



कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा,

सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,

CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421

PHONE:02838-271426/271423 FAX:02838-271425 Email: adj-mundra@gov.in

A. File No.	: F.No.: GEN/ADJ/COMM/455/2024-Adjn-O/o Pr Commr-Cus-Mundra
B. Order-in-Original No.	: MUN-CUSTM-000-COM-28-2025-26
C. Passed by	: Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	: 15.10.2025 15.10.2025
E. SCN No. & Date	: SCN F.No. GEN/ADJ/COMM/455/2024-Adjn-Pr Commr-Cus-Mundra, dated 18.10.2024.
F. Noticee(s) / Party / Importer	: 1. M/s Manek Rathi Agri Products, Survey No 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110 2. Shri Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, Survey No. 175, Sanand Bavala Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110, resident of 501, Karmashreshtha Tower, Opposite Nataraj Medical Store, Satellite, Ahmedabad, Gujarat-380015
G. DIN	: DIN-20251071MO000000C683

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, परिचम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ड्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के साथ - / 1000 रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बैंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मद्दसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the 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.

6. अपील जापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

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

8. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

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

BRIEF FACTS OF THE CASE-

Whereas, a specific intelligence was received in the office of the Directorate of Revenue Intelligence (Hqrs.), 7th Floor, Drum Shaped Building, I.P. Bhawan, I.P.Estate, New Delhi (hereinafter referred to as 'DRI') which indicated under-valuation in the export of rice. The intelligence further indicated that after imposition of duty on export of rice with effect from 09.09.2022, several exporters including M/s Manek Rathi Agri Products (IEC: ABHFM3589Q) having its registered office at Survey No 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110 (hereinafter referred to as 'the said noticee' for sake of brevity), were engaged in short payment of export duty by resorting to undervaluation by claiming abatement of duty from the assessable value. Thus, export duty was not being paid on the transaction value of the export goods (i.e. FOB Value) as provided u/s 14 of the Customs Act, 1962, instead the same was being paid on a reduced value by wrongly declaring the same as FOB Value thus causing short-payment of the appropriate duty of Customs.

2.1 Preliminary analysis of the Intelligence revealed that export duty at the rate of 20% *ad valorem* was imposed on export of rice vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022.

2.2 Scrutiny of the export data pertaining to the said noticee revealed that the said noticee were evading duty on export of rice by adopting four different methods i.e. (i) by claiming wrongful deduction of export duty from the transaction value; (ii) by covertly taking reimbursement of export duty from the overseas buyer (against Debit Notes) without even claiming the same as deduction; (iii) by declaring excess freight amounts.

2.3 The said noticee used to negotiate a specific price for sale of their export consignment which was received by them from the overseas buyer as 'consideration' for sale of rice. Thus, the '**consideration/negotiated price**' was '**the actual transaction value**' for their export consignment on which the said noticee ought to have paid the 20% export duty. However, to evade duty, the said noticee had artificially bifurcated the aforesaid negotiated price/total consideration, in two parts i.e. (i) '**price of goods**' and (ii) '**export duty amount**'. The said noticee had declared the reduced value '**price of goods**' as their transaction value and the other part of the consideration which was equal to the '**export duty amount**' was not included by them in their '**transaction value**'. Instead the same was claimed as 'deduction' and was declared in the Shipping Bills under the Head "Deduct/Deduction". Thus a part of consideration, equal to the export duty amount, was not included in the transaction value for payment of export duty causing short payment of duty.

2.4 In some cases, the notice had recovered 'the export duty amount' separately from the overseas buyer without even declaring the same in their export invoice and without claiming the same as 'deduction'. The amounts so recovered from the overseas buyer were also part of their consideration for sale. Thus, a part of consideration, was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.5 In several other cases of export of rice on CIF/CF incoterm basis, investigation revealed that the said noticee had declared excess freight amounts than the actual freight amounts paid by them to the shipping lines/freight forwarders. In such shipments, FOB price is deduced from the CIF/CF prices by deducting the actual freight amounts paid by the said noticee. By claiming excess freight amounts in the shipping bills, the said noticee had wrongly deducted a part of the consideration/transaction value which is equal to the excess freight amounts claimed by them. Thus, a part of consideration was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.6 From the preliminary scrutiny of the export data, discussed in above paras, it appeared that the said noticee had treated the actual transaction value (i.e. actual FOB Value) of their export goods as cum-duty FOB Value and they have declared the lesser transaction value by wrongly claiming abatement of duty from the actual transaction value. By adopting the above mentioned modus operandi, the said noticee had been evading the payment of duty on the differential value between the actual transaction value of the export goods (i.e. FOB Value) and their declared reduced FOB value.

2.7 Valuation of the goods is covered by Section 14 of the Customs Act, 1962 which provides that 'the value of the export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation. Further, Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR, 2007) notified vide [M.F. (D.R.) Notification No. 95/2007-Cus (N.T.), dated-13-09-2007] also provide that value of the export goods shall be its transaction value. Rule 2 (1) (b) of the CVR, 2007 defines the term 'transaction value' as the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962. Further, rule 3(1) of CVR, 2007 also stipulates that subject to rule 8 (providing for rejection of the declared value), the value of export goods shall be the transaction value. CVR, 2007 came into effect from 10.10.2007.

2.8 This practice of payment of export duty on cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard stipulated that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

Initiation of investigation:

3. Pursuant to the afore-said intelligence and evident undervaluation of the export goods, investigation was initiated against M/s Manek Rathi Agri Products having its registered office at Survey no 175, Sanand Bavla Road, Pipan Gam, Tehsil -Sanand, Gujarat - 382110 (bearing Importer Exporter Code No. ABHFM3589Q), by issuance of summons under the provisions of section 108 of the Customs Act, 1962. It was a partnership firm owned by the close family members of Sh. Jayesh Rathi.

3.2 Vide summons dated 16.08.2023, 19.01.2024, 31.01.2024, 04.03.2024, 04.07.2024, 23.07.2024 & 08.08.2024 documents related to the investigation were requested from M/s Manek Rathi Agri Products and their partners. In pursuance to the afore-said summons issued u/s 108 of the Customs Act, 1962, Sh. Jayesh Rathi, partner of M/s Manek Rathi Agri Products vide letters/communications dated 05.09.2023 (**RUD-1**), letter dated 26.09.2023 (**RUD-2**), letter dated 31.01.2024, 01.02.2024, 18.03.2024 (**RUD-3**), 30.03.2024 (**RUD-3**) & 08.08.2024 (**RUD-4**), submitted copies of their export documents for export of rice made by their export firm along with other documents relevant to the investigation.

3.3 DRI vide email dated 04.07.2024 and 23.07.2024 sought details of total payment received by M/s Manek Rathi Agri Products in respect of each shipping bill along with details of expenses made by them towards payment of ocean freight and insurance. In response, vide email dated 31.07.2024 (**RUD-5**), M/s Manek Rathi Agri Products submitted details of total payments received in respect of each shipping bill and details of expenses made by them towards payment of ocean freight & insurance charges in respect of consignments exported on CF/ CI/ CIF Incoterm basis.

4. During investigation, statements of Sh. Jayesh Rathi, Partner of M/s Manek Rathi Agri Products was recorded u/s 108 of the Customs Act, 1962 on 05.09.2023 (RUD-6), 19.03.2024 (RUD-7), & 08.08.2024 (RUD-8). Further statement of Sh. Ashok Rathi, another partner of M/s Manek Rathi Agri Products was also recorded u/s 108 of the Customs Act, 1962 on 05.09.2023 (RUD-9).

4.1 In his statement recorded under section 108 of the Customs Act, 1962 on 05.09.2023, Sh. Jayesh Rathi, Partner, M/s Manek Rathi Agri Products, inter alia stated that M/s Manek Rathi Agri Products was a family owned partnership firm wherein apart from him, his father Sh. Ashok Rathi, his mother Smt. Shakuntala Rathi, his uncle Sh. Chetan Rathi and his auntie Smt. Parveena Rathi were the partners; that the said firm was incorporated in the year 2018; that he looks after the whole business of the said company.; that M/s Manek Rathi Agro Products was engaged in the business of production/milling and trading of Rice; that trading included domestic trading in India as well as exports to African countries through traders based in Singapore and Dubai;

4.2 On being asked **Sh. Jayesh Rathi** further stated that M/s Manek Rathi Agro Products exported IR64 parboiled Rice and IR64 white rice; that around 60% of the exported rice was produced in their own mill/factory and around 40% rice was procured from other traders through local commission agents; that for export of the rice they had executed purchase contracts or raised proforma invoice to foreign buyers; that their major buyers were M/s Swiss Singapore Overseas Enterprise Pte Ltd (now known as Aditya Birla Global Trading Pte Ltd.), Singapore, M/s MOI International (Singapore) Pte Ltd., M/s Darshan Kripa Genral Trading LLC, Dubai etc.; that the rice purchased by the above mentioned traders/buyers was consigned to third party buyers; that most of their shipments were consigned to African countries; that the rice was exported in PP or BOPP bags of capacity 25kgs or 50 kgs; that the packaging bags were marked with the buyer's brand name or the description provided by the buyer; that the price of the bags used was also included in the price of the rice exported; that the payment term were usually 100% CAD (cash against documents) i.e. they used to submit the export documents to their bank in India which provided the same to the bank of the buyer in foreign country, the bank of the buyer then used to notify the buyer about receipt of the documents; that the buyer used to release the payment which was received in their bank account.

4.3 On being asked to see and explain the contents of the documents submitted by him vide his letter dated 05.09.2023 (page no. 118 to 130 & 139 to 143), he stated that he has seen a purchase contract No. MPR220303 dated 19/10/2022 executed by their export firm M/s Manek Rathi Agri Products with the overseas buyer namely M/s MOI International (Singapore) Pte Ltd. Singapore; that the details of the said purchase contract were as mentioned below:

- i. Seller Name: M/s Manek Rathi Agri Products
- ii. Buyer Name: M/s MOI International (Singapore) Pte Ltd
- iii. Commodity: Indian White Rice
- iv. Quantity: 115 MTs
- v. Price: **USD 475 per MT**
- vi. Total Contract value: USD 54,625.00
- vii. Basis: CFR (Cost & Freight)
- viii. Destination: Maputo, Mozambique

That the said document was a purchase contract executed by them with M/s MOI International (Singapore) Pte Ltd. for supply of 115 MTs of Indian White Rice at the rate of USD 475.00 per MTs on CFR incoterm basis.

4.4 On being asked to see the SB no 5231541 dated 03.11.2022, and corresponding supporting documents such as commercial Invoice no. MR/0854/22-23 dated 03.11.2022 and Debit Note No. 24/22-23 dated 06.12.2022 and explain the same, he stated that the said Shipping bill shown to him was for the shipment of 100 MTs of Indian White Rice exported to M/s MOI Foods Mozambique LDA. Mozambique by M/s Manek Rathi Agri Products, at a price of **USD 475 per MT** (Total value USD 47500); that the corresponding commercial invoice no for the said shipment was bearing no. MR/0854/22-23 dated 03.11.2022; that the price mentioned in the said invoice was **USD 413 per MT** (total amount 41300 for 100 MTs cargo).

Sr. no.	Particulars	Details as per Contract	Details as per Shipping bill	Details as per Invoice	Details as per Debit Note
1	Document no	MPR220303 dated 19/10/2022	5231541 dated 03.11.2022	Invoice no. MR/0854/22-23 dated 03.11.2022	Debit Note No. 24/22-23 dated 06.12.2022
	Goods/ Service	Indian White rice	Indian White rice	Indian White rice	Export Clearance Charge
2	Quantity in MT	115 MT	100 MT	100 MT	100 MT
3	Price	USD 475 per MT	USD 475 per MT	USD 413 per MT	USD 62 per MT
4	Total value	USD 54625	USD 47500	USD 41300	USD 6200

4.5 He stated that the Amount as per statement of Bank Realisation against shipping Bill no 5231541 dated 03.11.2022 is USD 41300; that the amount of USD 6200 was received by them from the trader in the same bank account which is reflected in their bank account statement; that the same may be verified from their firm's bank account soft copy of which has been submitted by him vide his letter dated 05.09.2023 along with copies of their export documents.

4.6 He stated that while the contract was for supply of 115 MT of rice, but they only supplied 100 MT (25 MT x 4 Container) against the said purchase contract; that the price according to the contract was USD 475 per MT; that on Invoice the price was mentioned as USD 413 per MT, which was received by them from the foreign supplier; that the export clearance charge of USD 62 per MT i.e. USD 6200 **had also been received by them from the foreign buyer and the same had not been included by them in the calculation of the FOB value for payment of export duty**; that the total invoice amount was USD 41300 and the FOB value declared in the shipping bill was also USD 41300; that the export duty calculated on the said FOB value was USD 6200; that the total amount declared in the shipping bill was USD 47500; **that they have deducted the said debit note amount of USD 6200 from the total amount received by them from the buyer of the export goods as reimbursement of the export duty paid by them for clearance of the said shipment.**

4.7 He further stated that he had been shown a printout of section 14 of the Customs Act, 1962 along with copy of CBIC Circular No. 18/2008-cus dated 10.11.2008; that as per Section 14, the value of the export goods for payment of export duty shall be the transaction value of the export goods i.e. the price paid or payable for delivery of the export goods at the time and place of exportation where price is the sole consideration; that the CBIC circular also provides that the value for charging export duty shall be the FOB value of the export goods and the practice of considering the FOB value as cum-duty price had been discontinued by the CBIC with effect from 01.01.2009 as per the said circular.

4.8 On being asked as to whether the clearance charges mentioned in the debit notes raised by them to the buyer of the exported rice were includable in the transaction value for calculation of the export duty, he stated that he could not comment on the same as on date; that he would like to further examine the same and submit his comments on his next visit.

4.9 He further stated that after the imposition of duty on export of rice with effect from September, 2022, they had adopted the same modus as explained above, for reimbursement of the export duty from their overseas buyer through debit notes; that in debit notes raised by them to the overseas buyers for reimbursement of export duty in other consignments, they have mentioned the same as "**Receipt of taxes**"; that he would submit the details of all the payments so received by them through debit notes within a week's time.

5 Statement of Sh. Ashok Rathi, another Partner of M/s Manek Rathi Agri Products and father of Sh. Jayesh Rathi was also recorded u/s 108 of the Customs Act, 1962 on 05.09.2023 wherein he interalia stated that he was the partner of M/s Manek Rathi Agri Products; that it was a partnership firm incorporated in 2018 wherein he himself, his son Sh. Jayesh Rathi and his brother Sh. Chetan Rathi were the initial partners; that subsequently two more partners i.e his wife Smt. Shakuntala Rathi and his sister-in-law Smt. Parveena Rathi were also joined in the said firm.

5.2 Sh. Ashok Rathi was shown copy of statement dated 05.09.2023 of Sh. Jayesh Rathi, another partner of the said firm; that after going through the same he confirmed the contents of the said statement.

6. Further statement of Sh. Jayesh Rathi, Partner, M/s Manek Rathi Agri Products, was recorded on 19.03.2024 under section 108 of the Customs Act, 1962 wherein he confirmed his earlier statement dated 05.09.2023 and stated that they had been exporting rice to various countries; that they had exported around 100 consignments of white and parboiled rice after imposition of export duty on rice.

6.2 On being asked to explain whether they have paid the export duty on export of rice at the FOB Value of the export goods or on some lesser value he stated that he had gone through the provisions of section 14 of the Customs Act, 1962 and Rule 2(1) (b) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and after going through the said rules, he admitted that the export duty was payable on the transaction value of the export goods and the transaction value is taken as the value for delivery of the export goods at the time and place of exportation where price is the sole consideration; that the exportation takes place when the export goods are loaded on the foreign going vessel after clearance of the goods from the Customs Authorities at the port of export and after payment of applicable duties on such export goods; that all the expenses for loading the export goods on the vessel are included in the transaction value for the purposes of the Customs Tariff Act, 1975 and the Customs Act, 1962; that those expenses *inter alia* included cost of the procurement of the export goods, transportation, insurance etc. for transportation of the goods to the port of exportation for custom clearance, expenses of packing, handling at port, clearance charges at port including export duties etc. and charges/expenses made for loading of such goods on the vessel; that all these expenses are included in the transaction value of the export goods for the purposes of the Customs Tariff Act, 1975 and the Customs Act, 1962 including for the purposes of payment of export duties; that as per the incoterms, such transaction value is referred as the FOB Value of the export goods; that if the consignment is exported on CIF basis, the cost of ocean freight and insurance charges paid are deducted from the CIF value to calculate the FOB Value for payment of export duty.

6.3 In this regard, on further being asked he stated that in respect of export of rice made by them in their export firm namely M/s Manek Rathi Agri Products, they had not paid the export duty on the transaction value as per Section 14 of the Customs Act, 1962 instead they had paid export duty on a value which was lesser than the transaction value as per Section 14 of the Customs Act, 1962; that they had deducted a part of the transaction value which was equal to the amount of export duty from the actual transaction value as contemplated under Section 14 of the Customs Act, 1962; that thus they had paid export duty by considering the actual FOB value as cum-duty FOB Value; thus they had not paid the export duty on the actual FOB (i.e. transaction value u/s 14 of the Customs Act, 1962); that they had recovered the full transaction value inclusive of the export duty from the foreign buyer of the exported rice in case of the consignments exported on FOB basis; that FOB meant Free on Board; that in FOB incoterms all the costs upto the loading of the goods in the vessel were to be borne by the seller of the export goods; that in case of the consignments exported by them on CIF basis, they have recovered ocean freight and insurance charges also in addition to the FOB value of the export goods; that thus in both type of consignments exported by them either on FOB incoterm-basis or on CIF incoterm basis, they had not paid duty on a part of the value of the export goods which was equal to the duty amount paid by them on export of the goods; that they had not paid the export duty on the transaction value as contemplated under the provisions of section 14 of the Customs Act, 1962; that there was a short payment of duty on account of wrong deduction of the said amount (equal to the amount of 20% duty paid by them) from the transaction value (FOB value) of their export goods.

6.4 On being asked he further stated that the amount equal to the amount of export duty had been recovered by them from the overseas buyer of the export goods after

exportation of the goods by raising debit notes to the buyer for reimbursement/receipt of taxes; that he explained the same with the help of the following example-

that in respect of the consignment exported vide Shipping Bill No. 4364834 dated 22.09.2022 for export of 270 metric tons of Indian Long Grain White Rice Grade-3, they have executed a contract dated 10.09.2022 with the overseas buyer namely M/s Darshan Kirpa General Trading LLC, Dubai; that as per the said contract, price negotiated was USD 500 per MT CIF; that in the Invoice cum Packing List dated 22.09.2022 raised by them for export of the said consignment unit price of the export goods had been declared as USD 500 CNF; that FOB Price of the export goods in respect of the said shipment has been declared as USD 300/MT after deducting the amount of freight (USD 138 per MT), insurance (USD 2/MT) and export duty value (USD 60/MT); that the said Invoice cum Packing list was submitted by them only to the Customs Authorities at the port of export (i.e Mundra Port) but the said Invoice cum Packing list was not sent by them to the overseas buyer; that on the same day, they had raised a commercial invoice dated 22.09.2022 which had been sent by them to the overseas buyer, wherein, unit price of the export goods had been declared as USD 440/MT; that the said commercial invoice dated 22.09.2022 had not been provided/declared by them to the Customs Authorities at the port of export; that the export duty in respect of the said consignment was paid by them on 23.09.2022 and Let Export Order in respect of the said consignment was issued on 27.09.2022; that after LEO and delivery of the goods, they had raised a Debit Note dated 08.11.2022 to the overseas buyer for an amount of USD 60 per MT for receipt of duties and taxes against the same invoice dated 22.09.2022; that in respect of the aforesaid consignment, they had declared the deduction as 'nil', instead of claiming the deduction in respect of the said consignment, the rate of export goods has been declared by them in the Shipping Bill as USD 440/MT CIF and FOB Value as USD 300 per MT. Thus they had paid the export duty on the aforesaid FOB Value of USD 300 per MT instead of the actual transaction value (FOB value) of USD 360 MT.

