signed documents and other import documents viz. copy of BL, original Crew list, original Crew Declaration, copy of the certificates of the vessels etc., would be carried from the mainline Vessels; that other than this, he did not carry anything from the mainline vessels; that sometimes Ship related parcel from company, flag or any other thing, as received from the company, is



carried with him to the mainline vessel and nothing other than this was being carried by him;

- On being asked about the boarding procedures and time taken, he replied that boarding Officer and he would take any of the tugboat viz. MV Aster Star, Parijat, Hazel, Blue Bell and IRIS, as per availability of the same, from the SPTL jetty and after going on board the mainline vessel, documents would be signed and stamped by the Master of the vessel and boarding officer would perform the regular checking of the vessel and collect the import report; that Bond Store would be checked with the declarations submitted by the Master and then after proper checking and verification, entry inwards is granted by the boarding officer and Customs Officer and he then disembark from the vessel; that this complete procedure usually would takes 45 minutes to 1 hour;
- On being asked whether while returning after completing boarding or any other customs procedures on board the mainline vessels, if he carried any baggage or luggage of any kind, he replied that other than signed documents and import report, he did not carry anything from the mainline vessel;
- Shri Divyesh Joshi was shown the Panchnama dated 08.11.2023 drawn at Tugboat MV IRIS vide which 440 Cartons of Foreign Origin Cigarettes of different brands were recovered & seized, and was asked whether he had brought the said goods contraband in nature from the vessels to on board Tugboat, MV IRIS, he stated that he had not brought any of the goods from the mainline vessel to the Tugboat IRIS; that he had never received any of the goods from the Master or crew of the mainline vessel;
- He was shown Statement of Master of tugboat IRIS dated 10.11.2023, wherein it was alleged by the Master that the seized goods were brought by the Agents of M/s Atlantic Global Shipping Pvt. Ltd. He was then asked whether he agreed to the allegation upon which he denied all the allegations made by the Master of Tugboat IRIS and stated that he was not aware of any of the goods placed on board the tugboat IRIS;
- He was further asked that when he and Customs Officer board the tugboats for Boarding formalities, where would he usually sit in the tugboat, to what he replied that in IRIS tugboat, passenger cabin is available, so the Customs Officer and he would sit in the passenger's cabin of the tugboat; that sometimes they sit on the bridge of the tugboat or outside deck is used sometimes, for sitting purpose. Crew's cabins have never been used by him for any purpose;
- On being asked as to who brought the said goods from the mainline vessels or from any other foreign run vessels or any other place to Tugboat MV IRIS he replied that he did not have any idea about it; that he never had taken anything from the mainline vessel;
- He had been using the said Tugboat for accessing the mainline vessels for the Customs related procedures along with the Customs Officers and other concerned persons, so why not it be considered that the said consignment of seized Foreign Origin Cigarettes belonged to you, to what he replied that he had never received any thing from the main line vessel; that he did not have any idea of goods being on board tugboat IRIS; that the boarding officer would seal the bond store in his presence and the same would be kept under Customs seal till the vessel is in Indian water, that there are no chances that any of the bonded items is received after completion of boarding formalities;



- On being asked to explain as to how those goods contraband in nature were brought on Tugboat MV IRIS, he stated that he did not have any idea;
- On being asked whether he ever received any goods from Master or any other crews of the mainline vessels arriving at RPTL while returning after completing boarding procedures or any other work, to what he replied that he had never received any goods from Master or any other crews of the mainline vessels arriving at RPTL while returning after completing boarding procedures or any other work;
- He was then asked about the persons other than Shipping Agent and the Customs Officers, would be accompanying him to the mainline vessels he attended as the shipping agent, he replied that many other persons like Technicians, Surveyors, Superintendents of vessels, Vetting Inspectors, Loading Master, Safety Officers, Insurance Agents visit the mainline vessel, as per requirement of vessel owners would accompany him; that the permission for visit of these persons is granted by the Customs Office; that usually they don't accompany at the time of boarding, but they board the vessels after the Customs boarding is completed; that they also use the same tugboats viz. MV Aster Star, Parijat, Hazel, Blue Bell and IRIS, as per availability of the tugboat, for reaching the mainline vessels.

10.3. Statement of Shri Alvani Abdul Rajak, Shipping Executive of M/s Atlantic Global Shipping Pvt. Ltd., Jamnagar was recorded on 23.01.2024 wherein besides other thing, he, *inter alia*, stated that, he has been using Tugs of M/s Polestar Marine namely Tug Parijat, Tug Astar Star, Tug Blue Bell, Tug IRIS and Tug Hazel etc. for reaching the mainline vessels for boarding procedures, depending upon the availability at the material time; that in case of vessels standing alongside SPTL jetty no Tugboat would be required;

- On being asked as to how was he contacting the Tugboat to be ready for transportation up to mainline vessels, he stated that there is a Whats-App group in which all Shipping Executives of M/s Atlantic Global Shipping Pvt. Ltd., and other shipping agents, Port Control authority of SPTL and Officers of the Tugboats are members for co-ordination work related to port operations and transitions work; that he would put up the requisition for the Tugboats as per the ETA of the vessel and upon which SPTL alerts the Tugboat for transporting the concerned persons from Riser Point to the mainline vessels; that the Surveyors are also the members in this Whats-App group and as per the requirement they also coordinate through this group;
- On being asked about the persons going with him to the mainline vessels for completing boarding procedure and for delivering Port Clearance to the vessels, he stated that normally Customs Inspectors go with him, for boarding work of mainline vessels; that surveyor also go with him in case of Import cargo vessel and also, when mainline vessels arrive from African Ports or some South American Ports, Port Health Officer also accompany him for measures relating to Yellow Fever;
- On being asked about the boarding procedures and time taken, he stated that on reaching the vessel, he would ask for Port Clearance of the last port of call, and then declaration regarding Crews, Ship Currency, Ship-store and certificates, Narcotic list etc. from the Master of the vessel; that all these documents are submitted by the Master which are then examined and verified by the Customs Inspectors; that presence of



Iridium/ Thuraya Satellite Phone on board is also examined and verified and then sealed by the Customs; that Deck-stores, Engine Stores, Bond Stores etc. are also examined and verified before clearance of vessel for entry-inward; that based on the above, IGM of the vessel is prepared and all this procedure takes around 1.5 to 2 hours;

