

	<b>OFFICE OF THE COMMISSIONER</b> <b>CUSTOM HOUSE, KANDLA</b> <b>NEAR BALAJI TEMPLE, NEW KANDLA</b> <b>Phone : 02836-271468/469 Fax: 02836-271467</b>	
<b>DIN- 20240771ML000000FA59</b>		
A	File No.	GEN/ADJ/ADC/1379/2024-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ADC/DPB/16/2024-25
C	Passed by	Dev Prakash Bamanavat Additional Commissioner of Customs, Custom House, Kandla.
D	Date of Order	31.07.2024
E	Date of Issue	31.07.2024
F	SCN NO. & Date	Waiver of Show cause notice
G	Noticee / Party / Importer / Exporter	M/s Sonkamal Enterprises Pvt. Ltd. Democratic Co-operative Housing Society Ltd., Flat No.- D/603, Near Fun Republic Cinema, Sarkhej, Gandhinagar

यह मूल आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

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

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

“सीमाशुल्कआयुक्त (अपील),

7 वीं मंजिल, मृदुलटावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS),

**Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,  
Ashram Road, Ahmedabad-380009.”**

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

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

3. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्यप्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मदसं-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ऊटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

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

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

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

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

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

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### **Brief Facts of the Case:-**

1. M/s Sonkamal Enterprises Pvt. Ltd., Democratic Co-operative Housing Society Ltd., Flat No.- D/603, Near Fun Republic Cinema, Sarkhej, Gandhinagar (hereinafter referred to as "the importer") filed the following 5 warehousing Bills of Entry for import of 1510.896MT of Iso-Propyl Alcohol (IPA) (CTH: 29051220) through their Custom Broker M/s. Rudra Shipping Services, Gandhidham:

<b>Sr. No.</b>	<b>Bill of Entry and date</b>	<b>Quantity (MT)</b>
1	6156630 dated 27.05.2023	310.896
2	6156057 dated 27.05.2023	300.00
3	6155433 dated 27.05.2023	300.00
4	6154578 dated 27.05.2023	300.00
5	6155066 dated 27.05.2023	300.00
<b>Total</b>		<b>1510.896</b>

2. Subsequently, 5 Ex-bond bills of entry with the following details were filed by the importer in this regard:-

Sr. No.	Bill of Entry and date	Quantity (MT)
1	6209196 dated 01.06.2023	310.896
2	6209197 dated 01.06.2023	300.00
3	6209195 dated 01.06.2023	300.00
4	6205352 dated 31.05.2023	300.000
5	6213782 dated 01.06.2023	292.863
<b>Total</b>		<b>1503.759</b>

### 3. Investigation by SIIB

The matter was transferred by assessment section, CH Kandla to SIIB, Custom House, Kandla for further investigation regarding mis-match in import quantity vis-à-vis allowed quantity by DGFT. Accordingly, the examination of the cargo was conducted by SIIB and samples were drawn under panchnama dated 16.09.2024. The samples were sent to CRCL, Kandla for testing/analysis, who vide its test report bearing Lab No. 6725-SIIB/18-09-2023 dated 05-10-2023 (**RUD-1**) reported as follows:-

*Nature: The sample as received is in the form of clear colourless liquid.*

*Composition: It has the characteristics of Isopropyl alcohol.*

### 4. Seizure of goods

As per the Approval Letter - Registration Certificate for Imports bearing F. No. AHDREGCAPPY00000008AM24 dated 10-05-2023 (**RUD-2**) issued by DGFT to the importer, the importer was allocated annual quota for import of only 773.54 MTs of Iso Propyl Alcohol from Republic of Korea in FY- 2023-24. Accordingly, 730.219 MT of the Isopropyl alcohol imported by the importer was in excess of the permissible annual quantity permitted by the DGFT and therefore, appeared liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Further, vide Approval Letter - Registration Certificate for Import bearing F. No. AHDREGCAPPY00000008AM24 dated 10-05-2023, the allocated annual quota for import of 773.54MT, was further subject to quarter wise quota with a condition of utilization of max 02 quarters at a time. Therefore, excess quantity of 400.780MT pertaining to Q3 and Q4 also appeared liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Accordingly, a total of 1130.999 MT of the Isopropyl alcohol imported by the importer was placed under seizure under Section 110(1) of the Customs Act, 1962 vide seizure memos dated 16-09-2023 (730.219 MT; **RUD-3**) and 30-09-2023 (400.780MT; **RUD-4**).