The same is shown in Tabular form as under -

Total Value per MT (USD)	Deduction Claimed per MT (USD)	Invoice Value per MT (USD)	Freight Amount per MT (USD)	Insurance Amount per MT (USD)	FOB Amount per MT (USD)	Export Duty Amount Paid per MT (USD)
500 CIF	NIL	<p>USD 500 per MT in the invoice submitted to Customs.</p> <p>Unit price of USD 440/MT was declared in the invoice sent to the overseas buyer.</p> <p>A separate debit note for an amount of USD 60 per MT was also raised to the buyer for receipt of taxes i.e. export duty amount on the declared FOB Value of USD 300 per MT.</p> <p>Thus total amount of USD 500 per MT was received from the buyer in respect of the said shipment.</p>	138	2	300	60

6.5 On being further asked he stated that in some cases, they have declared the entire invoice amount in the Shipping Bill but in those cases they have claimed the deduction amount in the shipping bills which is equal to the duty amount paid by them. Such export duty amount has also been recovered by them from the overseas buyer of the export goods by raising debit notes;

that for example in respect of the goods exported vide Shipping Bill No. 4803690 dated 13.10.2022, they had executed a contract for the price of USD 384 per MT FOB Mundra Port; that In the invoice dated 13.10.2022 submitted to the Customs, they have declared the entire amount of USD 384 (with duty) in the said invoice and after deducting the

duty amount of USD 64 per MT, the FOB Value of USD 320 per MT has been declared in the said invoice; that the said invoice was not sent by them to the overseas buyer instead a separate Commercial Invoice dated 29.09.2022 was raised to the overseas buyer wherein unit price was declared as USD 320 per MT FOB and after Let Export Order of the said consignment on 14.10.2022, Debit note dated 15.11.2022 was raised to the buyer for reimbursement of the duties and taxes of USD 64 per MT pertaining to the said Invoice dated 29.09.2022; that the debit note and commercial invoice was sent to the overseas buyer and the invoice cum packing list was not sent to the overseas buyer, that the same was provided only to the customs authorities at the time of clearance of the export goods; that the amount mentioned in the Commercial invoice was received as remittances and the amount mentioned in the debit note was received as reimbursement of duties and taxes from the overseas buyer; that the entire amount of USD 384 per MT was declared in the shipping bill but an amount of USD 64 per MT has been claimed as deduction in the shipping bill, thus export duty was paid by treating the FOB value as the cum-duty FOB in respect of the said consignment. The same is shown in Tabular form as under –

Total Value per MT (USD) (as per contract)	Deduction Claimed per MT (USD)	Invoice Value per MT (USD)	FOB Amount per MT (USD)	Export Duty Amount Paid per MT (USD)
384 FOB	64	<p>USD 384 per MT in the export invoice submitted to the Customs.</p> <p>Unit price of USD 320/MT was declared in the invoice sent to the overseas buyer.</p> <p>A separate debit note for an amount of USD 64 per MT was also raised to the buyer for receipt of taxes i.e. export duty amount on the declared FOB Value of USD 320 per MT. Thus the deduction amount declared in the Shipping Bill was recovered through debit note.</p> <p>Thus total amount of USD 384 per MT was received from the buyer in respect of the said shipment.</p>	320	64

6.6 Likewise, in respect of all around 100 consignments exported by them after imposition of duty on export of rice with effect from September, 2022, they had paid the export duties by considering the actual FOB value as cum-duty-FOB Value, thus they had not paid the export duty on the actual FOB value (the transaction value) as per the provisions of Section 14 of the Customs Act, 1962;

6.7 He further stated that he had been shown copy of CBIC Circular No.18/2008-Cus. Dated 10.11.2008 which provide that the practice of declaring the FOB value as cum-duty FOB price had been discontinued with effect from January, 2009 and the export duty shall be paid on transaction value which is the FOB Value at the time and place of exportation where price is the sole consideration.

6.8 On being asked he further stated that they would calculate their differential duty liability on account of such wrong claim of deduction amount from the transaction Value (FOB Value) and would pay the differential duty.

7. Sh. Jayesh Rathi vide his letter dated 30.03.2024 submitted that they had considered the agreed amount as 'cum-duty price' because of their agreement with the buyer and therefore, the Board Circular was not attracted in their case; that they believed that recovery of actual export duty element from the foreign buyer was not in the nature of any payment received over and above the declared value and recovering the actual amount of indirect tax from the foreign buyer was not in the nature of 'export duty reimbursement'. He further requested not to insist on any payment from them towards an additional amount of customs duty for the exports made in the past.

8. In furtherance of investigation, DRI vide email dated 04.07.2024 and 23.07.2024 sought details of total payment received by M/s Manek Rathi Agri Products in respect of each shipping bill along with details of expenses made by them towards payment of ocean freight and insurance. In response, vide email dated 31.07.2024 (**RUD-5**), M/s

Manek Rathi Agri Products submitted details of total payments received in respect of each shipping bill and details of expenses made by them towards payment of ocean freight & insurance charges in respect of consignments exported on CF/ CI/ CIF Incoterm basis.

9. During investigation, Sh. Jayesh Rathi, Partner of M/s Manek Rathi Agri Products vide his letter dated 08.08.2024 deposited three demand drafts for an amount of Rs. 93,95,902/- toward payment of differential duty due to declaration of excess freight and insurance amounts in the shipping bills. The aforesaid demand drafts were forwarded to the concerned ports (i.e. Mundra, Kandla and Hazira) and the same were deposited in the Government Treasury vide challan no. as per the following details –

(RUD-10)

Sr. No.	Demand Draft No. & date	Amount (INR)	In favour of	Challan No. & Date
1	005760 dated 06.08.2024	17,50,101/-	RBI A/c Commissioner of Customs Hazira Port A/c Manek Rathi Agri Products	Forwarded to the Pr. Commissioner of Customs, Ahmedabad, Hazira Custom House, Adani Hazira Port vide DRI letter dated 12.08.2024. Copy of Challan is yet to be received
2	005759 dated 06.08.2024	73,09,601/-	RBI A/c Commissioner of Customs Mundra Port A/c Manek Rathi Agri Products	Forwarded to the Pr. Commissioner of Customs, Mundra Port vide DRI letter dated 12.08.2024. Copy of Challan is yet to be received
3	005758 dated 06.08.2024	3,36,200/-	RBI A/c Commissioner of Customs Kandla Port A/c Manek Rathi Agri Products	Challan No. 176 dated 21.08.2024
Total Amount (Rs.)		93,95,902		

10 Statement of Sh. Jayesh Rathi, Partner, M/s Manek Rathi Agri Products, was also recorded u/s 108 of the Customs Act, 1962 on 08.08.2024 wherein he confirmed the facts narrated in his earlier statements dated 05.09.2023 and 19.03.2024 and inter alia stated that in response to DRI email dated 04.07.2024 & 23.07.2024 seeking details of their export shipments such as amounts received by them as reimbursement of export duty from the overseas buyer of the export goods, the amount of ocean freight and insurance actually paid by them to the freight forwarder/shipping line and insurance agency etc., they had vide their email dated 31.07.2024 submitted the details of export shipments of rice exported by them; that while preparing the details of their export shipment from their export documents, it was observed that in various shipping bills the amount of freight declared by them at the time of filing of the shipping bills were higher than the actual amounts of ocean freight and insurance paid by them to the respective freight forwarders and insurance agencies; that on account of claim of higher amounts towards freight and insurance amounts paid by us, certain duty has been short paid by them at the time of exportation of these goods; that on account of such excess claim of freight amounts in the shipping bills, they have calculated their differential duty liability and they were ready to deposit the said differential duty liability; that he had submitted three demand drafts for an amount of Rs. 93,95,902/- for payment of their differential duty liability in respect of the shipments of rice exported by them through Hazira, Mundra and Kandla ports; that he had not brought the differential duty calculation sheet in respect of these excess freight amounts claimed by them in the shipping bills; that he would submit the same.

10.2 During the course of recording his statement, Sh. Jayesh Rathi was shown copy of his letter dated 30.03.2024 wherein he had submitted that the amount of duty received by their company separately from the buyer was not part of the transaction value for export of goods. In this regard, on being asked to explain if the buyer denies to pay the said duty amount separately, would they be able to export the goods to such buyers, he stated that the aforesaid letter dated 30.03.2024 was sent by them after legal consultation with their advocate who guided them for the same, however, he stated that if the buyer did not pay the said duty amount as reimbursement of duty to them, they would not be able to export the goods at the declared FOB Value of their shipments; that the amount of duty paid by the overseas buyer to them was the condition of sale of the export goods by their company to the overseas buyer.

10.3 On being asked about the term 'FOB' used in the international transactions all over the world, he stated that 'FOB' meant Free on Board; that all expenses to load the export goods on the vessel are included in the value of shipments exported on FOB incoterm basis; that loading takes place after custom clearance of the export goods and after payment of export duty; that expenses for loading the export good on the vessel have been included by them in the FOB Value of the export goods declared by them in the shipping bills;

10.4 On being asked to comment on the incoterm 2020 issued by the International Chamber of Commerce shown to him from Wikipedia, he stated that the said incoterms state that in FOB incoterm, the costs related to loading at origin, export custom declaration, carriage to the port of export, unloading of truck in the port of export, loading on the vessel in the port of export are borne by the seller of the export cargo; that all costs subsequent to the loading of the export cargo on to the vessel such as carriage to the port of import and all other expenses made subsequently are to be borne by the buyer of the export cargo.

10.5 On being asked as to what is the time and place of exportation in respect of export of goods, he stated that the place of exportation is on board the vessel after custom clearance of the export goods i.e. after issuance of Let Export Order by the proper officer of customs and the time of exportation is the time when the export goods are loading on board the vessel.

10.6 On being asked as to what he understands about the delivery of export goods at the time and place of exportation in respect of his export goods, he stated that delivery of the export goods takes place when the export goods are loaded on the foreign going vessel and bill of lading is issued by the master of the vessel or his agent.

11. The export documents and details submitted by the exporter during investigation were analysed and it was revealed that -

M/s Manek Rathi Agri Products had exported 125 shipment of rice having description as 'Indian 25% Broken White Rice, Indian Long Grain Non-Basmati White, Indian Long Grain Parboiled Rice, Indian Long Grain White Rice, Indian Origin Non-Basmati IR 64, Indian Parboiled Rice, Indian White Rice (Non-Basmati Rice)' by classifying the same under CTH 10063010 & 10063090 which were liable to export duty @ 20% ad valorem vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022 and 49 /2023-Customs dated the 25th August, 2023.

In their export documents, they have declared the following three values (i) Total Value, (ii) Invoice Value and (iii) FOB Value. The Total Value declared by them was inclusive of export duty and indicated the total consideration received by them from the overseas buyer. Invoice Value was declared after deducting the export duty paid amounts from the Total Value. FOB Value was declared after deduction the ocean freight amounts and insurance amounts from the Invoice Value. Thus, total amount of deductions of Rs. 16,24,89,003/- were wrongly claimed by the exporter in respect of 125 export shipments as shown in below table:

Deduction amounts wrongly claimed by the exporter from the actual FOB Value of exports:

Table

Name of the Port of export	No. of Shipping Bills filed	Declared FOB Value (INR)	Declared Total Value (INR)	Declared Invoice Value (INR)	Deduction Amounts Claimed (INR)	Deduction Amounts Claimed (INR) including FOB discount
INHZA1	19	14,61,44,196	19,80,37,419	17,74,63,328	2,14,74,091	2,14,74,091
INXY1	23	32,93,21,931	37,60,47,269	34,82,37,794	2,07,28,995	2,78,09,475
INMAA1	1	71,69,175	1,04,55,966	90,22,131	14,33,835	14,33,835
INMUN1	81	76,83,28,915	1,01,55,14,873	90,37,43,271	11,08,27,549	11,17,71,002
INNSA1	1	29,63,304	38,34,864	38,34,864	0	0
Grand Total	125	1,25,39,27,521	1,60,47,90,390	1,44,23,01,387	15,44,64,470	16,24,89,003

11.2 Deduction amounts claimed are equal to the export duty and the same have been received from the overseas buyer:

Scrutiny of the export documents and details submitted by the exporter during investigation revealed that the exporter had at the time of filing shipping bills had claimed deduction of an amount of USD 18,83,045 (equivalent to Rs.15,37,26,850/-) in respect of the following 84 shipping bills filed by them.

The export duty amounts paid by them in respect of these 84 shipping bills also were at USD 18,83,045 (equivalent to Rs.15,37,26,850/-). Therefore, the amounts claimed as 'deduction/ deduct' were equal to the export duty amounts paid by them at the time of filing of the shipping bills. Investigation has revealed that these amounts claimed as 'deduction/deduct' were also recovered by the exporter from the overseas buyer in their bank accounts separately by raising debit notes for the said amount to the overseas buyer. The exporter had also confirmed these facts in their statements recorded u/s 108 of the Customs Act, 1962.

Table A1

S No	SB NUMBER	SB DATE	Cur rency	EXCH ANGE RATE	Invoca tion Tax	FOB (INR)	Total Value (INR)	Invoice Value (INR)	Deducti on claimed in SB (INR)	Deduction claimed (INR)	Export Duty (INR)	Export Duty (INR)
1	1106515	18-05-2023	EU R	81.8	CIF	67,15,940	1,17,651	97559	15,072	11,43,188	15992	1343188
2	1366369	28-05-2023	US D	81.55	CIF	65,91,279	1,17,925	100780	16,165	13,18,256	16165	1318256
3	1275460	28-05-2023	US D	81.55	CIF	60,35,828	1,16,100	98980	17,010	13,87,166	17010	1387166
4	1474860	02-06-2023	US D	81.7	CIF	66,03,461	1,17,028	100780	16,165	13,20,683	16165	1320683
5	1499219	03-06-2023	US D	81.7	CIF	70,48,880	1,17,450	98980	17,280	14,11,738	17280	1411738
6	1551541	06-06-2023	US D	81.7	CIF	66,05,461	1,17,925	100780	16,165	13,20,683	16165	1320683
7	1699884	06-06-2023	US D	81.7	CIF	69,48,585	1,16,370	98980	17,010	13,89,717	17010	1389717
8	1775778	15-06-2023	US D	81.7	CIF	71,60,175	1,27,980	104430	17,550	14,33,835	17550	1433835
9	1788873	16-06-2023	US D	81.25	CIF	65,75,134	1,17,928	101780	16,165	13,18,023	16165	1318023
10	2168738	01-07-2023	US D	81.35	CIF	70,28,640	1,16,370	98980	17,280	14,05,728	17280	1405728
11	2191192	03-07-2023	US D	81.35	CIF	42,01,761	76,707	66462	10,335	8,41,752	10335	840752
12	2266196	06-07-2023	US D	81.25	CIF	70,28,640	1,16,370	98980	17,280	14,05,728	17280	1405728
13	2435737	13-07-2023	US D	81.55	CIF	70,45,920	1,16,100	98980	17,280	14,09,184	17280	1409184
14	2436896	13-07-2023	US D	81.55	CIF	43,43,761	36,707	66441	10,653	8,68,752	10653	868752
15	2436100	13-07-2023	US D	81.55	CIF	75,76,195	1,35,230	117180	18,000	14,35,240	18000	1475240
16	2453362	14-07-2023	US D	81.55	CIF	31,32,621	56,408	48832	7,732	6,30,534	7732	630534
17	2538428	18-07-2023	US D	81.55	CIF	1,85,22,560	1,73,790	147984	25,866	21,84,512	25866	2104512
18	4883698	15-10-2022	US D	88.7	FOB	1,34,28,480	1,90,680	166400	33,280	26,45,696	33280	2683696
19	4885988	17-10-2022	US D	88.7	CIF	67,54,930	1,18,260	101520	16,740	13,59,918	16740	1359918
20	4878988	17-10-2022	US D	88.7	CIF	67,54,500	1,18,260	101520	16,740	13,59,918	16740	1359918
21	4878013	17-10-2022	US D	88.7	CIF	67,54,500	1,18,260	101520	16,740	13,59,918	16740	1359918
22	4966112	26-10-2022	US D	88.7	CIF	67,54,500	1,18,260	101520	16,740	13,59,918	16740	1359918
23	4999665	21-10-2022	US D	82.2	FOB	1,92,14,800	2,30,800	234000	46,920	38,49,960	46920	3849960
24	5136430	21-10-2022	US D	82.2	CIF	1,26,30,500	2,31,876	201096	30,780	25,30,116	30780	2530116
25	5141565	21-10-2022	US D	82.2	CIF	1,86,42,960	3,41,712	206352	45,360	37,28,592	45360	3728592
26	5177295	01-11-2022	US D	82.2	CIF	35,25,700	67,200	58500	8,700	7,15,348	8700	715140
27	5231441	03-11-2022	US D	82.2	CIF	75,48,700	47,500	41300	6,200	5,09,848	6200	509848
28	5231869	03-11-2022	US D	82.2	CIF	1,19,79,680	2,92,896	254016	38,880	31,45,936	38880	3145936
29	5339916	06-11-2022	US D	82.1	CIF	25,45,100	47,500	41300	6,200	5,09,826	6200	509826
30	5758994	26-11-2022	US D	80.8	CIF	1,03,48,120	3,41,712	296352	48,360	36,69,624	45360	3669624
31	5828951	26-11-2022	US D	80.9	FOB	1,00,37,077	1,48,881	124067	24,814	20,07,452	24814	2007452
32	5995989	07-12-2022	US D	80.3	FOB	2,95,11,960	6,41,075	167521	13,504	10,02,371	13504	9902371
33	6228854	17-12-2022	US D	81.8	CIF	1,32,76,140	2,36,958	204468	32,460	26,55,228	32460	2655228
34	6286155	18-12-2022	US D	81.8	CIF	1,32,76,140	2,36,958	204468	32,460	26,55,228	32460	2655228
35	6266619	19-12-2022	US D	81.8	CIF	1,32,51,600	2,35,080	205580	32,400	26,50,320	32400	2650320
36	6267169	19-12-2022	US D	81.8	CIF	18,03,700	69,190	50850	9,100	7,60,340	9100	760740
37	6358818	23-12-2022	US D	81.8	CIF	19,05,700	69,190	50850	9,100	7,60,340	9100	760740
38	6423848	24-12-2022	US D	81.8	CIF	1,10,06,200	2,27,000	196100	31,800	26,01,240	31800	2601240
39	6482490	26-12-2022	US D	81.8	CIF	38,71,600	92,200	70800	12,000	10,14,320	12400	1014320
40	6457849	26-12-2022	US D	81.8	CIF	1,13,91,408	2,91,354	173562	27,852	22,78,294	27852	2278294
41	6436888	03-01-2023	US D	81.8	CIF	1,12,63,860	2,91,042	173562	27,500	22,52,772	27500	2252772
42	7269755	25-01-2023	US D	80.55	CIF	1,28,07,450	2,27,900	196100	31,800	25,61,400	31800	2561400
43	7389297	27-01-2023	US D	80.48	CIF	3,71,85,625	4,74,750	401250	67,500	54,37,125	67500	5437125

44	7006464	20-02-2023	US	81.9	CIF	2,26,41,712	3,91,393	136496	55,256	45,38,742	64286	4528742
45	7006468	20-02-2023	US	81.9	CIF	2,26,41,712	3,91,392	136496	55,256	45,38,742	65286	4528742
46	8036224	24-02-2023	US	81.9	CIF	1,41,52,320	2,44,620	210060	34,566	28,10,464	14560	2883404
47	8383138	10-03-2023	US	81.75	CIF	70,63,200	1,21,770	104490	17,280	14,12,640	17180	1412640
48	8383139	10-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
49	8383122	10-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
50	8383138	10-03-2023	US	81.75	CIF	42,37,920	73,062	62694	10,368	8,47,584	10368	847584
51	8391593	11-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
52	8391592	11-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
53	8391593	11-03-2023	US	81.75	CIF	42,37,920	73,062	62694	10,368	8,47,584	10368	847584
54	8499939	15-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
55	8499940	15-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
56	8499949	15-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
57	8499949	15-03-2023	US	81.75	CIF	42,37,920	73,062	62694	10,368	8,47,584	10368	847584
58	8499953	15-03-2023	US	81.75	CIF	42,37,920	73,062	62694	10,368	8,47,584	10368	847584
59	8499965	15-03-2023	US	81.75	CIF	42,37,920	73,062	62694	10,368	8,47,584	10368	847584
60	8500156	15-03-2023	US	81.75	CIF	35,31,600	60,885	52245	8,640	7,06,120	8640	706120
61	8516664	16-03-2023	US	81.75	FOB	70,63,200	1,01,680	86400	17,280	14,12,640	17280	1412640
62	8516670	16-03-2023	US	81.75	CIF	70,63,200	1,21,770	104490	17,280	14,12,640	17280	1412640
63	8528864	17-03-2023	US	81.95	FOB	1,27,82,290	1,86,000	154000	31,000	25,40,450	31000	2540450
64	8538895	17-03-2023	US	81.95	FOB	1,27,82,290	1,86,000	154000	31,000	25,40,450	31000	2540450
65	8538866	17-03-2023	US	81.95	FOB	1,27,82,290	1,86,000	155000	31,000	25,40,450	31000	2540450
66	8538863	17-03-2023	US	81.95	FOB	1,27,84,200	1,87,200	156000	31,200	25,46,640	31200	2546640
67	8539126	17-03-2023	US	81.95	FOB	1,27,84,200	1,87,200	156000	31,200	25,46,640	31200	2546640
68	8539342	17-03-2023	US	81.95	FOB	1,27,84,200	1,87,200	156000	31,200	25,46,640	31200	2546640
69	9994614	01-04-2023	US	81.95	CF	1,34,97,165	2,40,300	207360	32,940	26,99,433	32940	2699433
70	9029951	01-04-2023	US	81.95	CF	1,34,97,165	2,40,300	207360	32,940	26,99,433	32940	2699433
71	9032669	03-04-2023	US	81.95	CF	1,34,97,165	2,40,300	207360	32,940	26,99,433	32940	2699433
72	9157839	08-04-2023	US	81.1	CF	1,31,57,130	2,40,300	207360	32,940	26,71,434	32940	2671434
73	9213392	11-04-2023	US	81.1	CF	1,31,09,835	2,58,850	203520	32,330	26,21,963	32330	2621963
74	9213443	11-04-2023	US	81.1	CF	65,54,908	1,17,925	101760	10,165	11,10,982	10165	1110982
75	9345215	12-04-2023	US	81.1	CF	70,10,040	1,22,110	105030	17,280	14,01,408	17280	1401408
76	9369387	13-04-2023	US	81.1	CF	71,36,525	1,22,110	104760	17,550	14,23,108	17550	1423108
77	9317754	15-04-2023	US	81.1	CF	1,35,57,130	2,40,300	207360	32,940	26,71,434	32940	2671434
78	9362160	18-04-2023	US	81.1	CF	65,54,908	1,17,925	101760	10,165	11,10,982	10165	1110982
79	9369386	19-04-2023	US	81.1	CF	65,54,908	1,17,925	101760	10,165	11,10,982	10165	1110982
80	9596792	27-04-2023	US	81.4	CIF	70,32,960	1,21,730	104490	17,280	14,06,992	17280	1406992
81	9751955	04-05-2023	US	81.4	CF	69,23,070	1,17,450	100440	17,010	13,84,614	17010	1384614
82	9816286	06-05-2023	US	81.85	CF	68,70,293	1,17,450	100440	17,010	13,75,293	17010	1375293
83	9887649	12-05-2023	US	81.85	CF	68,76,203	1,17,450	100440	17,010	13,75,293	17010	1375293
84	9993177	13-05-2023	EU	89	CIE	67,28,400	1,12,860	47340	15,120	13,43,680	15120	1343680
						78,86,34,252	1,16,86,652	1,12,86,607	1883,045	15,37,36,870	153736870	15,37,26,884
					Grand Total							

For ease of reference, photo of **SB No. 5136430 dated 31-10-2022** is pasted below which clearly indicate that the deduction of USD 30780 (equivalent to Rs. 25,30,116/-) has been claimed in the Shipping Bill which is equal to the cess amount (i.e. Export Duty) separately recovered by them by raising debit note the overseas buyer. The said amount has been deducted by the exporter from the actual transaction value (i.e. FOB Value) and export duty has not been paid on the said differential value of USD 30780 (equivalent to Rs. 25,30,116/-) which is though part of the consideration received by the exporter from the overseas buyer for sale of the consignment.