- On being asked to specify whether he would carry any baggage or luggage of any kind while returning after completing boarding or any other customs procedures on board the mainline vessels, he stated that when he goes to mainline vessels for boarding or for other Customs related procedure he carries only his office bag, and he never carry any goods from the mainline vessel to any Tugboat or any other local plying vessels; that he also never carry any goods to mainline vessels without proper permission of Customs authority and without proper documents; that his office bag has permission letter and correspondences with vessel and customs and port authority;
- He was shown Panchnama dated 08.11.2023, drawn at Tugboat MV IRIS vide which 440 Cartons of Foreign Origin Cigarettes of different brands were recovered and seized from the said Tugboat, and was asked to clarify as to how these Foreign Origin Cigarettes were recovered from the Tugboat which was used by him, Customs and Surveyors etc., to what he replied that he had no connection with the seized Cigarettes; that he was not allowed to carry any goods from vessel and vice versa either by the Tugboat or by the Terminal Security of SPTL without proper documents and permission; that while going for boarding through Tugboat and while returning from there, his all baggage are scanned thoroughly by the Terminal Security; that he could not indulge in carrying any contraband from mainline vessels and vice versa because his employer also did not permit him for such act;
- On being asked as to who brought the said stock of seized Foreign Origin Cigarettes from the mainline vessels or from any other foreign run vessels or any other place to Tugboat MV IRIS, he replied that he would go for boarding and for delivering Port Clearance to the mainline vessels at SPTL through not only Tug MV IRIS but also through other Tugs which was named by him and he had never indulged in any unlawful act and also he was unable to say anything about the seized goods;
- On being asked that since, he had been using the said Tugboat for accessing the mainline vessels for the Customs related procedures along with the Customs Officers and other concerned persons, so why not it be considered that the said consignment of seized Foreign Origin Cigarettes belonged to him, upon which he replied that seized goods did not belong to him and neither he had anything to do with the same; that while going to the mainline vessels at SPTL with officers of Customs and surveyor and other persons he had never seen any such goods contraband in nature to be carried down from mainline vessel to the Tugboats and also he never saw anybody carrying anything in unauthorised manner any goods to the vessel, so he was unable to comment on the Foreign Origin Cigarettes as recovered from Tugboat MV IRIS;
- On being asked to explain as to how these goods contraband in nature were brought on Tugboat MV IRIS, he replied that the Tugboat MV IRIS and other above said tugs were also used to carry Sign On/Sign Off of crew from the vessels approaching the SPTL, any visitor to vessel like technician, auditor, representative from owner/ operator of the vessel, mooring crew, Vetting Inspector, vessel Superintendent, crew to All Fast the vessel at



SPM etc. all these persons board the vessel and therefore, it could not be ascertained to whom these seized Foreign Origin Cigarettes belonged to;

- On being asked whether he ever received any goods from Master or any other crews of the mainline vessels arriving at SPTL while returning after completing boarding procedures or any other work, he replied that when M/s Atlantic Global Shipping Pvt. Ltd., sends mail to the mainline vessels for expected time for boarding at SPTL, it is specifically mentioned in the mail not to give anything complementary to the boarding agent and so he was never offered and he never accepted anything from the mainline vessels;
- On being asked about the persons other than Surveyor and the Customs Officers, who accompany him to the mainline vessels he attends as the shipping agent, he stated that he was accompanied normally by the Customs Officers and sometime with Surveyors and Port Health Officers; that except this he was not accompanied by any unauthorised persons to board the mainline vessels;
- On being asked as to how would he contact the Tugboat to carry him to the mainline vessel, he stated that when he would enter the MTF Gate with Customs Inspector for boarding purpose, he would call the Master of the Tugboat to come to the Riser Point;
- Shri Alvani Abdul Rajak was further asked whether all the Masters of the Tugboats he uses for customs related procedures known/ familiar to him and whether he carried anything for them from outside the port or from mainline vessel upon which he replied that he know them because he had to coordinate with them for accessing the mainline vessel; that he never gave anything to them and also never accepted anything from them.

**10.4.** Statement of Shri Tayab Moosa Bhatti, Shipping Executive of M/s Atlantic Global Shipping Pvt. Ltd., Jamnagar was recorded on 23.01.2024 wherein besides other thing, he, inter alia, stated that, he has been using Tugs of M/s Polestar Marine namely Tug Parijaat, Tug Astar Star, Tug Blue Bell, Tug IRIS and Tug Hazel etc. for reaching the mainline vessels for boarding procedures, depending upon the availability at the material time; that in case of vessels standing alongside SPTL jetty, no Tugboat would be required;

- On being asked as to how was he contacting the Tugboat to be ready for transportation up to mainline vessels, he stated that there is a Whats-App group in which all Shipping Executives of M/s Atlantic Global Shipping Pvt. Ltd., and other shipping agents, Port Control authority of SPTL and Officers of the Tugboats are the members for co-ordination work related to port operations and transitions work; that he would put up the requisition for the Tugboats as per the ETA of the vessel and upon which SPTL alerts the Tugboat for transporting the concerned persons from Riser Point to the mainline vessels; that the Surveyors are also the members in this Whats-App group and as per the requirement they also coordinate through this group;
- On being asked about the persons going with him to the mainline vessels for completing boarding procedure and for delivering Port Clearance to the vessels, he stated that normally Customs Inspectors go with him, for boarding work of mainline vessels; that surveyor also go with him in case of Import cargo vessel and also, when mainline vessels arrive from African Ports or some South American Ports, Port Health Officer also accompany him for measures relating to Yellow Fever;