### 5. Statement of CHA and Importer

The statement of Shri Jemin D. Parikh, (**RUD-5**) G-card holder and authorized signatory in M/s. Rudra Shipping Services, Customs Broker to the importer was recorded on 19-09-2023 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated as follows:-

- *that warehousing Bills of Entry No. 6154578, 6155066, 6155433, 6156057 and 6156630 all dated 27-05-2023 and respective ex-bond bills of entry no. 6205352 dated*

31.05.2023 and 6209195, 6209196, 6209197 and 6213782 all dated 01-06-2023 had been filed by their firm for clearing the import cargo on behalf of importer.

- at the time of filing of the Warehouse Bills of Entry bearing No. 6154578, 6155066, 6155433, 6156057 and 6156630 all dated 27-05-2023 and Ex-Bond Bills of Entry bearing No 6205352 dated 31-05-2023 and 6209195, 6209196, 6209197 and 6213782 all dated 01-06-2023 on behalf of the importer M/s Sonkamal Enterprises Pvt. Ltd., they were not aware of Notification No. 64/2015-20 issued by DGFT imposing quantitative restrictions on all the importers regarding import of Isopropyl alcohol.
- They were also not aware that any such license for the import of Isopropyl alcohol had been applied by the importer. Further, at the time of providing documents for filing the bills of entry, the importer did not provide them DGFT license No. AHDREGCAPPLY00000008AM24 dated 10-05-2023 issued to them for the import of Isopropyl alcohol from Republic of Korea and did not inform them about possessing any such license. Therefore, they filed the above detailed bills of entries under bona-fide belief that the documents provided by the importer were true and complete.

**6.** Further, statement of Shri Janak Pranlal Ladhani(**RUD-6**)Managing Director and authorized signatory in M/s Sonkamal Enterprises Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 on 21-09-2023 wherein he inter-alia stated that:-

- he had read and understood the conditions stipulated in DGFT notification No. 64/2015-20 dated 31-03-2023 which stipulated conditions on importers for the import of Isopropyl alcohol from various countries.
- in light of notification 64/2015-20 dated 31-03-2023 issued by DGFT, their company had filed an application before DGFT for securing license to import 7000MT of Isopropyl alcohol from LG Chem Ltd. Korea on 20-04-2023. He submitted a copy of the application made by their company in this regard.
- against their application, they were granted license bearing No. AHDREGCAPPLY00000008AM24 dated 10-05-2023 by DGFT authorizing them to import 773.540MT of Isopropyl alcohol from Republic of Korea subject to quarterly import restrictions of 183.84 MT during First quarter, 188.92MT during second Quarter,

200.39 MT during the third quarter and 200.39MT during fourth quarter of the financial year 2023-24.

- They had anticipated that in response to their application, they would be permitted to import the requested quantity of 7000MT of Isopropyl alcohol from LG Chem., Korea. However, in the meantime, the goods to be imported i.e., 1510.896MT of Isopropyl alcohol were loaded on the vessel 'MT T ARCTURUS' on 03-05-2023, before the issuance of the DGFT license, on their request in anticipation that they would be granted the requisite license to import this quantity of Isopropyl alcohol from Republic of Korea.
- it is only after the issuance of the license No. AHDREGCAPPLY00000008AM24 on 10-05-2023 that their company M/s Sonkamal Enterprises Pvt. Ltd., realized that they were permitted to import only 773.540MT of Isopropyl alcohol from Korea but the vessel had already sailed by that time.
- their company M/s Sonkamal Enterprises Pvt. Ltd. did not share DGFT license No. AHDREGCAPPLY00000008AM24 dated 10-05-2023 with their CHA M/s Rudra Shipping Services, Gandhidham while sharing other documents viz., Bills of Lading, Commercial Invoice, Packing List, Country of Origin Certificate with them on 16-05-2023 for filing the bills of entry for import of 1510.896MT of Isopropyl alcohol.
- not sharing the DGFT license bearing No. AHDREGCAPPLY00000008AM24 dated 10-05-2023 with their CHA, M/s Rudra Shipping Services, Gandhidham was a bona-fide mistake.
- The import of excess quantity of Isopropyl alcohol from Republic of Korea has been done mistakenly without any intent of fraud.

