सीमा शुल्क (निवारक) के आयुक्त का कार्यालय, सीमा शुल्क भवन,
जामनगर - राजकोट हाइवे, विक्टोरिया ब्रिज के पास,
जामनगर)गुजरात361001 – (

Office of the Commissioner of Customs (Preventive),
'SEEMA SHULK BHAVAN', Jamnagar – Rajkot Highway,
Near Victoria Bridge, Jamnagar (Gujarat) – 361 001
Email: adj-custjmr@nic.in

1.	फ़ाइल क्रमांक/ File Number	Cus/3768/2026-Adjn
2.	मूल आदेश क्रमांक/ Order-In-Original Number	JAM-CUSTM-PRV-COM-01-26-27
3.	आदेश पारित करने वाला प्राधिकारी/ Authority Passing the Order	दिनेश सिंह / Dinesh Singh आयुक्त /Commissioner, सीमाशुल्क (निवारक)/Customs (Preventive) जामनगर /Jamnagar.
4.	आदेश की तिथि/ Date of Order	As-esigned
5.	आदेश जारी करने की तिथि/ Date of issue of Order	As-esigned
6.	कारण बताओ नोटिस संख्या और तारीख/ Show Cause Notice number and date	संख्या/ No. / दिनांक / dated: Show Cause Notice No. COMMR-02/2026-27 dated 23-04-2026
7.	नोटिस पाने वाले का नाम/ Name of the Noticee	M/s. Shree Momaikrupa Enterprise 106, First Floor, R.S. Number 348/2 and 3,Shree Harikrishna Plaza, Atkot, Jasdan, Gujarat - 360040

1. इस आदेश की मूल प्रति संबन्धित व्यक्ति को निशुल्क प्रदान की जाती है।
   The original copy of this order is provided free of cost to the person concerned.

2. इस मूल आदेश से व्यथित कोई भी व्यक्ति, सीमा शुल्क अधिनियम, 1962की धारा 129A)(1)a(, सीमा शुल्क (अपील) नियम, 1982 के नियम 6(1) के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से तीन महीने के भीतर फॉर्म सीए 3-में निम्नलिखित पते पर अपील दायर कर सकता है। फॉर्म सीए 3-में अपील का प्रपत्र, चार 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।

सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण, पश्चिम जोनल बेंच, दूसरी मंजिल, बहुमाली भवन असरवा, गिरधर नगर ब्रिज के पास, गिरधर नगर, अहमदाबाद, (गुजरात) – 380 004	**Customs, Excise and Service Tax Appellate Tribunal (West Zonal Bench)** 2nd Floor, Bahumali Bhavan Asarwa, Near Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad (Gujarat) – 380 004

Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-3, within three months from the date of receipt of this order, under the provisions of Section 129A(1)(a) of the Customs Act, 1962, read with Rule 6(1) of the Customs (Appeals) Rules, 1982. The form of appeal in Form No. CA.-3 shall be filed in quadruplicate 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).

3. 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) 0.50पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची -I, मद 6 के तहत निर्धारित किया गया है।

The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paisa only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

4. अपील के साथ ,सीमा शुल्क अधिनियम ,1962 की धारा) 129A) की उप-धारा6)) के अंतर्गत किसी भी राष्ट्रीयकृत बैंक द्वारा न्यायाधिकरण की उक्त पीठ के सहायक रेजिस्ट्रार के पक्ष में रेखांकित बैंक ड्राफ्ट रु। ,-/1000रु। 5000 -/या रु। -/10,000जैसा भी लागू हो ,ऐसे स्थान पर स्थित शाखा के लिए जारी किया जाना चाहिए , जहां पर उक्त पीठ स्थित है।

The appeal should be accompanied with a cross demand draft in favour of the Assistant Registrar of the Bench of the Tribunal, on a branch of any Nationalized Bank located at a place where the bench is located for Rs. 1,000/- (in cases where the duty, interest, fine, or penalty demanded is Rs. 5 lakh or less), Rs. 5,000/- (in cases where the duty, interest, fine, or penalty demanded is more than Rs. 5 lakhs but less than Rs. 50 lakhs) and Rs. 10,000/- (in cases where the duty, interest, fine, or penalty demanded is more than Rs. 50 lakhs) as applicable under Sub-Section (6) of the Section 129(A) of the Customs Act, 1962.

5. अपीलीय ज्ञापन के साथ शुल्क भुगतान /जुर्माना/ अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा

शुल्क अधिनियम, ,1962 की धारा 129(E) के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।

Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 129 (E) of the Customs Act, 1962.

6. अपील प्रस्तुत करते समय यह सुनिश्चित करे की सीमा शुल्क)अपील) नियम, 1982 और सिस्टेट प्रक्रिया (प्रोसीजर) नियम, 1982 के सभी नियमो का पूरा पालन हुआ है।

While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects.

7. इस आदेश के खिलाफ अपील, सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के 7.5%के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है।

An appeal, against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal, on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute.

Brief fact of the case;

M/s. Shree Momaikrupa Enterprise (IEC: LCTPS2689P), having its registered office at 106, First Floor, R.S. Number 348/2 and 3, Shree Harikrishna Plaza, Atkot, Jasdan, Gujarat (hereinafter referred to as "the noticee/ importer" for the sake of brevity), vide following 5 Bills of Entry have imported goods under description as "Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)" (herein after referred to as "Imported goods"), classifying the same under CTH 23080000 – Vegetable Materials and Vegetable Waste, Vegetable Residues and by-products, whether or not in the form of pallets, of a kind used in Animal Feeding, not elsewhere specified or included at Pipavav port (INPAV1). The noticee has imported the impugned goods declaring the Assessable Value of the same as Rs.96,87,370/-, from Vietnam claiming the benefit of preferential rate of duty under Notification No. 046/2011 – Customs dated 01.06.2011. Details of 5 Bills of Entries are as under;

Sr.	Bill of Entry		Declared Assessable value

No.	No.	Date	(Rs.)
1	5245651	22.10.2025	19,37,474
2	5245989	22.10.2025	19,37,474
3	5246571	22.10.2025	19,37,474
4	5246839	22.10.2025	19,37,474
5	5247239	22.10.2025	19,37,474
Total			96,87,370

2. Intelligence gathered by the Directorate of Revenue Intelligence (DRI) to the effect that the noticee had actually imported 'Cashew Kernels, broken' which are rightly classifiable under CTH 08013210, wherein the goods falls under the 'prohibited' category for import unless the CIF Value of the same is above Rs. 680/- per Kg. Accordingly, the DRI, Ahmedabad Zonal Unit, Ahmedabad placed the said consignment on hold for examination and further investigation.

3. Examination of Consignment and drawl of samples:

3.1 Examination of the imported goods covered under above mentioned 5 Bills of Entry on 30.10.2025 conducted by the Officers of DRI, Ahmedabad Zonal Unit along with the Officer of Custom House, Pipavav in presence of two independent witnesses and the representative of Customs Broker's firm M/s. A.B. Cargo Logistics Private Limited (on behalf of the importer) under Panchnama dated 30.10.2025. During examination, it was informed that the goods were originally imported in 01 X 40-Feet Container for each Bill of Entry and accordingly, there were 5 containers in total. However, the goods were already de-stuffed from the containers and were stored in warehouse and they were stacked separately for each container at the CFS. During the examination, representative samples were drawn and were sealed in presence of the representative of the importer.

4. Testing of Sample and Test Results:

4.1 The representative samples drawn during Panchnama dated 30.10.2025, were initially sent to ICAR-Directorate of Cashew Research, Puttur, Dakshina Kannada district, Karnataka, however, they returned the samples citing the workload issues. Accordingly, the representative samples were sent to Central Revenue Chemical Laboratory (CRCL), New Delhi. The CRCL, New Delhi vide their test report dated 18.12.2025 had

informed that the tested parameters were within the specified limit for compound feeds for cattle as per IS 2052L2023. However, CRCL, New Delhi expressed their inability to comment on "the fit for human consumption" part as the exact identity of the sample was not known. As CRCL, New Delhi has shown their inability to determine the exact identity of the samples, the samples were sent to National Forensic Sciences University (NFSU), Gandhinagar on 19.12.2025 in order to verify the exact identity of the representative sample.

4.2 The NFSU, Gandhinagar vide their test report reference No. NFSU/Co-FTF/Analysis/Report/2025-2026/121 dated 21.01.2026 and clarification dated 17.03.2026 has submitted detailed test result of the tested samples and the same is enumerated below:

1. ***Microscopic Examination:***

Microscopic evaluation of the samples reveals that the material comprises heterogeneous ***mixtures of kernels exhibiting variation in size, shape and colour.*** *The kernels were segregated into four distinct kernel categories for the purpose of microscopic evaluation as described below:*

1. Kernel Type 1: Whole Kernel, comparatively intact and better quality among all kernel categories

2. Kernel Type 2: Slightly broken Kernels exhibiting brownish discoloration

3. Kernel Type 3: Extremely broken Kernels with pronounced brown discoloration.

4. Kernel Type 4: Irregularly shaped, broken kernels showing maximum brown discoloration among all kernel categories.

Detailed microscopic evaluation of the kernels indicate that the kernels are extremely poor quality, exhibiting signs of insect infestation along with fungal growth.

2. ***DNA Analysis:***

DNA barcoding analysis was conducted using the matK gene sequencing method for botanical identification. Based on sequencing results and comparison with reference sequences in the NCBI database, the species was identified as Anacardium occidentale (Cashew).

The scientific examination thus establishes that the goods are cashew kernel fragments, i.e., broken cashew nuts.

3. ***Moisture Analysis***

Moisture content analysis was conducted against the FSSAI prescribed limit of 5%. The results are reproduced below:

Sample	*Moisture Content*	*Prescribed Limit (FSSAI)*
A/1	*6.60%*	*5%*
B/1	*5.19%*	*5%*
C/1	*6.69%*	*5%*
D/1	*5.09%*	*5%*
E/1	*5.84%*	*5%*

All the samples exceed the permissible limit, which indicates deterioration and compromised quality of the kernels.

4. ***Total Aflatoxin Analysis***

Total aflatoxin analysis reveals presence of aflatoxin in the range of 3–10 µg/kg. The maximum permissible limit as per FSSAI standards is 15 µg/kg.

Although the detected levels are within the maximum permissible threshold, the report records that all samples exhibit fungal infestation, which is consistent with the presence of aflatoxins and indicative of deterioration.

5. ***Free Fatty Acid (FFA) Analysis***

Free Fatty Acid content was analysed against the permissible limit of not more than 2%. The results are reproduced below:

Sample	*FFA Result*	*Permissible Limit*
A/1	*8.35%*	*≤ 2%*
B/1	*6.11%*	*≤ 2%*
C/1	*5.85%*	*≤ 2%*
D/1	*5.94%*	*≤ 2%*
E/1	*5.77%*	*≤ 2%*

The samples exhibited elevated FFA content beyond acceptable limits, which is indicative of degradation and compromised quality.

6. ***Peroxide Value Analysis***

Peroxide value analysis was conducted against the maximum permissible limit of 10 meq/kg. The results are as follows:

Sample	*Peroxide Value (meq/kg)*	*Permissible Limit*
A/1	*13.3*	*≤ 10*
B/1	*14.56*	*≤ 10*
C/1	*11.53*	*≤ 10*
D/1	*16.83*	*≤ 10*
E/1	*12.96*	*≤ 10*

The samples exhibited peroxide values exceeding the permissible limits, indicating oxidative degradation of the product. The elevated peroxide levels are suggestive of compromised quality and the onset of rancidity.

7. ***Pesticide Analysis***

Pesticide analysis reveals the presence of Organophosphorus pesticide in Sample A/1.

Based on test report received from NFSU, Gandhinagar, it appeared that the samples were cashew kernel fragments of the species Anacardium occidentale and were found to be degraded, structurally disintegrated, fungal infested and rancid in nature and the samples do not conform to prescribed food safety standards and were unfit for human consumption.

In nutshell, the test report provided by the NFSU, Gandhinagar on the basis of scientific examination appeared to establish that the imported goods were identifiable cashew kernel fragments, albeit of inferior and deteriorated quality. The declaration of the goods as “nut residues and waste” appeared untenable.

5. Seizure of the imported goods:

5.1 The test result of the representative sample drawn vide Panchnama dated 30.10.2025 as received from National Forensic Sciences University (NFSU), Gandhinagar indicated that the impugned goods were Anacardium Occidentale (Cashew Nut) not fit for human consumption instead of “Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)” as declared by the noticee.

5.2 All types of shelled cashew kernels broken falls under the CTH 08013210. The import of Shelled Cashew Kernel Broken is prohibited unless Minimum Import Price (MIP) i.e. Rs.680/kg, conditions as laid down under DGFT Notification No. 59/2015-20 dated 21.02.2023 is fulfilled.