INDIAN CUSTOMS EDI SYSTEM
DEPARTMENT OF REVENUE TAXES AND CUSTOMS
DEPARTMENT OF REVENUE - MINISTRY OF FINANCE
GOVERNMENT OF INDIA

MUNDHA SEZ PORT, MUNDRA, GUJARAT



PART - I - SHIPPING BILL SUMMARY

A	B	C	D	E	F	G	H	I	J
S.No.	Name of the Exporter	IEC Code	Shipping Bill Number	Shipping Bill Date	Invoice Number	Invoice Date	Nature of Consignment	Through BRC	Through Reimbursement of taxes
99	MANEK BATHI AGRI PRODUCTS	ABHFM35890	5126430	31-10-2022	MR/0934/22-23	29-10-2022	CF	2021/226	30780

Deduction claimed in SB equal to the export duty amount of USD 30780. The said amount USD 30780 [equivalent to Rs. 25,30,116] has also been recovered by them as reimbursement of taxes by raising debit note to the buyer

INVOICE CUM PACKING LIST								
 <p>MR Agri Products</p>		Invoice No: MR0834/22-23			Date: 29-10-2022			
<p>Exporter: MANEK RATHI AGRI PRODUCTS Survey no. 175, Sanand Bawla Road, Pipan Gam, Sanand, 382110, Gujarat, India GSTIN: 24ABHFM3589Q1ZG</p> <p>ON BEHALF OF MOI INTERNATIONAL (SINGAPORE) PTE LTD NO 5 INTERNATIONAL BUSINESS PARK HEX 04-00 MEWAH BUILDING SINGAPORE 609914</p>		<p>Consignee: To Order NOTIFY PARTY: MOI FOODS MOZAMBIQUE LDA. BAIRRO DA MACHAVA SEDE, PARCELA 803, TALHAC 1285/1286, MUNICIPIO DA MATOLA, MOZAMBIQUE</p>						
Port of Loading Mundra Port, India	Gross Weight: 514.641 MT Net Weight: 513.00 MT	Transportation: By Sea		Payment Terms: Documents against payment through bank				
Port of Unloading: MAPUTO, MOZAMBIQUE	Total Container: 18 * 20' (27 MT each)	Currency: USD		Delivery Terms: CNF Maputo, Mozambique				
Commodity Description	HSN Code	Country of Manufacture	Qty	UOM	Unit Price [USD]	Total Amount [USD]		
INDIAN WHITE RICE (NON-BASMATI RICE)	10063090	India	513	MT	452 (CNF VALUE WITH DUTY)	231,876.00		
20520 Bags packed in 25Kg Bags								
Origin: Indian								
Moisture: 14 % Max								
Average Length: 5.8 mm to 6 mm								
Red-Yellow Kernels: 0.5% max								
Chalky: 4%								
Damaged & Discoloured / Yellow								
Packing: 25 Kg one side BOPP bags								
Packed in Buyer's Brand								
2% printed empty bags to be shipped with shipment free of cost.								
Amount in USD(words): USD Two Lakh Thirty-One Thousand Eight Hundred Seventy-Six only.					Total Invoice Value	231,876.00		
Foreign Exchange Rate: USD = INR 83					Freight Value	-47,196.00		
Amount in INR (words) = Rupees One Crore Ninety-Two Lakhs Forty-Five Thousand Seven Hundred Eight only.					FOB with Duty	1,84,680.00		
					Duty	-38,792.00		
					FOB Value	1,53,900.00		
Bank Details: Bank Name: The Kalupur Commercial Co-operative Bank Ltd. Address: Near Income Tax Circle, Ashram Road, Ahmedabad - 380014, Gujarat, India. Account Number: 00536000027 Swift Code: KALUNAA000								
<p>Declaration: We hereby certify that the information on this invoice is true and correct and that the contents of this shipment are as stated above.</p>								
For MANEK RATHI AGRI PRODUCTS  Authorised Signatory	All disputes with respect to this invoice are subjected to Sanand Jurisdiction			Date: 29-10-2022				

Photo of debit note

DEBIT NOTE						
 <p>Exporter: MANEK RATHI AGRI PRODUCTS Survey no. 175, Sanand Bapna Road, Pipav Davi, Sanand, 382110, Gujarat, India GSTIN: 24ABHFM3589D1ZG</p> <p>ON BEHALF OF MOI INTERNATIONAL (SINGAPORE) PTE LTD NO 5 INTERNATIONAL BUSINESS PARK HEX 04-00 MEWAH BUILDING SINGAPORE 659914</p>		<p>Debit Note No: 25/22-23 Date: 06-12-2022</p> <p>Consignee: TO ORDER</p> <p>NOTIFY PARTY: MOI FOODS MOZAMBIQUE LDA. BAIRRO DA MACHAVA SEDIE PARCELA 803, TALHO 1285/1286, MUNICÍPIO DA MATOLA, MOZAMBIQUE</p>				
		Port of Loading: Mundra Port, India	Gross Weight: 514.641 MT Net Weight: 513.00 MT	Transportation: By Sea	Payment Terms: Documents against payment through bank	
Port of Unloading: MAPUTO MOZAMBIQUE	Total Container: 19 * 20' (27 MT each)	Currency: USD	Delivery Terms: CNF Maputo, Mozambique			
Commodity Description	HSN Code	Country of Manufacture	Qty	UOM	Unit Price (USD)	Total Amount (USD)
1. Receipt of Duties and Taxes (P-1306)		India	513	MT	60.00	30,780.00
AGAINST INVOICE NO: MRW0834/22-23 DATE: 25.10.2022						
Amount in USD(words): USD Thirty Thousand Seven Hundred Eighty only.						
Foreign Exchange Rate: USD = INR 83						
Amount in INR (words) = Rupees Twenty-Five Lakhs Fifty-Four Thousand Seven Hundred Eighty only.					Total Invoice Value	30,780.00
<p>Bank Details: Account Name: Manek Rathi Agri Products Bank Name: The Kalidub Commercial Co-operative Bank Ltd Address: Near Income Tax Circle, Ashram Road, Ahmedabad - 380014, Gujarat, India Account Number: 00538000027 Swift Code: KALLINAAXXX</p> <p>Declaration: We hereby certify that the information on this invoice is true and correct and that the contents of this shipment are as stated above.</p>						
For MANEK RATHI AGRI PRODUCTS  Authorized Signatory	All disputes with respect to this invoice are subjected to Sanand Jurisdiction			Date: 06-12-2022		

11.3 Deduction amounts claimed are equal to the export duty however, the deduction amounts have not been paid by the buyer:

In addition to the above, the exporter had at the time of filing of shipping bills claimed the deduction of amount of USD 9045 in respect of Shipping Bill No. 2521076 dated 17.07.2023. The export duty paid by them in respect of the said S/B was USD 9045 (equivalent to Rs.7,37,620/-). Thus, they have claimed a deduction equal to the export duty amount. The exporter had stated that the entire deduction amount of USD 9045 has not been received by them from the overseas buyer.

However, as per the Invoice raised by the exporter to the overseas buyer, the aforesaid deduction amount of USD 9045 has also been included in the Total Invoice Value. The exporter has also raised debit note for recovery of the said amount from the overseas buyer. Therefore, even though the aforesaid amount of USD 9045 has not been paid by the overseas buyer to the exporter, the said amount is still payable in respect of the aforesaid consignment.

Thus, the deduction amount, which is equal to the export duty amount, being the amount payable by the overseas buyer to the exporter, appears to be liable to be

included in the FOB Value of the said shipment and the exporter appears to be liable to pay the export duty on the aforesaid deduction amount also.

Table A 2

Sr. No	SB NUMBER	SB DATE	Declared FOB Value (in Rs.)	Invoice Currency	Total Value (in foreign currency)	Invoice Value (in foreign currency)	Deduction Amounts claimed in the Shipping Bills	Export Duty Paid (in Rs.)	EXC HANGERATE	Export Duty Paid (in foreign currency)	Nature of Consignment
1	2521076	17-07-2023	3688098.75	USD	67095	58050	9045	737620	81.55	9045	CF

11.4 Deductions amounts not claimed in Shipping Bills, however amounts equal to the export duty paid were received separately through debit notes:

In addition to above, in respect of the following 26 shipments of rice exported by M/s Manek Rathi Agri Products, the exporter had not claimed any deduction in the shipping bills filed by them, however, the exporter had stated that in respect of these shipments also, they have **separately recovered the duty amounts** of **USD 769,968 [equivalent to Rs. 6,15,23,857/-]** (paid by them) at the times of export, from the overseas buyers of the export goods:

Table B1

S. No.	SB NUMBER	SB DATE	INVOICE CURENCY	EXCHANGE RATE	Invoice Type	FOB INR	Total Value (INR)	Invoice Value (INR)	BRIC (FC)	Amount received through Reimbursement of taxes (FC)	Amount received through Reimbursement of taxes in INR	Export Duty (FC)	Export Duty (INR)
1	7580684	15-02-2024	USD	82.2	CF	96,93,435	138065	138065	138065	21585	1938687	23585	1938687
2	7511047	14-02-2024	USD	82.2	CF	96,93,435	138065	138065	138065	21585	1938687	23585	1938687
3	7481963	13-02-2024	USD	82.2	CF	96,93,435	138065	138065	138065	21585	1938687	23585	1938687
4	7494329	13-02-2024	USD	82.2	CF	96,93,435	138065	138065	138065	21585	1938687	23585	1938687
5	4051613	19-09-2023	USD	82.2	CF	77,23,532	98290	98290	98290	18702	1544702.4	18792	1544702
6	5425569	13-11-2023	USD	82.1	FOB	3,01,73,090	367521.3	367521.3	367521	71504	6034678.4	71504	6034678
7	5425570	13-11-2022	USD	82.1	FOB	1,01,85,958	124067.7	124067.7	124067	24814	2037229.4	24814	2037229
8	4730850	11-10-2022	USD	86.7	CIF	29,63,364	47520	47520	47520	7144	592660.8	7344	592660
9	4719894	10-10-2022	USD	86.7	CIF	2,33,79,497	382617	382617	382617	57042	4675919.4	57042	4675919
10	4662670	07-10-2022	USD	86.7	FOB	1,34,28,480	160400	160400	160400	37280	2685696	33289	2685696
11	4632191	05-10-2022	USD	78.7	FOB	65,44,692	85160	85160	85160	16632	1308918.4	16632	1308918
12	4632368	05-10-2022	USD	78.7	FOB	65,44,692	85160	85160	85160	16632	1308918.4	16632	1308918
13	4628815	04-10-2022	USD	78.7	FOB	1,18,05,000	150000	150000	150000	30000	2361000	30000	2361000
14	4628817	04-10-2022	USD	78.7	FOB	1,18,05,000	150000	150000	150000	30000	2361000	30000	2361000
15	4628819	04-10-2022	USD	78.7	FOB	1,18,05,000	150000	150000	150000	30000	2361000	30000	2361000
16	4628852	04-10-2022	USD	78.7	FOB	1,19,62,400	152000	152000	152000	30480	2362480	30480	2362480
17	4628862	04-10-2022	USD	78.7	FOB	1,19,62,400	152000	152000	152000	30480	2362480	30480	2362480
18	4628877	04-10-2022	USD	78.7	FOB	1,18,05,000	150000	150000	150000	30000	2361000	30000	2361000
19	4628880	04-10-2022	USD	78.7	FOB	1,12,44,656	142880	142880	142880	28576	2248931.2	28576	2248931
20	4628894	04-10-2022	USD	78.7	FOB	1,18,05,000	150000	150000	150000	30000	2361000	30000	2361000
21	4628939	04-10-2022	USD	78.7	FOB	1,18,05,000	150000	150000	150000	30000	2361000	30000	2361000
22	4665183	03-10-2023	USD	78.7	FOB	1,10,95,680	166400	166400	166400	32280	2619136	32280	2619136
23	4665187	03-10-2022	USD	78.7	FOB	1,10,95,680	166400	166400	166400	32280	2619136	32280	2619136
24	4557599	30-09-2022	USD	78.7	FOB	1,10,95,680	166400	166400	166400	32280	2619136	32280	2619136
25	4557775	30-09-2022	USD	78.7	FOB	1,10,95,680	166400	166400	166400	32280	2619136	32280	2619136
26	4497239	30-09-2022	USD	78.7	CIF	95,19,552	171504	171504	171504	24192	1903310.4	24192	1903310
	Grand Total					30,75,19,282	46,88,978	46,88,978	46,88,978	7,69,968	6,15,23,857	7,69,968	6,15,23,857

11.5 In respect of these shipments the exporter had not declared before the customs authorities at the port of export at the time of making exports, that they would recover or have recovered the higher amounts from the overseas buyers which are over and above the declared invoice value of these export shipments. The amounts received by the exporter as reimbursement of taxes in respect of these 26 S/Bs amounted to USD 769,968 [equivalent to Rs. 6,15,23,857/-]. These amounts have been recovered by the exporter by raising a separate debit note to the overseas buyer.

11.6 As may be seen from the copy of the Shipping Bill Number 4628819 dated 04-10-2022 pasted below, the exporter had not claimed any deduction amount in the shipping bill however, as per the details submitted by the exporter, they have separately recovered an amount equal to the exporter duty amount of Rs. 23,61,000/- (i.e. USD 30000, taking exchange rate of Rs. 78.7 per USD) from the overseas buyer in their bank accounts. Therefore, the exporter had suppressed the said amount. They have neither declared the full amount to be received by them from the overseas buyer in the export invoice nor in the shipping bill. Thus, they have mis-declared the actual FOB Value in respect of all such shipping bills.

Photo of SB

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE + MINISTRY OF FINANCE GOVERNMENT OF INDIA		Port Code INIXY1	SB No 4628819	SB Date 04-OCT-22	
		IEC/BR 24ABHFM3589Q1ZG GSN	ABHFM3589Q	0	
		GSTIN/TYPE AAACL1837HCH-009			
		CB CODE			
		TYPE Nos PKG	INV 1 20003	ITEM 1 G.WT MTS	CONT 0 5016
					*SB22012021515

CUSTOM HOUSE, NEAR BALAJI TEMPLE, KANDLA - 370210

PART - I - SHIPPING BILL SUMMARY

A STATUS 1.MODE SEA Y Y N Y	4.JOBING 5.MEIS Y Y N Y	6.DBK Y Y N N	7.RODTP Y Y N N	8.DEEC/DFIA N N N N	9.DFRC N N N N	10.RE-EXP Y Y Y Y	11.LUT Y Y Y Y										
								12.PORT OF LOADING INIXY1 (Kandla)				13.COUNTRY OF FINAL DESTINATION BENIN					
14.STATE OF ORIGIN GUJARAT		15.PORT OF FINAL DESTINATION IJCOO (Cotonou)															
16.PORT OF DISCHARGE IJCCO (Cotonou)		17.COUNTRY OF DISCHARGE BENIN															
18.EXPORTER'S NAME & ADDRESS MANEK RATHI AGRI PRODUCTS SURVEY NO. 175, PIPAN GAM, TEHSIL SANAND A-MEADABAD																	
19.TELEPHONE NO. 8656001 20.Type Private 21.AE 22.GSTIN / TYPE 24ABHFM3589Q1ZG GSN 23.FOREX BANK A/C NO. 00XXXXXX027 24.DBK BANK A/C NO. 00XXXXXX027 25.IFSC NO. KCCB0SNN005																	
26.1.FOB VALUE 11805000		27.FREIGHT 0		28.INSURANCE 0		29.DISCOUNT 0		30.COMMISSION 0		31.1.DBK CLAIM 3750		32.1.IGST AMT 2361000		33.2.RODTP AMT 118050		34.3.CESS AMT 0	
35.DEDUCTIONS 0		36.PIC 0		37.DUTY 2361000		38.CESS 0		39.1.SHO 1		40.2.INV NO. MH00752/22-23		41.3.INV AMT. 150000		42.4.CURRENCY USD			
43.1.MAWB NO. 22PCEG1017316453500		44.2.MAWB DT. 17-OCT-22		45.3.HAWB NO. INIXY1		46.4.HAWB DT. N.O.C.		47.5.CIN NO. 150000		48.6.CIN DT. 17-OCT-22		49.7.CIN SITE ID INIXY1		50.8.PIC 0		51.9.RODTP AMT 0	
52.1.CONTAINER 150000 USD		53.2.SEAL 150000 USD		54.3.DATE 17-OCT-22		55.4.S No 0		56.5.SHO 1		57.6.CHALLAN NO. 100546		58.7.PAYMT DT 12-OCT-22		59.8.AMOUNT 2361000			

C. VAL DTLS 1.INVOICE VALUE 150000 USD	2.FOB VALUE 150000 USD	3.FREIGHT 0 USD	4.INSURANCE 0 USD	5.DISCOUNT 0 USD	6.COMMISSION 0 USD	7.DEDUCT 0 USD	8.PIC 0 USD	9.EXCHANGE RATE 1 USD INR 78.7

Invoice

COMMERCIAL INVOICE																	
 <p>Exporter: MANEK RATHA AGRI PRODUCTS Survey no. 115, Sarand Bata Road, Piplan Dham, Daman, 391212, Gujarat, India GSTIN: 2AKHTRH55Q125</p>		<p>Invoice No: MARFED22-03 Date: 09-10-2022 Consignee: To The Order Matty Party 1: ABELCO SAS 9200 RUE D'ABERFORT MARNE FRANCE 92100 RUE 302431 S.P. 202416 Matty Party 2: EVEREST TRADING L.L.C. P.O. BOX 20200 DUBAI, UAE Matty Party 3: EVEREST TRADING PVT. LTD. 1 NORTH BRIDGE ROAD #11-01 HIGH STREET CENTRE SINGAPORE-079914 Matty Party 4: TRADERSOON SARL ROUTE D'AMAL PO BOX 11602 MANEY AGRI Port of Loading: Kandla Net Weight: 500.00MT Date of Shipment: October, 2022 Total Consignment: 500.00MT</p>															
<p>Point of Loading: Kandla Net Weight: 500.00MT</p>		<p>Transportation: By Sea Payment Terms: 10% Advance and Balance Against Document on Arrival</p>															
<p>Point of Unloading: Colombo, Sri Lanka</p>		<p>Consignee: FOB Delivery Terms: FOB Kandla</p>															
<p>Commodity Description: 100000000 ITEM NO: 100000000 ITEM NAME: 25KG SPP WHITE RICE (NON-IRGMENTED RICE) 25000 bags packed in 25kg SPP bags Origin: India Quantity: 140.00 MT Average Length: 9.00 mm Caliber: 9.00 mm Foreign Matter: 0.00% Damaged/Defeasured: 0.00% Yellow & Red Stain: 0.00% Packing: 25 Kg SPP bags Packed In Buyer's Brand: ABELCO 250 printed empty bags to be shipped with shipment box Case</p>		<table border="1"> <thead> <tr> <th>HSN Code</th> <th>Country of Origin</th> <th>Qty</th> <th>Unit</th> <th>Unit Price (USD)</th> <th>Total Amount (USD)</th> </tr> </thead> <tbody> <tr> <td>10062000</td> <td>India</td> <td>500</td> <td>MT</td> <td>200.00</td> <td>100000.00</td> </tr> </tbody> </table>				HSN Code	Country of Origin	Qty	Unit	Unit Price (USD)	Total Amount (USD)	10062000	India	500	MT	200.00	100000.00
HSN Code	Country of Origin	Qty	Unit	Unit Price (USD)	Total Amount (USD)												
10062000	India	500	MT	200.00	100000.00												
<p>EXPORT OF GOODS WITHOUT PAYMENT OF GST EXEMPTED UNDER LST 3 LST NO: 450-08732001843 "CONTINUE IN TRANSIT TO SRI LANKA"</p>																	
<p>Amount in USD (USD): One Lakh Fifty Thousand Only Portage/Exchage: FOB = INR 82</p>		<p>Total Invoice Value: 1,00,000.00</p>															
<p>Bank Details: Bank Name: The Kalpuj Co-operative Bank Ltd. Address: Near Income Tax Circle, Amdavad, 380001, Gujarat, India. Account Number: 00330000027 Swift Code: KALUBKAR</p>																	
<p>Declarer: We hereby certify that the information on this invoice is true and correct and that the contents of this shipment are as stated above.</p>																	
<p>For MANEK RATHA AGRI PRODUCTS  Authorised Signatory</p>		<p>All disputes with respect to this invoice are subjected to Samed Jurisdiction Date: 04-10-2022</p>															