- On being asked about the boarding procedures and time taken, he stated that on reaching the vessel, he ask for Port Clearance of the last port of call, and then declaration regarding Crews, Ship Currency, Ship-store and certificates, Narcotic list etc. from the Master of the vessel. All these documents are submitted by the Master which is then examined and verified by the Customs Inspectors accompanying him to vessel. Presence of Satellite Phone on board is also examined and verified and then sealed by the Customs. Deck-stores, Engine Stores, Bond Stores etc. are also examined and verified before clearance of vessel for entry-inward. Based on the above, IGM of the vessel is prepared and all this procedure takes around two hours;
- On being asked to specify whether he would carry any baggage or luggage of any kind while returning after completing boarding or any other customs procedures on board the mainline vessels he stated that he never carry any goods from the mainline vessel while returning and also never carry any goods to vessel to be given to Master or any crew of the vessel without completing due procedure of the Customs Law and without informing the concerned authority, he only carry an office bag which has permission letter and correspondences with vessel and customs and port authority;
- He was shown Panchnama dated 08.11.2023, drawn at Tugboat MV IRIS vide which 440 Cartons of Foreign Origin Cigarettes of different brands were recovered and seized from the said Tugboat, and was asked to clarify as to how these Foreign Origin Cigarettes were recovered from the Tugboat which was used by him, Customs and Surveyors etc., to what he replied that he has seen the Panchnama dated 08.11.2023 and he agrees to the fact that Foreign Origin Cigarettes were recovered from the tugboat MV IRIS. But he has to say that he has no connection with the seized Cigarettes. He is not allowed to carry any goods from vessel and vice versa either by the Tugboat or by the Terminal Security of SPTL without proper documents and permission. While going for boarding through Tugboat and while returning from there his all baggage are scanned thoroughly by the Terminal Security, he cannot indulge in carrying any contraband from mainline vessels and vice versa because his employer also not permit him for such act;
- On being asked as to who brought the said stock of seized Foreign Origin Cigarettes from the mainline vessels or from any other foreign run vessels or any other place to Tugboat MV IRIS, he replied that he go for boarding and for delivering Port Clearance to the mainline vessels at SPTL through not only Tug MV IRIS but also through other Tugs which he has named in his statement, he never indulge in any unlawful act and also he is unable to say anything about the seized goods;
- He had been using the said Tugboat for accessing the mainline vessels for the Customs related procedures along with the Customs Officers and other concerned persons, so why not it be considered that the said consignment of seized Foreign Origin Cigarettes belonged to him, upon which he replied that he has no connection with the seized goods and he not only go through Tug MV IRIS but also use other Tugs for accessing mainline vessels but he has never handled any foreign origin goods from vessels;
- On being asked to explain as to how these goods contraband in nature were brought on Tugboat MV IRIS, he replied that he don't know anything about the same;



- On being asked whether he ever received any goods from Master or any other crews of the mainline vessels arriving at SPTL while returning after completing boarding procedures or any other work, he replied that when M/s Atlantic Global Shipping Pvt. Ltd., sends mail to the mainline vessels for expected time for boarding at SPTL, it is specifically mentioned in the mail not to give anything complementary to the boarding agent. He has to follow the same line up as per his employer. So he has never offered and never accept anything from the mainline vessels;
- On being asked about the persons other than Surveyor and the Customs Officers, who accompany him to the mainline vessels he attends as the shipping agent, he stated that he is accompanied normally by the Customs Officers and sometime with Surveyors and Port Health Officers. Except this, he is not accompanied by any unauthorised persons to board the mainline vessels.

**10.5.** Statement of Shri **Chudasama Ajaysinh Chetansinh**, Shipping Executive of M/s Atlantic Global Shipping Pvt. Ltd., Jamnagar was recorded on 23.01.2024 wherein besides other thing, he, *inter alia*, stated that, he has been using Tugs of M/s Polestar Marine namely Tug Parijaat, Tug Astar Star, Tug Blue Bell, Tug IRIS and Tug Hazel etc. for reaching the mainline vessels for boarding procedures, depending upon the availability at the material time; that in case of vessels standing alongside SPTL jetty, no Tugboat would be required;

- On being asked as to how was he contacting the Tugboat to be ready for transportation up to mainline vessels, he stated that there is a Whats-App group in which all Shipping Executives of M/s Atlantic Global Shipping Pvt. Ltd., and other shipping agents, Port Control authority of SPTL and Officers of the Tugboats are the members for co-ordination work related to port operations and transitions work; that he would put up the requisition for the Tugboats as per the ETA of the vessel and upon which SPTL alerts the Tugboat for transporting the concerned persons from Riser Point to the mainline vessels; that the Surveyors are also the members in this Whats-App group and as per the requirement they also coordinate through this group;
- On being asked about the persons going with him to the mainline vessels for completing boarding procedure and for delivering Port Clearance to the vessels, he stated that normally Customs Inspectors go with him, for boarding work of mainline vessels; that surveyors also go with him in case of Import cargo vessel and also, when mainline vessels arrive from African Ports or some South American Ports, Port Health Officer also accompany him for measures relating to Yellow Fever;
- On being asked about the boarding procedures and time taken, he stated that on reaching the vessel, he would ask for Port Clearance of the last port of call, and then declaration regarding Crews, Ship Currency, Ship-store and certificates, Narcotic list etc. from the Master of the vessel; that all these documents are submitted by the Master which are then examined and verified by the Customs Inspectors; that presence of Iridium/ Thuraya Satellite Phone on board is also examined and verified and then sealed by the Customs; that Deck-stores, Engine Stores, Bond Stores etc. are also examined and verified before clearance of vessel for entry-inward; that based on the above, IGM of the vessel is prepared and all this procedure takes around 1.5 to 2 hours;