5.3 The noticee had misclassified the said imported goods under CTH

23080000 instead of CTH 08013210, in violation DGFT Policy Conditions. As per the DGFT Notification No. 59/2015-20 dated 21.02.2023, the import of shelled Cashew Kernels, broken is prohibited for its importation, unless CIF Value is above Rs. 680 per kg. M/s. Shree Momaikrupa had declared CIF value of the imported goods as Rs. 83/- per kg, which is far below the MIP fixed by the Notification *supra*, therefore, it appears that the noticee has violated the policy condition applicable for import of goods under CTH 08013210. Therefore, the noticee was ineligible to claim the benefit of the preferential rate of duty under Notification No. 046/2011 – Customs dated 01.06.2011, as the said benefit is not available to the goods falling under CTH 08013210. Therefore, the imported goods have been placed under seizure vide seizure memo dated 27.01.2026 in terms of provisions of under Section 110 of Customs Act, 1962, on reasonable belief that the imported goods were liable for confiscation under the provisions of Section 111 of Customs Act, 1962.

6. Search at registered premises:

6.1 The premises of the noticee at 106, First Floor, R.S. Number 348/2 and 3, Shree Harikrushna Plaza, Atkot, Jasdan, Gujarat was searched on 31.01.2026 and the search proceedings were recorded under Panchnama dated 31.01.2026. During the search proceedings, the office premises of the noticee was found locked and only after sustained efforts, Shri Laljibhai Samatbhai Susara, Proprietor of M/s. Shree Momaikrupa Enterprise came and opened the office and it was noticed that the office premises was never used for any work and there was no documents in relation to the import or their business activity.

6.2 During search proceeding, Shri Laljibhai Samatbhai Susara informed that, he has been the proprietor of M/s Shree Momaikrupa Enterprises, which is a trading firm, he imports “broken cashew nuts & walnuts” from outside India. The broken cashew nuts were imported at Pipavav port and walnuts were imported at Nava Sheva port. Shri Laljibhai informed that their books of accounts and other import-export & GST related documents were maintained by tax consultant and the documents were at his office at Jasdan and accordingly, he could not produce any document in relation to import of goods under Bills of Entry Nos. 5245651. 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025.

7. Statement of key person:

7.1 Statement of Shri Laljibhai Samatbhai Susara, Proprietor of M/s Shree Momaikrupa Enterprises situated at Shop No 106, Shree Hari Krishna Plaza, Near Sardar Patel Chowk, Atkot, was recorded under Section 108 of Customs Act, 1962 on 31.01.2026; wherein he *inter alia* stated that -

- All the documents in relation to Import and other GST related purchase and sale documents of his firm M/s. Shree Momaikrupa Enterprise were at the office of Shri Nikunj Thakkar and Shri Laljibhai Aditya Prajapati at their office at Jasdan.
- All the invoices and books of accounts were maintained by Shri Nikunj Thakkar and Shri Laljibhai Aditya Prajapati at their office; that all the sale invoices were prepared and maintained at their office; that he never prepared documents related to imports or sale of the imported goods; that he never used the principal place of business for any work except for taking registration; that the premises was remained closed since he had taken it on lease.
- He stated that his firm is engaged in import of Broken Cashew Nuts from Vietnam through Customs, Pipavav Port and through Customs, Nhava Sheva Port.
- He stated that the imported goods at Pipavav Port are Cashew Nuts which are in broken condition.
- He stated that Shri Sagar, a citizen and residing at Vietnam was a contact person to purchase broken cashew nuts; that Shri Sagar arranged for purchases of broken cashew nuts from Vietnam.
- He stated that Shri Jignesh Pandya and Shri Punit Rajyaguru were facilitating the customs clearances at Pipavav Port for import of Broken Cashew Nuts at Pipavav.
- He stated that the imported cashew nuts were sold to a firm based at Mumbai namely M/s. Jasoda Impex through a Broker; that he did not have the contact number of the broker; that all the imported cashew nuts were sold to M/s. Jasoda Impex.
- He stated that the delivery of imported goods in every case was sent directly from Port to the buyer's place and the imported cashew nuts were never received at their premises.
- On perusal of DGFT Notification No. 59/2015-2020 dated 21.02.2023 he stated that he was aware that the import of cashew nut either broken or whole are prohibited to import.

7.2 Further statement of Shri Laljibhai Samatbhai Susara, Proprietor of M/s Shree Momaikrupa Enterprises was recorded under Section 108 of Customs Act, 1962 on 02.02.2026; wherein he inter alia stated that; –

- Perused the Panchnama dated 30.10.2025 drawn at Pipavav Port during the examination of the imported goods and stated that the contents of the said Panchnama are true and correct.
- Perused the Panchnama dated 31.01.2026 drawn M/s. Shree Momaikrupa Enterprise, Shop No. 106, Shree Harikrishna Plaza, Near Sardar Chokdi, Atkot and stated that the contents of the statement are true and correct.
- Perused his earlier statement dated 31.01.2026 recorded under Section 108 of the Customs Act, 1962 and he agreed and confirmed that the statement was recorded as per his say and version and the content of the statement is true and correct.
- He stated that he had imported broken cashew nuts from Vietnam and the details of Bills of Entry are as under:

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Sr. No.	Bill of Entry No. & date	Item Declared	CTH
1	4683058/23.09.2025	Agricultural Rejected Nut Pieces Residues and Waste (A kind used in animal feed unfit for human consumption)	23080000
2	4136944/27.08.2025	-do-	-do-
3	3900814/14.08.2025	-do-	-do-

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- He stated and confirmed that all the goods imported previously under the above referred Bills of Entry were broken cashew nuts.
- He stated all the imported goods vide the above referred Bills of Entry were sold to M/s. Jasoda Impex, Mumbai and the delivery of the imported goods were made directly from Pipavav port to the buyers' premises.
- He stated that he did not know what M/s. Jasoda Impex further do with the imported goods.
- He stated that the imported goods covered under the following Bills of Entry which were at that time lying at Customs, Pipavav Port are:

Sl. No.	Bill of Entry No. & date	Item Declared	CTH
1	5245651/ 22.10.2025	Agricultural Rejected Nut Pieces Residues and Waste (A kind used in animal feed unfit for human consumption)	23080000
2	5245989/22.10.2025	Same as above	23080000
3	5246571/22.10.2025	Same as above	23080000
4	5246839/22.10.2025	Same as above	23080000
5	5247239/22.10.2025	Same as above	23080000

- He stated and confirmed that the imported goods vide the above referred Bills of Entry are also broken cashew nuts and they were imported from Vietnam and classified at CTH 23080000 and the goods imported were described as "Agricultural Rejected Nut Pieces, Residues and Waste (A kind used in animal feed unfit for Human Consumption)"; however, he confirmed and stated the imported goods are broken Cashew Nuts.
- He stated that the description of the goods as "Agricultural Rejected Nut Pieces / waste" in the Bills of Entry was not decided by him, as he is not well educated and not fully conversant with import documentation; that matters relating to import documentation, including the description of goods, were looked after by Shri Vijay Mange, Shri Nikunj, and his CHA viz. Shri Jayesh Pandya and Shri Punit Rajyaguru; that he relied on them for filing of import documents and accordingly the said description was declared in the Bills of Entry; that he did not personally prepare or file the Bills of Entry and acted as per the guidance and handling done by the above-mentioned persons.
- He stated that the imported goods, after clearance from Pipavav Port were sent directly to the buyers' premises; that all documents relating to import, sale and purchase, including invoices and other records, are managed and maintained by Shri Nikunj, a tax consultant of his firm M/s. Shree Momaikrupa Enterprise.
- Upon perusal of the DGFT Notification No. 59/2015–20 dated 21.02.2023 shown to him; he stated that he had understood that import of cashew nuts is subject to Minimum Import Price (MIP) condition and that import below the prescribed MIP is not permitted.
- He stated that the current imported goods vide the Bills of Entry mentioned were imported at a price of USD 0.80 per kg, which is far below the prescribed MIP, and accordingly fall under restricted/prohibited category and the MIP for import of shelled broken cashew nuts are Rs.680/Kgs.

8. Scrutiny of documents and oral evidences:

8.1 On scrutiny of the documents, in the form of import documents uploaded while filing Bills of Entry, details of Bills of Entry, Examination Panchnama, Test report, Search Panchnama and oral evidences, it appeared that the noticee had mis-declared the imported goods as "*Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption*" with clear intent to circumvent the policy restriction imposed under FTP for import of "Cashew Kernel – broken", vide DGFT Notification No. 59/2015-2020 dated 21.02.2023. The noticee had availed inadmissible benefit of preferential rate of duty under Notification No. 046/2011 – Customs dated 01.06.2011. From the test report and the statements given by Shri Laljibhai Susara under Section 108 of the Customs Act, 1962, it is clear that the imported goods are Cashew Kernels – broken and M/s. Shree Momaikrupa had mis-declared the same as "*Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)*", while filing the bills of entry.

8.2 The proprietor of M/s. Shree Momaikrupa Enterprise has admitted that their previous imports vide Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025, were also Cashew Nuts–broken and thereby they also appeared to be mis-declared/mis-classified. As already mentioned above, the import of cashew nuts have been prohibited for import below the minimum import price fixed by the DGFT vide Notification No. 59/2015-2020 dated 21.02.2023. However, in the bills of entry, the importer has imported the cashew nuts – broken, far below the minimum import price as fixed by the DGFT vide its Notification No. 59/2015-20 dated 21.02.2023. The details of the import of Cashew Nut – Broken under these bills of entry are under:-

Sr. No.	Bill of Entry No. & date	Item Declared	CTH	Assessable Value (Rs.)	Quantity	Unit Price (Rs.) (kgs)
1	4683058/ 23.09.2025	Agricultural Rejected Nut Pieces Residues and Waste (A kind used in animal feed unfit for human consumption)	23080000	3881501	54000	71.88
2	4136944/ 27.08.2025	-do-	-do-	1920000	27000	71.11
3	3900814/ 14.08.2025	-do-	-do-	1935290	27000	71.57

8.3 The Bills of Supply and E-way Bills pertaining to the previously imported and cleared consignments, as furnished by the noticee, were scrutinized and verified. Upon such verification, it revealed that the sole purchaser of the said goods is M/s. Jasoda Impex, Mumbai. Furthermore, a detailed examination of the aforementioned documents reveals that the entire quantity of the imported goods was transported to and stored at M/s. Dhara Cold Storage, D-10/4, ITC Industrial Area, behind Everyday Kotak Agro Pvt. Ltd., Navi Mumbai. This factual matrix appeared to demonstrate that the goods were preserved under controlled cold storage conditions for subsequent utilization. Such storage practices are inherently inconsistent with the declared nature of the goods as “animal feed,” as commodities intended for cattle consumption are ordinarily not subjected to cold storage facilities. A summons was issued to M/s. Jasoda Impex; however, the same was returned undelivered by the postal authorities with the endorsement “Left,” indicating that they were not available at the given

address.

8.4 Accordingly, a search was conducted on 10.04.2026 at the registered premises of M/s. Jasoda Implex at Plot No. 7, M-50, 1st Floor, AMPC-II, Phase-II, Sector-19B, Vashi, Navi Mumbai-400705 under regular panchnama. During the search proceeding, Shri Mahesh Shivji Bhanushali informed that at that time M/s. Jasoda Impex was non-operative as there was no business activity in the said M/s. Jasoda Impex and accordingly, all the documents relating to M/s. Jasoda Impex were given to Charted Accountant for closure of books of account. Further, Shri Mahesh Shivji Bhanushali informed that M/s Jasoda Impex had been a trading firm and had procured imported goods of broken cashew nuts from M/s Shree Momaikrupa Enterprises and he subsequently sold through broker to M/s Aadhyas Nutrition and Feeds, Karnataka (Bangalore) and M/s Patel Retail Limited, Maharashtra. During the search, Shri Mahesh Shivji Bhanushali informed that the purchase/sale documents of M/s. Jasoda Impex were with Charted Accountant and accordingly he brought copies of purchase and sale related documents, which were resumed during panchnama.

8 . 5 Statement of Shri Mahesh Shivji Bhanushali, Proprietor of M/s Jasoda Impex, situated at Plot No. 7, M-50, 1st Floor, AMPC-II, Phase-II, Sector-19B, Vashi, Navi Mumbai-400705, was recorded on 10.04.2026, under Section 108 of the Customs Act, 1962, wherein he interalia stated that -

- The GST registered address of M/s Jasoda Impex is Plot No. 7, M-50, 1st Floor, AMPC-II, Phase-II, Sector-19B, Vashi, Navi Mumbai-400705; that presently there were no operation at M/s. Jasoda Impex, hence, he was not operating any business activity from the registered premises and all the documents were given to Charted Accountant and documents were lying with him.
- He stated that M/s Jasoda Impex had been purely a trading firm; that he purchased goods through brokers and sold them to buyers through brokers; that no manufacturing or processing activity was carried out by his firm.
- He stated that he had procured imported goods mainly from two suppliers namely M/s Shree Momaikrupa Enterprises and M/s Supreme International; that both suppliers were supplied goods

which were described in invoices as Agricultural waste/residue - animal feed.