Debit Note

DEBIT NOTE																	
 <p>Exporter: MANEK RATHA AGRI PRODUCTS Survey no. 115, Sarand Bata Road, Piplan Dham, Daman, 391212, Gujarat, India GSTIN: 2AKHTRH55Q125</p>		<p>Debit Note No: MARFED22-03 - Date: 09-10-2022 Consignee: To The Order Matty Party 1: ABELCO SAS 9200 RUE D'ABERFORT MARNE FRANCE 92100 RUE 302431 S.P. 202416 Matty Party 2: EVEREST TRADING L.L.C. P.O. BOX 20200 DUBAI, UAE Matty Party 3: EVEREST TRADING PVT. LTD. 1 NORTH BRIDGE ROAD #11-01 HIGH STREET CENTRE SINGAPORE-079914 Matty Party 4: TRADERSOON SARL ROUTE D'AMAL PO BOX 11602 MANEY AGRI Port of Loading: Kandla Net Weight: 500.00MT</p>															
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<p>Commodity Description: 100000000 ITEM NO: 100000000 ITEM NAME: 25KG SPP WHITE RICE (NON-IRGMENTED RICE) 25000 bags packed in 25kg SPP bags Origin: India Quantity: 140.00 MT Average Length: 9.00 mm Caliber: 9.00 mm Foreign Matter: 0.00% Damaged/Defeasured: 0.00% Yellow & Red Stain: 0.00% Packing: 25 Kg SPP bags Packed In Buyer's Brand: ABELCO 250 printed empty bags to be shipped with shipment box Case</p>		<table border="1"> <thead> <tr> <th>HSN Code</th> <th>Country of Origin</th> <th>Qty</th> <th>Unit</th> <th>Unit Price (USD)</th> <th>Total Amount (USD)</th> </tr> </thead> <tbody> <tr> <td>10062000</td> <td>India</td> <td>500</td> <td>MT</td> <td>200.00</td> <td>100000.00</td> </tr> </tbody> </table>				HSN Code	Country of Origin	Qty	Unit	Unit Price (USD)	Total Amount (USD)	10062000	India	500	MT	200.00	100000.00
HSN Code	Country of Origin	Qty	Unit	Unit Price (USD)	Total Amount (USD)												
10062000	India	500	MT	200.00	100000.00												
<p>Amount in USD (USD): Thirty Thousand Only Portage/Exchage: FOB = INR 82</p>		<p>Total Invoice Value: 100000.00</p>															
<p>Bank Details: Bank Name: The Kalpuj Co-operative Bank Ltd. Address: Near Income Tax Circle, Amdavad, 380001, Gujarat, India. Account Number: 00330000027 Swift Code: KALUBKAR</p>																	
<p>Declarer: We hereby certify that the information on this invoice is true and correct and that the contents of this shipment are as stated above.</p>																	
<p>For MANEK RATHA AGRI PRODUCTS  Authorised Signatory</p>		<p>All disputes with respect to this invoice are subjected to Samed Jurisdiction Date: 04-10-2022</p>															

11.7 Deductions amounts not claimed in Shipping Bills and debit notes equal to the export duty paid amounts were raised, however amounts less than the export duty paid were received from the buyer thus the remaining amount is still payable:

In addition to above, in respect of the following 4 shipments of rice exported by M/s Manek Rathi Agri Products, the exporter had not claimed any deduction in the shipping bills filed by them, however, in respect of these shipments also, the exporter had raised separate debit notes for recovery of export duty paid amounts of USD 67700 from the overseas buyer. The exporter has stated that, out of the aforesaid amount of USD 67700, overseas buyer has paid only an amount of USD 65050 which is USD 2650 lesser than the export duty paid amounts.

Therefore, even though the aforesaid amount of USD 2650 has not been paid by the overseas buyer to the exporter, the said amount is still payable in respect of the aforesaid consignments as the said amount is also covered in the debit notes worth USD 67770 raised by the exporter to the buyer.

Thus, the amount of USD 67700, being the amount paid or payable by the overseas buyer to the exporter, appears to be liable to be included in the FOB Value of the said 4 shipments and the exporter appears to be liable to pay the export duty on the aforesaid amount of USD 67700 also.

Table B2

Sl. No.	SB NUMBER	SB DATE	INVOICE NUMBER	EXCH. RATE	Delivery Terms	FOREING	Total Value (INR)	Invoice Value (INR)	RFC (FCI)	Amount received through Reimbursement at of taxes (FCI)	Amount received through Reimbursement at of taxes in INR	Export Duty (FCI)	Export Duty (INR)
1	6542764	20-11-2012	USD	81.8	FOB	70,55,250	86250	86250	84525	16905	1382820	17240	1413650
2	6483263	27-11-2012	USD	81.8	FOB	69,51,000	85000	85000	83300	16600	1362788	17000	1396600
3	6483376	27-11-2012	USD	81.8	FOB	70,55,250	86250	86250	84525	16905	1382820	17240	1413650
4	4364834	22-09-2012	USD	78.7	CFR	63,74,700	118800	118800	106700	14380	1147446	16200	1274840
Grand Total						2,34,38,200	3,76,300	3,76,300	3,59,275	85,050	52,78,852	67,388	54,87,640

11.8 For reimbursement of the export duty from the overseas buyer, the exporter had declared RBI Accounting Purpose code No. P1306 which is for refund of taxes, however, the following discussion indicate that the said purpose code is not meant for the receipt of export duty and export proceeds -

The exporter has claimed that the deduction/ deduct amount claimed by them in the shipping bill have been received by them from the overseas buyers in the form of reimbursement of taxes against debit notes raised by them for the said purpose. They have further informed that the said transactions have been made under the RBI purpose code P1306.

RBI purpose codes are unique identifiers assigned to various international transactions, enabling banks and financial institutions to classify and process remittances accurately. RBI has notified purpose codes for reporting forex transactions for Payment and Receipt purposes.

The Purpose codes for reporting forex transactions (for the purpose of *Receipt of amounts*) are further categorized into 16 different 'Purpose Group Name' which includes Exports (of Goods), Transportation, Travel, Financial Services, Royalties & License Fees, Transfers among others.

The following purpose codes pertaining to Export (of Goods) refers to the receipt of forex in respect of exports made from India.

Gr. No.	Purpose Group Name	Purpose Code	Description
01	Exports (of Goods)	P0101	Value of export bills negotiated / purchased/discounted etc. (covered under GR/PP/SOFTEX/EC copy of shipping bills etc.)
		P0102	Realisation of export bills (in respect of goods) sent on collection (full invoice value)
		P0103	Advance receipts against export contracts, which will be covered later by GR/PP/SOFTEX/SDF
		P0104	Receipts against export of goods not covered by the GR/PP/SOFTEX/EC copy of shipping bill etc.
		P0105	Export bills (in respect of goods) sent on collection.
		P0106	Conversion of overseas export bills from NPD to collection mode
		P0107	Realisation of NPD export bills (full value of bill to be reported)

Further, the purpose code P1306 referred by the exporter for reimbursement of taxes (i.e. export duty) falls under the group 'Transfer'.

Gr. No.	Purpose Group Name	Purpose Code	Description
13	Transfers	P1301	Inward remittance from Indian non-residents towards family maintenance and savings
		P1302	Personal gifts and donations
		P1303	Donations to religious and charitable institutions in India
		P1304	Grants and donations to governments and charitable institutions established by the governments
		P1306	Receipts / Refund of taxes

From the above, it is evident that the purpose codes under the group 'Transfer' pertains to forex transactions of personal nature such as personal gifts, family maintenance, donations etc. and the accounting purpose code P1306 falling under the said category is clearly not associated with the payments received in respect of exported goods. Thus, the exporter had used wrong purpose for receipt of the export duty amounts from the buyers. Thus, the exporter had mis-represented the facts before the bank authorities also to process the receipt of export duty amounts from the overseas buyer. These amounts are not reflected in the bank realisation certificates obtained by the exporter from the bank.

11.9 Excess freight amounts declared in the shipping bills:

In addition to the above, in respect of the following 79 shipments of rice, the exporter had declared higher amounts of ocean freight in comparison to the actual freight amounts paid by them, thus causing short payment of duty on the differential ocean freight amount in respect of these 79 shipments also. The total amount of excess freight declared by the exporter in respect of these shipments stood at Rs. 5,20,92,112/-

Table C

S. No.	SB Number	SB Date	Inv. Ctr	Exchange Rate	Invoice Term	Declared FOB Value (INR)	Total Value (FC)	Invoice Value (FC)	BRC (FC)	Freight declared (INR)	Actual Freight Paid (INR)	Excess Freight Declared
1	1199215	15-05-2023	EUR	89	CIF	67,15,940	112051	97559	97559	19,42,820	10,92,905	9,39,921
2	1368369	29-05-2023	USD	81.25	CIF	65,91,279	117023	101760	101760	17,07,249	9,17,901	7,89,298
3	1375496	29-05-2023	USD	81.25	CIF	69,35,828	116300	98000	98000	11,44,962	9,41,118	2,03,848
4	1474869	03-06-2023	USD	81.7	CIF	66,01,403	117025	101760	101760	17,10,300	9,17,961	7,92,429
5	1499219	03-06-2023	USD	81.7	CIF	70,58,880	117450	100170	100170	11,25,000	10,85,653	36,557
6	1551541	09-06-2023	USD	81.7	CIF	66,01,403	117925	101760	101760	17,10,300	9,16,408	7,93,399
7	1606584	09-06-2023	USD	81.7	CIF	69,48,585	116370	99360	99360	11,09,127	10,97,299	71,328
8	1775778	15-06-2023	USD	81.7	CIF	71,69,175	127980	101430	110430	18,30,897	11,11,428	7,12,469
9	1788873	16-06-2023	USD	81.35	CIF	65,75,114	117923	101760	101760	17,03,062	9,89,810	7,22,212
10	2168738	01-07-2023	USD	81.35	CIF	70,28,640	116370	98000	98000	10,32,312	8,68,555	1,63,770
11	2197292	03-07-2023	USD	81.35	CIF	42,93,761	76793	69462	69462	12,02,922	4,64,036	7,38,887
12	2260196	06-07-2023	USD	81.25	CIF	70,28,640	116370	98000	98000	10,32,312	8,68,555	1,63,776
13	2435727	13-07-2023	USD	81.55	CIF	70,45,920	118000	98820	98820	10,12,851	8,67,165	1,45,636
14	2436696	13-07-2023	USD	81.55	CIF	43,43,761	76793	66144	66144	10,50,282	4,48,843	6,01,419
15	2456100	13-07-2023	USD	81.55	CIF	71,76,198	132270	117180	117180	21,79,812	10,59,592	11,20,239
16	2453362	14-07-2023	USD	81.55	CIF	31,92,621	5640375	48672	48672	8,16,381	4,70,770	3,45,810
17	2538426	16-07-2023	USD	81.55	CIF	1,05,22,500	17778958	14798358	14798358	33,45,261	11,12,999	2,33,400
18	3462834	21-09-2022	USD	78.7	CIF	61,74,700	110800	108020	282217	28,32,162	16,57,822	12,74,740
19	4497229	28-09-2022	USD	78.7	CIF	95,19,532	171504	171504	39,43,814	27,13,836	12,29,879	
20	4719894	10-10-2022	USD	80.7	CIF	2,31,70,987	382617	382617	462617	34,16,978	32,05,133	11,51,841
21	4750820	11-10-2022	USD	80.7	CIF	25,63,304	47520	47520	47520	8,62,844	4,79,358	1,83,486
22	5336630	31-10-2022	USD	83.3	CIF	1,26,50,580	231870	201090	201090	38,79,311	30,01,129	8,76,186
23	5414565	31-10-2022	USD	82.2	CIF	1,86,42,900	341712	296152	296152	57,17,174	44,71,231	12,45,493
24	5177296	01-11-2022	USD	82.2	CIF	35,75,700	67900	58300	58300	12,13,000	9,89,782	2,43,228
25	5331541	03-11-2022	USD	82.2	CIF	25,48,200	47900	41300	41300	8,86,668	6,58,273	1,88,189
26	5231869	03-11-2022	USD	82.2	CIF	1,59,79,080	292890	258010	258010	49,00,435	34,09,968	14,90,479
27	5339016	08-11-2022	USD	82.1	CIF	25,45,300	47900	41300	41300	8,45,736	5,86,812	2,58,748
28	5728994	28-11-2022	USD	80.9	CIF	1,83,48,120	341712	296152	296152	56,26,757	42,95,352	13,31,465
29	5838023	30-11-2022	USD	80.9	CIF	1,57,26,960	239980	215980	215980	32,76,450	16,56,545	16,20,305
30	6228854	17-12-2022	USD	81.8	CIF	1,32,76,140	236958	204498	204498	34,51,766	32,06,789	2,43,007
31	6236153	18-12-2022	USD	81.8	CIF	7,76,140	259958	204498	204498	34,51,766	31,84,483	2,61,311
32	6266519	19-12-2022	USD	81.8	CIF	1,32,51,600	259880	203480	203480	53,12,900	16,64,405	16,48,495
33	6358818	23-12-2022	USD	81.8	CIF	38,03,700	69150	59830	59830	10,92,030	10,79,394	12,846
34	6423845	24-12-2022	USD	81.8	CIF	1,30,66,200	227000	196100	196100	29,91,426	25,12,170	4,79,256
35	6452490	26-12-2022	USD	81.8	CIF	80,71,800	92200	79800	79800	14,36,049	14,21,602	32,418
36	6636488	02-01-2023	USD	81.8	CIF	1,12,63,800	201042	173502	173502	29,28,694	27,42,830	1,84,773
37	7269756	25-01-2023	USD	80.55	CIF	1,28,05,450	227000	196100	196100	24,45,714	24,74,633	4,71,081
38	7369297	27-01-2023	USD	80.55	CIF	2,71,85,625	474750	407250	407250	56,18,363	39,27,369	16,81,003
39	7988494	28-02-2023	USD	81.9	CIF	2,26,43,712	391392	336896	336896	48,11,789	32,17,209	25,94,589
40	7913658	28-02-2023	USD	81.9	CIF	2,26,43,712	391392	336896	336896	48,11,789	32,19,627	25,92,362
41	8056224	24-03-2023	USD	81.9	CIF	1,41,52,520	248420	210040	210040	30,07,668	11,72,872	18,14,490
42	8084679	05-03-2023	USD	82.2	CIF	1,59,78,680	216000	186000	186000	17,37,765	17,37,692	20,073
43	8111290	06-03-2023	USD	82.2	CIF	1,59,79,680	216000	186000	186000	17,37,765	17,37,692	20,073
44	8111683	06-03-2023	USD	82.2	CIF	1,79,77,140	243000	243000	243000	19,52,677	24,868	
45	8152878	05-03-2023	USD	82	CIF	1,59,49,800	216000	186000	186000	17,34,488	17,37,687	15,801
46	8152881	05-03-2023	USD	82	CIF	1,59,49,800	216000	186000	186000	17,34,488	17,37,687	15,801
47	8287936	03-03-2023	USD	82	CIF	1,79,33,600	243000	243000	243000	19,32,674	19,37,414	15,280
48	8289620	03-03-2023	USD	82	CIF	1,99,26,000	270000	270000	270000	21,91,860	21,72,918	18,942
49	8382000	18-03-2023	USD	82.75	CIF	70,63,200	121170	104490	104490	14,56,785	5,95,630	8,61,115
50	8383100	18-03-2023	USD	82.75	CIF	35,31,600	60885	52245	52245	7,28,993	3,45,476	3,82,917
51	8383123	18-03-2023	USD	82.75	CIF	35,31,600	60885	52245	52245	7,28,993	3,45,476	1,82,917
52	8383138	18-03-2023	USD	82.75	CIF	42,37,930	71062	62694	62694	8,74,071	4,14,030	4,59,435
53	8383193	18-03-2023	USD	82.75	CIF	35,31,600	60885	52245	52245	7,28,993	3,45,420	3,82,917
54	8399682	18-03-2023	USD	82.75	CIF	35,31,600	60885	52245	52245	7,28,993	3,45,420	3,82,917
55	8399683	18-03-2023	USD	82.75	CIF	42,37,930	71062	62694	62694	8,74,071	4,14,030	4,59,435
56	8499396	18-03-2023	USD	82.75	CIF	35,31,600	60885	52245	52245	7,28,993	3,41,715	3,86,078
57	8499446	18-03-2023	USD	82.75	CIF	35,31,600	60885	52245	52245	7,28,993	3,41,715	3,86,078
58	8499446	18-03-2023	USD	82.75	CIF	35,31,600	60885	52245	52245	7,28,993	3,41,715	3,86,078

50	8499949	15-03-2023	USD	\$1.75	CIF	42,17,920	73962	62698	62694	8,14,071	4,11,819	4,80,253
60	8499945	15-03-2023	USD	\$1.75	CIF	42,17,920	73962	62698	62694	8,14,071	4,11,819	4,80,253
61	8499945	15-03-2023	USD	\$1.75	CIF	42,17,920	73962	62698	62694	8,14,071	4,11,819	4,80,253
62	8500016	15-03-2023	USD	\$1.75	CIF	35,31,600	60885	52745	52745	7,28,393	3,41,715	3,80,678
63	8516670	15-03-2023	USD	\$1.75	CIF	70,8,200	121730	104490	104490	14,56,785	5,88,976	8,63,809
64	9864614	01-04-2023	USD	\$1.95	CF	1,14,97,365	240300	207560	207560	34,06,987	25,13,237	9,84,750
65	9826951	01-04-2023	USD	\$1.95	CF	1,14,97,365	240300	207560	207560	34,06,987	24,32,201	10,63,780
66	9832649	01-04-2023	USD	\$1.95	CF	1,14,97,365	240300	207560	207560	34,06,987	23,13,034	11,02,393
67	9818780	01-04-2023	USD	\$1.1	CF	1,31,57,170	240300	207560	207560	34,56,736	23,73,499	11,36,287
68	9213392	11-04-2023	USD	\$1.1	CF	1,31,09,815	218580	205520	205520	35,06,687	25,12,708	10,62,949
69	9213443	11-04-2023	USD	\$1.1	CF	65,54,908	117925	101760	101760	16,97,829	11,58,875	5,38,956
70	9245215	12-04-2023	USD	\$1.1	CIF	70,07,080	122310	109100	109100	14,88,946	5,88,781	9,90,246
71	9246387	13-04-2023	USD	\$1.1	CIF	71,38,552	122310	108760	108760	13,57,614	5,88,700	7,68,914
72	9311774	15-04-2023	USD	\$1.1	CF	1,31,57,170	240300	207560	207560	34,56,736	23,47,156	11,12,570
73	9392144	19-04-2023	USD	\$1.1	CF	65,54,908	117925	101760	101760	16,97,829	11,57,729	5,40,080
74	9405846	19-04-2023	USD	\$1.1	CF	65,54,908	117925	101760	101760	16,97,829	11,59,116	5,38,715
75	9566752	25-04-2023	USD	\$1.4	CF	70,37,960	121730	104490	104490	14,50,548	7,48,375	7,02,173
76	9751665	04-05-2023	USD	\$1.4	CF	69,21,070	117450	100440	100440	12,52,746	6,68,035	6,43,711
77	9816286	06-05-2023	USD	\$8.25	CF	68,76,200	117450	100440	100440	12,44,282	6,64,921	6,29,162
78	9887849	12-05-2023	USD	\$8.25	CF	68,76,200	117450	100440	100440	12,44,282	10,77,326	1,60,955
79	9491177	13-05-2023	EUR	\$5	CIF	67,28,400	112860	97740	97740	19,46,431	9,66,826	9,79,604
Grand Total						74,83,27,478	1,26,26,165	1,42,29,266	1,42,17,328	16,74,34,814	11,53,45,783	5,20,93,113

11.10 In respect of these shipments also, the exporter had not declared the true facts, before the customs authorities at the port of export at the time of effecting exports. They have **declared the higher ocean freight amounts in their export documents** such as shipping bills filed by them, in comparison to the actual freight amounts paid by them to the freight forwarders/shipping lines. It is a fact on record that the exporter had recovered the higher freight amounts from the overseas buyers of the export goods in comparison to the amounts paid by them to the freight forwarders & shipping lines in respect of their export shipments. These facts have been confirmed by the exporter in the details of their export shipments submitted by them under the provisions of section 108 of the Customs Act, 1962.

For ready reference, copy of Shipping Bill Number 7906494 dated 20-02-2023 is pasted below. As per the shipping bill the ocean freight amount declared in respect of the said shipment is USD 58752, which is equivalent to Rs. 48,11,789/- (taking exchange rate at Rs. 81.9 per USD as per shipping bill) whereas during investigation, the exporter had submitted the actual freight amount paid by them in respect of the aforesaid shipping bill which stood at Rs. 22,17,200/-. Thus excess freight amount declared in respect of the aforesaid shipment works out to be at Rs. 25,94,589. The said excess freight amount has also been recovered by the exporter from the overseas buyer of the export goods but the exporter had not paid duty on the said excess freight amount which is part and parcel of the actual assessable value of the export goods.