7. Further, vide their letter dated 01-11-2023, the importer requested for provisional release of the goods in the following manner:-

- Total 400.780MT of Isopropyl alcohol (pertaining to Q-3 & Q-4) placed under seizure on 30.09.2023, may be granted provisional release under Section 110A of the Customs Act, 1962 for clearance to domestic area.
- 730.219 MT of Isopropyl Alcohol (excess quantity) placed under seizure on 16.09.2023, may be released

*provisionally under Section 110A of the Customs Act, 1962 for clearance to another license holder or any SEZ manufacturer (where such license for import of Isopropyl Alcohol is not required) or 100% EOU or for re-export purpose.*

- 8.** In this regard, attention is drawn to DGFT Notification No. 64/2015-2020 dated 31-03-2023(**RUD-7**) wherein a new policy condition for the import of Iso-Propyl Alcohol was inserted, which read as follows:-

*...Accordingly, in exercise of the powers conferred by Section 3, Section 5 and Section 9A of the FTDR Act, 1992 read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2015-20 as amended from time to time, the Central Government after considering the aforesaid Notification dated 30-09-2021 of DGTR, hereby makes the following amendments by inserting a new Policy condition at Sr. No.06 in Chapter 29 of ITC (HS),2022,Schedule -I (Import Policy):-*

<b>Exim Code</b>	<b>Item Description</b>	<b>Policy</b>	<b>New Policy Condition</b>
29051220	Iso-Propyl Alcohol (IPA)	Free	<p><i>Policy Condition No.(6)</i></p> <p><i>Import of Isopropyl alcohol (IPA) shall be allowed subject to country wise quantitative restriction (QR) for a period of one year only i.e.,2023-24 effective from 01.04.2023, unless notified otherwise subject to valid Registration Certificate (RC) issued by the DGFT.</i></p>

*...4. The quantitative restrictions for import of IPA shall be subject to the following conditions:*

- i. *Imports would be permitted through the EDI ports only to facilitate electronic/real-time monitoring of QR;*
- ii. *The QR would be monitored on quarterly basis;*
- iii. *The total imports allowed in any quarter shall not exceed the total of that quarter and the next quarter. Accordingly, any excessively utilized QR for a quarter shall be deducted from the QR for the next quarter;*
- iv. *Any un-utilized QR for a quarter shall be added to the next quarter;*
- v. *In case, the countries with specific quantity exhaust their allocated QR, such countries may use the available residual quantity, as may be notified subsequently; and*

- vi. *If necessary, further modalities will be notified separately governing, in accordance with relevant legal provisions.*
- 5. *The country-wise quantitative restrictions shall be effective for a period of one year only and will cease automatically on 31-03-2024.*

**9.** In light of this, DGFT issued Public Notice No. 4/2023 dated 11<sup>th</sup> April 2023 wherein the procedure for obtaining Registration Certificate for import of Isopropyl Alcohol (IPA) subject to country-wise Quantitative Restrictions for the year 2023-24 was prescribed. Accordingly, the importer was issued Registration Certificate bearing No. AHDREGCAPPLY00000008AM24 dated 10-05-2023 **(RUD-8)** authorizing import of 773.540MT of Iso-Propyl Alcohol from Republic of Korea in FY- 2023-24. The said Registration Certificate inter-alia, imposed the following conditions on the importer for the import of Iso-propyl alcohol from Republic of Korea:-

***B) Approval letter is subject to following conditions:***

*... (ii) The total yearly allocation of 773.540MT is subject to the following quarterly limits which shall be complied by the RC holder in terms of Para 4 of DGFT notification No. 64/2015-20 dated 31-03-2023*

*(a) Q1: 183.84 (b) Q2: 188.92 (c) 200.39 (d) 200.39*

*... (iii) Total imports allowed in any quarter for the given quantity shall not exceed the total of that quarter and the subsequent quarter. Accordingly, any excessively utilised QR for a quarter shall be deducted from the QR for the next quarter;*

**10.** Therefore, in view of the above, it appeared that DGFT vide notification No. 64/2015-20 dated 31-03-2023 read with conditions of the Registration Certification bearing No. AHDREGCAPPLY00000008AM24 dated 10-05-2023 permitted the importer to import a maximum of 372.760MT (Q1: 183.84MT +Q2: 188.92MT) of Isopropyl Alcohol from Republic of Korea in the first quarter(Q1) of 2023-24. Accordingly, any quantity of Iso-propyl alcohol imported in excess of the permissible quantity was in violation of the law for the time being in force.