- He stated that the goods purchased from M/s. Shree Momaikrupa Enterprise were imported goods and he was aware that the said goods were imported by them, as the same were directly shipped from Pipavav Port.
- He stated the he had physically inspected the goods received from M/s. Shree Momaikrupa Enterprise; that the purchased imported goods were broken cashew nuts.
- He stated he did not have any storage facility for storage of goods purchased; that in cases where purchased goods were required to keep for certain period for sale, he used to keep the purchased goods at Cold Storage facility of M/s. Dhara Cold Storage; that he produced invoice of M/s. Dhara Cold Storage for keeping our goods at their facility.
- He perused the sale documents and he stated that all the imported goods purchased from M/s. Shree Momaikrupa Enterprise were sold to M/s. Aadhyas Nutrition and Foods and M/s. Patel Retail Limited; that he agree that they were dealing with Nutrition food items and retail business respectively, however, he stated that the end use of the goods sold to them were not known to him.
- He stated and confirmed that the imported goods purchased from M/s. Shree Momaikrupa Enterprises were broken cashew nuts and the description of the goods mentioned in the purchase documents were relied and the same description has been mentioned at the sale documents.

8.6 The documents submitted by M/s. Jasoda Impex during the course of search proceeding and statement of the proprietor of M/s. Jasoda Impex, revealed that the goods purchased by them from M/s. Shree Momaikrupa Enterprise were broken cashew nuts and further it was also revealed from the document that M/s. Jasoda Impex had preserved/stored the imported goods purchased from M/s. Shree Momaikrupa Enterprise at M/s. Dhara Cold Storage and the description of goods stored by them was mentioned at the Invoice raised by M/s. Dhara Cold Storage as “Kaju Kani” which evidentially reflect that the imported goods were Cashew Nuts.

9. Classification:

(i) The Importer i.e. M/s. Shree Momaikrupa have classified the said imported goods under the CTI 23080000. Chapter Heading 2308 covers VEGETABLE MATERIALS AND VEGETABLE WASTE, VEGETABLE RESIDUES AND BY-PRODUCTS, WHETHER OR NOT IN THE FORM OF PELLETS, OF A KIND USED IN ANIMAL FEEDING, NOT ELSEWHERE SPECIFIED OR INCLUDED. The Tariff Entries under the Heading 2308 are reproduced below:

2308 00 00	**VEGETABLE MATERIALS AND VEGETABLE WASTE, VEGETABLE RESIDUES AND BY-PRODUCTS, WHETHER OR NOT IN THE FORM OF PELLETS, OF A KIND USED IN ANIMAL FEEDING, NOT ELSEWHERE SPECIFIED OR INCLUDED**	kg.	*15%	-

(ii) On examination of the description against the CTH 2308, it appeared that it covers items which are **not specified elsewhere or included** and hence is a residual heading for Vegetable Waste or Residues used for animal feeds.

(iii) The Chapter Heading 0801 covers COCONUTS, BRAZIL NUTS AND CASHEW NUTS, FRESH OR DRIED, WHETHER OR NOT SHELLED OR PEELED. The relevant Tariff Entries under the Heading 0801 are reproduced below:

0801		**COCONUTS, BRAZIL NUTS AND CASHEW NUTS, FRESH OR DRIED, WHETHER OR NOT SHELLED OR PEELED**			
	-	*Coconuts :*			
0801 11 00	--	Desiccated	kg.	70%	60%
0801 12	--	*In the inner shell (endocarp) :*			
0801 12 10	---	Fresh	kg.	70%	60%
0801 12 20	---	Dried	kg.	70%	60%
0801 12 90	---	Other	kg.	70%	60%
0801 19	--	*Other:*			
0801 19 10	---	Fresh	kg.	70%	60%
0801 19 20	---	Dried	kg.	70%	60%
0801 19 90	---	Other	kg.	70%	60%
	-	*Brazil nuts :*			
0801 21 00	--	In shell	kg.	30%	20%
0801 22 00	--	Shelled	kg.	30%	20%
	-	*Cashew nuts :*			
0801 31 00	--	In shell	kg.	**2.5%	Free
0801 32	--	*Shelled :*			
0801 32 10	---	Cashew kernel, broken	kg.	30%	20%
0801 32 20	---	Cashew kernel, whole	kg.	30%	20%
0801 32 90	---	Other	kg.	30%	20%

(iv) It appeared that the imported goods were Cashew Kernels - broken is established and the Proprietor of the M/s. Shree Momaikrupa has

accepted in his statement recorded under section 108 of Customs Act, 1962, that the imported goods is Cashew Kernels. Further, the NFSU, Gandhinagar, based on the DNA barcoding analysis conducted using the *matK* gene sequencing method for botanical identification and sequencing results and comparison with reference sequences in the NCBI database, in their test report mentioned that the goods tested are 'Cashew kernels' only. Further, it is also a fact that Cashew is an Edible Nut.

(v) Further, for classification under various sub-headings and tariff items under CTH 2308, condition that the goods should adhere to certain standards is mentioned. However, it appeared that, no such standard including FSSAI Standard is mentioned as a condition for classification under CTH 08013210. It further appeared that the cashew nuts being directly mentioned in the CTH 0801, suggests that Tariff recognises Cashew Nut as Edible.

(vi) Further, the CTH 0801 also includes Cashew Nuts in Shell along with Coconut in Shell which does not appear to adhere to the FSSAI Standards. Hence, it appeared that the term 'Edible' cannot be equated to being adherent to FSSAI Standards.

(vii) In accordance with all the above observations, it appeared that the said goods being broken cashew kernels are rightly classifiable under CTH 08013210 irrespective of their adherence to FSSAI Standards or Animal Feed Standards.

10. The Import Policy in respect of the goods classifiable under CTH 08013210 is reproduced below for ready reference:

HS Code	Description	Import Policy	Policy Condition	Notification No.	HS Code Notification Date
08013210	--- Cashew Kernel, broken	Prohibited	1. However, import is free if CIF value is above Rs. 680/- per Kg. 2. MIP conditions, however, shall not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ. 3. SEZs and EOUs units shall not be allowed to sell the imported Cashew Kernels into Domestic Tariff Area (DTA).	59/2015-2020	21/02/2023

11. As per Notification 59/2015-2020 dated 21.02.2023 issued by

DGFT, the import of Cashew Kernel broken is prohibited unless the CIF Value is more than Rs. 680/- per Kg or import by 100% EOU or SEZ unit. However, the Import price in the impugned consignments is Rs. 83/- per Kg. Since, the Import price is less than Minimum Import Price of Rs. 680/- per Kg and the Importer is not a SEZ or EOU Unit, the impugned goods falls under prohibited category and such import is prohibited.

12. Based on the above observation, it appeared that the Goods were in fact "*Cashew Kernels, broken*" which are rightly classifiable under CTH 08013210 and are prohibited for import unless the CIF Value is more than Rs. 680/- per Kg.

13. Legal Provisions:

13.1 ***Section 2(4) of the Customs Act, 1962:***– "***bill of entry***" *means a bill of entry referred to in section 46;*

13.2 ***Section 2(23) of the Customs Act, 1962: – "import",*** *with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

13.3 ***Section 2(26) of the Customs Act, 1962: – "importer",*** *in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;*

13.4 ***Section 2 (33) of the Customs Act, 1962: "prohibited goods"*** *means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;*

13.5 ***Section 2(39) of Customs Act, 1962: "smuggling"****, in relation to any goods, means any act or omission which will render such goods liable to confiscation under Section 111 and Section 113.*

13.6 ***Section 17 of the Customs Act, 1962****: "(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods……"*

13.7 ***Section 46 (1) of the Customs Act, 1962****: "The importer of any*

goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically on the customs automated system to the proper of icer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed……"

13.8 ***Section 46 (4) of the Customs Act, 1962****: "The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, (and such other documents relating to the imported goods as may be prescribed)."*

13.9 ***Section 46 (4A) of the Customs Act, 1962****: "The importer who presents a bill of entry shall ensure the following, namely: -*

a. the accuracy and completeness of the information given therein;

b. the authenticity and validity of any document supporting it; and

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

13.10 ***Section 111 (d) of the Customs Act, 1962****: any goods which are imported or attempted to be imported or are brought within the Indian Customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force.;*

13.11 ***Section 111(m) of the Customs Act, 1962****: any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;*

13.12 ***Section 112****- Penalty for improper importation of goods, etc. – Any person,*

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing,

or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

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

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

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

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

13.13 ***Section 124 of the Customs Act, 1962****: Issue of show cause notice before confiscation of goods, etc. –*

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person –

(a) is given a notice in writing with the prior approval of the of icer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of

confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided *that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.*

Provided further *that notwithstanding issue of notice under this section, the proper of icer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.*

14. Obligation under Self-assessment:

The noticee had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962, in all their import declarations. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' had been introduced in Customs. Section 17 of the Customs Act, 1962, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make an entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulation, 2018 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which was defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number was generated by the Indian Customs Electronic Data Interchange System for the said declaration.

15. Thus the subject goods have been rightly classifiable under CTH 08013210; wherein there is a Minimum Import Price of Rs. 680/- per Kg prescribed by DGFT vide Notification No. 59/2015-2020 dated 21.02.2023. Since, the import price is less than the MIP, the goods are prohibited for import and hence, appears to be liable for confiscation under Section 111(d) of the Customs Act, 1962. Further, for mis-declaring and thereby mis-classifying the imported goods at the Bills of Entry, the goods appeared to be liable for confiscation under Section 111(m) of the Customs

Act, 1962.

16. For the act of rendering the goods liable for confiscation under Section 111(d) & 111(m) of the Customs Acts, 1962, it appeared that, the noticee has been liable for penalty under Section 112(a) of the Customs Act, 1962.

17. Further, Circular No.17/2011-Customs dated 08.04.2011 issued by Ministry of Finance, Department of Revenue, Central board of Excise & Customs vide F.No.450/26/2011- Cus. IV, Section 17 of the Customs Act, 1962 provides for self-assessment of duty by the importer by filing a Bill of Entry in the electronic form. The importer at the time of self-assessment is required to ensure that he declares the correct description of the goods, classification, applicable rate of duty, value, benefit of exemption Notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. It appears that the Noticee has resorted to incorrect self-assessment, by mis-declaring and misclassifying the goods to evade the prohibition by DGFT, thereby violated provisions of Section 17 of the Customs Act, 1962.

18. Further, as per Section 46(4) and 46(4A) of the Customs Act, 1962, the Noticee is required to furnish a declaration as to the truth of the contents of Bill of entry and shall ensure accuracy and completeness of information, authenticity and validity of documents submitted. The Noticee is required to declare the full accurate details relating to the goods description, quantity, duties payable etc. It is noticed from the facts and the Statements of the key person i.e., the Proprietor of the Noticee and legal position that the impugned goods are classifiable under CTH 08013210 instead of 23080000 as declared by the Noticee in the bills of entry.

19. Role Played by Shri Laljibhai Samatbhai Susara/M/s. Momaikrupa Enterprise –

19.1 M/s. Shree Momaikrupa Enterprise, acting as the Noticee, played the central role in the case by filing Bills of Entry for goods imported from Vietnam while declaring them as “agricultural rejected nut pieces and waste (animal feed)” under CTH 23080000, whereas investigations and scientific testing appears to establish that the goods were in fact “cashew kernels – broken” classifiable under CTH 08013210. It appears that by way of this mis-declaration and misclassification the Noticee circumvented

the DGFT restriction prescribing a Minimum Import Price of ₹680/kg and wrongly availed preferential duty exemption, despite importing the goods at a much lower value of about ₹83/kg, thereby rendering the goods prohibited for import and liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

19.2 M/s. Shree Momaikrupa also exhibited a similar pattern in past imports, indicating deliberate and repeated evasion, and failed to maintain proper records or a functional place of business, suggesting that it operated as a paper entity. Shri Laljibhai Samat Susara, being the proprietor, has been legally responsible person for the acts of the firm and, through his statements recorded under Section 108, admitted that the imported goods were broken cashew nuts, acknowledged prior similar imports, and confirmed awareness of the applicable import restrictions, thereby establishing knowledge and intent. Although, he claimed reliance on other persons for documentation, it appears that such reliance does not absolve him of statutory obligations under Sections 17 and 46 of the Act; rather, his role reflects active participation in the illegal import of the impugned goods and its subsequent sales including procurement through overseas contacts and sale to domestic buyers. Accordingly, it appeared that the impugned goods imported by the Noticee are liable for confiscation and they are also liable for penal action under Section 112 of the Customs Act, 1962 for acts and omissions rendering the goods liable to confiscation.