PART - I - SHIPPING BILL SUMMARY												
A DECLARATION DETAILS	1.MODE	2.ASSESS	3.EKMN	4.JOBMING	5.MEIS	6.ODK	7.RODTP	8.DEECIDFIA	9.DFRC	10.RE-EXP	11.LUT	
	SEA	Y	Y	N	Y	Y	N	N	N	N	Y	
12.PORT OF LOADING	INMUNI (Mundra)											
14.STATE OF ORIGIN	GUJARAT											
16.PORT OF DISCHARGE	KEMBA (Mombasa)											
1.EXPORTER'S NAME & ADDRESS	MANEK RATHI AGRI PRODUCTS SURVEY NO. 175, PIPAN GAM, TEHSIL SANAND											
3. AD CODE:	9550101											
4.RBI WAIVER NO. & DT	4811781 22-FEB-23											
5.CB NAME	SHRIMAUTI SHIFTING SERVICE											
6.AEO	2. Type : Private											
C VALUA M DETAILS	1.FOB VALUE	2.FREIGHT	3.INSURANC	4.DISCOUN	5.COM	D. EXPR	1.ODK CLAIM 6480	2.IGST ANT 4678742	3.CESS AMT	4.IGST VALUE 0	5.RODTEP ANT 0	6.GROSCTL ANT 0
	2264712	4811781	70762	0	0							
6.DEDUCTIONS	7.FTC	8.DUTY	9.CESS	10.ODK BANK A/C NO.	11. IPSC NO.	12.IGST ANT 6480	13.IGST VALUE 0	14.CESS AMT	15.RODTEP ANT 0	16.GROSCTL ANT 0		
4526742	0	0	0	6526742	10.CCB05WNDCS							
1.MAWB NO.	2.MAWB DT	3.HAWB NO.	4.HAWB DT	5.N.O.C.	6.CIN NO.	7.CIN DT.	8.CIN SITE ID	9. INV NO.	10. INV AMT.	11. CURRENC		
23PCEG022450209600	24-FEB-23	INV/UNI			24-FEB-23			MV/140322-23	338008	USD		
F INVOICE SUMMARY												
E MANIFEST DETAILS	1.CONTAINER	2.SEAL	3.DATE	4.8 No	H CHALLAN DETAILS	15.R.NO	2.CHALLAN NO	3.PAYMT DT	4.AMOUNT			
	BLU2757677	162753	22-FEB-23	1		1	117084	23-FEB-23	4528742			
BLU2115750	162754	22-FEB-23	2									
CAR13435703	162755	22-FEB-23	3									
GAVL0978305	162756	22-FEB-23	4									
SEGUL0050604	162757	22-FEB-23	5									

C/MAL DTLS	1. INVOICE VALUE	2. FOB VALUE	3. PRE/RETURN INSURANCE	4. DISCOUNTS	5. COMMISSION	6. DEDUCT	8. P/C	9. EXCHANGE RATE
	356095 USD	276490 USD	58752 USD	654 USD	0 USD	0 USD	53296 USD	1 USD INR 81.9
1. Item No	2. HS CD	3. DESCRIPTION			4. QUANTITY	5. UOC	6. RATE	7. VALUE(F/C)
1	16093000	INDIAN WHITE RICE 5% BROKEN (NON-BASMATI RICE) PACKED IN 25 KG BOPP BAGS - AS PER INVOICE			654	MTS	453	391382

S.No.	Name of the Exporter	HS Code	Shipping Bill Number	Shipping Bill Date	Invoice Number	Invoice Date	Nature of Consignment	Actual freight amount paid	Actual insurance amount paid
73	MANEK RATHI AGRI PRODUCTS	4804000000	7906494	20-02-2023	MR/1403/22-23	18-02-2023	CIF	27272.04	

Freight declared in SB is USD 58752 (i.e. INR 48,11,789) whereas actual freight paid by exporter is USD 27272.04 (i.e. INR 22,17,200)

COMMERCIAL INVOICE										
 <p>Exporter: MANEK RATHI AGRI PRODUCTS Survey no: 175, Sarsang Batai Road, Piplan Gari, Baroda- 392110, Gujarat, India GSTIN: 24ABHFM5669Q120</p>		<p>Invoice No: MR/1403/22-23 Date: 18-02-2023</p> <p>Consignee: To Order</p> <p>NOTIFY PARTY-1: GULF BAKERS LTD P.O BOX 3505-80100 MOMBASA, KENYA</p> <p>NOTIFY PARTY-2: ARI COMMODITIES LTD P.O BOX 87306-80100 Kenya Mombasa ARI.COMMODITIES.LTD@GMAIL.COM</p> <p>NOTIFY PARTY-3: MARVEL GLOBAL GENERAL TRADING LLC P.O BOX 91104 DUBAI UAE CONTACT: +971 55 957964</p> <p>NOTIFY PARTY-4: QANTAR FOODSTUFF TRADING LLC P.O BOX 188002 Al RAS DIFC, DUBAI UAE</p> <p>NOTIFY PARTY-5: MAIN COMMODITIES LTD P.O BOX 87306-80100 MOMBASA, KENYA MAINCOMMODITIESLTD@GMAIL.COM</p>								
		Port of Loading: India Port, India	Gross Weight: 866.705MT Net Weight: 854.00 MT	Transportation: By Sea		Payment Terms: 100% C&D				
		Port of Unloading: Mombasa, Kenya	Total Container: 32' 20' (27 MT each)	Currency: USD		Delivery Terms: CIF Mombasa, Kenya				
		Commodity Description		HSN Code	Country of Manufacture	City	UOM	Unit Price (USD)	Total Amount (USD)	
		INDIAN WHITE RICE 5% BROKEN (NON-BASMATI RICE)		10060000	India	MT	349.69	336,066.00		
		14640 Rags packed in 25Kg bags								
Origin: India										
Measure: 14 % Max.										
Average Length: 5.9 mm to 6 mm										
Red/Yellow Kernels: 0.5% max										
Chaff: 4%										
Damaged & Discarded / Yellow										
Packing: 25 Kg BOPP bags										
Jacket in Buyer's Brand										
SHIPMENT UNDER LUT LUT NO: AD248722919430										
TWO PERCENT (2%) EMPTY SPARE NEW BAG WITH SAME MARKING TO BE SUPPLIED BY THE SELLER ALONG WITH THE SHIPMENT										
Amount in USD (words): USD Three Lakh Thirty-Six Thousand Ninety-Six only.										
Foreign Exchange Rate: USD = INR 83										
Amount in INR (words): Rupees Two Crore Seventy-Eight Lakh Ninety-Five Thousand Nine Hundred Sixty-Eight only.										
Total Invoice Value							336,066.00			
<p>Bank Details: Bank Name: The Kalupur Commercial Co-operative Bank Ltd, Address: Near Income Tax Circle, Ahrampur Road, Ahmedabad - 380014, Gujarat, India. Account Number: 03536000027 Swift Code: YALUHAAAXXX</p> <p>Declaration: We hereby certify that the information on this invoice is true and correct and that the contents of this shipment are as stated above.</p> <p>For MANEK RATHI AGRI PRODUCTS</p> <p>Authorised Signatory</p> <p>All disputes with respect to this invoice are subjected to Baroda Jurisdiction</p> <p>Date: 18-02-2023</p>										

11.11 The aforesaid **deduction amounts** claimed by the exporter, as detailed in Table A1 & A2 above and **reimbursement of duty paid amounts** taken by them separately as detailed in Table B1 & B2 above as well as the **excess freight amounts declared** by them in their export documents in respect of the shipments as detailed in Table C above,

were not included in the declared FOB Value of goods in respect of these shipments. Investigation has revealed that these **deduction amounts/ reimbursement of duty paid amounts** have also been claimed/ recovered by them from the overseas buyer of the export goods in their bank accounts. Therefore, the deduction amounts/reimbursement of export duty amounts taken by the exporter from the overseas buyer in any manner whether or not by declaring the same in the export documents or by mis-declaration of freight amounts in the export documents **appears to be forming part of the consideration received by the exporter** for delivery of the export goods on board the vessel after clearance of the shipments through the customs authorities at the port of export. Thus, these excess freight amounts and deduction amounts claimed by the exporter at the time of filing shipping bills and the amounts recovered separately from the overseas buyer over and above the invoice price as reimbursement of export duty, as discussed in above paras, also appear **liable to be included in the FOB Value for the purpose of calculation of the export duty**.

12. Legal Provisions:

12.1 Statutory provisions of the Customs Act, 1962 relevant to this case are enclosed as **Annexure-A** to this investigation report and the same are briefly discussed below:

10.2 The provisions of section 2(18), section 14 & section 16 of the Customs Act, 1962, Customs Valuation (Determination of Value of Export Goods) Rules, 2007, CBIC Circular No. 18/2008-Cus. dated 10.11.2008 are relevant for understanding various aspects of valuation of the export goods in the context of present case:

- a)** The term 'export' has been defined in "Section 2(18) of the Customs Act, 1962 as 'export', with its grammatical variations and cognate expressions, means taking out of India to a place outside India."
- b)** **Section 14 of the Customs Act 1962, stipulates that 'for the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of theexport goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.**
- c)** In this provision the terms "**the price actually paid or payable for the goods**" and "**when sold for export from India for delivery at the time and place of exportation**" in the context of present case are very significant. For the process of export to be complete, the goods need to be taken out of India to a place outside India. This event can take place only after goods cross Indian borders. This is more so because the price has to be taken for sale of export goods when sold for export from India 'for delivery at the time and place of exportation'. The wording "**for the delivery-at the time and place for exportation**" has to be legally construed as "for delivery at the time and place of exportation on board the foreign going vessel". Thus the time and place of delivery of the export goods will be when the goods are on-board the foreign going vessel which takes place after the goods are given a Let Export Order (LEO) by the jurisdictional Customs officer after examining the compliance to Customs law. By implication, all elements of cost that are required to be incurred to bring the goods 'for delivery at the time and place of exportation' to the foreign going vessel will have to be added to invoice price to arrive at a correct transaction value of export goods as per section 14 notwithstanding the manner as to how the financial transaction is organized by the exporter and the overseas buyer. It is amply clear that without incurring associated expenses the export goods cannot be simply brought to the place of exportation at the time of export. Thus, in the impugned case, the price payable for the export goods for delivery at the time and place of exportation can be arrived at only after inclusion of associated costs including the amounts equal to the export duty which have been recovered by the exporters from the overseas buyers of the export goods.
- d)** "FOB value" means the price actually paid or payable to the exporter for goods when the goods are loaded onto the carrier at the named port of exportation including the cost of the goods and all costs necessary to bring the goods onto the carrier at included in the term 'FOB Value'. The valuation shall be made in accordance with the World Trade Organisation (WTO) Agreement on

Implementation of rule VII of General Agreement on Tariffs and Trade (GATT), 1994. There cannot be an exception to the well laid down principles of valuation.

e) This method of calculation of 'FOB Value' is prescribed in various trade facilitation agreements such as 'Asean India Free Trade Agreement (AIFTA)' in a very clear manner as follows. FOB value shall be calculated in the following manner, namely:

- (a) FOB Value = ex-factory price + other costs
- (b) Other costs in the calculation of the FOB value shall refer to the costs incurred **in placing the goods in the ship** for export, **including but not limited to**, domestic transport costs, storage and warehousing, **port handling**, brokerage fees, service charges, et cetera.

f) This in fact lays down the foundation for arriving at the assessable value of the export goods whereby various elements of costs, including the export duty, notwithstanding it is being paid to the exporter directly by the foreign buyer or otherwise, are required to be added to the invoice price. Costing exercise of addition of other cost elements in FOB Value is not limited to transit transportation cost, storage & warehousing alone. Without payment of export duty, let export order cannot be issued by the jurisdictional customs office and the goods cannot be loaded on the foreign going vessel to take them out of India. On this background it is observed that value of the export goods on which duty has been paid by the exporter of rice does not reflect an FOB value i.e. a price payable for delivery of goods at the time and place of exportation which is a basis for export assessment.

g) This practice of payment of export duty by considering the FOB Value as cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard instructed that the existing practice of computation of the export duty by taking FOB price as the cum-duty price may be continued till 31.12.2008 and all the pending cases may be finalized accordingly. It was also clarified that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

h) In order to bring in uniformity, transparency and consistency in assessment of export of Iron Ore, CBIC vide Circular No. 12/2014 –Customs dated 17.11.2014 directed the field formations *inter alia* to monitoring the receipt of Bank Realisation Certificates for the purposes of comparison with the final invoices submitted by the exporter to satisfy the accuracy of the assessed values. It also indicates that the total consideration received by the exporter from the buyer for sale of the export goods have to be considered for assessment of the export goods. In shipments exported on FOB incoterm basis, duty has to be calculated on the total considerations received by the exporter from the buyer whether or not they are included in the BRC. For shipments exported on CIF/CF/CI inco-term basis, FOB Value has to be deduced from the CIF/CF/CI value by deducting the actual freight amounts and/or insurance premium amounts paid by the exporter as the case may be.

i) **Relevance of time of export is further proved as Section 16 of the Customs Act, 1962 which provides for the date for determination of rate of duty and tariff valuation of export goods, stipulate that the rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force,- (a) in the case of goods entered for export under section 50, on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; (b) in the case of any other goods, on the date of payment of duty.** The afore-said statutory provision also indicate that time of export is relevant for valuation of the export goods.

From the above, it is evident that from 01.01.2009 onwards, the transaction value shall be the FOB Value of the export goods and the FOB value shall not be treated as the Cum-duty price of the export goods. The above practice has to be followed for all export commodities irrespective of the description of the export goods.

13. The investigation into undervaluation of rice shipments exported by M/s. Manek Rathi Agri Products vide above mentioned Shipping Bills discussed in Tables A1, A2, B1, B2 & C above revealed deliberate mis-statement and suppression of facts on part of the exporter, who was actively involved in mis-declaration of the FOB value of export goods, with an intention to evade appropriate export duty leviable on *ad valorem* basis on such goods. As discussed in above paras, the exporter had mis-declared the freight amounts whereas they were very well aware of the actual freight amounts paid by them in respect of these shipments exported vide Shipping Bills mentioned in Table C above. Moreover, in respect of the shipments mentioned in Table B1 and B2 above, the exporter had recovered the export duty from the overseas buyer without declaring these facts in the export documents. In respect of the goods exported by them through shipping bills as discussed in Table A1 & A2 above, the exporter had wrongly claimed the deduction amounts and mis-declared the transaction value. Thus, the exporter had not declared the actual FOB Values in the shipping bills thereby intentionally evading the applicable duties of customs on such undue deduction amounts/excess freight and export duty reimbursement amounts claimed and recovered by them from the buyers of the export goods.

14 As discussed in above paras, the valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14 *ibid*, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [hereinafter referred as 'CVR (E), 2007']. As per the provisions of Section 14 of the Customs Act, 1962, **the value of export goods shall be the 'transaction value' of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation (i.e., the FOB price) when price is the sole consideration**. As such, the sum total of price paid by the overseas buyer for delivery at the time and place of exportation would be the 'transaction value' of such goods.

14.2 Further, for the purpose of charging export duty, the value to be considered is the FOB price. This is so because, the terms "*for export from India for delivery at the time and place of exportation*" appearing in Section 14 of the Customs Act, 1962, means to FOB (Free On Board) value only. This has been clarified also by the Central Board of Excise and Customs (CBEC) vide Circular No. 18/2008, dated 10.11.2008, wherein it stated that in case of export shipments, *for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation*.

14.3 In this case the value of the export goods shall be the transaction value thereof when the price is the sole consideration. As such, **for determination of the transaction value of the export goods, the sole consideration received by the exporter from the buyer should be taken in to account**, then it should be seen as to which prices are compulsory for delivery of the export goods on board the vessel. In this case, the exporter is insisting that the export duty is on reimbursement basis from the overseas buyer of the export goods. By doing so, the exporter is separately receiving a part of the export proceeds from the overseas buyer and not including the same in the assessable value of the export goods. It can be stated that the seller has imposed a condition on the buyer of the export goods which states that if the buyer does not pay him a fixed amount (equal to the 20% export duty on their declared lesser FOB value), they would not sell the export goods to the overseas buyer and would not deliver the same at the time and place of exportation. Thus, all such agreements wherein the seller had imposed a condition on the buyer by which buyer has to pay a part of the payment separately in the bank accounts of the seller on account of sale of the export goods, such payments are necessarily part of the consideration received by the seller for sale of the export goods. Likewise, the excess ocean freight amounts declared by the exporter are also part of the consideration received by the exporter from the buyer for sale of the export goods as such excess ocean freight amounts have not be paid by them to the shipping lines/freight forwarders for the transportation of the export goods. All such amounts which are equal to the export duty amounts and excess ocean freight amounts are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon.

15. The method of calculation of FOB Value has been provided at the website of various reputed international platforms such as 'Freightos', which also support the contention of DRI that export duty is also includible in the FOB Value if the same has been recovered by the seller from the buyer.

Freightos Limited (NASDAQ: CRGO), is a leading, vendor-neutral booking and payment platform for the international freight industry. Freightos®, the digital freight booking platform, makes international shipping faster, more cost-effective, and more reliable.

The description of the said platform as available on their website under the heading 'About Freightos' states that Freightos® (NASDAQ: CRGO) is the leading, vendor-neutral booking and payment platform for international freight, improving world trade. WebCargo® by Freightos and 7LFreight by WebCargo form the largest global air cargo booking platform, connecting airlines and freight forwarders. Over **ten thousand freight forwarder** offices, including the **top twenty global forwarders, place thousands of eBookings a day on the platform with over fifty airlines**. These airlines represent over 2/3rds of global air cargo capacity. Alongside ebookings, freight forwarders use WebCargo and 7LFreight to automate rate management, procurement, pricing and sales of freight services, across all modes, resulting in more efficient and more transparent freight services. More information is available at freightos.com/investors.

The website of freightos <https://www.freightos.com/freight-resources/fo-b-calculator> was visited which provide FOB calculator tools for the ease of international freight industry. As per the said website, *FOB (Free on Board) Calculator is a tool used in international trade to determine the total cost of goods when they are shipped from the seller's location to the buyer's destination. The FOB price includes the cost of the goods, as well as various expenses incurred until the goods are loaded onto the vessel, such as packaging, loading, and inland transportation to the port of departure. It does not include the freight charges for transporting the goods from the port of departure to the port of destination or any other charges or taxes beyond the point of loading.*

From the above details available on their website, it is evident that all taxes before the point of loading of the export goods which is 'on board the vessel' are included in the term 'FOB'. In the case of export of goods, loading of the export goods starts after issuance of the 'Let Export Order (LEO)' by the proper officer of the Customs. LEO is issued after payment of the export duty. As the export duty is leviable before the point of loading of the export goods on to the vessel the same is includible in the FOB Value of the export goods.

15.2 The above contention of DRI is also supported by the Incoterms which are widely used in the international transactions. Incoterm or International Commercial Terms which are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law. These incoterms define the responsibility of the importers and exporters in the arrangement of shipments and transfer of liability involved at various stages of transaction. They are widely used in the international commercial transactions and procurement processes. These incoterms rules are accepted by governments, legal authorities worldwide for the interpretation of most commonly used terms in the international trade. They are intended to reduce or remove altogether uncertainties arising from the differing interpretations of the rules in different countries. As per Wikipedia, the Incoterms 2020 is the ninth set of international contract terms published by the

International Chamber of Commerce with the first set published in 1936 (RUD-11). As per Incoterms 2020 published by ICC, the term 'FOB' has been defined as under -

FOB – Free on Board (named port of shipment)

Under FOB terms the seller bears all costs and risks up to the point the goods are loaded on board the vessel. The seller's responsibility does not end at that point unless the goods are "appropriated to the contract" that is, they are "clearly set aside or otherwise identified as the contract goods".²⁰¹ Therefore, FOB contract requires a seller to deliver goods on board a vessel that is to be designated by the buyer in a manner customary at the particular port. **In this case, the seller must also arrange for export clearance.** On the other hand, the buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination.

As per the allocation of costs to buyer/seller according to incoterms 2020, in FOB terms, all costs related to loading of the export goods at origin, **export custom declaration**, carriage to the port of export, unloading of truck in port of export, loading on vessel/airplane in the port of export have to be borne by the seller of the goods and other expenses such as carriage to the port of import, insurance, unloading in port of import, loading on truck in port of import, carriage to the place of destination, import custom clearance, import duties and taxes and unloading at destination have to be borne by the buyer of the goods. Thus all cost until the loading of the export cargo on board the foreign going vessel have to be borne by the seller of the export goods which also include export customs declaration and cost related to it. Thus, it is evident that the export duty is includible in the FOB Value and the same have to be borne by the seller and it cannot be recovered by the seller from the overseas buyer. If the same is recovered, it becomes part of the consideration for sale of the export goods and thus becomes liable to be included in the FOB Value of the export goods.

16. Rejection & Redetermination of the Transaction Value:

16.1 As discussed in the above paragraphs, valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14, *ibid*, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [here-in-after referred as the CVR (E), 2007]. The export proceeds receivable in full consequent to negotiation and finalization of sale price between the exporter from India and their overseas buyer form 'transaction value' of such goods. The export Customs duty is leviable on the actual sale price at which the goods were sold. Where such sale price has been mis-declared and under-stated by the exporter, the actual sale price, i.e. the Transaction Value, needs to be taken into account for the purpose of valuation of the impugned export goods.