**11.** The importer filed 05 warehousing Bills of Entry No. 6156630, 6156057, 6155433, 6154578 & 6155066 all dated 27-05-2023 for the import of 1510.896 MT of Iso-Propyl Alcohol from the Republic of Korea in the first quarter of F.Y. 2023-24 itself, in violation of DGFT Notification No. 64/2015-20 dated 31-03-2023 read with conditions of the Registration Certification bearing No. AHDREGCAPPLY00000008AM24 dated 10-05-2023.

**12.** In response to this, this office vide its letter dated 02.01.2024 and subsequent reminders dated 19.02.2024 and 21.02.2024 requested the importer to provide the copies of correspondence related to submission of quarterly reports or any other relevant correspondence in this regard, made by the importer with the DGFT. This was in light of condition No. (vii) of the Registration Certificate

issued by the DGFT to the importer. However, the importer vide their letter dated 18.07.2024 has intimated that:

*“Since the import process has not completed and the goods are still lying in custody of Kandla Customs, we were not in a position to submit any quarterly returns regarding the imported cargo. This submission being a post import requirement we have not made any correspondence/ submission.”*

- 13.** Further, on perusal of the Registration Certificate bearing No.AHDREGCAPPY00000008AM24 dated 10-05-2023 issued by the DGFT to the importer, it was noticed that the CIF(INR) value mentioned was INR-8334.7 and CIF(USD) mentioned was 102.77 which were contradicting the import of “Isopropyl Alcohol” made by the Petitioner, therefore, a letter was issued to the Foreign Trade Development Officer, Delhi on 02.01.2024 and to the Deputy DGFT, Delhi on 16.01.2024 with a request to clarify the discrepancy. Reply, from both the DGFT authorities is still awaited.
- 14.** Further, the Commissioner of Customs, Custom House, Kandla had accorded extension of 6 months for issuance of SCN under Section 110(2) of the Customs Act, 1962 on 14-03-2024. The same was communicated to the importer vide letter dated 14-03-2024 (DIN No. 20240371ML0000666CF).

**15. Provisional release of goods pertaining to Q-3 and Q-4 of F.Y. 2023-24**

In the meanwhile, the importer filed special civil application bearing No. 4701 of 2024 before Hon'ble High Court of Gujarat to direct Commissioner of Customs, Kandla to release 400.780MT of Iso propyl alcohol pertaining to Q-3 and Q-4 of the Financial Year 2023-24. In this regard, Hon'ble Gujarat High Court vide its order dated 13-06-2024 directed Commissioner of Customs, Kandla to pass an appropriate order for the provisional release of 400.780MT of Iso propyl alcohol pertaining to Quarter-3 and Quarter-4 of the Financial Year 2023-24. In compliance of this, Additional Commissioner of Customs, Kandla accorded provisional release of 400.780MT of Iso propyl alcohol valued at Rs. 3,24,12,842/- under Section 110A of the Customs Act, 1962 on execution of PD Bond for the assessed value i.e., Rs. 3,24,12,842/- and bank guarantee of 15% of the value of Bond i.e., 48,61,926/- vide his order bearing F. No.GEN/ADJ/ADC/1123/2024-Adjn dated 08-07-2024.Total 400.780MT of Iso propyl alcohol valued at Rs. 3,24,12,842/- has been provisionally released on submission of requisite Bond and Bank Guarantee.

**16. Contraventions**

In view of the above discussion, it appeared that the importer by importing such 1130.999 MT of the Isopropyl Alcohol over and above the limit permitted by DGFT had violated the provisions of Section 9A(1) read with Section 3(2) and Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992 read with Section 11 of the Customs Act, 1962 read with Para 2.01 of the Foreign Trade Policy 2015-20 read with conditions prescribed in DGFT Notification No. 64/2015-20 dated 31-03-2023 read with conditions of the Registration Certification bearing No. AHDREGCAPPY00000008AM24 dated 10-05-2023.

## **17. Penal Provisions**

Further, it appeared that 1130.999MT of Iso propyl alcohol valued at Rs.9,14,68,843/- (including 400.780MT of Isopropyl alcohol in respect of which provisional release was granted vide order bearing No. GEN/ADJ/ADC/1123/2024-Adjn dated 08-07-2024) appeared liable for confiscation under Section 111(d) of the Customs Act, 1962. Further, for the acts of omission or commission committed by the importer, they are liable for penalty under Section 112(a)(i) of the Customs Act, 1962.