20. In view of the foregoing facts, documentary evidences on record, statements recorded during the investigation, legal provisions, it appeared that:

i. The noticee has mis-declared the subject seized goods imported vide B/E Nos. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025 and the goods which were imported and cleared vide Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025 as “Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)” which are actually “Cashew Kernels, broken”.

ii. The noticee has misclassified the said goods under CTH 23080000 which appears to be rightly classifiable under CTH 08013210 as discussed above.

iii. The goods imported vide Bills of Entry Nos. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025, with aggregate declared value of Rs. 96,87,370/- and aggregate Minimum Import Price on total quantity of 135 MTs arrived at Rs. 9,18,00,000/-, considering Rs. 680 Per Kg, are liable for confiscation under Sections 111(d) and 111(m) of the Act ibid;

iv. The goods imported and cleared previously vide Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025, notwithstanding their present unavailability, with aggregate declared value of Rs. 76,36,791/- and aggregate Minimum Import Price on total quantity of 108 MTs arrived at Rs. 7,34,40,000/- considering Rs. 680 per kg, are also liable for confiscation under section 111(d) and 111(m) of the Customs Act, 1962.

v. M/s Shree Momaikrupa Enterprise have been liable for penalty under the provisions of Sections 112 of the Customs Act, 1962 for various omissions and commissions.

21. Therefore, a Show Cause Notice was issued to M/s. Shree Momaikrupa Enterprise (IEC: LCTPS2689P), having its registered office at First Floor, R.S. Number 348/2 and 3, Shree Harikrushna Plaza, Atkot, Jasdan, Gujarat, as to why ;

(i) The description of the seized goods imported vide Bills of Entry Nos. 5245651. 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025 and the goods which were imported and cleared vide Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025 should not be rejected and correctly declare as “Cashew Kernels, broken”;

(ii) The self-assessment, with respect to the seized goods imported vide Bills of Entry No. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025 and the goods which were imported and cleared vide Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025, under CTH 23080000 should not be rejected and re-classified under CTH 08013210 as per the provisions of Section 17 of the Customs Act, 1962;

(iii) The seized goods imported vide Bills of Entry No. 5245651,

5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025, with aggregate declared value of Rs. 96,87,370/- and aggregate Minimum Import Price on total quantity of 135 MTs arrived at Rs. 9,18,00,000/-, considering Rs. 680 Per Kg, should not be confiscated under Section 111(d) and 111(m) of the Customs Act, 1962;

(iv) The goods imported and cleared previously vide Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025, with aggregate declared value of Rs. 76,36,791/- and aggregate Minimum Import Price on total quantity of 108 MTs arrived at Rs. 7,34,40,000/- considering Rs. 680 per kg, notwithstanding their present unavailability, should not be confiscated under Section 111(d) and 111(m) of the Customs Act, 1962;

(v) Penalty should not be imposed on them under Section 112 of the Customs Act, 1962.

22. Written Submission;

M/s. Shree Momaikrupa through their advocate Shri R. K. Tomar, filed their written reply on 05.06.2026 wherein they made their submission as under;

22.1 They submitted that revenue has attempted to make a case by ignoring and mis-interpreting the facts and position under law. The importer has imported the said goods and made the correct declaration of value, description and CTH and also claimed the benefit of Notification No. 046/2011-Customs dated 01.06.2011.

22.2 They submitted that the revenue has relied upon the statement of Shri Mahesh Shivji Bhanushali, Proprietor of M/s Jasoda Impex in respect of the said goods. They submitted cross examination of Shri Mahesh Shivji Bhanushali in terms of section 138B of the Customs Act, 1962 as it is apprehended that his statement has been recorded as per say of the officer of the revenue and that his recorded statement does not reflect the correct facts.

22.3 The statements have been recorded by making use of laptop and there after using Google Translator for translating the same in Hindi, which is against the statutory procedures contained under Section

138C of the Customs Act, 1962. Therefore, the veracity and legality of the recorded statements is under question of legality.

22.4 The statement dated 31.01.2026 of Shri Laljibhai Samatbhai Susara, proprietor of the importer mentions that he is 10th standard pass and he can read, write and speak English, Hindi and Gujarati. Further statement dated 02.02.2026 of Shri Mahesh Shivji Bhanushali, Proprietor of M/s Jasoda Impex mentions that he is 9th standard pass and he can read, write and speak English and Hindi. Despite the fact that both can read, write and speak English and Hindi translation of their statements were made using Google Translator, speaks volumes about the legality of recording of the statements and their correctness in light of the facts that the revenue has attempted to ignore certain facts of the case (such as test Report submitted by the CRCL, New Delhi and Test report of NFSU, Gandhinagar) in order to somehow prove their unsustainable case.

22.5 The Test Report vide Lab No. CRCL/Food/23/1092-1096 (DRI/20-11-2025 dated 18.12.2025, the CRCL, New Delhi has categorically stated as under;

"*The above tested parameters are within the specified limit for compounded feed for cattle as per IS 2052:2023*"

The submitted that the above Test Report is not acceptable to the Revenue simply because the same does not serve their purpose. However, the above Test Report expressly proves the declaration made by the importer to be correct.

22.6 The Revenue had deliberately attempted to interpret the Test Reports of the NFSU, Gandhinagar by inserting the word "Broken" with their report findings whereas the said Test Reports of the NFSU, Gandhinagar specifically state the said goods as "**cashew kernel fragments**".

22.7 The above being the admitted position, there is no doubt that the said goods are not "**cashew kernel, broken**" but "**cashew kernel fragments**" which are definitely not "cashew kernel, broken" as classified under CTH 08013210. Therefore, the basic premise of the Revenue is factually incorrect and legally unsustainable. The colouring of the "cashew kernel fragments" as "cashew kernel fragments" is expressly visible which

must fail.

22.8 The declaration made by the importer is as "Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)" under CTH 23080000. The Tariff Entry at CTH 23080000 states "Vegetable Materials and Vegetable Waste, Vegetable Residues and by-products, whether or not in the form of pallets, of a kind used in Animal Feeding, not elsewhere specified or included". It may be noted that the description of the nature of the said goods provided by the importer in the Bills of Entry is the same as that appearing under CTH 23080000. It does not require any interpretation of the said goods as declared by the importer and as appearing under CTH 23080000 is enough to describe the said goods as the same.

22.9 They submitted that the revenue has attempted to justify grounds for seizure of the said goods by adding the words "Broken" in the description when even the Test Reports said the goods "cashew kernel fragments" and not "cashew kernel, broken".

22.10 They cited the Investigation Report of NFSU Gandhinagar. They submitted that the Testing Agency has answered the questions in very clear and unambiguous terms. However, owing to bias or the revenue against the importer, the same have been rejected simply for the reasons that the same do not serve the purpose of the revenue to prove their case.

22.11 They submitted that in answer to Q-1 posed by the Revenue, the Report specifically and clearly states that the said goods are as per description. This leaves no further question to be answered in as much as the importer is concerned. Further, in answer to Q-3 posed by the revenue, the Test Report specifically and clearly states that the said goods are not eligible and does not meet the standards of fitness for human consumption. Even further, the CRCL Test Report dated 18.12.2025 also specifically answers that in respect of the said goods the tested parameters are within the specified limit for compounded feed for cattle as per IS 2052:2023. All the above facts prove that the said goods are as per the declaration made by the importer and there is no mis-declaration of any nature.

22.12 They submitted that the goods imported are used as animal feed

which is not under dispute in the said SCN. Even the CRCL report specifically states that the tested parameters of said goods are within the specified limit for compounded feeds for cattle as per IS 2052:2023. On the contrary the revenue has stressed on its own personal opinion that the cashew kernel are edible and their description as “nut residue and waste” appears to be untenable.

22.13 They submitted that based on erroneous and perverse conclusion made by the revenue, an attempt has been made to invoke penal provisions of the Customs Act, 1962 in respect denial of Customs duty exemption as per Notification No. 046/2011-Customs dated 01.06.2011 and also in respect of confiscation of the said goods and imposition of penalties.

22.14 They submitted that the opinion for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962 has been erroneous opinion that the goods are classifiable under CTH 08013210 as the same may be “Cashew kernel, broken” instead of declared CTH 2308000 which is for the description of the said goods as “Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)”. This is despite the test reports obtained by the revenue in respect of the said goods which completely and unambiguously support the declaration made by the importer.

22.15 They submitted that the said goods are proposed to be held liable to confiscation under Section 111(d) of the Customs Act, 1962 on the basis of the allegation that MIP of the said goods should have been Rs. 680/- per Kg. in terms of DGFT Notification No. 59/2015-20 dated 21.02.2023. Invocation of provision of section 111(m) of the Customs Act, 1962 is based on the allegation that the importer declared wrong CTH (i.e. declared 2308000 instead of 08013210. However both the grounds have been proved false.

22.16 They submitted that the prohibition sought by the revenue has failed in light of the Test Report of the CRCL, New Delhi and the NFSU, Gandhinagar. The submitted that in view of the same, prohibition cannot be invoked in respect of goods imported by the importer and provisions of Section 111(d) of the Customs Act, 1962 shall not apply.

22.17 They submitted that the classification has been in prefect harmony with the said Test Reports, there cannot be any liability to confiscation of the said goods under provisions of Section 111(d) and 111(m) of the Customs Acts, 1962.

22.18 They relied upon the order of the Hon'ble CESTAT, Kolkata in the matter of Commissioner of Customs (Preventive), Kolkata Vs M/s. Shree Durga Trader reported in 2026 (5) TMI 1243-CESTAT Kolkata.

22.19 On the allegation made in SCN regarding misusing the facility of self-declaration and incorrect self-assessment by mis-declaring and misclassifying the goods to evade the prohibition by DGFT, thereby violated provision of Section 17 of the Customs Act, 1962 they submitted that they have made correct declaration and the same have been proved by two reputed laboratories of Government of India namely CRCL, New Delhi and the NFSU, Gandhinagar.

22.20 In respect of self –assessment they relied upon the order of the Hon'ble CESTAT, New Delhi in the matter of M/s Vanesa Cosmetics Pvt. Ltd., Vs Principal Commissioner of Customs, ICD (Import) Tughalakabad, New Delhi reported in 2026(5) TMI 1042-CESTAT New Delhi, wherein it is held that in a case of self-assessment, adoption of a particular Tariff classification by the importer is matter of view and understanding and mere disagreement by the department on the proper heading does not by itself establish wilful misclassification or suppression with intent to evade duty.

22.21 Regarding the penalty proposed under Section 112(a) of the Customs Act, 1962 they submitted that penalty under Section 112(a) is imposable on someone 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, however since the said goods are not liable to confiscation under section 111, there cannot be any occasion for such imposition of penalty under section 112(a) of the Customs Act, 1962. They relied upon the order of Hon'ble CESTAT, New Delhi in the matter of Surendra K, Director of M/s Three Aces Global Logistics Pvt. Ltd, Noida Vs. Pr. Commissioner of Customs (Import) Tughalakabad, New Delhi reported in 2026 (5) TMI 1176-CESTAT New Delhi.

22.22 They prayed that the description of the seized goods imported vide 5 Bills of Entry all dated 22.10.2025 and vide 3 previous Bills of Entry the goods imported vide 3 Bills of Entry dated 14.08.2025, 27.08.2025 and 23.09.2025 and the self-assessment with respect to seized goods may not be rejected; the seized goods imported vide said 5 Bills of Entry dated 22.10.2025 with aggregate declared value of Rs. 96,87,370/- may not be confiscated under Section 111(d) and 111(m) of the Customs Act, 1962; penalty may not be imposed under Section 112(a) of the Customs Act, 1962 and to release the seized goods.

PERSONAL HEARING;

23. M/s. Shree Momaikrupa vide letter dated 28.06.2026 requested for early hearing in the matter and therefore personal hearing was granted on 16.07.2026. On behalf of M/s. Shree Momaikrupa Shri R.K.Tomar, Advocate appeared for Personal Hearing on 16.07.2026 on virtual mode, wherein he reiterated the written submission already made on 05.06.2026. He mainly reiterated the Test Report of CRCL, New Delhi and NFSU, Gandhinagar and submitted that the imported goods were cattle feed and not fit for human consumption and were rightly classified under CTH 23080000 by the importer. He submitted that the value taken by the department at Rs. 680/- per kg is not applicable on the goods imported and since the issue pertaining to misclassification the goods cannot be confiscated, invoking Section 111(m) of the Customs Act, 1962. He also submitted that the importer has neither committed any fraud nor made any wilful misstatement or suppression of facts, he requested to drop the proceedings initiated vide SCN.