16.2 In respect of the shipments of rice covered by the Shipping Bills as shown in the Table A1, A2, B1, B2 & C above, it appears that M/s Manek Rathi Agri Products negotiated and finalized one price with their overseas buyer but in the export documents/contracts, the said price was intentionally bifurcated in two parts. The amount of duty payable by the exporter was deducted from the transaction value. In the shipping bills filed by the exporter, such undervalued and mis-declared transaction value was shown, which was lesser than the price that was actually finalized with the overseas buyer as consideration for the export goods. A part of the consideration was intentionally excluded from the transaction value of the export goods by adopting three different modus operandi as discussed in para 11 above. The difference between the actual price finalized with the overseas buyer and the price shown in the export documents were recovered by the exporter from the buyer separately by an arrangement of the buyer and the seller in this regard. The exporter and buyer may enter into any contract, they may sell and purchase the export goods on any terms (such as FOB, CIF, CF, CI or ex-works basis) but for the purposes of calculation of the export duty, the transaction value in terms with the provisions of Section 14 of the Customs Act, 1962 has to be derived and such transaction value is the FOB Value of the export goods as

discussed in above paras and for the purpose of calculation of the FOB Value of the export goods, **abatement of the export duty is not available as per Section 14 of the Customs Act, 1962 read with CBIC Circular No. 18/2008-Customs dated 10.11.2008.**

16.3 The receipt of these deduction amounts was apparently never disclosed to the concerned Customs authorities. The said amounts were received from the overseas buyer by raising separate debit notes, as reimbursement of taxes/duties under **wrong RBI Purpose code P1306** which is not meant for receipt of the export duty. The reduced FOB Value declared in the export documents was presented as the true Transaction Value being paid for the export goods by the overseas buyer as the deduction amount (equal to the export duty amount) was not reflected in the Bank Realization Certificate (BRC) in respect of these export shipment. The deduction amount was recovered separately in their bank account as reimbursement of taxes against debit notes. Hence, it appears that the value declared by M/s Manek Rathi Agri Products to the concerned Customs authorities as the Transaction Value of the export cargo in respect of the 125 shipments of rice covered by the Shipping Bills as shown in the Table A1, A2, B1, B2 & C above, is liable to be rejected under Rule 8 of the CVR(E), 2007 and the impugned export goods are liable to be valued at their actual Transaction Value as established by the present investigation, in accordance with the provisions of Section 14 of the Customs Act, 1962, read with Rule 3 of the CVR(E), 2007.

16.4 The amount wrongly excluded from the FOB price was indeed part of the consideration negotiated and finalized between the exporter M/s Manek Rathi Agri Products and their respective overseas buyers and the said amount which was excluded from the FOB Value was duly received by the exporter from the overseas buyer in their bank account. Therefore, the differential value (equal to the deduction amount/excess freight amount and the amount received separately as reimbursement of duty) as shown in the **Table A1, A2, B1, B2 & C** above appear to be includable in the declared value (FOB Value) of the respective export shipments to arrive at the correct transaction value at which the said goods were sold for export from India for delivery at the time and place of exportation and export Customs duty as per the prevailing rate needs to be charged on the said value. M/s Manek Rathi Agri Products appears to be liable to pay the resultant differential duty in addition to the duty already paid by them.

16.5 In view of the above, in accordance with the provisions of Section 14 of the Customs Act, 1962, the amount of differential customs duty in respect of the Shipping Bills as mentioned in the Table A1, A2, B1, B2 & C at Para 11 above, wherein a part of export proceeds was apparently not declared to the concerned Customs authorities, and the same was not included in the declared transaction value has to be worked out on the basis of actual Transaction Value of the export goods revealed during the investigation.

17. Calculation of Differential Duty:

17.1 As discussed in above paras, the exporter had undervalued their export shipments of rice. For this three modus operandi were adopted by the exporter. In some of their export shipments mentioned at Table A1 and A2 above, the FOB price were undervalued by an amount equal to the amount of export duty paid by them at the time of export. In such shipping bills, actual transaction value of the export goods has to be re-determined by adding the amount of export duty which were wrongly claimed as deduction in the shipping bills. These deduction amounts are liable to be included in the actual assessable value of the export goods and differential duty of **Rs. 3,08,92,894/-** is liable to be recovered from the exporter in respect of these deduction amounts as summarized below. The detailed calculation of differential duty is shown in **Annexure- I** to this investigation report.

Table-D

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Deduction Amounts Claimed (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INMUNI	62	55,41,37,745	11,08,27,550	11,08,27,549	66,49,65,294	2,21,65,510
INIIIZAI	15	10,73,70,456	2,14,74,094	2,14,74,091	12,88,44,547	42,94,818
INIXYI	7	10,36,44,975	2,07,28,995	2,07,28,995	12,43,73,970	41,45,799
INMAAI	1	71,69,175	14,33,835	14,33,835	86,03,010	2,86,767
Grand Total	85	77,23,22,351	15,44,64,474	15,44,64,470	92,67,86,821	3,08,92,894

17.2 In several export shipments, mentioned at Table B1 and B 2 above, exporter had **separately claimed/ recovered the duty amounts from the overseas buyer** of the cargo. These facts were not declared by them before the customs authorities at the port of export. Admittedly, these amounts have also been claimed/ recovered by the exporter from the overseas buyer against debit notes for reimbursement of export duties. Had the overseas buyer not paid these amounts to the exporter, they would not have sold the export goods to the buyer. Thus, these amounts are also part of the consideration received by the exporter for sale of their export goods. These amounts separately claimed/ recovered by the exporter from the buyer are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs. 1,33,59,950/-** is liable to be recovered from the exporter in respect of these reimbursed export duty amounts. The detailed calculation of differential duty is shown in **Annexure- II** to this investigation report.

Table E

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Export Duty Amount separately reimbursed by the buyer (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INMUNI	16	18,73,20,902	3,74,64,179	3,72,52,449	22,45,73,351	74,50,490
INIXYI	9	10,59,99,456	2,11,99,891	2,11,99,891	12,71,99,347	42,39,978
INHZAI	4	3,87,73,740	77,54,748	77,54,748	4,65,28,488	15,50,950
INNSAI	1	29,63,304	5,92,661	5,92,661	35,55,965	1,18,532
Grand Total	30	33,50,57,402	6,70,11,479	6,67,99,749	40,18,57,151	1,33,59,950

17.3 Apart from the above, in several shipments of rice, as detailed in Table C in para 11 above, the exporter had declared excess freight amounts in comparison to the actual freight amounts paid by them to the freight forwarders/ shipping lines for transportation of the export goods to the country of destination. Only the ocean freight amounts paid by the exporter are eligible for deduction from the CIF value for calculation of the FOB Value of the export goods. Therefore, the excess freight amounts declared by the exporter are not eligible/allowed for deduction as per the provisions of Section 14 of the Customs Act, 1962. These excess freight amounts claimed by the exporter are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs. 1,04,18,422/-** is liable to be recovered from the exporter in respect of these excess freight amounts also. The detailed calculation of differential duty is shown in Annexure- III to this investigation report.

Table F

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Excess Freight Amounts declared in the export documents (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INMUNI	54	48,39,61,410	9,67,92,282	4,04,33,842	52,43,95,252	80,86,768
INHZAI	15	10,73,70,456	2,14,74,094	87,50,552	11,61,21,008	17,50,110
INIXYI	8	14,68,63,125	2,93,72,625	18,11,762	14,86,74,887	3,62,352
INMAAI	1	71,69,175	14,33,835	7,12,469	78,81,644	1,42,494
INNSAI	1	29,63,304	5,92,661	3,83,486	33,46,790	76,697
Grand Total	79	74,83,27,470	14,96,65,497	5,20,92,112	80,04,19,582	1,04,18,422

17.4 In view of the above-mentioned three modus operandi followed by the exporter for evasion of export duty, their re-determined assessable value in respect of total 125 export shipments have been calculated as shown in below table. Accordingly, the differential duty payable by the exporter M/s Manek Rathi Agri Products works out to be at **Rs. 5,46,71,263 /-** as shown in below Table. The detailed calculation of the differential duty amounts has been shown in Annexure I, II and III to this investigation report.

The port wise summary of differential duty payable by M/s Manek Rathi Agri Products is as under:

Table G

Sr. No.	Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Re-determined FOB Value (INR)	Differential Duty payable (INR)
1	INMUNI	81	76,83,28,915	95,68,42,755	3,77,02,768
2	INIXYI	23	32,93,21,931	37,30,62,579	87,48,130
3	INHZAI	19	14,61,44,196	18,41,23,587	75,95,875
4	INMAAI	1	71,69,175	93,15,479	4,29,261
5	INNSAI	1	29,63,304	39,39,451	1,95,229
Grand Total		125	1,25,39,27,521	1,52,72,83,852	5,46,71,263

18. Obligation under Self-assessment and Reasons for raising duty demand by invoking extended period:

18.1 The exporter had subscribed to a declaration as to the truthfulness of the contents of the Shipping Bill in terms of Section 50(2) of the Customs Act, 1962, in all their export 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 export goods by the exporter himself by filing a Shipping Bill, in electronic form. Section 50 of the Customs Act, 1962 makes it mandatory for the exporter to make an entry for the export goods by presenting a Shipping Bill electronically to the proper officer. As per Regulation 4 of the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulation, 2019 (issued under Section 157 read with Section 50 of the Customs Act, 1962), the Shipping Bill 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 export goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Shipping Bill number was generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it was the exporter who must doubly ensure that he declared the correct classification / CTH of the export goods, the applicable rate of duty, value, the benefit of exemption notification claimed, if any, in respect of the export goods while presenting the Shipping Bill. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 08.04.2011, it was the added and enhanced responsibility of the exporter to declare the correct description, value, Notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the export goods.

18.2 In view of the discussion supra, it is evident that exporter firm M/s Manek Rathi Agri Products, were well aware about the actual value of the export goods. They have knowingly got indulged in preparation and planning of forged/manipulated export documents, which they used to forward to the Customs broker in relation to Customs clearance of the said export goods at the time of exportation by way of wilful mis-declaration and intentional suppression of these facts in the Shipping Bills filed by them and thus they appear to have evaded the applicable Customs duty on export of rice.

18.3 In the event of short levy of Customs duty by reason of collusion, any wilful mis-statement or suppression of facts by the exporter or the agent or employees of the exporter, such duty can be recovered by invoking extended period of five years as provided in Section 28(4) of the Customs Act, 1962. In this case, it appears that the exporter has knowingly and deliberately mis-declared the transaction value (i.e. FOB Value) of the export goods. Hence, the extended period of five years is rightly invokable in this case to recover the differential duty as detailed in Annexure -I, Annexure -II and Annexure -III of this Investigation Report. Further, M/s Manek Rathi Agri Products is also liable to pay interest on their differential duty liability as per the provisions of Section 28 AA of the Customs Act, 1962, at applicable rate.

19. From the scrutiny of the documents gathered/submitted during investigation by the exporter M/s Manek Rathi Agri Products, scrutiny of the export data and statements of the key persons involved in export of rice from various ports of India, it appears that—

- Sh. Jayesh Rathi, Partner of M/s Manek Rathi Agri Products was the key persons who on behalf of M/s Manek Rathi Agri Products negotiated and finalized the sale price of rice, exported by M/s Manek Rathi Agri Products to various overseas

buyers, vide 125 Shipping Bill as detailed in Tables A1, A2, B1, B2 and C in para 11 above.

- ii. The declared FOB value in respect of shipping bills listed in Tables A1, A2, B1, B2 and C, did not reflect the correct transaction value of the export goods;
- iii. As discussed in above paras, the actual transaction value (i.e. FOB Value) was not declared by them in their export documents. They have undervalued and mis-declared their transaction value with intent to evade applicable duty of customs which is leviable @ 20% ad valorem on the actual transaction value of the export goods in following manners:
 - In respect of Shipping bills listed in Table A1 and A2 above, the FOB Value was undervalued by them by an amount equal to the amount of export duty paid on export of rice and the said amount was wrongly claimed as deduction in the shipping bills.
 - In respect of the shipping bills listed in Table B1 and B2 above, the declared FOB Value was undervalued by an amount equal to the amount of duty paid by them on export of rice cargo, however, the said amounts were not claimed as deductions in the shipping bills, in fact, they have declared 'nil' deduction amount in the shipping bills. Thus, exporter had out-rightly mis-declared the actual transaction value at the time of export.
 - In respect of the shipping bills listed in Table C, the declared FOB Value was further undervalued by an amount equal to the excess freight amounts declared by the exporter in the shipping bills which were over and above the actual freight amounts paid by them. The ocean freight amounts paid by the exporter are eligible deductions from the CIF Value. By declaring the excess freight amounts, exporter had wrongly claimed excess deductions of freight amounts which are not eligible for deduction from the actual transaction value. Thus, exporter had out-rightly mis-declared the actual transaction value at the time of export.

Thus, the declared FOB value in respect of all these 125 shipments did not reflect the correct transaction value of the goods for delivery of the export goods at the time and place of exportation (i.e. on board the foreign going vessel after clearance from the customs authorities at the port of export).

- iv. The FOB value of export goods in all these cases was mis-declared by M/s Manek Rathi Agri Products to the Customs authorities in the shipping bills filed by them which is supported by their sales contracts/proforma invoices/ export invoices, resulting in suppression and mis-declaration of actual transaction value at the time of assessment of the export goods. As such, the value of export goods in respect of all these Shipping Bills was mis-represented to be lower than the actual transaction value, thereby causing evasion of export duty leviable on rice shipments exported by them;
- v. The value of export goods pertaining to each of these Shipping Bills are liable to be rejected and reassessed as per their actual transaction value as ascertained during investigation, by taking into account the amount which was excluded from the declared value at the time of assessment, as brought out in above paras;
- vi. The balance amount not included in the declared FOB Value and wilfully suppressed by not declaring to Customs with an intention to misrepresent the transaction value of the export goods, is liable to be assessed to duty at the applicable rate as detailed in 'Annexures-I, II and III' of this Investigation Report and the same is recoverable along with interest at applicable rate;
- vii. The act of undervaluation and mis-declaration of actual transaction value in respect of Shipping Bills listed in Tables A1, A2, B1, B2 & C by M/s Manek Rathi Agri Products has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962 and consequently M/s Manek Rathi Agri Products have rendered themselves liable to a Penalty under the provisions of Section 114A and Section 114AA of the Customs Act, 1962;

viii. Sh. Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, appear to be the persons who knowingly or intentionally either made, signed and used or caused to be made, signed and used, the contracts, invoices and Shipping Bills for export of rice by M/s Manek Rathi Agri Products, which were incorrect as regards to the value of export goods for payment of export duty. The goods covered under Shipping Bills listed in Tables A1, A2, B1, B2 & C above, contained the declarations made by M/s Manek Rathi Agri Products which were false and incorrect in material particulars relating to the value of the impugned goods. The contracts with the buyer for sale and export of rice as well as the export documents submitted to Customs were signed in the overall supervision of Sh. Jayesh Rathi who was handling the day to day business of the export firm. This fact has been admitted by Sh. Jayesh Rathi in his statements recorded u/s 108 of the Customs Act, 1962. These facts have also been admitted by Sh. Ashok Rathi, another partner of M/s Manek Rathi Agri Products. In view of this, it appears that Sh. Jayesh Rathi is the key person who has orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty. Sh. Jayesh Rathi is, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by M/s Manek Rathi Agri Products. The act of Sh. Jayesh Rathi regarding under valuation and mis-declaration of actual transaction value in respect of Shipping Bills filed by M/s Manek Rathi Agri Products has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, Sh. Jayesh Rathi has rendered himself liable to penal action under the provisions of Section 114 (ii) and 114AA of the Customs Act, 1962;

20. CBIC vide Notification No. 28/2022-Customs (N.T.) dated 31.03.2022 had stipulated that in cases of multiple jurisdictions as referred in Section 110AA of the Customs Act, the report in writing, after causing the inquiry, investigation or audit as the case may be, shall be transferred to officers described in column (3) of the said Notification along with the relevant documents. For cases involving short levy, non-levy, short payment or non-payment of duty, as provided in Section 110AA (a) (ii), the functions of the proper officer for exercise of powers under Section 28 of the Customs Act, 1962 have been assigned to the jurisdictional Pr. Commissioner/ Commissioner of Customs in whose jurisdiction highest amount of duty is involved. Since, in the present case, exports have been made from 05 different ports, as mentioned in Table G in para 17.4 above, however the highest amount of differential export duty is in respect of Mundra Port (INMUN1). Hence, Mundra Port, being the port involving highest revenue, this Show Cause Notice is being made answerable to the Principal Commissioner/ Commissioner of Customs, Mundra Port, Gujarat for the purpose of issuance as well as adjudication of Show Cause Notice under Section 110AA read with Notification No. 28/2022-Customs (N.T) dated 31.03.2022.

SHOW CAUSE NOTICE-

20.1 M/s Manek Rathi Agri Products (IEC: ABHFM3589Q), having registered office at Survey No 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110, were called upon to show cause within 30 (thirty) days of receipt of notice, in writing, to the Adjudicating Authority i.e. Pr. Commissioner of Customs, Customs House, Mundra, having office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 as to why—

- i. The declared assessable value of Rs. 125,39,27,521/- in respect of 125 shipments of rice exported vide Shipping Bills detailed in 'Annexure-I, II & III', should not be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3 (1) ibid and Section 14 (1) of the Customs Act, 1962;
- ii. The actual assessable value in respect of Shipping Bills detailed in 'Annexure-I, II & III', should not be re-determined at Rs 152,72,83,852/- under the provisions of Section 14 (1) of the Customs Act, 1962, by taking into account – (a) the amounts claimed as deduction in the shipping bills, which were equivalent to amount of export duty paid by them; (b) excess ocean freight amounts claimed by them in the shipping bills and (c) un-declared export duty reimbursement

amounts - which were which were claimed/recovered by them separately from the overseas buyer of the goods, as discussed in Para 11 and Para 17 of the SCN;

- iii. The differential (export) duty amounting to Rs. 5,46,71,263/- (Rs. Five Crores Forty Six Lakhs Seventy One Thousand Two Hundred and Sixty Three Only) payable, as calculated and shown in 'Annexure-I, II, & III to this notice, in respect of these 125 Shipping Bills filed by them at 05 different ports, should not be demanded and recovered from them, by invoking the extended period of limitation available under the provisions of Section 28(4) of the Customs Act, 1962;
- iv. Applicable interest on the afore-said total differential duty amount of Rs. 5,46,71,263/- should not be demanded and recovered from them under the provisions of Section 28AA of the Customs Act, 1962;
- v. The voluntary amount of Rs. 93,95,902/- deposited by them during investigation should not be appropriated against their total duty liability.
- vi. The shipments of rice exported vide Shipping Bills detailed in 'Annexure-I, II, & III to the Notice having re-determined assessable value of Rs. 152,72,83,852/-, should not be held liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962;
- vii. Penalty under the provisions of section 114 A and Section 114 AA should not be imposed upon them.

20.2 Shri Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110, was called upon to show cause within 30 (thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., the Principal Commissioner of Customs, Mundra Port, having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421, as to why penalty under the provisions of section 114 (ii) and Section 114AA of the Customs Act, 1962 should not be imposed upon them for their acts and omissions in evasion of Customs Duty amounting to Rs. 5,46,71,263/- on export of rice through their partnership firms.

PERSONAL HEARING-

21. Personal Hearing held on 18.09.2025

The Personal Hearing dated 18.09.2025 was attended by Shri Manish Jain, Advocate along with Shri Jayesh Rathi, Partner in M/s Manek Rathi Agri Products at 03:00 PM on 18.09.2025. They reiterated the facts as per their submission and requested for judicious decision in this matter.

WRITTEN SUBMISSION-

22. M/s. Manek Rathi Agri Products, Survey No 175, Sanand Bavla Road, Pipan Gam, Sanand, Gujarat-382110 vide their submission dated 18.09.2025, inter-alia, submitted that-

22.1 They are engaged in the business of production/milling and trading of 'Rice,' and rice manufactured by them is traded domestically as well as exported to African Countries through traders based in Singapore and Dubai. They are having IEC Code No. ABHFM3589Q and registered office at Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil- Sanand, Gujarat- 382110. They further stated that it is a Partnership Firm which was incorporated in the year 2018.

22.2 The exporter has further submitted that prior to September 2022, there was no export duty leviable on export of non-basmati rice (i.e. semi-milled, milled white rice, parboiled rice etc.). With effect from 9.9.2022, vide Notification No. 49/2022-Customs

dated 8.9.2022, the export duty @ 20% on ad valorem basis was levied on export of the following categories of white rice:

Customs Tariff Item	Description	Rate
1006 10	Rice in the husk (paddy or rough)	20%
1006 20	Husked (brown) rice	20%
1006 30 90	Semi-milled or wholly-milled rice, whether or not polished or glazed (other than Parboiled rice and Basmati rice)	20%

22.3 The said noticee has further submitted that w.e.f. 25.8.2023, the Central Government vide Notification No. 49/2023-Customs dated 25.8.2023 imposed export duty @ 20% on ad valorem basis on export of "parboiled rice" classifiable under Tariff Item 1006 30 10 of the Customs Tariff. The relevant entry is extracted as under:

Customs Tariff Item	Description	Rate
1006 30 10	Rice, parboiled	20%

22.4 The noticee has submitted that, in the present case, they agreed upon the price of goods on the basis of Cost Insurance and Freight (CIF) and on Free on Board (FOB). The Noticee computes the Free on Board (FOB) value by deducting freight and insurance cost and declares the FOB value in the shipping bills. It has been stipulated in some of the contracts that in addition to the price of goods, export duty payable @ 20% of FOB price would be over and above the price quoted for rice and such export duty would be on account of the buyer. In other words, the export duty is reimbursed separately by the buyer to the Noticee over and above the price of the impugned goods as agreed. The same is evident from the contracts entered into by the Noticee. Accordingly, as per the contracts, the Noticee receives the price of goods (i.e. CIF value or FOB Value as the case may be) along with the export duty payable on the value/ price of goods.