## **18. Waiver of SCN**

The importer has submitted an undertaking dated 18.07.2024 exercising his right to waiver of a Show Cause Notice and agreed to pay fine and penalty as applicable in the matter.

In the instant matter, the issue pertains to Section 124 of the Customs Act. As per first proviso to Section 124 of the Customs Act, 1962 the show cause notice and personal hearing may be considered oral at the request of the person concerned. Therefore, in light of the said provision, noticee is allowed waiver of Show cause notice and matter is taken up for adjudication.

### **Discussion and Findings:-**

**19.** I have gone through the Investigation report, submission and all the documents available on record.

**20.** I find that M/s Sonkamal Enterprises Pvt. Ltd., Democratic Co-operative Housing Society Ltd., Flat No.- D/603, Near Fun Republic Cinema, Sarkhej, Gandhinagar(hereinafter referred to as “the importer”) filed the following 5 warehousing Bills of Entry for import of 1510.896MT of Iso-Propyl Alcohol (IPA) (CTH: 29051220) through their Custom Broker M/s Rudra Shipping Services, Gandhidham:

<b>Sr. No.</b>	<b>Bill of Entry and date</b>	<b>Quantity (MT)</b>
1	6156630 dated 27.05.2023	310.896
2	6156057 dated 27.05.2023	300.00
3	6155433 dated 27.05.2023	300.00
4	6154578 dated 27.05.2023	300.00
5	6155066 dated 27.05.2023	300.00
<b>Total</b>		<b>1510.896</b>

**21.** I find that subsequently, 5 Ex-bond bills of entry with the following details were filed by the importer in this regard:-

<b>Sr. No.</b>	<b>Bill of Entry and date</b>	<b>Quantity (MT)</b>
1	6209196 dated 01.06.2023	310.896
2	6209197 dated 01.06.2023	300.00
3	6209195 dated 01.06.2023	300.00

4	6205352 dated 31.05.2023	300.000
5	6213782 dated 01.06.2023	292.863
<b>Total</b>		<b>1503.759</b>

**22.** I find that the test report given by CRCL, Kandla reported as follows:-

*Nature: The sample as received is in the form of clear colourless liquid.*

*Composition: It has the characteristics of Isopropyl alcohol.*

**22.1** Further, the importer has not disputed the test reports also. Therefore, the findings of the test report don't merit any further discussion.

**23.** It is seen from the Approval Letter dated 10-05-2023, issued by DGFT, to the importer, the importer was allocated annual quota for import of only 773.54 MTs of Iso Propyl Alcohol from Republic of Korea in FY-2023-24. Accordingly, 730.219 MT of the Isopropyl alcohol imported by the importer was in excess of the permissible annual quantity permitted by the DGFT and therefore, has been correctly proposed liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Further, vide Approval Letter dated 10-05-2023, the allocated annual quota for import of 773.54MT, was further subject to quarter wise quota with a condition of utilization of max 02 quarters at a time. Therefore, excess quantity of 400.780MT pertaining to Q3 and Q4 has also been correctly proposed liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

**23.1** On going through the DGFT Notification No. 64/2015-2020 dated 31-03-2023(**RUD-7**) I find that a new policy condition for the import of Iso-Propyl Alcohol was inserted, which read as follows:-

*...Accordingly, in exercise of the powers conferred by Section 3, Section 5 and Section 9A of the FTDR Act, 1992 read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2015-20 as amended from time to time, the Central Government after considering the aforesaid Notification dated 30-09-2021 of DGTR, hereby makes the following amendments by inserting a new Policy condition at Sr. No.06 in Chapter 29 of ITC (HS),2022,Schedule -I (Import Policy):-*

<b>Exim Code</b>	<b>Item Description</b>	<b>Policy</b>	<b>New Policy Condition</b>
29051220	Iso-Propyl Alcohol (IPA)	Free	<p><i>Policy Condition No.(6)</i></p> <p><i>Import of Isopropyl alcohol (IPA) shall be allowed subject to country wise quantitative restriction (QR) for a period of one year only i.e., 2023-24 effective from 01.04.2023, unless notified otherwise subject to valid Registration Certificate</i></p>