- On being asked to specify whether he would carry any baggage or luggage of any kind while returning after completing boarding or any other customs procedures on board the mainline vessels, he stated that when he goes to mainline vessels for boarding or for other Customs related procedure, he carries only his office bag, and he never carry any goods from the mainline vessel to any Tugboat or any other local plying vessels; that he also never carry any goods to mainline vessels without proper permission of Customs authority and without proper documents; that his office bag has permission letter and correspondences with vessel and customs and port authority;
- He was shown Panchnama dated 08.11.2023, drawn at Tugboat MV IRIS vide which 440 Cartons of Foreign Origin Cigarettes of different brands were recovered and seized from the said Tugboat, and was asked to clarify as to how these Foreign Origin Cigarettes were recovered from the Tugboat which was used by him, Customs and Surveyors etc., to what he replied that he had no connection with the seized Cigarettes; that he was not allowed to carry any goods from vessel and vice versa either by the Tugboat or by the Terminal Security of SPTL without proper documents and permission; that while going for boarding through Tugboat and while returning from there, his all baggage are scanned thoroughly by the Terminal Security; that he could not indulge in carrying any contraband from mainline vessels and vice versa because his employer also did not permit him for such act;
- On being asked as to who brought the said stock of seized Foreign Origin Cigarettes from the mainline vessels or from any other foreign run vessels or any other place to Tugboat MV IRIS, he replied that he would go for boarding and for delivering Port Clearance to the mainline vessels at SPTL through not only Tug MV Iris but also through other Tugs which was named by him and he had never indulged in any unlawful act and also he was unable to say anything about the seized goods;
- On being asked that he had been using the said Tugboat for accessing the mainline vessels for the Customs related procedures along with the Customs Officers and other concerned persons, so why not it be considered that the said consignment of seized Foreign Origin Cigarettes belonged to him, upon which he replied that seized goods did not belong to him and neither he had anything to do with the same; that while going to the mainline vessels at SPTL with officers of Customs and surveyor and other persons he had never seen any such goods contraband in nature to be carried down from mainline vessel to the Tugboats and also he never saw anybody carrying anything in unauthorised manner any goods to the vessel, so he was unable to comment on the Foreign Origin Cigarettes as recovered from Tugboat MV IRIS;
- On being asked to explain as to how these goods contraband in nature were brought on Tugboat MV IRIS, he replied that the Tugboat MV IRIS and other above said tugs were also used to carry Sign On/ Sign Off of crew from the vessels approaching the SPTL, any visitor to vessel like technician, auditor, representative from owner/ operator of the vessel, mooring crew, Vetting Inspector, vessel Superintendent, crew to All Fast the vessel at SPM etc. all these persons board the vessel and therefore, it could not be ascertained to whom theses seized Foreign Origin Cigarettes belonged to;
- On being asked whether he ever received any goods from Master or any other crews of the mainline vessels arriving at SPTL while returning after completing boarding



procedures or any other work, he replied that when M/s Atlantic Global Shipping Pvt. Ltd., sends mail to the mainline vessels for expected time for boarding at SPTL, it is specifically mentioned in the mail not to give anything complementary to the boarding agent and so he was never offered and he never accepted anything from the mainline vessels;

- On being asked about the persons other than Surveyor and the Customs Officers, who accompany him to the mainline vessels he attends as the shipping agent, he stated that he was accompanied normally by the Customs Officers and sometime with Surveyors and Port Health Officers; that except this, he was not accompanied by any unauthorised persons to board the mainline vessels;
- On being asked as to how would he contact the Tugboat to carry him to the mainline vessel, he stated that when he would enter the MTF Gate with Customs Inspector for boarding purpose, he would call the Master of the Tugboat to come to the Riser Point;

**10.6.** Statement of Shri Prahladsinh Jadeja, Shipping Executive of M/s Atlantic Global Shipping Pvt. Ltd., Jamnagar was recorded on 23.01.2024 wherein besides other thing, he, inter alia, stated that, he has been using Tugs of M/s Polestar Marine namely Tug Parijaat, Tug Astar Star, Tug Blue Bell, Tug IRIS and Tug Hazel etc. for reaching the mainline vessels for boarding procedures, depending upon the availability at the material time; that in case of vessels standing alongside SPTL jetty, no Tugboat would be required;

- On being asked as to how was he contacting the Tugboat to be ready for transportation up to mainline vessels, he stated that there is a Whats-App group in which all Shipping Executives of M/s Atlantic Global Shipping Pvt. Ltd., and other shipping agents, Port Control authority of SPTL and Officers of the Tugboats are the members for co-ordination work related to port operations and transitions work; that he would put up the requisition for the Tugboats as per the ETA of the vessel and upon which SPTL alerts the Tugboat for transporting the concerned persons from Riser Point to the mainline vessels; that the Surveyors are also the members in this Whats-App group and as per the requirement they also co-ordinate through this group;
- On being asked about the persons going with him to the mainline vessels for completing boarding procedure and for delivering Port Clearance to the vessels, he stated that normally Customs Inspectors go with him, for boarding work of mainline vessels; that surveyor also go with him in case of Import cargo vessel and also, when mainline vessels arrive from African Ports or some South American Ports, Port Health Officer also accompany him for measures relating to Yellow Fever;
- On being asked about the boarding procedures and time taken he stated that on reaching the vessel, he would ask for Port Clearance of the last port of call, and then declaration regarding Crews, Ship Currency, Ship-store and certificates, Narcotic list etc. from the Master of the vessel; that all these documents are submitted by the Master which are then examined and verified by the Customs Inspectors; that presence of Iridium/ Thuraya Satellite Phone on board is also examined and verified and then sealed by the Customs; that Deck-stores, Engine Stores, Bond Stores etc. are also examined and verified before clearance of vessel for entry-inward; that based on the above, IGM of the vessel is prepared and all this procedure takes around 1.5 to 2 hours;