24. CROSS EXAMINATION;

Shree Momaikrupa Enterprise under their written reply dated 05.06.2026 requested for cross examination of Shri Mahesh Shivji Bhanushali, Proprietor of M/s Jasoda Impex therefore cross examination was given on 03.09.2026 but due to non-availability of the advocate of Shree Momaikrupa Enterprise, cross examination could not take placed and therefore another date i.e. 10.09.2026 was granted for cross examination. The record of cross examination is as under;

Question.1 By Shri R.K. Tomar, advocate- In this subject matter of this case the goods i.e. 'Broken Cashew Nuts', in what name he has purchased

the goods form M/s Momaikrupa Enterprise and in what name he has sold the same?

Answer 1. **By Shri Mahesh Shivji Bhanushali-** He has purchased the goods in this case from M/s Momaikrupa Enterprise as cattle feed and sold the same as cattle feed.

Question 2.By Shri R.K. Tomar, advocate- Normally in what name these goods are being sold and purchased?

Answer No. 2 By Shri Mahesh Shivji Bhanushali- These, goods are normally purchased and sold as cattle feed.

Question.3 By Shri R.K. Tomar, advocate- Under his statement dated 10.04.2026 under question No. 4, 7 and 11 it is mentioned that the goods were 'Broken Cashew Nuts'.

Answer No. 3 By Shri Mahesh Shivji Bhanushali- I am not aware that much and the officer said that the goods were Broken cashew nuts however I have purchased and sold the goods as cattle feed.

Question No.4. By Shri R.K. Tomar, advocate- But in your statement you have nowhere clarified that the said goods were purchased and sold as cattle feed?

Answer No. 4 By Shri Mahesh Shivji Bhanushali- I was not aware of the same but I have sold and purchased the goods as cattle feed. I purchase in quantity in our warehouse and sale the same from warehouse and such goods are not fit for human consumption.

25. DISCUSSIONS AND FINDINGS-

25.1 I have carefully gone through the case record, allegation made under Show Cause Notice and written submission made by M/s. Shree Momaikrupa as well submission made during personal hearing. The matters to be decided in this case are as under;

(i) Whether the description and self-assessment with respect to the seized goods imported vide Bills of Entry Nos. 5245651. 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025 and the goods which were imported and cleared vide Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025 should be rejected and correctly declare as "Cashew Kernels, broken" and whether re-classified under CTI

08013210 as per the provisions of Section 17 of the Customs Act, 1962 or otherwise;

(ii) Whether the seized goods imported vide above mentioned Bills of Entry should be confiscated under Section 111(d) and 111(m) of the Customs Act, 1962 or otherwise;

(iii) Whether, Penalty be imposed on M/s. Shree Momaikrupa under Section 112 of the Customs Act, 1962 or otherwise;

25.2 I find that the noticee, under Bills of Entry Nos. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025, has imported goods under the description "Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)", classifying the same under CTH 23080000 – *Vegetable Materials and Vegetable Waste, Vegetable Residues and by-products, whether or not in the form of pallets, of a kind used in Animal Feeding, not elsewhere specified or included* at Pipavav port, declaring the Assessable Value at Rs.96,87,370/-, from Vietnam claiming the benefit of preferential rate of duty under Notification No. 046/2011 – Customs dated 01.06.2011. Further, they had previously also imported the same goods under Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025.

25.3 I find that imported goods were subject to examination by the Officers of DRI, Ahmedabad Zonal Unit along with the Officer of Custom House, Pipavav in presence of two independent witnesses and the representative of Customs Broker's firm M/s. A.B. Cargo Logistics Private Limited (on behalf of the importer) under Panchnama dated 30.10.2025. The representative samples of the imported goods were drawn and sent to Central Revenue Chemical Laboratory (CRCL), New Delhi. The CRCL, New Delhi vide their test report dated 18.12.2025 had informed that the tested parameters were within the specified limit for compound feeds for cattle as per IS 2052L2023. However, CRCL, New Delhi expressed their inability to comment on "the fit for human consumption" part as the exact identity of the sample was not known. Therefore, the samples were sent to National Forensic Sciences University (NFSU), Gandhinagar on 19.12.2025 in order to verify the exact identity of the representative sample. For better understanding the outcome of report sent by the NFSU, Gandhinagar portion of the same is reproduced as under;

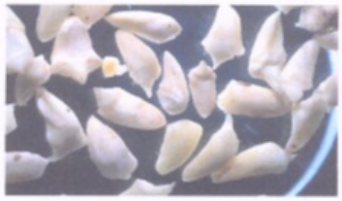
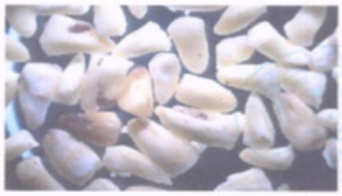
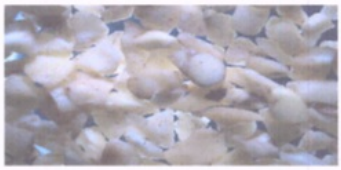
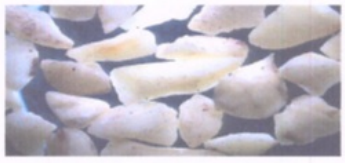
Investigation Observations:

Supporting Documents:

1. Microscopic Observation of Sample

The samples comprise a heterogeneous mixture of kernels exhibiting variation in shape, size, and colour. Owing to this heterogeneity, each sample was segregated into four distinct kernel categories for the purpose of microscopic evaluation, as described below:

1. Kernel Type 1: Whole kernels, comparatively intact and of better quality among all kernel categories.
2. Kernel Type 2: Slightly broken kernels exhibiting brownish discoloration.
3. Kernel Type 3: Extremely broken kernels with pronounced brown discoloration.
4. Kernel Type 4: Irregularly shaped, broken kernels showing maximum brown discoloration among all kernel categories.

Sample Details	Observation
Sample A/1 Kernal 1	
Sample A/1 Kernal 2	
Sample A/1 Kernal 3	
Sample A/1 Kernal 4	

2. DNA Analysis:

Based on DNA analysis, the sample comprises broken nut kernel fragments, which are identified as *Anacardium occidentale* (Cashew).

3. Moisture Analysis

Sr. No.	Details of Sample	Result	Limit
1.	Sample A/1	6.60%	5.0% as per FSSAI
2.	Sample B/1	5.19%	5.0% as per FSSAI
3.	Sample C/1	6.69%	5.0% as per FSSAI
4.	Sample D/1	5.09%	5.0% as per FSSAI
5.	Sample E/1	5.84%	5.0% as per FSSAI

Conclusion: The samples show elevated moisture content beyond acceptable limits, which is indicative of degradation and compromised quality.

I find that as per the *'Microscopic Observation of Samples'* the Test Report of NFSU, Gandhinagar, the imported goods were reported as '*material comprises heterogeneous mixtures of kernels exhibiting variation in size, shape and colour.' Further as per the DNA analysis* imported goods were reported as *'the sample comprise broken nut kernel fragments, which are identified as Anacardium occidentale (Cashes).* Therefore, the test report by NFSU, Gandhinagar established that the imported goods were nothing but broken cashew nuts. All types of shelled cashew kernels broken falls under the CTH 08013210 (Cashew Kernel, broken).

25.4 I further find that during investigation Statement of Shri Laljibhai Samatbhai Susara, Proprietor of M/s Shree Momaikrupa Enterprises was recorded under Section 108 of Customs Act, 1962 on 31.01.2026; wherein he interalia stated that his firm has been engaged in import of Broken Cashew Nuts from Vietnam through Customs, Pipavav Port and through Customs, Nhava Sheva Port; that the imported goods at Pipavav Port have been Cashew Nuts which were in broken condition. He further stated that the imported cashew nuts were sold to a firm based at Mumbai namely M/s. Jasoda Impex.

25.5 Regarding previously imported goods under Bills of Entry No. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025 Shri Laljibhai Samatbhai Susara, Proprietor of M/s

Shree Momaikrupa Enterprises, in his statement recorded under Section 108 of Customs Act, 1962 on 02.02.2026 admitted that all the goods imported previously under the above referred Bills of Entry were broken cashew nuts. He further stated that all the imported goods were sold to M/s. Jasoda Impex, Mumbai and the delivery of imported goods were made directly from Pipavav port to the buyers' premises. He further admitted and confirmed that the imported goods vide the above Bills of Entry were also broken cashew nuts and they were imported from Vietnam and classified at CTH 23080000 and the goods imported were described as "Agricultural Rejected Nut Pieces, Residues and Waste (A kind used in animal feed unfit for Human Consumption)"; however, he confirmed and stated the imported goods are broken Cashew Nuts.

25.6 Further, I find that Shri Mahesh Shivji Bhanushali, Proprietor of M/s Jasoda Impex, in his statement dated 10.04.2026 recorded under Section 108 of the Customs Act, 1962, stated that M/s Jasoda Impex had been purely a trading firm and he purchased goods through brokers and sold them to buyers through brokers. He further stated that he had procured imported goods mainly from two suppliers namely M/s Shree Momaikrupa Enterprises and M/s Supreme International. He agreed that they were dealing with Nutrition food items and retail business respectively. He stated and confirmed that the imported goods purchased from M/s. Shree Momaikrupa Enterprises were broken cashew nuts and the description of the goods mentioned in the purchase documents were relied and the same description has been mentioned at the sale documents. Further, the documents submitted during the course of search proceeding and statement of the proprietor of M/s. Jasoda Impex, revealed that the goods purchased by them from M/s. Shree Momaikrupa Enterprise were broken cashew nuts.

25.7 In view of above I observe that the goods imported by the noticee (Under Bills of Entry No. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025 and 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025) were broken cashew kernels and rightly classifiable under CTH 08013210 and therefore the claim of the noticee that the said goods were "Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption" classifiable under CTH 23080000 – Vegetable Materials and Vegetable Waste, Vegetable Residues and by-products, whether or not in

the form of pallets, of a kind used in Animal Feeding, not elsewhere specified or included', is not correct and not tenable.

25.8 Further, I find that as per the DGFT Notification No. 59/2015-20 dated 21.02.2023, the import of shelled Cashew Kernels, broken is prohibited for its importation, unless CIF Value is above Rs. 680 per kg. The noticee had declared CIF value of the imported goods as Rs. 83/-per kg., Rs. 71.88 per kg., Rs.71.11/- per Kg and Rs. 71.57/- per kg, which is far below the MIP fixed by the DGFT Notification and therefore import of the said goods i.e. Cashew Kernels, broken were prohibited and hence M/s. Shree Momaikrupa were not eligible to import the same. I also find that the noticee had also claimed the benefit of the preferential rate of duty under Notification No. 046/2011 – Customs dated 01.06.2011 classifying the imported goods under CTH 23080000 but as discussed supra the said imported goods were rightly classifiable under CTH 08013210 and therefore they were not eligible to claim the benefit of the preferential rate of duty under Notification No. 046/2011 – Customs dated 01.06.2011.

25.9 I find that the noticee has contended the veracity of statement of Shri Mahesh Shivji Bhanushali, Proprietor of M/s Jasoda Impex and sought cross examination. They submitted that his statement has been recorded as per say of the officer of the revenue and that his recorded statement does not reflect the correct facts. In this connection I find that his statement was recorded under Section 108 of the Customs Act, 1962. I find that his statement is not the only base of allegation made by the department but the same is supported by the evidences such as test reports and documents submitted during search proceedings. I also find that the proprietor of the firm has also admitted the facts regarding illegally import of impugned goods.

25.10 Further, I find that during cross examination held on virtual mode on 10.09.2026 Shri Mahesh Shivji Bhanushali, Proprietor of M/S Jasoda Impex on being asked by Shri R.K. Tomar, advocate, replied that he has purchased the goods in this case from M/s Momaikrupa Enterprise as cattle feed and sold the same as cattle feed. He further replied that these, goods are normally purchased and sold as cattle feed. On being asked by Shri R.K. Tomar, advocate that under his statement dated 10.04.2026 under question No. 4, 7 and 11 it is mentioned that the goods were 'Broken Cashew Nuts', but nowhere he clarified that the said goods were

purchased and sold as cattle feed, he replied that he was not aware that much however he had purchased and sold the goods as cattle feed. He further stated that he purchase the goods in quantity in his warehouse and sale the same from warehouse and such goods are not fit for human consumption.