22.5 The noticee has further submitted that during the course of investigation, they have paid Rs. 93,95,902/- toward payment of differential duty and post issuance of SCN, they had paid Rs. 10,22,513/-. Thus, totalling Rs. 1,04,18,415/- has been deposited in respect of the duty demanded by the department on the alleged excess freight charges reflected in the shipping bills.

22.6 The above amount totalling to Rs. 1,04,18,415/- (Rs. 93,95,902/- + Rs. 10,22,513/-) has been deposited by them in respect of the duty demanded by the Department on the alleged excess freight charges reflected in the Shipping Bill.

22.7 They have referred to case of Sesa Goa Ltd [2020(371) ELT A304 (SC)] vide which Circular No. 18/2008-Customs dated 10.11.2008 has been challenged. They have also referred to the following judgements/case laws:

- Bharti Foods v Union of India [Gujarat High Court SCA No. 13278 of 2024]
- M/s RV Exports v Union of India [R/SCA No. 12737 of 2024]
- M/s Sri Sainath Industry Pvt. Ltd. v Union of India [R/SCA No. 14748 of 2024]

& the noticee has submitted that as the decisions in these cases are pending, the issue in the present case cannot be decided on merits.

22.8 The noticee in their submission has mentioned that 'demand in the present case is invalid in the absence of an appeal against the shipping bills'. The noticee has referred to the Hon'ble Supreme Court in the case of ITC Limited v. Commissioner of Central Excise, [2019 (368) E.L.T 216 (S.C.)]. The said noticee, has further submitted that the Department has sought to demand the differential duty without challenging the impugned SBs. In the absence of any appeal against the shipping bills which have been

assessed by proper officers, it must be understood that the assessment has gained finality, which cannot be challenged or negated by issuance of a SCN. The noticee has submitted that the Department cannot initiate proceedings for demand of duty, without challenging the impugned SBs filed by the Noticee. Consequently, the present SCN merits to be set aside.

22.9 The Noticee has submitted that they have correctly declared the value of the impugned goods in terms of section 14 of the Customs Act, 1962 and requested to set aside the Show Cause Notice. The noticee has submitted that the provisions relating to valuation of the export goods are contained in Section 14 of the Customs Act, which reads as under:

"Section 14. Valuation of goods. — (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.

22.10 They have further submitted that it is submitted that a bare reading of the above provisions indicates that the value of the export goods shall be the transaction value of the goods, as determined under Section 14 of the Customs Act, 1962. Further, as per Section 14, transaction value of the export goods shall be the price actually paid or payable for the goods, when sold for export from India for delivery at the time and place of exportation.

22.11 The noticee has further submitted that the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (hereinafter referred to as the 'Export Valuation Rules') were enacted by the Central Government, in exercise of the powers conferred by Section 156 read with Section 14 of the Customs Act, 1962. Rule 3(1) of the said rules provides that the value of export goods shall be the transaction value. The expression "transaction value" has been defined under Rule 2(b) to mean the value of export goods within the meaning of sub-section (1) of Section 14 of the Customs Act, 1962. Thus, it is Section 14(1) that governs the meaning of value of export goods.

22.12 The noticee has made reference to the decision of the Hon'ble Supreme Court in the case of *Tata Iron & Steel Co. Ltd. Vs. CCE* [2000 (116) ELT 422 (SC)].

22.13 The noticee has submitted that the expression, "price actually paid or payable" even in the context of the Export Valuation has to be given the same meaning as has been given to the said expression in the context of the Import Valuation Rules, especially since the same provision of law, i.e. Section 14 of the Customs Act, 1962, deals with valuation of the imported as well as export goods. Therefore, the expression "price actually paid or payable" would only mean the payment made by the buyer of the goods, which is for the benefit of the seller of the goods.

22.14 The said noticee has further submitted that in the present case, as per the understanding of the parties, the export duty is to be reimbursed by the buyer to the Noticee. A sum equal to the export duty, comprised in the payment received from the foreign buyer of the goods does not go to the benefit of the seller of the goods, i.e. the Noticee. That part of the payment rather goes to the Government and the same is therefore, liable to be excluded from the FOB value of the goods, which is the total payment received from the foreign buyer, to arrive at the assessable value of the export goods in question for the purpose of levy of export duty.

22.15 Further, they have submitted that, in terms of the provisions of Section 14 of the Customs Act, 1962, for the purposes of the Customs Tariff Act, 1975, or any other law, value of the imported and the export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to

India for delivery at the time and place of importation, or in the case of export goods, for export from India for delivery at the time and place of exportation. The interpretative note to Rule 3 of the Import Valuation Rules clearly provides that the value of goods shall not include the charges or costs, provided they are distinguished from the price actually paid or payable. It specifically excludes, the duties and taxes in India. On similar analogy, the export duty paid on the export goods in India is also liable to be excluded from the payment received from the foreign buyer for the purpose of arriving at the assessable value of the goods.

22.16 That, in the present case, the contracts as well as invoices clearly state price of rice and duty amount payable on it. Hence, the export duty is distinguishable from price. Consequently, the same is liable to be reduced from the sum total of amount received from the buyer.

22.17 The noticee has submitted that in the case of export goods, the date for determination of the rate of duty is the date on which the Proper Officer makes an order permitting clearance and loading of the goods for exportation i.e. the date of the Let Export Order. Thus, the rate of export duty is determined on the date of the Let Export Order and export duty is payable after the goods arrive at the customs station for the purpose of export. Therefore, export duty is an expense incurred at the port. Consequently, the same is not includable in the transaction value of the goods.

22.18 The noticee has further referred to Circular dated 10.11.2008 states that the transaction value shall be the FOB price of such goods at the time and place of exportation. FOB price at the time and place of exportation would mean FOB price including all expenses till the customs port but not including expenses incurred at the port such as export duty. Hence, the correct understanding of the Circular would be to compute export duty on FOB price less expenses incurred at the port (i.e. excluding export duty).

22.19 The said noticee has submitted that with respect to the allegation that the noticee has reduced the FOB Value by declaring excess freight charges in the shipping bills is untenable.

22.20 The said noticee has submitted that in terms of Section 14 of the Customs Act, 1962, the FOB value of the goods mentioned in the invoice would be the transaction value. For ease of reference, the relevant extract of Section 14 is reproduced below:

"Section 14. Valuation of goods. — (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.

22.21 The noticee has further submitted that in terms of the above provision, transaction value would be the price actually paid or payable for the "goods" when sold for export from India. Thus, the price that an exporter pays for the goods sold by it would be transaction value. It is submitted that the invoice raised by the Noticee upon the foreign buyer clearly stipulates the price of the goods. It is submitted that the transaction value pertains to the FOB value paid in respect of the goods exported. Thus, the freight amount mentioned in the invoice would have no effect on the export duty payable on such goods. The FOB value is clearly determinable from the invoice raised by the Noticee. Thus, for the purposes of calculating the export duty, the FOB value mentioned in the invoice is only relevant.

22.22 Further, it is submitted that the Department has erred in considering the CIF value to arrive at the FOB value of goods after deducting the freight. It is submitted that CIF value has no relevance for the purposes of calculating the export duty which is chargeable on FOB value. Moreover, the CIF value cannot be looked into by the

Department when the FOB value is clearly determinable from the terms of the contract and the invoice. The contract value/invoice value as agreed between the parties cannot be changed by department. As invoice has to be seen along with contract.

22.23 The said noticee has submitted that 'freight varies at the time of taking quotation of cargo and actual exports due to price fluctuations in shipping business. They have further submitted that the quotation for freight is taken in most of the cases are at least one month prior to actual export. It is submitted that the Freight Forwarders would put forth their quotation in advance and at the time of filing of the Shipping Bills the freight may vary. Thus, Noticee declared approximate freight as per quotation at the filing of the Shipping Bills.

22.24 The said noticee has further submitted that they are allowed to earn profit on the freight charges from the buyer. In other words, trading of services is permissible. Thus, the allegation of the Department with regards to mis-declaration of freight is baseless. It is submitted that freight value declared in the invoice cannot be a basis rejected to increase the FOB value of goods which has already been decided in the invoice.

22.25 The noticee has submitted that 'procedure as provided in the Export Valuation Rules for rejection and redetermination of value have not been followed by the department in the SCN.

22.26 The said noticee has submitted that the interpretation of Circular NO. 18/2008-Cus dated 10.11.2008 adopted by the department for proposing inclusion on the Export Duty Component in the value of Export goods is legally incorrect.

22.27 The said noticee has further submitted that Circular No. 18/2008-Cus dated 10.11.2008 defining transaction value under Section 14 to be inclusive of export duty is contrary to Section 14 itself. The importer has submitted that, even if it is assumed that the Circular dated 10.11.2008 actually purports to include the element of Export Duty in the assessable value of the export goods, even then the same cannot be relied upon to propose the instant demand.

22.28 It is submitted that Circular No. 18/2008-Cus dated 10.11.2008 was issued to clarify the computation of value under Section 14 for levy of export duty. The Circular stated that the transaction value of export goods shall be the FOB price. They further submitted that in terms of the internationally accepted INCOTERMS, FOB Value of goods is always inclusive of the export duty element. Hence, in terms of Circular the FOB price, which is inclusive of export duty is to be considered as transaction value for the purpose of computing export duty.

22.29 The said noticee has further submitted that as per interpretation of Section 14 as explained above by the Noticee, the transaction value for export goods cannot include export duty. Hence, the Circular dated 10.11.2008 is ultra vires Section 14 of the Customs Act and must be struck down & they have quoted following case decisions:

- CCE Vs. Ratan Melting & Wire Industries [2008 (12) STR 416 (SC)]
- UCO Bank Vs. CIT [1999 (111) ELT 673 (SC)]
- Com. of Cus. Vs. Baroda Rayons Corporation Ltd. [2023 (383) ELT 375 (Guj.)]
- Amit Cotton Industries Vs. Pr. Com of Cus. [2019 (29) GSTL 200 (Guj.)]

22.30 The said noticee has submitted that reliance upon Circular cannot be placed as the same contradicts the provision of Section of the 14 Act. Thus, in terms of Section 14, the impugned goods have been correctly valued in the Shipping Bills. Hence, on this ground alone, the SCN is liable to be set aside. The noticee further submitted that Section 151A does not empower the Board to make amendment in provision or to formulate a levy which is not provided in the Act. Hence, the Circular dated 10.11.2008 has been issued in gross violation of powers provided under Section 151A and cannot be relied upon to propose any demand. Moreover, it is a settled law that every decision of the Government should be based on some sound reason and that reason should be disclosed in the order. The said Circular of the Board just seeks to abruptly and arbitrarily change the practice without disclosing any reason for this change.

Admittedly, the said practice has been in vogue for the last over more than four decades, therefore, it cannot be changed overnight at the whims and fancies of the Department, without any corresponding change in the provisions of law.

22.31 The said noticee has submitted that transaction value for export goods in the FOB Price is baseless and incorrect.

22.32 The said noticee has submitted that 'extended period of limitation under section 28(4) of the Customs Act, 1962 is not invokable in the present case asserting that the SCN is issued on 18.10.2024 for exports made for the period of September 2022 to February 2024. As per Section 28(1), the SCN can be issued within two years from the relevant date. However, in the instant case, the demand has been raised under Section 28(4) of the Customs Act, 1962. It is submitted that Section 28(4) is not invokable in this case as there was no suppression or collusion. Thus, the demand for the period before 18.10.2022 is barred by limitation. The noticee had further submitted that all the material particulars and documents were provided at the time of export. Therefore, the Department was always aware of the transaction carried out by the department as all the invoices related to the export consignments of the subject goods were uploaded by the Noticee on the E-Sanchit Portal with clear break up of FOB value, Export Duty Value, Freight and Insurance. Thus, it is submitted that the Shipping Bills filed by the Noticee along with the invoices issued by the Noticee to the overseas buyers were well within the knowledge of the Department. Moreso, in majority of the cases, the Noticee had shown the export duty as deduction. It is submitted that the Shipping Bills were duly assessed by the concerned officer. Therefore, there was no suppression or mis-declaration on the part of the Noticee.

22.33 The noticee has submitted that the subject goods are not liable for confiscation under Section 113(i) of the Customs Act, 1962. The Noticee has submitted that the provisions of Section 113(i) of the Act are not invokable in the present case on account of the fact that in the Shipping Bills, the Noticee has not mis-declared any material particulars. Hence, the proposal to confiscate the consignment in question is wholly untenable.

22.34 The noticee has submitted that interest is not leviable under Section 28AA in the present case.

22.35 The said noticee has submitted that imposition of penalty under Section 114A of the Customs Act, 1962 is not sustainable. The said noticee has submitted that they have committed no offense or made no omissions or commissions in the entire matter. Moreover, a penalty under Section 114A of the Customs Act, 1962 can be imposed only when the duty has not been paid by the importer due to suppression or misrepresentation of facts, etc., that no suppression has been made by the Noticee in the matter in order to evade payment of duty. No penalty, therefore, can be imposed on the Noticee under Section 114A of the Customs Act, 1962.

22.36 The said noticee has submitted that imposition of penalty under Section 114AA of the Customs Act, 1962 is not sustainable. The said noticee did not, knowingly or intentionally, make, sign or use any declaration, statement or document which was false or incorrect in any material particular. The Noticee also did not knowingly or intentionally cause anybody else to make, sign, or use any declaration, statement, or document that was false or incorrect in any material particular, hence, the provisions of Section 114AA are not invokable in the present case, and no liability under this provision is liable to be imposed upon the Noticee.

22.37 The said noticee has referred to Para 11.2 of the Impugned SCN submitted that export duty declared in the invoice cannot form part of the transaction value as the same is not the price paid in respect of the goods exported by the Noticee. The payment made by the buyer should relate to the goods sold. This is also supported by the provisions of Section 14 when it says, "price actually paid or payable for the goods when sold". Therefore, if any part of the payment does not pertain to the goods sold, that cannot be considered to be the price paid or payable for the goods when sold for export.

The note specifically states that the flow of dividends or other payments from the buyer to the seller that do not relate to the imported/exported goods are not part of the customs value. The expression "price actually paid or payable" refers to the total payment made or to be made by the buyer to or for the benefit of the seller. Therefore, it is the payment which benefits the seller, meaning thereby the amount which is going into the pocket of the seller. Therefore, that part of the payment which does not benefit the seller of the goods cannot be considered to be part of the price actually paid or payable by the buyer to the seller of the goods. Further, Note to Rule 3 of the Interpretative notes to Import Valuation Rules states that value of imported goods shall not include specified charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods. Therefore, the note itself envisages a distinction between the price actually paid or payable for the goods and the charges or costs, which are not to form part of the value of the goods. Under such charges/costs, the note specifically provides for exclusion of the duties and taxes in India from the value of the imported goods.

22.37 The said noticee has referred to Para 11.4 of the Impugned SCN and submitted that the allegation has no basis as the FOB value of goods is clearly determinable from the invoice and the same has been declared in the Shipping Bill. Further, any other consideration received by the Noticee by raising a separate Debit Note cannot be included in the FOB value by the Department when the same is not declared in the invoice. Without prejudice, even if the Debit Notes are raised by the Noticee for reimbursement of Export Duty, the same consideration is not retained by the Noticee; the said amount is directly paid to the Government in the form of Export Duty. Therefore, no allegation of mis-declaration and evasion of Export Duty is sustainable against the Noticee.

22.38 The said noticee has referred to Paras 11.9 to 11.10 of the impugned SCN and submitted that the actual price paid in respect of the subject goods is clearly ascertainable from the invoices raised by the Noticee. Secondly, the freight amount varies at the time of booking of cargo and actual exports. Further, the Noticee has also incurred the cost of local transportation from factory till port, charges paid to the CHA, handling charges incurred by the CHA and loading and unloading charges. The aforesaid costs incurred by the Noticee are not includable in the FOB value. The said noticee further submitted that the Customs Valuation (Determination of Value of Imported Goods), Rules, 2007 in respect of imported goods provides for 20% of FOB value as a permissible quantum of freight. Thus, the freight declared by the Noticee in the invoice and the amount recovered towards the freight from the foreign purchaser is within the limit of 20%, which is acceptable as actual freight amount is not known to the Noticee.

22.39 The said noticee in respect to Para 11.3 and Para 11.7 of the impugned Show Cause Notice has submitted that in certain cases, the said noticee has raised Debit Notes on the overseas supplier; however, the Noticee has not received any payment from the overseas supplier. In this regard, the said noticee has submitted that Table A2 and Table B2 stipulate 5 Shipping Bills bearing No(s). 2521076, 6542764, 6482303, 6482376 and 4364834. In respect of the aforesaid Shipping Bills, the Noticee submitted that the consignments covered under the said shipping bills were shipped short for reasons beyond control of the Noticee. A tabular statement showing the extent of short shipment in each case is enclosed herewith for your kind perusal.

SB NO	INVOICE NO	SB QTY	SHORT SHIPMENT	TOTAL DUTY PAID	EXCESS DUTY PAID (TO BE REFUNDED)
2521607	MR/0591/23-24	135 MTS	54 MTS	737620/-	295048/-
6542764	MR/1161/22-23	250 MTS	5 MTS	1411050/-	28221/-

6482303	MR/1132/22-23	250 MTS	5 MTS	1390600/-	27812/-
6482376	MR/1140/22-23	250 MTS	5 MTS	1411050/-	28221/-
4364834	MR/0705/22-23	270 MTS	27 MTS	1274940/-	127494/-

They have further submitted that although the shipments were effected short, the export duty was discharged in full on the originally declared quantities. Consequently, an amount of ₹5,06,796/- stands paid in excess towards duty liability. They submitted that the goods actually exported were less than the quantity declared, the corresponding realisation was also proportionately short. Therefore, there exists no legal basis for retention or recovery of duty on the unshipped quantity of goods, since duty is leviable only on goods exported.

22.40 The said noticee in respect to Para 11.8 of the Impugned SCN, the said noticee has submitted that the said Purpose Code reads as "Receipts or Refund of Taxes." It is submitted that the said code is correct, and it is evident on the face of it that the said purpose code is for Refund of Taxes. The Department has erroneously interpreted that the said purpose code associated with transactions of personal nature such as gifts, donations etc and not with payments related to exported goods. The said interpretation has no legal basis whatsoever and has only been made to allege that the Noticee has tried to misrepresent the facts.

22.41 In view of the aforementioned submissions, the said noticee prayed that the Ld. Principal Commissioner of Customs, Mundra be pleased to:

- (a) Drop the proceedings initiated in vide Show Cause Notice No. F.No. GEN/ADJ/COMM/455/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 18.10.2024 issued by the Principal Commissioner of Customs, Customs House, Mundra;
- (b) Grant an opportunity of Personal Hearing before the case is disposed of in the interest of natural justice; and
- (c) Pass any such order as may be deemed fit in the interest of justice.

DISCUSSION AND FINDINGS-

23. After having carefully gone through the Show Cause Notice, relied upon documents, submissions made by the Noticee's and the records available before me, I now proceed to decide the case. The main issues involved in the case which are required to be decided in the present adjudication are as under: -

- (i) Whether, in accordance with the provisions of Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Price of Export Goods) Rules, 2007, the differential Customs duty, in respect of the Shipping Bills mentioned in Table A1, A2, B1, B2 and C at Para 11 above where a part of the export proceeds was apparently not declared to the concerned Customs authorities and thus not included in the declared transaction value has to be computed based on the actual transaction value of the export goods as revealed during the investigation; or whether the export duty reimbursed by the buyer, and excess freight declared are eligible for deduction from the FOB value?
- (ii) Whether the FOB value declared by the said noticee in the Shipping Bills at the

time of export of goods is required to be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3 (1) *ibid* and Section 14 (1) of the Customs Act, 1962;

- (iii) Whether the actual assessable value in respect of Shipping Bills detailed in 'Annexure-I, II & III is required to be re-determined at Rs. 152,72,83,852/- under the provisions of Section 14 (1) of the Customs Act, 1962, and total differential (export) duty amounting to Rs. 5,46,71,263/- payable, as calculated and shown in 'Annexure-I, II & III to the notice, in respect of these 125 Shipping Bills filed by them at 05 different ports, is required to be demanded and recovered from them, by invoking the extended period of limitation available under the provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA *ibid*;
- (iv) Whether the shipments of rice exported vide Shipping Bills detailed in 'Annexure-I, II & III to the Notice having proposed re-determined assessable value of Rs. 152,72,83,852/- deserve to be confiscated under the provisions of Section 113 (i) of the Customs Act, 1962;
- (v) The voluntarily amount of Rs. 1,04,18,415/- (Rs. 93,95,902/- deposited by them during investigation and Rs. 10,22,513/- deposited after issuance of the impugned SCN) is liable to be appropriated against their duty liability.
- (vi) Whether penalty under Section 114 and Section 114AA of the Customs Act, 1962 is required to be imposed on the said noticee; and
- (vii) Whether for their acts and omissions in evasion of Customs duty amounting to Rs. 5,46,71,263/- through their partnership firm, Shri Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, Survey No 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110, are liable for penalty under the provisions of section 114 (ii) and Section 114AA of the Customs Act, 1962 total duty.