- On being asked to specify whether he would carry any baggage or luggage of any kind while returning after completing boarding or any other customs procedures on board the mainline vessels, he stated that he goes to the mainline vessel with Customs authority and surveyors sometime with one hand bag he has with only the official papers/permissions. Except for the said handbag, he doesn't carry anything while going to the mainline vessels and returning therefrom through the Tugboats of SPTL. Our baggage are thoroughly checked and scanned by the terminal security;
- He was shown Panchnama dated 08.11.2023, drawn at Tugboat MV IRIS vide which 440 Cartons of Foreign Origin Cigarettes of different brands were recovered and seized from the said Tugboat, and was asked to clarify as to how these Foreign Origin Cigarettes were recovered from the Tugboat which was used by him, Customs and Surveyors etc., to what he replied that he cannot explain as how these Foreign Origin Cigarettes reached the Tugboat MV IRIS;
- On being asked as to who brought the said stock of seized Foreign Origin Cigarettes from the mainline vessels or from any other foreign run vessels or any other place to Tugboat MV IRIS he replied that he don't know anything about the same;
- On being asked that he had been using the said Tugboat for accessing the mainline vessels for the Customs related procedures along with the Customs Officers and other concerned persons, so whether he knew anything regarding tugboat MV IRIS that it might have been touching other vessels in foreign run, upon which he replied that he was not aware as he had never indulged in handling any foreign origin goods in unauthorised manner and so he could not say anything;
- On being asked whether he ever received any goods from Master or any other crews of the mainline vessels arriving at SPTL while returning after completing boarding procedures or any other work, he replied that this is against the policy of his company and so there is no question of receiving any goods or accepting any gifts in whatsoever form, from the mainline vessels, when M/s Atlantic Global Shipping Pvt. Ltd., sends mail to the mainline vessels for expected time for boarding at SPTL, it is specifically mentioned in the mail not to give anything complementary to the boarding agent. So he never accepted anything from the mainline vessels;
- On being asked about the persons other than Surveyor and the Customs Officers, who accompany him to the mainline vessels he attends as the shipping agent, he stated that he was accompanied normally by the Customs Officers and sometime with Surveyors and Port Health Officers; that except this, he was not accompanied by any unauthorised persons to board the mainline vessels;
- On being asked as to whether he knows the master of the TUG IRIS, Monsur Udin SK, he replied that he knows master of the Tug IRIS, because when he goes with Customs Officers for boarding work and for delivering Port Clearance to the mainline vessels, he has to use one of the Tugboats from the fleet at STPL. He has to call them on mobile to come to the Riser Point; that his contact with them is only for the above purpose. When he is on board the Tugboat, Master of the Tug is in the wheel room and where he has no permission to go.



11. A further statement of Shri Monsur Uddin SK, Master of Tugboat MV IRIS was recorded on 01.02.2024 wherein he showed agreement to his earlier statement dated 10.11.2023 and on further, on being asked about the statement of Shri Dhiraj Maheria, Manager of Shipping Agency M/s Atlantic Global Shipping Pvt. Ltd. dated 22.11.2023 wherein he refused to have played any role in smuggling of Foreign Origin Cigarettes seized from Tugboat, MV IRIS, he stated that he never met Shri Dhiraj Shamji Maheria and he had no role in bringing Foreign Origin Cigarettes on board Tugboat MV IRIS; that on being asked to comment on the statements deposed by the various shipping executives of M/s Atlantic Global Shipping Pvt. Ltd. viz. Shri Tayab Moosa Bhati, Shri Ajaysinh Chetansinh Chudasama, Shri Alvani Abdul Rajak and Shri Prahladsinh Jadeja all dated 23.01.2024 and statements of Shri Harshadbhai L. Patel and Shri Divyesh Joshi both dated 19.01.2024, wherein all the Shipping Executives have refused to have any role in bringing the Foreign Origin Cigarettes on board Tugboat MV IRIS which were found concealed in Tugboat, Shri Monsur Uddin SK, Master of Tugboat MV IRIS, replied that he did not agree to the statements made by the shipping agents; that they have brought these goods on Tugboat IRIS; that Shipping Agent calls for the tugboat for boarding mainline vessels, and then they go to the mainline vessels for boarding purpose; that after Customs and Agent board the mainline vessels, they are there at standby; that then after completion of boarding formalities, they would take the Customs Officers and Agents back to Reliance jetty, Shipping agents bring the cartons to the tugboat and with the help of crew member of the tugboat, the same were placed in the crew's cabins; that on being asked as to whether he agreed to his role in illegal transportation and concealment of Foreign Origin Cigarettes on board MV IRIS as per Panchnama dated 08.11.2023, to what he denied and stated that he was not agreed to his role in illegal transportation and concealment of Foreign Origin Cigarettes on board MV IRIS as per Panchnama dated 08.11.2023; that on further being asked whether he had informed his management or any other staff from office about Foreign Origin Cigarettes placed in the crew's cabins, he denied to have ever informed his management or any other staff from office about Foreign Origin Cigarettes placed in the crew's cabins;

12. It was observed from the investigation that the said Foreign Origin Cigarettes of different brands containing in 440 Cartons comprising 88,000 Sticks totally valued at Rs. 8,48,000/- (As per Government approved Valuer Report dated 02.01.2024) was found to be concealed in the said Tugboat by the Master, and no valid import documents were made available by him. Therefore, the said goods being contraband in nature were placed under seizure vide Panchnama dated 08.11.2023 under the reasonable belief that the same are liable for confiscation under the provisions of the Customs Act, 1962. Further, it was also observed from the investigation that the Tugboat MV IRIS appeared to have been used in transportation and concealment of the said seized goods; it was also placed under seizure under the reasonable belief that the same was liable to confiscation under the provisions of the Customs Act, 1962.

12.1 During the course of investigation, it was also observed that Shri Monsur Uddin SK, Master of the Tugboat MV IRIS, in his statement dated 10.11.2023 and 01.02.2024 *inter alia* stated that the said Foreign Origin Cigarettes were placed on board by the persons of the Shipping Agents viz. M/s Atlantic Global Shipping Pvt. Ltd. Therefore, the matter was further



investigated and statements of various shipping executives were recorded under Section 108 of the Customs Act, 1962, wherein, all the shipping executives have denied of carrying/ bringing any contraband goods including Foreign Origin Cigarettes from mainline vessels to the Tugboat MV IRIS. Even Shri Anirudh Bhammar, one of the Directors of M/s Polestar Marine Ltd. in his statement dated 21.11.2023 stated that they were not aware of any such contraband goods on board the Tugboat MV IRIS.

13. In view of the foregoing para(s), it appeared that the 440 Cartons (88000 sticks) of Foreign Origin Cigarettes of different brands were found illegally smuggled and concealed in the Tugboat MV IRIS on 08.11.2023 in violation of various provisions of the Customs Act and the rules and relevant laws as under:-

- (i) Provisions of Section 46 of the Customs Act, 1962 in as much as no Bill of Entry was filed and no Customs Duty was discharged on the said stock of Foreign Origin Cigarettes seized under Panchnama dated 08.11.2023.
- (ii) Provisions of Section 123 of the Customs Act, 1962 read with Notification No.103/2016 dated Customs (N.T.) dated 25.07.2016, in as much as burden of proof that the said goods were not smuggled was on the Master of the Tugboat however who failed to provide any valid documents and reasons for the said goods.
- (iii) Provisions of Section 11(3) of the Customs Act, 1962 in as much as the prohibition or restriction or obligation relating to import of Cigarettes or clearance thereof provided under Rule 3 of the Cigarettes and Other Tobacco Products (Packaging and Labeling) Rules, 2008 and its Amendment Rules, 2017, read-with Circular No. 09/2017-Customs, issued under F. No. 711/07/2003-Cus. (AS) dated 29.03.2017 and Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 as amended, are not complied with.
- (iv) Provisions of Para 13 of the General Notes Regarding Import Policy of ITC (HS), 2017 in as much as compliance set out in the said provisions for import are not complied with.