In order to verify what he has stated in his statement dated 10.04.2026 recorded under Section 108 of the Customs Act, 1962 before the Customs officer I have gone through the same. I find that Shri Mahesh Shivji Bhanushali in his statement dated 10.04.2026, stated that he procured imported goods from the noticee and the goods described in invoices as 'Agriculture waste/ residue-animal feed'. He further stated that he physically inspected the goods received from the noticee and the goods were broken cashew nuts. I find that he also stated that he used to keep the purchased goods at the cold storage facility of M/s Dhara Cold Storage and also submitted three copies of invoices. He was also made to peruse the statement of Shri Laljibhai Samatbhai Susara, proprietor of M/s Shree Momaikrupa Enterprise and panchnama dated 10.04.2026 drawn at the registered premises of M/s Jasoda Impex. For clarity I reproduce the relevant portion of his statement as under;

Q4. Please state from whom you procured Imported goods during the period from April, 2025.

Ans. I state that I had procured imported goods mainly from two suppliers namely M/s Shree Momaikrupa Enterprises and M/s Supreme International. Both suppliers were supplied goods which were described in invoices as Agricultural waste/residue - animal feed.

Q 5. Kindly Peruse the panchnama dated 10.04.2026 at M/s Jasoda Impex and offer your comments.

Ans : I perused the panchanma dated 10.04.2026, drawn at the registered premises of M/s. Jasoda Impex and I put my signature on the same in token of perusal of the same. I state that I agreed with the content of the panchanama and its true and correct.

Q7. Please state whether you physically inspected the goods received from M/s Shree Momaikrupa Enterprises and describe their appearance.

Ans. I state the I was physically inspected the goods received from M/s. Shree Momaikrupa Enterprise and I state that the purchased imported goods were broken cashew nuts.

Q 8 : Please inform whether you have any storage facility for stocking the purchase goods.

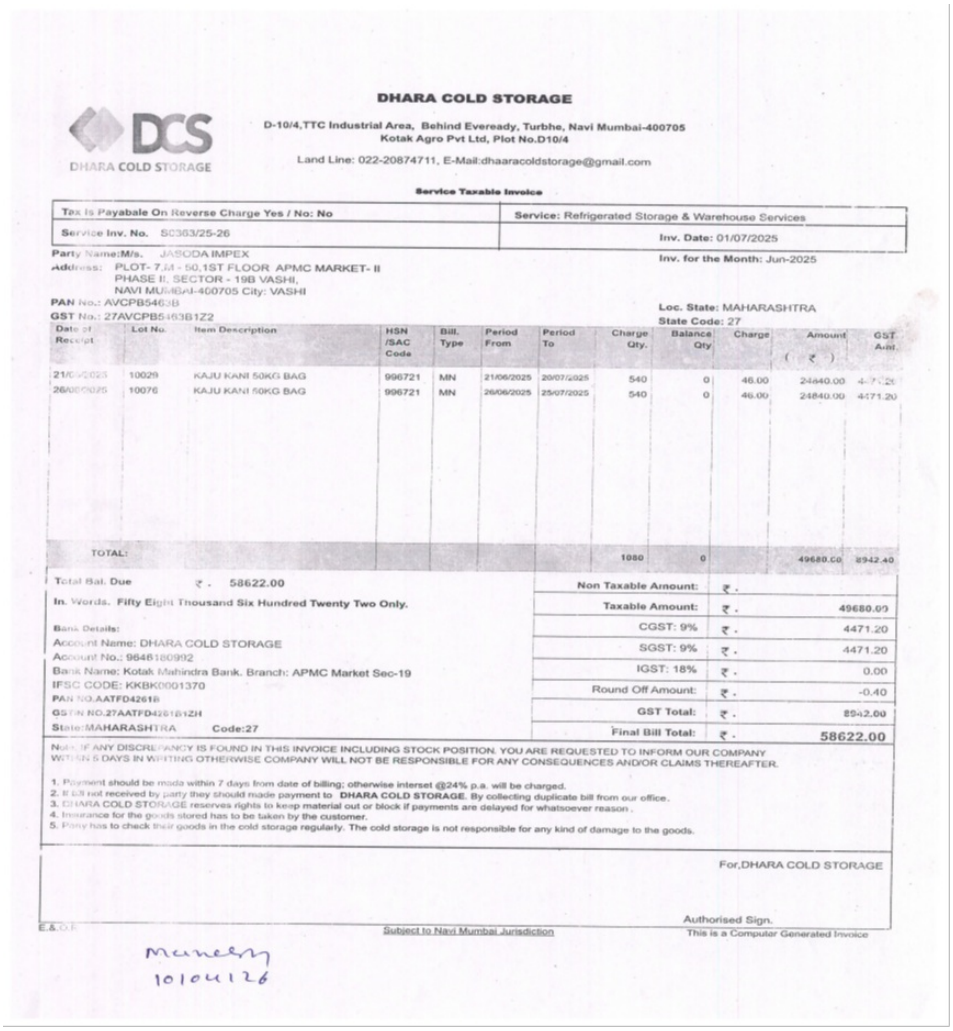
Ans : I state I do not have any storage facility for storage of goods purchased. I further state that in cases where purchased goods were required to keep for

certain period for sale, I used to keep the purchased goods at Cold Storage facility of M/s. Dhara Cold Storage. I hereby produce invoice of M/s. Dhara Cold Storage for keeping our goods at their facility.

Q11. In the statement of Shri Laljibhai Samatbhai Susra, Proprietor of M/s. Shree Momaikrupa Enterprise, he informed that they imported broken cashew nuts and sold the same to M/s Jasoda Impex. What do you say.

Ans. I state and confirm that the imported goods purchased goods from M/s Shree Momaikrupa Enterprises were broken cashew nuts and the description of the goods mentioned in the purchase documents were relied and the same description has been mentioned at the sale documents

I am also reproducing copy of invoices of cold storage submitted by Shri Mahesh Shivji Bhanushali, as under;



DHARA COLD STORAGE

DCS DHARA COLD STORAGE

D-10/4,TTC Industrial Area, Behind Eveready, Turbhe, Navi Mumbai-400705
Kotak Agro Pvt Ltd, Plot No.D10/4

Land Line: 022-20874711, E-Mail:dhaaracoldstorage@gmail.com

Service Taxable Invoice

Tax Is Payabale On Reverse Charge Yes / No: No	**Service:** Refrigerated Storage & Warehouse Services
Service Inv. No. SC363/25-26	**Inv. Date:** 01/07/2025

Party Name:M/s. JASODA IMPEX
Address: PLOT- 7,M - 50,1ST FLOOR APMC MARKET- II PHASE II, SECTOR - 19B VASHI, NAVI MUMBAI-400705 City: VASHI

Inv. for the Month: Jun-2025

PAN No.: AVCPB5463B
GST No.: 27AVCPB5463B1Z2

Loc. State: MAHARASHTRA
State Code: 27

Date of Receipt	Lot No.	Item Description	HSN /SAC Code	Bill. Type	Period From	Period To	Charge Qty.	Balance Qty	Charge (₹)	Amount (₹)	GST Amt
21/06/2025	10029	KAJU KANI 50KG BAG	996721	MN	21/06/2025	20/07/2025	540	0	46.00	24840.00	4471.20
26/06/2025	10076	KAJU KANI 50KG BAG	996721	MN	26/06/2025	25/07/2025	540	0	46.00	24840.00	4471.20
TOTAL:							1080	0		49680.00	8942.40

Total Bal. Due ₹. 58622.00

In. Words. Fifty Eight Thousand Six Hundred Twenty Two Only.

Bank Details:
Account Name: DHARA COLD STORAGE
Account No.: 9846180992
Bank Name: Kotak Mahindra Bank. Branch: APMC Market Sec-19
IFSC CODE: KKBK0001370
PAN NO.AATFD4261B
GSTIN NO.27AATFD4261B1ZH
State:MAHARASHTRA Code:27

Non Taxable Amount:	₹.	
Taxable Amount:	₹.	49680.00
CGST: 9%	₹.	4471.20
SGST: 9%	₹.	4471.20
IGST: 18%	₹.	0.00
Round Off Amount:	₹.	-0.40
GST Total:	₹.	8942.00
Final Bill Total:	₹.	58622.00

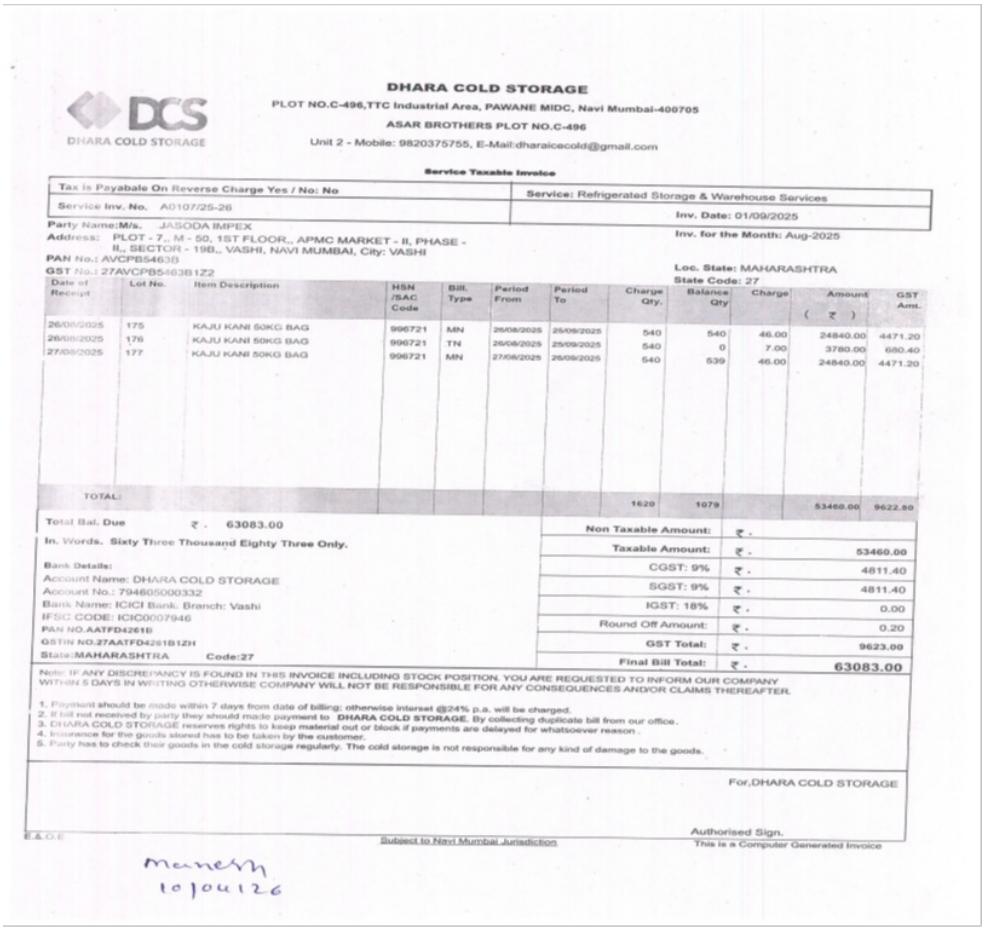
Note: IF ANY DISCREPANCY IS FOUND IN THIS INVOICE INCLUDING STOCK POSITION. YOU ARE REQUESTED TO INFORM OUR COMPANY WITHIN 5 DAYS IN WRITING OTHERWISE COMPANY WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENCES AND/OR CLAIMS THEREAFTER.

1. Payment should be made within 7 days from date of billing; otherwise interset @24% p.a. will be charged.
2. If bill not received by party they should made payment to **DHARA COLD STORAGE**. By collecting duplicate bill from our office.
3. DHARA COLD STORAGE reserves rights to keep material out or block if payments are delayed for whatsoever reason.
4. Insurance for the goods stored has to be taken by the customer.
5. Party has to check their goods in the cold storage regularly. The cold storage is not responsible for any kind of damage to the goods.