		<i>(RC) issued by the DGFT.</i>
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**23.2** I further find that Shri Janak Pranlal Ladhan*(RUD-6)* Managing Director and authorized signatory in M/s Sonkamal Enterprises Pvt. Ltd. and Shri Jemin D. Parikh, **(RUD-5)** G-card holder and authorized signatory in M/s. Rudra Shipping Services, Customs Broker to the importer in their statements, recorded under Section 108 of the Customs Act, 1962 has admitted import of such 1130.999 MT of the Isopropyl Alcohol over and above the limit permitted by DGFT by violating the provisions of Section 9A(1) read with Section 3(2) and Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992 read with Section 11 of the Customs Act, 1962 read with Para 2.01 of the Foreign Trade Policy 2015-20 read with conditions prescribed in DGFT Notification No. 64/2015-20 dated 31-03-2023 read with conditions of the Registration Certification bearing No. AHDREGCAPPLY00000008AM24 dated 10-05-2023.

**23.3** In view of the above, total of 1130.999 MT of the Isopropyl alcohol imported by the importer seized vide seizure memos dated 16-09-2023 (730.219 MT; **RUD-3**) and 30-09-2023 (400.780MT;RUD-4) is liable for confiscation under Section 111(d) of the Customs Act, 1962 as the import of goods beyond permissible limit is prohibited as discussed in the next para.

**23.4** In this regard I rely on the judgement of the Hon'ble Apex Court in the matter of M/s. Raj Grow Impex LLP & others [CIVIL APPEAL NO(s). 2217-2218 of 2021] wherein the Apex court vide order dated 17.06.2021 has referred the judgement in the matter of Commissioner of Customs v. Atul Automation (P.) Ltd.

*"67.4.3. The present case is of an entirely different restriction where import of the referred peas/pulses has been restricted to a particular quantity and could be made only against a licence. The letter and spirit of this restriction, as expounded by this Court earlier, is that, any import beyond the specified quantity is clearly impermissible and is prohibited. This Court has highlighted the adverse impact of excessive quantity of imports of these commodities on the agricultural market economy in the case of Agricas (supra) whereas, it had not been the case in Atul Automations (supra) that the import was otherwise likely to affect the domestic market economy. In contrast to the case of Atul Automations, where the goods were permitted to be imported (albeit with authorisation) for the reason that they were not manufactured in the country, in the present case, the underlying feature for restricting the imports by quantum has been the availability of excessive stocks and adverse impact on the price obtainable by the farmers of*

*the country. The decision in Atul Automations (supra), by no stretch of imagination, could be considered having any application to the present case."*

**24.** In view of above discussion, I hold that 1130.999MT of Iso propyl alcohol valued at Rs.9,14,68,843/- (including 400.780MT of Isopropyl alcohol in respect of which provisional release was granted vide order bearing No. GEN/ADJ/ADC/1123/2024-Adjn dated 08-07-2024) is liable for confiscation under Section 111(d) of the Customs Act, 1962. Further, for the acts of omission or commission committed by the importer, they are liable for penalty under Section 112(a)(i) of the Customs Act, 1962.

**25.** In view of the above discussion and findings, I hereby pass the following order:-

a. I order to confiscate 1130.999MT of Isopropyl alcohol valued at Rs.9,14,68,843/- under Section 111(d) of the Customs Act, 1962.

However, I give them an option to pay fine of Rs.90,00,000/- (Rupees Ninety lakhs only) in lieu of confiscation under Section 125 of the Customs Act, 1962.

b. I impose penalty of Rs.10,00,000/- (Rupees Ten Lakhs only) under Section 112(a)(i) of the Customs Act, 1962.

c. I order to enforce the Bank Guarantee No. 240GT01241810003 dated 29.06.2024 of amount Rs. 48,61,926/- issued by HDFC Bank shyamal Cross road Satellite, Ahmedabad provided by them as security for provisional release of the goods for recovery of the redemption fines and penalties confirmed above from (a) & (b).

**26.** This order is issued without prejudice to any other action that may be taken against the importer or any other person under the Customs Act, 1962 or any other law for the time being in force.

(Dev Prakash Bamanavat)  
Additional Commissioner  
Custom House, Kandla

F.No. GEN/ADJ/ADC/1379/2024-Adjn-O/o Commr-Cus-Kandla  
DIN-

To,  
M/s Sonkamal Enterprises Pvt. Ltd.  
Democratic Co-operative Housing Society Ltd.,  
Flat No.- D/603, Near Fun Republic Cinema,  
Sarkhej, Gandhinagar

Copy To-

- (i) The Deputy/ Assistant Commissioner (Review/EDI/TRC) for necessary action at your end.
- (ii) Guard File.