13.1 It was also further observed that the 440 Cartons (i.e. 88,000 Sticks) of Foreign Origin Cigarettes of different brands, valued at Rs. 8,48,000/- (As per Government approved Valuer Report dated 02.01.2024) seized under Panchnama dated 08.11.2023 were liable to confiscation under Section 111(d), 111(e), 111(i) and 111(m) of the Customs Act, 1962. Further, as the Tugboat MV IRIS appeared to have been used knowingly by the Master Shri Monsur Uddin SK in transportation and concealment of the said smuggled Foreign Origin Cigarettes, the same appears to be liable to confiscation under Section 115(2) of the Customs Act, 1962 and this act of Master Shri Monsur Uddin SK appeared to render him liable to penalty under Section 112 of the Customs Act, 1962.

14. Therefore, a Show Cause Notice No. ADC-25/2023-24 dated 21.03.2024 was issued to:

- (i) M/s Polestar Maritime Ltd., 216/218, Venus apartment, Opp. Cricket Bungalow, Jamnagar-361001 to show cause as to why the Tugboat MV IRIS valued at Rs. 4,40,00,000/- (Rupees four crore and forty lakhs only), seized under Panchnama dated



08.11.2023 should not be confiscated under Section 115(2) of the Customs Act, 1962, which was released provisionally to them on execution of Bond for full value and on furnishing BG for Rs. 20,00,000/-.

- (ii) Shri Monsur Uddin SK, Master of the Tugboat MV IRIS, resident of Village + Post-Noorpur, Police Station-Ramnagar, Dist-24 South Pargana (WB), Pin-743368, to show cause as to why :
- a) 440 Cartons of Foreign Origin Cigarettes of different brand containing 88000 Sticks in quantity and valued at Rs. 8,48,000/- (as per valuation report dated 02.01.2024) which were seized under Panchnama dated 08.11.2023 should not be confiscated under Section 111(d), 111(e), 111(i) and 111(m) of the Customs Act, 1962 read with Section 7 of the COTPA Act, 2003;
  - b) Penalty should not be imposed on him under Section 112 of the Customs Act, 1962.

**Defense submission:**

15. M/s Polestar Maritime Ltd. filed their defense reply vide their letter ref. no. Iris-customs matter/ 2023 dated 02.04.2024 wherein they submitted that neither the owners nor the Master of Tugboat MV IRIS are/ were involved in any unlawful activity; that the seized items were not discharged or handled by tug staff or owners; that the Master and crew of tugs are not permitted to board mainline foreign going ships; that only Customs Boarding Officers and agents of mainline vessels or surveyors board mainline ships; that though they have list of mainline ships visited by mainline agents/ boarding customs officers in few months before search seizure through Tug IRIS, as tug master/ tug owners do not have proof from which vessel items were discharged when agents of mainline vessel/ customs boarding officers were on Tug IRIS, they are not listing name of such vessels; that Master of Tug IRIS at the time of incident informed that items were discharged on 7<sup>th</sup> November night from mainline vessel though he does not have any documentary proof; that they submit that only mistake made by the Master of Tug IRIS is that he allowed items packed stored on deck without verifying contents of packing.

15.1 M/s Polestar Maritime Ltd., vide letter dated 10.07.2024 further submitted that they maintain that goods were not landed or transacted by their company and same were landed under supervision of boarding customs/vessel agents.

**Details of the Personal Hearing:**

16. The Personal Hearing in the matter was held on 08.04.2025. S/ Shri Capt. Anirudh Bhammar and Vinay Maheshwari, both the Authorized Representatives of M/s Polestar Maritime Ltd. and Shri Monsur Uddin SK (Master of Tug MV IRIS), appeared before the adjudicating authority. During the course of personal hearing, they explained the case in detail. They submitted that they are working with the Reliance Company since last 25 years and no incidence has been ever occurred in past. They are engaged only in movement of tugs on the directions of the Reliance Company and have no control over the use of the tug. The tugs move as per their instructions and keep standby at the place instructed by the Reliance Company. They also informed that no crew member including the master of the tugs are allowed to board the



mainstream vessel and are strictly instructed to not to leave the tug. They further submitted that the said incidence was not within the knowledge of their master or the company and they are not involved in said incidence, therefore, they requested to drop the proceedings against them.

**Discussion and findings:**

17. I have carefully gone through the facts of the case available on records, the Show Cause Notice and the written defense submissions submitted by M/s Polestar Maritime Ltd. vide their letters dated 02.04.2024 and 10.07.2024 as well as oral submission made during the personal hearing held on 07.04.2025.

18. I observe that the issues to be decided in the case on hand are as follows:

- (i) Whether, 440 Cartons of Foreign Origin Cigarettes of different brands, 88000 Sticks in quantity and valued at Rs. 8,48,000/- (As per valuation report dated 02.01.2024) which were seized under Panchnama dated 08.11.2023 from the Tugboat MV IRIS are liable to confiscation under Section 111(d), 111(e), 111(i) and 111(m) of the Customs Act, 1962, read with Section 7 of the COTPA Act, 2003 or otherwise.
- (ii) Whether Shri Monsur Uddin SK, Master of the Tugboat MV IRIS, is liable to Penalty under Section 112 of the Customs Act, 1962 or otherwise;
- (iii) Whether, the Tugboat MV IRIS valued at Rs. 440,00,000/- (Rupees four crore and forty lakh only) seized under Panchnama dated 08.11.2023 is liable to confiscation under Section 115(2) of the Customs Act, 1962 or otherwise & subsequent penalty or otherwise.