For,DHARA COLD STORAGE

E.&.O.E. Subject to Navi Mumbai Jurisdiction Authorised Sign. This is a Computer Generated Invoice

Maheshy
10104126



DHARA COLD STORAGE
PLOT NO.C-496,TTC Industrial Area, PAWANE MIDC, Navi Mumbai-400705
ASAR BROTHERS PLOT NO.C-496
Unit 2 - Mobile: 9820375755, E-Mail:dharaicecold@gmail.com

Service Taxable Invoice

Tax is Payabale On Reverse Charge Yes / No: No
Service: Refrigerated Storage & Warehouse Services
Service Inv. No. A0107/25-26
Inv. Date: 01/09/2025
Party Name:M/s. JASODA IMPEX
Address: PLOT - 7,, M - 50, 1ST FLOOR,, APMC MARKET - II, PHASE - II,, SECTOR - 19B,, VASHI, NAVI MUMBAI, City: VASHI
Inv. for the Month: Aug-2025
PAN No.: AVCPB5463B
GST No.: 27AVCPB5463B1Z2
Loc. State: MAHARASHTRA
State Code: 27

Date of Receipt	Lot No.	Item Description	HSN /SAC Code	Bill. Type	Period From	Period To	Charge Qty.	Balance Qty	Charge	Amount (₹)	GST Amt.
26/08/2025	175	KAJU KANI 50KG BAG	996721	MN	26/08/2025	25/09/2025	540	540	46.00	24840.00	4471.20
26/08/2025	176	KAJU KANI 50KG BAG	996721	TN	26/08/2025	25/09/2025	540	0	7.00	3780.00	680.40
27/08/2025	177	KAJU KANI 50KG BAG	996721	MN	27/08/2025	26/09/2025	540	539	46.00	24840.00	4471.20
TOTAL:							1620	1079		53460.00	9622.80

Total Bal. Due ₹ . 63083.00
In. Words. Sixty Three Thousand Eighty Three Only.

Bank Details:
Account Name: DHARA COLD STORAGE
Account No.: 7946050003332
Bank Name: ICICI Bank. Branch: Vashi
IFSC CODE: ICIC0007946
PAN NO.AATFD4261B
GSTIN NO.27AATFD4261B1ZH
State:MAHARASHTRA Code:27

Non Taxable Amount:	₹ .	
Taxable Amount:	₹ .	53460.00
CGST: 9%	₹ .	4811.40
SGST: 9%	₹ .	4811.40
IGST: 18%	₹ .	0.00
Round Off Amount:	₹ .	0.20
GST Total:	₹ .	9623.00
Final Bill Total:	₹ .	63083.00

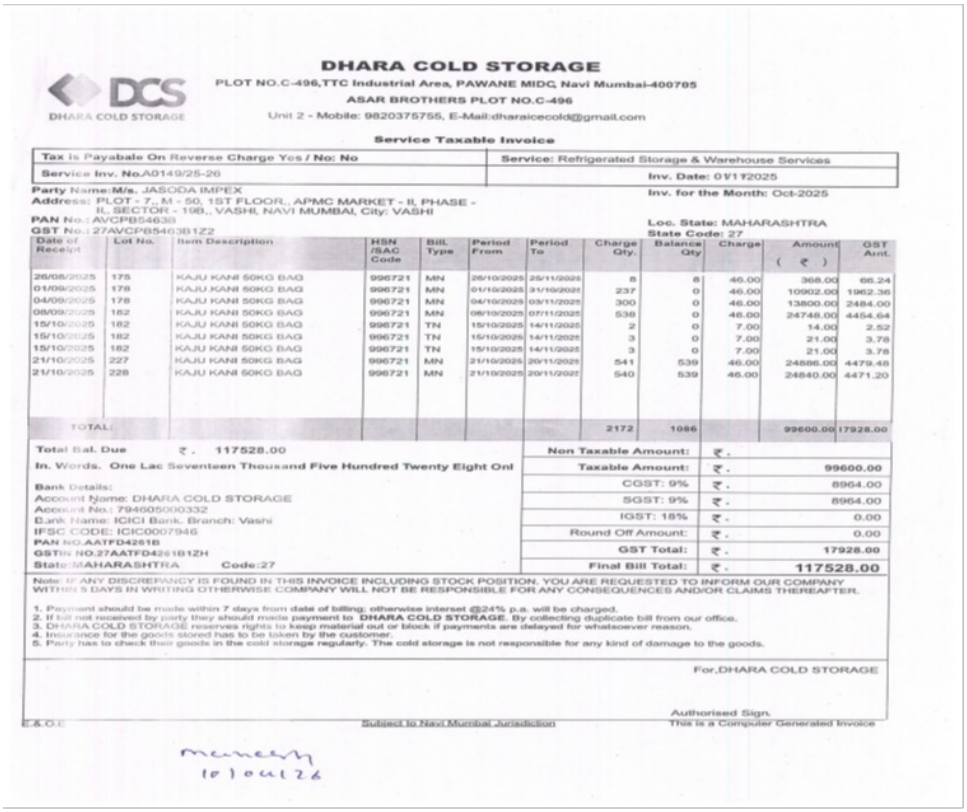
Note: IF ANY DISCREPANCY IS FOUND IN THIS INVOICE INCLUDING STOCK POSITION. YOU ARE REQUESTED TO INFORM OUR COMPANY WITHIN 5 DAYS IN WRITING OTHERWISE COMPANY WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENCES AND/OR CLAIMS THEREAFTER.

1. Payment should be made within 7 days from date of billing; otherwise interset @24% p.a. will be charged.
2. If bill not received by party they should made payment to DHARA COLD STORAGE. By collecting duplicate bill from our office.
3. DHARA COLD STORAGE reserves rights to keep material out or block if payments are delayed for whatsoever reason .
4. Insurance for the goods stored has to be taken by the customer.
5. Party has to check their goods in the cold storage regularly. The cold storage is not responsible for any kind of damage to the goods.

For,DHARA COLD STORAGE

E & O.E Subject to Navi Mumbai Jurisdiction Authorised Sign. This is a Computer Generated Invoice

Meneesh
10/04/26



DHARA COLD STORAGE
PLOT NO.C-496,TTC Industrial Area, PAWANE MIDC, Navi Mumbai-400705
ASAR BROTHERS PLOT NO.C-496
Unit 2 - Mobile: 9820375755, E-Mail:dharaicecold@gmail.com

Service Taxable Invoice

Tax is Payabale On Reverse Charge Yes / No: No
Service: Refrigerated Storage & Warehouse Services
Service Inv. No.A0149/25-26
Inv. Date: 01/12/2025
Party Name:M/s. JASODA IMPEX
Address: PLOT - 7,, M - 50, 1ST FLOOR,, APMC MARKET - II, PHASE - II,, SECTOR - 19B,, VASHI, NAVI MUMBAI, City: VASHI
Inv. for the Month: Oct-2025
PAN No.: AVCPB5463B
GST No.: 27AVCPB5463B1Z2
Loc. State: MAHARASHTRA
State Code: 27

Date of Receipt	Lot No.	Item Description	HSN /SAC Code	Bill. Type	Period From	Period To	Charge Qty.	Balance Qty	Charge	Amount (₹)	GST Amt.
26/08/2025	175	KAJU KANI 50KG BAG	996721	MN	26/10/2025	25/11/2025	8	8	46.00	368.00	66.24
01/09/2025	178	KAJU KANI 50KG BAG	996721	MN	01/10/2025	31/10/2025	237	0	46.00	10902.00	1962.36
04/09/2025	178	KAJU KANI 50KG BAG	996721	MN	04/10/2025	03/11/2025	300	0	46.00	13800.00	2484.00
08/09/2025	182	KAJU KANI 50KG BAG	996721	MN	08/10/2025	07/11/2025	538	0	46.00	24748.00	4454.64
15/10/2025	182	KAJU KANI 50KG BAG	996721	TN	15/10/2025	14/11/2025	2	0	7.00	14.00	2.52
15/10/2025	182	KAJU KANI 50KG BAG	996721	TN	15/10/2025	14/11/2025	3	0	7.00	21.00	3.78
15/10/2025	182	KAJU KANI 50KG BAG	996721	TN	15/10/2025	14/11/2025	3	0	7.00	21.00	3.78
21/10/2025	227	KAJU KANI 50KG BAG	996721	MN	21/10/2025	20/11/2025	541	539	46.00	24886.00	4479.48
21/10/2025	228	KAJU KANI 50KG BAG	996721	MN	21/10/2025	20/11/2025	540	539	46.00	24840.00	4471.20
TOTAL:							2172	1086		99600.00	17928.00

Total Bal. Due ₹ . 117528.00
In. Words. One Lac Seventeen Thousand Five Hundred Twenty Eight Onl

Bank Details:
Account Name: DHARA COLD STORAGE
Account No.: 7946050003332
Bank Name: ICICI Bank. Branch: Vashi
IFSC CODE: ICIC0007946
PAN NO.AATFD4261B
GSTIN NO.27AATFD4261B1ZH
State:MAHARASHTRA Code:27

Non Taxable Amount:	₹ .	
Taxable Amount:	₹ .	99600.00
CGST: 9%	₹ .	8964.00
SGST: 9%	₹ .	8964.00
IGST: 18%	₹ .	0.00
Round Off Amount:	₹ .	0.00
GST Total:	₹ .	17928.00
Final Bill Total:	₹ .	117528.00

Note: IF ANY DISCREPANCY IS FOUND IN THIS INVOICE INCLUDING STOCK POSITION. YOU ARE REQUESTED TO INFORM OUR COMPANY WITHIN 5 DAYS IN WRITING OTHERWISE COMPANY WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENCES AND/OR CLAIMS THEREAFTER.

1. Payment should be made within 7 days from date of billing; otherwise interset @24% p.a. will be charged.
2. If bill not received by party they should made payment to DHARA COLD STORAGE. By collecting duplicate bill from our office.
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For,DHARA COLD STORAGE

E & O.E Subject to Navi Mumbai Jurisdiction Authorised Sign. This is a Computer Generated Invoice

Meneesh
10/04/26

25.11 Thus I find that what Shri Mahesh Shivji Bhanushali stated in

cross examination dated 10.09.2026 are only afterthought. He has already stated under his statement dated 10.04.2026 that he has physically inspected the goods received from the noticee and the goods were broken cashew nuts. He also used to keep the purchased goods at the cold storage facility of M/s Dhara Cold Storage wherein the goods are mentioned under invoices as 'Kaju Kani' not as cattle feed. I find that Shri Mahesh Shivji Bhanushali never retracted his statement dated 10.04.2026 at any stage. The statement, being voluntary and recorded under statutory authority, clearly demonstrates knowledge of illegal importation of impugned goods.

25.12 It is further noted that the person has not retracted his statement recorded under Section 108 of the Customs Act, 1962. The statements remain voluntary, consistent, and corroborated by independent documentary and scientific evidence. Even after issuance of the Show Cause Notice dated 23.04.2026, noticee have not disputed the investigation or any of the connected statements. The noticee has himself accepted these facts and never retracted his statements. Noticee's own uncontroverted confessional statements constitute direct and primary evidence of the conspiracy, *mens rea*, and duty evasion.

2 5 . 1 3 I find that the importer M/s Shree Momaikrupa have contended the veracity of statement of dated 31.01.2026 and 02.02.2026 of Shri Laljibhai Samatbhai Susara, proprietor of the importer. I find that Shri Laljibhai Samatbhai Susara never retracted his statement. His statement was recorded under Section 108 of the Customs Act, 1962 wherein he admitted the fact of misclassification of imported goods. Under his second statement dated 02.02.2026 he perused the Panchnama dated 30.10.2025 drawn at Pipavav Port during the examination of the imported goods and stated that the contents of the said Panchnama were true and correct. He further, perused the Panchnama dated 31.01.2026 drawn M/s. Shree Momaikrupa Enterprise, Shop No. 106, Shree Harikrishna Plaza, Near Sardar Chokdi, Atkot and stated that the contents of the statement were true and correct. He further, Perused his earlier statement dated 31.01.2026 recorded under Section 108 of the Customs Act, 1962 and he agreed and confirmed that the statement was recorded as per his say and version and the content of the statement was true and correct. Thus Shri Laljibhai Samatbhai Susara at the second time also admitted the fact of illegal import, misclassification of imported goods. He never retracted his statements and at this state challenging the veracity of what he has

already admitted. I find that in various judgments the statement recorded by the Customs officers under Section 108 of the Customs Act, 1962 has been held as an evidenced and in such cases where the same has not been retracted there is no scope to challenge the genuineness. I rely upon following case laws;

(i) **Shahid Yusuf Qureshi Vs. Commissioner of C.Ex. & Customs, Belapur, reported in 2019 (366) ELT469 (Bom.)** wherein the Hon'ble High Court held that;

> *"5. We find that it is an undisputed position that the show cause notice had been issued to M/s. Mayur Impex for having diverted duty free imported goods into the domestic [tariff] area. Thus, liable for confiscation under Section 111 of the Act. In fact, the order dated 24th March, 2008 upheld the proposal and confiscated the offending goods under Section 111 of the Act. The appellant was also called upon to show cause as to why penalty should not be imposed for having concerned himself with dealing with the goods which he knews or had reason to believe were liable for confiscation under Section 111 of the Act. The appellant himself in his statement made to the Customs on 4th June, 2003 has admitted that he was escorting the duty free imported fabrics into the domestic [tariff] area. This statement which is not been retracted at any point of time, lead to a conclusion that he was engaged in carrying/dealing with the goods which he knew are liable for confiscation. In view of the above undisputed fact that penalty was imposed upon the appellant. The fact that penalty was deleted upon the other co-noticee would not by itself justify deletion of penalty on the appellant. In the case of other three appellants namely; Mr. Govind Khubchandani, Mr. Jairaj Kalyani and Mr. Pawan Lulla, no penalty was imposed as in the case of the above three appellants, a finding of fact was recorded that they have either not dealt with the goods or in case of godown keeper that he had no knowledge that the goods are liable for confiscation. This is not so in the present facts."*