19. I observe that, based on intelligence that the smuggled Cigarettes of Foreign Origin have been concealed in the Tugboat MV IRIS; a search was conducted on the Tugboat MV IRIS on the night of 08.11.2023 by the Officers of the Customs (Preventive), Jamnagar. In the search operation, 440 Cartons of Foreign Made Cigarettes of different brands containing 88,000 Cigarette Sticks were recovered. I further observe that, Shri Monsur Uddin SK, Master of the Tugboat MV IRIS failed to produce any valid import documents or any justification for the said goods on board the Tugboat MV IRIS.

20. I observe that, on examination of the Foreign Origin Cigarettes by Customs Officers, it was observed that none of the Cigarette Packets have any retail sale price or maximum retail price either printed or embossed on it. The said goods were of foreign origin by nature and no documents showing legal purchase/ import were available on board Tugboat MV IRIS, hence the said 440 Cartons of Foreign Origin Cigarettes were found to be offending in nature and smuggled and therefore, 440 Cartons of Foreign Origin Cigarettes of different brands (i.e. 88,000 Sticks in quantity), value of which was ascertained through local inquiry at the material time to be Rs. 17,60,000/- approx. was seized under the Panchnama dated 08.11.2023 under the reasonable belief that the same were liable to confiscation under the provisions of the Customs Act, 1962. Subsequently, the seized Cigarettes of foreign origin in 440 Cartons packed in boxes of different sizes being perishable in nature, an inspection was carried out to ascertain its actual valuation by Shri Pankaj N. Udani, the Government Approved Valuer, on 02.01.2024, who vide



his letter dated 02.01.2024 considering various crucial parameters as detailed at Para 8 above reported that as per the market survey of equivalent type of foreign origin cigarettes, of various brands and different sizes, it is assessed that the average value of the total 88,000 Nos. of seized foreign origin cigarette of different make and sizes is Rs. 8,48,000/- (Rupees eight lakh and forty eight thousand only)." Accordingly, as per the above referred Valuation Inspection Report dated 02.01.2024, the seized goods i.e. 440 Cartons of Foreign Origin Cigarettes of different brands (i.e. 88,000 Sticks) as seized under Panchnama dated 08.11.2023, are valued at Rs. 8,48,000/- (Rupees eight lakh and forty eight thousand only).

21. I observe that, the said Valuation Report dated 02.01.2024 issued by Shri Pankaj N. Udani, the Government Approved Valuer, also summed up that the seized Cigarettes Packets do not conform to the (i) mandatory provisions of Specific Health Warning as per the Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011, (ii) the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003 (COTPA 2003) and the rules framed thereunder. Ministry of Health and Family Welfare vide Notification GSR 727(E) dated 15.10.2014 notified the Cigarettes and Other Tobacco Products (Packaging and Labeling) Amendment (COTP) Rules, 2014, which came into effect from 01.04.2016 [G.S.R. 739(E) dated 24.09.2015].

22. I observe that as a part of investigation, statement of the Master Monsur Udin of Tugboat MV IRIS was recorded on 10.11.2023 under the provisions of Section 108 of the Customs Act, 1962; wherein they inter alia stated that, he was the Master on the Tugboat MV IRIS since 2011 and since Sept. 2023, he was on board; that as per the practice being adopted, he was not checking the goods being unloaded on his Tugboat and transported subsequently and also he was not asking for identity details of the persons who board the Tugboat MV IRIS for reaching the Vessels arriving at Sikka Port for loading and unloading of Export and Import cargos, that the said stock of Foreign Made Cigarettes was brought by the shipping agent M/s Atlantic Shipping Pvt. Ltd.; that on being asked as to why he did not stopped the agent to unlawfully bring such smuggled goods to the Tugboat, he stated that his main duty was to ferry the passengers and the goods from the Reliance Jetty to Vessels at anchorage and he was engaged only in managing the navigation and maintenance of the Tugboat and so he did not ask them not to leave the goods on his Tugboat.

23. I further observe that, statement of Shri Anirudh Bhammar, Director of M/s. Polestar Marine Limited was also recorded under the provisions of Section 108 of the Customs Act, 1962 on 21.11.2023; wherein he inter alia stated that, that the Tugboat MV IRIS was being used as line boat at Sikka Port, for berthing of small vessels, carrying of passengers, as hose boat (in emergency), and miscellaneous handling work within capacity of the vessel operating at Sikka Port; that as regards seizure of the 440 Cartons of Foreign Made Cigarettes valued at Rs. 17,60,000/- found concealed in Tugboat MV IRIS, he stated that their said Tugboat was being utilized for ferrying the Customs staff and Shipping Agent staff for boarding of the mainline ships at Sikka Port/ anchorage and as per their understanding they might have arranged to discharge seized items and decided to keep same on board the Tugboat IRIS till they clear on shore by



them at their responsibility; that as confirmed by the Master of Tug IRIS, he or crew or owners of the Tugboat were not authorized to board mainline ships or open or handle items to/ from mainline ships; that in this matter tug-owners were not responsible; that the Master of the Tugboat IRIS and the Crews never informed them about this and therefore, they were not aware of such activities happening on board; that it was all under general belief that Tugboat MV IRIS was being used to complete the Customs formalities and for other related works as designated under work scope; that he acknowledged that seized Foreign Made Cigarettes recovered from Tugboat MV IRIS was contraband in nature.

24. I further observe that, inquiry was also made to examine the role of the Customs Inspectors posted at the Customs House and their statements were recorded. The Inspectors of Customs have in their respective statements stated any such smuggling of Cigarettes from the mainline vessels had never come in-to their notice.

25. I further observe that, statement of various Executives of Shipping Agents was also recorded under Section 108 of the Customs Act, 1962; wherein they inter alia stated that, they do not have any role in bringing the Foreign Origin Cigarettes on board Tugboat MV IRIS & refused the same. They also stated that many other persons like Technicians, Surveyors, Superintendents of vessels, Vetting Inspectors, Loading Master, Safety Officers, Insurance Agents use to also visit the mainline vessel, as per requirement of vessel owners and that usually they don't accompany at the time of boarding but they board the vessels after the Customs boarding is completed and whereas they also use the same tugboats viz. MV Aster Star, Parijat, Hazel, Blue Bell and IRIS, as per availability of the tugboat, for reaching the mainline vessels.

26. In view of supra, I find that, many persons used the same tug to onboard the vessel and it can't be concluded even from the investigation as who have actually brought the contraband goods i.e. Cigarettes on the tugboat MV IRIS.

27. I, however, find that, 440 Cartons (88000 sticks) of Foreign Origin Cigarettes of different brands which were found concealed in the Tugboat MV IRIS on 08.11.2023 are in violation of various provisions of the Customs Act and the rules and relevant laws as under:

- (i) Provisions of Section 46 of the Customs Act, 1962 in as much as no Bill of Entry was filed and no Customs Duty was discharged on the said stock of Foreign Origin Cigarettes seized under Panchnama dated 08.11.2023.
- (ii) Provisions of Section 123 of the Customs Act, 1962 read with Notification No.103/2016 dated Customs (N.T.) dated 25.07.2016, in as much as burden of proof that the said goods were not smuggled was on the Master of the Tugboat however who failed to provide any valid documents and reasons for the said goods.
- (iii) Provisions of Section 11(3) of the Customs Act, 1962 in as much as the prohibition or restriction or obligation relating to import of Cigarettes or clearance thereof provided under Rule 3 of the Cigarettes and Other Tobacco Products (Packaging and Labeling) Rules, 2008 and its Amendment Rules, 2017, read-with Circular No. 09/2017-



Customs, issued under F. No. 711/07/2003-Cus. (AS) dated 29.03.2017 and Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 as amended, are not complied with.

- (iv) Provisions of Para 13 of the General Notes Regarding Import Policy of ITC (HS), 2017 in as much as compliance set out in the said provisions for import are not complied with.

28. I, therefore, find that, the said consignment of contraband goods are liable for absolute confiscation under Section 111(d), 111(e), 111(i) & 111(m) of the Customs Act, 1962 as same being prohibited in nature.

29. With respect to role of the Master of the tug, I find that, no documents related to the offended goods were received from the tug or from any person of the crew members. I further find that, Investigation has also failed to prove the master was directly or indirectly dealing with the offending goods. However, as the goods were seized from the tug boat, he should have been more vigilant about the movements on his vessel and should have been cautious so as to monitor activities carried out on his vessel, as he was the overall incharge of his vessel and could not shoulder off his responsibilities, failing which, it may lead to serious untoward incidents as the vessel under his command is plying at the port which is entry/ exit place for India, therefore, I am of the view that though he is not directly involved in the possession/ smuggling of the said goods, there is lacuna on his part while performing his duties and I, therefore find him liable for token of penalty under Section 112(b)(i) of the Customs Act, 1962, which stipulates,

"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 1 [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, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher.

30. I further find that, the Owners of the tug were not aware of the said incident and not involved in the case as investigation in the matter has not pointed out the same. Thus, as the owners of the tug are not involved in the case and tug is being used as conveyance to carry



contraband goods without their knowledge, I refrain from the confiscation of seized the tug. I hereby rely upon the following case laws in the subject matter:

(i) Final Order Nos. A/964-965/2004/NB(SM), dated 29-4-2004 in Appeal Nos. C/339 and 416/2003-NB(SM) pronounced by the CESTAT, NORTHERN BENCH, NEW DELHI in case of GUR CHARAN DAS Versus COMMISSIONER OF CUSTOMS, ALLAHABAD reported at 2004 (171) E.L.T. 207 (Tri. - Del.); wherein it held, *"As per the case of the Revenue, the truck was intercepted by them. In fact the truck was intercepted by the Sale Tax authority as per panchnama prepared by the Sale Tax authority. No investigation was made from Pramod Kumar, driver of the truck or Ram Kumar, cleaner of the truck who was also present. There is no evidence to show that the present appellants are concerned with the transportation of the cigarettes recovered from the truck or the cigarettes were transported with their connivance. No doubt, that any conveyance which was found to be carrying contraband goods, is liable for confiscation under Section 115. In the present case the goods were not notified under Section 123 and, there is no evidence produced by the Revenue to show that goods were illegally imported into India. In this situation, the confiscation of truck and imposition of penalty on the present appellants are not sustainable."*

(ii) Final Order No. 2628/98-SZB, dated 21-12-1998 in Appeal No. E/334/98 pronounced by the CEGAT, SOUTH ZONAL BENCH, MADRAS in case of KAMAL SHIPPING SERVICES LTD. Versus COMMISSIONER OF C. EX., HYDERABAD reported at 1999 (113) E.L.T. 723 (Tribunal); wherein it is held that, *"there is nothing on record to show that at the agent allotting the containers, the appellant were at any stage aware clearly that tainted goods would be transported therein. The container was allotted in the normal course of their business. Neither the container is liable for confiscation under Section 115 of Customs Act, 1962, nor is any penalty imposable on the appellants as agents under Rule 209A of Central Excise Rules, 1944."*

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

**ORDER**

- (i) I order for absolute confiscation of the offending goods viz. 440 Cartons of cigarettes containing 88,000 cigarettes sticks totally valued at Rs. 8,48,000/- (As per Valuation Report dated 02.01.2024) seized under Panchnama dated 08.11.2023 under Section 111(d), 111(e), 111(i) and 111(m) of the Customs Act, 1962.
- (ii) I refrain from confiscation of the tugboat MV IRIS;



- (iii) I hereby impose penalty of Rs. 2,00,000/- (Rupees two lakh only) on Shri Monsur Uddin, Master of the Tug Boat MV IRIS under Section 112(b)(i) of the Customs Act, 1962.

  
(Harkirpal Khatana)

Additional Commissioner

F. No. CUS/1482/2024-Adjn

Date: 29.04.2025

By Speed Post A.D / Hand Delivery

To

1. M/s Polestar Maritime Limited,  
216/218, Venus Apartment, Opp. Cricket Bunglow,  
Jamnagar-361008.
2. Shri Monsur Uddin SK,  
Master of the Tugboat MV IRIS,  
Village + Post-Noorpur, Police Station-Ramnagar,  
Dist-24 South Pargana (WB), Pin-743368

Copy to:

1. The Commissioner of Customs (Prev.), Jamnagar.
2. The Deputy Commissioner (Prev.), Customs (Preventive) HQ, Jamnagar.
3. The Assistant Commissioner, Customs House, Sikka.
4. Guard File.