(ii) **Pooja Hardware Pvt. Ltd. vs Commissioner of Customs (Nhava Sheva-III) Mumbai, reported in 2019 (365) ELT 816 (Tri.- Mumbai)** wherein the Hon'ble Tribunal held that ;

> **"5**. *The show cause notice dated 30-9-2014, in paragraph 3, has referred to the statement recorded from the appellant No. 2, who is the Managing Director of the appellant company. The said statement was recorded under Section 108 of the Customs Act, 1962. Pursuant to summon, the appellant No. 2 had stated that the aluminium profiles imported are finished item and sold as such to the customers and that no further processing is done on the imported goods and that the appellant company dispatched those goods directly, in the condition*

as is being imported. The said statement furnished by the appellant No. 2 clearly shows that the disputed goods were intended for specific use, i.e. for furniture fittings. Thus, the imported goods in question, should appropriately be classifiable under CTH 8302 10 90, instead of CTH 7604 29 90, as claimed by the appellant inasmuch as the former chapter only deals with the fittings or accessory of furniture, which the appellant had imported in this case. We find that the Learned Adjudicating Authority by referring to the signed catalogue of "Aluminium Profiles" furnished by the appellant, has recorded specific findings in para 12 at pages 9, 10 and 11 in the impugned order to support the stand of classification of subject goods under CTH 8302 10 90. The appellants have not adduced any material evidence to counter such claim by Revenue. Further, we find that the voluntary statement recorded under summon was never retracted by the appellant at any point of time before adjudication of the matter. Thus, it cannot be said that the product in question should be classifiable under CTH 7604 29 90, instead of CTH 8302 10 90 of CTA, 1975. Hence, we are of the considered view that the adjudged demands confirmed on the appellant company is sustainable under the law."

(iii) **Lakhotia Polyster (India) Pvt. Ltd. vs Commissioner of Customs (Import), reported in 2011 (268) ELT 314 (Bom.)** wherein the Hon'ble Hogh Court held that;

"2.....The Tribunal has recorded a finding that the director of the company in his confessional statement made under Section 108 of the Customs Act, 1962 admitted that there is under valuation. It is not in dispute that the statement made under Section 108 of the Customs Act has not been retracted. In these circumstances, we see no reasons to interfere with the order of the Tribunal. The appeal is accordingly dismissed with no order as to costs."

(iv) **Commissioner of Customs, Lucknow vs Nand Lal Soni, reported in 2011(263) ELT 716 (Tri. Del)** wherein the Hon'ble Tribunal held that;

"5.1.....Both the respondents in their respective statements recorded under Section 108 have stated that they were carrying the silver to Nepal and these statements have not been retracted by them. As held by Hon'ble Supreme Court in the case of Naresh J. Sukhwani reported in 1996 (83) E.L.T. 258 (S.C.) a statement of a person recorded by gazetted customs officer under section 108 inculpating him in contravention of the provisions of Customs Act, if not retracted by the person, is admissible as substantive evidence."

(v) **Amad Noormamad Bakali vs. State of Gujarat reported in 2026(396) ELT 20 (S.C)** wherein the Hon'ble Supreme Court affirmed the finding of the High Court that that voluntary statements under Section 108, in

absence that statements were obtained under coercion, inducement, or threat are admissible and remain strong substantive evidence.

25.14 I find that the Show Cause Notice proposes confiscation of the imported goods under the provisions of Section 111(d) and 111(m) of the Customs Act, 1962. Section 111(d) renders goods liable to confiscation if they are imported contrary to any prohibition imposed under the Act or any other law. Further, Section 111(m) of Customs Act, 1962 renders goods liable to confiscation if they do not correspond in respect of value or in any other particular. For clarity I reproduce the said sections as under;

> *SECTION 111. Confiscation of improperly imported goods, etc. — The following goods brought from a place outside India shall be liable to confiscation : —*
>
> *(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported,* ***contrary to any prohibition*** *imposed by or under this Act or any other law for the time being in force;*
>
> *(m) any goods* ***which do not correspond in respect of value or in any other particular*** *with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54];*

I find that in this case the noticee has imported 'Cashew Kernels, broken' classifiable under CTH 08013210 as discussed supra. As per DGFT Notification No. 59/2015-20 dated 21.02.2023 the said goods are prohibited for its importation, unless CIF Value is above Rs. 680 per kg. The noticee had declared CIF value of the imported goods far below the MIP fixed by the Notification *supra*, therefore the noticee has violated the policy condition applicable for import of goods under CTH 08013210. For clarity I also reproduce the DGFT Notification No. 59/2015-20 dated 21.02.2023 as under;

[To be Published in the Gazette of India Extraordinary Part-II, Section - 3, Sub-Section (ii)]

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. 59 /2015-2020
New Delhi, Dated the 21st February 2023

Subject: Amendment in Import Policy condition of Cashew Kernels (broken/ whole)

S.O. (E): In exercise of powers conferred by Section 3 read with section 5 of Foreign Trade(Development & Regulation) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy (FTP) 2015-2020, as amended from time to time, the Central Government hereby amends the import policy condition of cashew kernels (broken) under ITC(HS) Code 08013210 and cashew kernel (whole) under ITC(HS) Code 08013220 under Chapter-08 of ITC (HS) 2022, Schedule 1 (Import Policy) as under:

ITC (HS) Code	Description	Import Policy	Existing Import Policy	Revised Import Policy
08013210	Cashew kernel, broken	Prohibited	However, import is free if CIF value is above Rs. 680/- per KG.	1. However, import is free if CIF value is above Rs. 680/- per Kg. 2. MIP conditions, however, shall not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ. 3. SEZs and EoUs units shall not be allowed to sell the imported Cashew Kernels into Domestic Tariff Area (DTA).
08013220	Cashew kernel, whole	Prohibited	However, import is free if CIF value is above Rs. 720/- per KG.	1. However, import is free if CIF value is above Rs. 720/- per Kg. 2. MIP conditions, however, shall not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ. 3. SEZs and EoUs units shall not be allowed to sell the imported Cashew Kernels into Domestic Tariff Area (DTA).

Effect of this Notification: Minimum Import Price (MIP) on Cashew kernel (broken / whole) will not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZs subject to the condition that the imported Cashew Kernels are not sold into Domestic Tariff Area (DTA).

This issues with the approval of Minister of Commerce & Industry.

21.2.2023

(Santosh Kumar Sarangi)
Director General of Foreign Trade
Ex-Officio Additional Secretary, Government of India
email: dgft@nic.in

Further, as discussed supra the noticee has imported goods under the description as “Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)”, classifying the same under CTH 23080000. The CTH 23080000 stands for ‘*Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included’.* Whereas, as discussed supra the test reports confirmed the imported goods as ‘Cashew kernel, broken’, classifiable under CTH 08013210. Thus the noticee has misclassified the imported goods. Further, I also find that the noticee has claimed the preferential rate of duty under Notification No. 46/2011-Customs dated 01.06.2011, as amended, which

provides preferential tariff treatment for goods originating from ASEAN countries. But the preferential rate of duty is not available in case of goods under CTH 08013210 and therefore I find that the noticee has by way of misclassification of imported goods claimed inadmissible exemption as envisaged under Notification No. 46/2011.

Therefore, I am of considered view that the imported goods are liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962. Further, the goods which were previously imported and already cleared and not physically available for confiscation, however, I note that the Hon'ble CESTAT, Ahmedabad, in the case of M/s. Van Oord India Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this points were already settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)]. Para 23 of the said Judgment is as follows:

"*The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act ....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.*"

25.15 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd., reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same has not been challenged by any of the parties concerned. Hence, from the above discussion and relying on the above judgements. I find that goods are liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

25.16 I observe that the Show Cause Notice proposed penalties on the noticee under Section 112 of the Customs Act, 1962. In order to examine the same, it is necessary to refer to the provisions of Section 112 of the Customs Act, 1962, which are reproduced as follows:

SECTION 112. Penalty for improper importation of goods, etc. — Any person, -

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which ***any prohibition*** *is in force under this Act or any other law for the time being in force****, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater****;*

[(ii) in the case of dutiable goods, other than prohibited goods, 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 :

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

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

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

25.17 As discussed supra the noticee has imported goods under the description as "Agricultural Rejected Nut pieces and waste (a kind used in animal feed, unfit for human consumption)", classifying the same under CTH 23080000 – *Vegetable Materials and Vegetable Waste, Vegetable Residues and by-products, whether or not in the form of pallets, of a kind used in Animal Feeding, not elsewhere specified or included* claiming the benefit of preferential rate of duty under Notification No. 046/2011 – Customs dated 01.06.2011. I find that the imported goods in fact were 'Cashew Kernels, broken' which are rightly classifiable under CTH 08013210. I also find that as per the DGFT 59/2015-20 dated 21.02.2023 the goods falls under the 'prohibited' category for import unless the CIF Value of the same is above Rs. 680/- per Kg. In this case the declared value of imported goods are far below than the threshold limit under DGFT Notification, as already discussed supra. I also find that the Proprietor of the noticee under his statement dated 02.02.2026 admitted regarding the said prohibition. Therefore, I hold that the act of the noticee had rendered the goods liable for confiscation under Section 111 of the Customs Act, 1962 and hence rendered themselves liable for penalty under Section 112(a) of the Customs Act, 1962.

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

ORDER

(i) I hereby reject the description of the goods imported vide Bills of Entry Nos. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025 and the goods which were imported and the goods imported and cleared vide Bills of Entry Nos. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025 and re-determine the same as "Cashew Kernels, broken".

(ii) I hereby reject the self-assessment made by the noticee, with respect to the goods imported vide Bills of Entry Nos. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025 and the goods which were imported and cleared vide Bills of Entry Nos. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025, under CTH 23080000 and re-classify the same under CTH 08013210 as per the provisions of Section 17 of the Customs Act, 1962. I also order to re-assess the imported goods denying the benefit under Notification 046/2011-Customs dated 01.06.2011 as amended and considering the minimum import price at Rs. 680 Per Kg.

iii) I order for confiscation of goods imported vide Bills of Entry Nos. 5245651, 5245989, 5246571, 5246839 and 5247239 all dated 22.10.2025, with aggregate declared value of Rs. 96,87,370/- and aggregate Minimum Import Price on total quantity of 135 MTs arrived at Rs. 9,18,00,000/-, considering Rs. 680 Per Kg., under Section 111(d) and 111(m) of the Customs Act, 1962. However, I give the importer an option to redeem the aforesaid goods upon payment of redemption fine of Rs. 1,37,70,000 (Rupees one crore thirty seven lakhs seventy thousand only) under Section 125(1) of the Customs Act, 1962, in lieu of confiscation.

(iv) I order for confiscation of goods imported and cleared previously vide Bills of Entry Nos. 3900814 dated 14.08.2025, 4136944 dated 27.08.2025 and 4683058 dated 23.09.2025, with aggregate declared value of Rs. 76,36,791/- and aggregate Minimum Import Price on total quantity of 108 MTs arrived at Rs. 7,34,40,000/- considering Rs. 680 per kg, notwithstanding their present unavailability, under Section 111(d) and 111(m) of the Customs Act, 1962. I impose redemption fine of Rs.1,10,16,000 (Rupees one crores ten lakhs sixteen thousand only) under Section 125(1) of the Customs Act, 1962, in lieu of confiscation.

(v) I impose penalty of Rs.2,50,00,000/(Rupees Two crore fifty lakhs only) under Section 112 (a) of the Customs Act, 1962.

27. This order is issued without prejudice to any other action that may be taken against the importer/Noticee or any other person under the

Customs Act, 1962 or any other law for the time being in force.

Digitally signed by
Dinesh Singh
Date: 25-09-2026
11:43:05

(**DINESH SINGH**)

Commissioner,

Customs (Prev.), Jamnagar

F. No. CUS/3768/2026-Adjn.

Date: As esigned

By Speed Post/ Email:

To
M/s. Shree Momaikrupa Enterprise (IEC: LCTPS2689P),
106, First Floor, R.S. Number 348/2 and 3,
Shree Harikrishna Plaza, Atkot,
Jasdan, Gujarat - 360040

Copy to:

1. The Additional Director General, Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad for information
2. The Additional Director, Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad for information
3. The Deputy Commissioner, Customs House, Pipavav for information
4. Guard file