24. After framing the main issues for consideration, I now proceed to examine each issue in detail. The foremost issue before me is whether the abatement of expenses, including export duty, on three different accounts claimed by the said noticee from the FOB value of the goods for export, is admissible under the provisions of Section 14 of the Customs Act, 1962 read with the relevant provisions of the Customs Valuation (Determination of Price of Export Goods) Rules, 2007. The relevant provisions for the valuation of the export goods are reproduced below for the ease of reference :-

***1] Section 14. Valuation of goods. -**

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,-

- (i) the circumstances in which the buyer and the seller shall be deemed to be related;
- (ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;
- (iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section;
- (iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criterial

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation . - For the purposes of this section -

- (a) "rate of exchange" means the rate of exchange -
 - (i) determined by the Board, or
 - (ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;
- (b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).J"

Rule 3 of CVR, 2007

"Rule 3. Determination of the method of valuation. -

(1) Subject to rule 8, the value of export goods shall be the transaction value.

(2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price."

Computation of Value under Section 14 for Levy of Export Duty

1. After the imposition of export duty on steel at ad valorem rates in May 2008, a doubt has been raised regarding the manner of calculation of export duty, particularly in view of the introduction of transaction value concept under Section 14 as part of the 2007 budgetary exercise. Specifically, the doubt is whether the export duty should be charged simply as a percentage of FOB price or whether the FOB price should be taken as the 'cum-duty price' for determination of assessable value and duty due thereon.
2. Hitherto, the export duty and cesses were calculated by taking the FOB price declared by the exporter as the cum-duty price and working backwards from the FOB price. This methodology is based on instructions issued by the Board (contained in Appraising Manual) in 1966. This view was reconfirmed by the Board in 2000 while developing the software for Indian Customs EDI System (ICES-Exports) for the purpose of levy of cess under various enactments of different Ministries.
3. The matter has been examined in consultation with the Ministry of Law who have opined that Section 14 of the Customs Act or the rules framed thereunder, do not specify any procedure for calculation of assessable value for the purpose of charging export duty in a situation where the exporter has not collected any amount in excess of what has been declared in the shipping bill/invoice. As per practice in vogue for the last more than four decades, transaction value of export goods has invariably been taken as 'cum-duty price'. This practice is not in conflict with any of the statutory provisions. Amendments made in Section 14 of the Customs Act by the Finance Act, 2007 have also not brought any change in the procedure for calculation of assessable value for the purpose of charging export duty. However, any decision on this issue is essentially a matter of policy on which decision is to be taken by the administrative department.
4. In view of the above, a policy decision has been taken that till 31.12.2008, the existing practice of computation of export duty and cesses by taking the FOB price as the cum-duty price may be continued. All pending cases may be finalized accordingly.
5. It has also been decided that with effect from 1st January, 2009, the practice of computation of export duty shall be changed. It is proposed that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation. For example if the transaction is at Rs 100 FOB, and the duty is 15%, the export duty will be 15% of FOB price, that is Rs 15. In case the transaction is on CIF basis, the FOB price may be deduced from the CIF value, and then the export duty be calculated as 15% of such FOB price.
6. Any difficulties which are anticipated in the implementation of the change in computation of export duty from 1st January, 2009 may be brought to the notice of the Board by 20th November, 2008 positively.
7. The contents of this Circular may be brought to the notice of the field formations and the Trade under your jurisdiction.
8. Hindi version follows.

25. I observe that as per the allegations made against the said noticee in the Show Cause Notice, the said noticee failed to declare the actual transaction value (i.e., the correct FOB value) in their export documents. They have allegedly undervalued and mis-declared the transaction value with the intent to evade the applicable Customs duty, which is leviable at 20% ad valorem on the actual transaction value of the export goods.

26. I find it appropriate to mention here that Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 stipulates that the value of export goods shall be based on the transaction value that is, the actual price paid or payable for the goods when sold for export from India at the time and place of exportation, provided that the buyer and seller are not related and the price is the sole consideration. I noticed that the Central Board of Excise and Customs (CBIC) vide Circular No. 18/2008-Cus., dated 10.11.2008 has clarified that, for assessment of export duty, the transaction value should be taken as the FOB value of the export goods at the time and place of exportation and no abatement of export duty is permissible from this value.

27. I find that export duty is a statutory levy and therefore form part of transaction value. In the present case the exporter has not borne the incidence of duty but the duty amounts were recovered by the exporter from the buyers as part of sale consideration. Hence, these recovered amounts must be included in transaction value. I find that all taxes/expenses before the point of loading of the export goods on board the vessel are included in the definition of 'FOB'. In the case of export of goods, loading of the export goods starts after issuance of the 'Let Export Order (LEO)' by the proper officer of the Customs. LEO is issued after payment of the export duty. As the export duty is leviable before the point of loading of the export goods on to the vessel, the same is includible in the FOB Value of the export goods in the present case. I find that the provisions of the **Incoterm or International Commercial Terms**, which are widely used in the international transactions, published by the International Chamber of Commerce clearly define the responsibility of the importers and exporters in the arrangement of shipments and transfer of liability involved at various stages of transaction. I noticed that these incoterms rules are accepted by governments, legal authorities worldwide for the interpretation of most commonly used terms in the international trade. They are intended to reduce or remove altogether uncertainties arising from the differing interpretations of the rules in different countries. As per Incoterms 2020 published by ICC, the term 'FOB' has been defined as "***Under FOB terms the seller bears all costs and risks up to the point the goods are loaded on board the vessel. The seller's responsibility does not end at that point unless the goods are "appropriated to the contract" that is, they are "clearly set aside or otherwise identified as the contract goods". Therefore, FOB contract requires a seller to deliver goods on board a vessel that is to be designated by the buyer in a manner customary at the particular port. In this case, the seller must also arrange for export clearance. On the other hand, the buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination.***"

From the above definition, it is evident that definition of "FOB" includes all cost until the loading of export goods on board the foreign going vessel including customs clearance and related charges which are to be borne by the seller. Since export duty discharged prior to issuance of the Let Export Order and before the goods are physically loaded on board, it is evident that duty portion is an integral part of the costs which is to be borne by the seller. Therefore, I find that where the seller has recovered the export duty amount separately from the buyer, such recovered amount become a part of the consideration for the sale of export goods. Thus, the said amount is liable to be included in the FOB value for determining the correct assessable value. Accordingly, I hold that the export duty recovered from overseas buyers is includible in the FOB value of the export goods.

28. I find that **in respect of the 84 Shipping Bills** as mentioned in Table-A 1, M/s Manek Rathi Agri Products, had wrongly claimed deductions equal to the export duty amounts payable at the time of export. I noticed that the deduction amounts of USD 18,83,045 (equivalent to Rs.15,37,26,850/-) were claimed in the said Shipping Bills. These deductions were found equal to the export duty amounts paid by the exporter. For example, consider the **Shipping Bill No 5136430 dated 31.10.2022** wherein the deduction amount exactly matches the export duty amount. The Deduction of Rs. 25,30,116/- was claimed in that shipping bill and that amount is equal to the export duty leviable on the goods covered under the said shipping bill. The exporter deducted this amount from the actual transaction value; however received the same from the overseas buyer as part of the sale proceeds. By treating the actual FOB Value as a cum-duty price and deducting the duty amount, the exporter attempted to take an abatement of duty which is not permissible to them in the subject 84 shipping bills. CBIC Circular No. 18/2008-Cus dated 10.11.2008 clarifies that export duty is chargeable on the transaction value, i.e. the FOB price, and no abatement of duty is allowed. Excluding such amounts from the declared FOB Value is contrary to Section 14 of the Custom Act, 1962 read with Rule 3 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. This fact indicate clearly that the exporter deliberately reduced the declared FOB Value from the duty component and therefore, mis-declared the transaction value for the purpose of assessment.

29. I find that the exporter in 84 shipping bills and the respective export invoices had mentioned duty paid amounts separately in the invoices, they did not include these amounts in the total invoice value or the FOB value declared before the Customs Authority. On the contrary, they showed these as deductions under the head "Deduct/Deduction" in the shipping bills. By doing these act, the exporter had suppressed the actual consideration received from the overseas buyers and presented an artificially reduced FOB Value to the Customs authorities at the time of export. I find that the exporter during the investigation period has also admitted in their statements recorded under Section 108 of the Customs Act, 1962, that these deducted amounts were in fact recovered from the overseas buyers. Such amounts were duly realized in the bank accounts of the exporter. Thus, the fact were never discovered that the declared invoice value was not the sole amount received by the exporter from the foreign buyer.

These acts show a deliberate attempt by the exporter to suppress facts and make false statements.

30. In view of the above, I hold that the declared FOB Value in respect of the 84 shipping bills covered under Table-A1 is liable for rejection under Rule 8 of the CVR(E), 2007. The actual transaction value has to be re-determined by including the deduction amounts wrongly excluded by the exporter. Accordingly, I hold the re-determined FOB Value comes to Rs. 92,23,61,102/- (FOB Value of Rs. 76,86,34,252/- as declared in 84 shipping bills (+) Rs. 15,37,26,850/- of Export Duty recovered from overseas buyer and shown as deduct/deduction in shipping bills) against the declared Rs. 76,86,34,252/- in respect of said 84 shipping Bills.

31. In respect of the Shipping Bills listed in Table A2, the exporter at the time of filing of shipping bills claimed the deduction amount of USD 9045 in r/o Shipping Bill No. 2521076 dated 17.07.2023. The export duty paid by them in respect the said Shipping Bill was USD 9045 (equivalent to Rs. 7,37,620/-). Thus, they have claimed a deduction equal to the export duty amount. The exporter had stated that the entire deduction amount of USD 9045 has not been received by them from the overseas buyer. However, as per the invoice raised by the exporter to the overseas buyer, the aforesaid deduction amount of USD 9045 has also been included in the Total Invoice Value. The exporter has also raised debit note for recovery of the said amount from the overseas buyer. Thus, the deduction amount, which is equal to the export duty amount, being the amount payable by the overseas buyer to the exporter, are liable to be included in the FOB Value of the said shipment and the exporter is liable to pay the export duty on the aforesaid deduction amount of USD 9045 (equivalent to Rs. 7,37,620). Thus, for Shipping Bill No 2521076 dated 17.07.2023, FOB value is required to be re-determined to Rs. 44,25,719/- (FOB of Rs. 36,88,099/- as declared in Shipping Bill (+) Rs. 7,37,620/- ineligible deduction amount claimed and recovered/recoverable from the overseas buyer).

32. In view of the above, the FOB Values declared in respect of the 85 shipping bills under Table-A1 & Table- A2 (84 Shipping Bills under Table A-1 & 1 Shipping Bill under Table A2) are liable to rejection under Rule 8 of the CVR(E), 2007 and the re-determined FOB Value comes to Rs. 92,67,86,821/- in Table-D (re-produced hereunder):

Table-D

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Deduction Amounts Claimed (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INMUNI	62	55,41,37,745	11,08,27,550	11,08,27,549	66,49,65,294	2,21,65,510
INHZAI	15	10,73,70,456	2,14,74,094	2,14,74,091	12,88,44,547	42,94,818
INIXYI	7	10,36,44,975	2,07,28,995	2,07,28,995	12,43,73,970	41,45,799
INMAAI	1	71,69,175	14,33,835	14,33,835	86,03,010	2,86,767
Grand Total	85	77,23,22,351	15,44,64,474	15,44,64,470	92,67,86,821	3,08,92,894

33. In respect of 26 Shipping Bills mentioned under Table-B1, the exporter had not claimed any deduction of export duty. However, they had adopted another type of modus operandi of undervaluation wherein they recovered the amounts equal to the export duty separately from overseas buyers. In respect of these shipments, the exporter never declared before the customs at the port of export, that they would recover or have

recovered the higher amounts from the overseas buyers which are over and above the declared invoice value of these export shipments. For instance, consider Shipping Bill No. 4628819 dated 04.10.2022, Commercial Invoice No. MR/0752/22-23 dated 04.10.2022 & Debit Note No. 36/22-23 dated 29.12.2022. I find that as per the details submitted by the exporter during investigation, an amount of USD 30,000 [Equivalent to Rs. 23,61,000/-] was separately recovered from other overseas buyer vide Debit Note No. 36/22-23 dated 29.12.2022 issued in r/o Commercial Invoice No. MR/0752/22-23 dated 04.10.2022. This recovery amount equalled export duty amount in the subject shipping bill. The said amount was never disclosed either in the shipping bill or in the invoice and directly realized in the exporter's bank account. I find that the amounts received by the exporter as reimbursement of taxes, by raising a separate debit note to the overseas buyer, in respect of these 26 Shipping Bills amounted to USD 7,69,968 [equivalent to Rs. 6,15,23,857]. The exporter also admitted in their submissions that these recoveries were made from the foreign buyers and duly credited in the bank accounts of the exporter. Hence, these recoveries are part of the "price actually paid or payable" for the export goods within the meaning of Section 14 of the Customs Act, 1962.

34. Further, I notice that these receipts were not declared in the export invoices submitted to Customs. The invoices show only the reduced price of goods wherein export duty component was excluded. The fact regarding collection of that additional amounts equal to export duty from the buyers was not disclosed before the customs authority at the time of export. This omission indicates suppression of critical information regarding the value of the export goods.

35. Further, in respect to 4 shipments (as mentioned at Table B2) of rice exported by the said exporter, the exporter had raised separate debit notes for recovery of export duty paid amounts of USD 67700 from the Overseas buyer. The exporter, has submitted that against the aforesaid amount of USD 67700, overseas buyer has paid only an amount of USD 65050 which is 2650 lesser than the export duty paid amounts. I find that, even though the aforesaid amount of USD 2650 has not been paid by the overseas buyer to the said exporter, the said amount is **still payable** in respect of the aforesaid consignments as the said amount is also covered in the debit notes worth USD 67770 raised by the said exporter. From the aforementioned discussion, I find that, these recoveries of USD 67770 [equivalent to Rs. 54,87,640/-] are part of the "**price actually paid or payable**" for the export goods within the meaning of Section 14 of the Customs Act, 1962.

36. I also observe that the method of routing these receipts i.e. under Table-B1 and B-2 also reveals deliberate suppression. The exporter received these amounts through banking channels under RBI Purpose Code P1306. It is evident from RBI's notified categorization that this purpose code pertains to transactions of a personal nature such as personal gifts, donations, or family maintenance and the said code is not meant for payment related to export of goods. By misusing this purpose code, the exporter misrepresented the nature of receipts to the banking authorities. The Customs also at the port of export remained unaware of the full consideration agreed between the exporter and overseas buyers. This practice of declaring 'nil' deduction in the shipping

bills, recovering duty amounts through debit notes, routing them under an incorrect RBI purpose code, and keeping them out of the BRCs, clearly shows a deliberate attempt by the exporter to undervalue the goods for evasion of legitimate Customs duty.

37. In view of the above, the FOB Values declared in respect of the 30 shipping bills under Table-B1 & Table- B2 (26 Shipping Bills under Table B-1 & 4 Shipping Bills under Table B2) are liable to rejection under Rule 8 of the CVR(E), 2007 and the re-determined FOB Value comes to Rs. 40,18,57,151/-, as calculated in Table-E (re-produced hereunder):

Table E

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Export Duty Amount separately reimbursed by the buyer (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INMUN1	16	18,73,20,902	3,74,64,179	3,72,52,449	22,45,73,351	74,50,490
INIXY1	9	10,59,99,456	2,11,99,891	2,11,99,891	12,71,99,347	42,39,978
INHZA1	4	3,87,73,740	77,54,748	77,54,748	4,65,28,488	15,50,950
INNSA1	1	29,63,304	5,92,661	5,92,661	35,55,965	1,18,532
Grand Total	30	33,50,57,402	6,70,11,479	6,67,99,749	40,18,57,151	1,33,59,950

38. I find that **in respect of the 79 shipping bills** covered under Table-C, the exporter declared inflated amounts of ocean freight in their shipping bills as compared to the actual freight paid to the freight forwarders/shipping lines. The total excess freight declared across these shipments has been calculated at Rs. 5,20,92,112/- By adopting this method, the exporter artificially reduced the assessable FOB value declared before Customs and thereby resulting in short-payment of export duty. These excess freight amounts were not borne by the exporter and the same were actually recovered from their overseas buyers as part of the total consideration for the consignments. The discrepancy between declared freight and actual freight paid was also accepted by the exporter during the investigation period by submitting the details of shipments. For example, in Shipping Bill Number 7906494 dated 20-02-2023 the ocean freight amount declared in respect of the said shipment is USD 58752, which is equivalent to Rs. 48,11,789/- (taking exchange rate at Rs. 81.9 per USD as per shipping bill) whereas during investigation, the exporter had submitted the actual freight amount paid by them in respect of the aforesaid shipping bill which stood at Rs. 22,17,200/- (Rs. 48,11,789 (-) Rs. 22,17,200/-). Thus excess freight amount declared in respect of the aforesaid shipment works out to be at Rs. 25,94,589. The said excess freight amount has also been recovered by the exporter from the overseas buyer of the export goods but the exporter had not paid duty on the said excess freight amount which is part and parcel of the actual assessable value of the export goods. This instance demonstrates the method adopted by the exporter for all shipments covered under Table-C.

39. The exporter in their submission dated 16.09.2025, has submitted that the actual price paid in respect of the subject goods is clearly ascertainable from the invoices raised by the Noticee. The freight amount varies at the time of booking of cargo and actual exports. Further, they have also incurred the cost of local transportation from factory till port, charges paid to the CHA, handling charges incurred by the CHA and loading and unloading charges. They have further submitted that the aforesaid costs incurred by them are not includable in the FOB Value. They have further submitted that

the Customs Valuation (Determination of Value of Imported Goods), Rules, 2007 in respect of imported goods provides for 20% of FOB Value as permissible quantum of freight. Thus, the freight declared by the noticee in the invoice and the amount recovered towards the freight from the foreign purchaser is within the limit of 20%, which is acceptable as actual freight amount is not known to them.

40. I find that the contention of the exporter that the invoices reflect the actual price paid is untenable. The investigation clearly establishes that the invoices and shipping bills declared inflated freight figures which did not correspond to the actual amounts paid. Section 14 of the Customs Act, 1962 mandates that the "transaction value" must represent the price actually paid or payable. The investigation proved beyond doubt that the freight declared was substantially in excess of the freight actually paid, thereby artificially reducing the FOB value. Consequently, the invoices cannot be accepted as conclusive evidence when they do not reflect the true consideration. With regard to the submission that freight varies between the date of booking and the date of actual export, I observe that while fluctuations in freight rates are possible in the shipping industry, the present case demonstrated a consistent and systematic pattern of inflated freight declarations. These inflated figures correspond precisely to the amounts recovered by the exporter from the overseas buyer through debit notes, thereby evidencing a deliberate practice of inflating freight charges in the shipping bills to the extent of the export duty paid, solely to reduce the FOB value and evade customs duty. The plea regarding local transportation, CHA and handling charges is irrelevant as these are internal costs of the exporter and have no bearing on the determination of ocean freight for customs valuation. Furthermore, the reliance placed by the exporter on Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is wholly misplaced. These rules pertain exclusively to import valuation of goods into India. The present proceedings concern export valuation, which is governed by the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The export valuation rules do not permit any deemed allowance for freight; instead, they mandate adoption of the actual transaction value.

41. In view of the above, the FOB values declared in respect of the 79 shipping bills covered under Table-C are liable to rejection under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the re-determined FOB Value comes to Rs. 80,04,19,582/- as calculated in Table-F (re-produced hereunder):

Table-F

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Excess Freight Amounts declared in the export documents (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INMUNI	54	48,39,61,410	9,67,92,282	4,04,33,842	52,43,95,252	80,86,768
INHZA1	15	10,73,70,456	2,14,74,094	87,50,552	11,61,21,008	17,50,110
INIXY1	8	14,68,63,125	2,93,72,625	18,11,762	14,86,74,887	3,62,352
INMAA1	1	71,69,175	14,33,835	7,12,469	78,81,644	1,42,494
INNSA1	1	29,63,304	5,92,661	3,83,486	33,46,790	76,697
Grand Total	79	74,83,27,470	14,96,65,497	5,20,92,112	80,04,19,582	1,04,18,422

DEMAND OF DUTY UNDER EXTENDED PERIOD OF TIME UNDER SECTION 28(4) OF THE CUSTOMS ACT, 1962:

42. It is obligatory for the exporter to subscribe a declaration as to the truthfulness of the contents of the Shipping Bill in terms of Section 50(2) of the Customs Act, 1962, in all their export declarations. Section 17 of the Customs Act, 1962, effective from 08.04.2011, provides for self-assessment of duty on export goods by the exporter himself by filing a Shipping Bill, in electronic form. Section 50 of the Customs Act, 1962 makes it mandatory for the exporter to make an entry for the export goods by presenting a Shipping Bill electronically to the proper officer. Thus, under the scheme of self-assessment, it was the exporter who must doubly ensure that he declared the correct classification / CTH of the export goods, the applicable rate of duty, value, the benefit of exemption notification claimed, if any, in respect of the export goods while presenting the Shipping Bill. It is however evident from the investigation that there were deliberate mis-statement and suppression of facts on their part. The exporter was actively involved in mis-declaration of the FOB value of export goods, with an intention to evade appropriate export duty leviable on ad valorem basis on such goods. They adopted three different modus operandi (i) by claiming wrongful deduction of export duty from the transaction value; (ii) by covertly taking reimbursement of export duty from the overseas buyer (against Debit Notes) without even claiming the same as deduction; (iii) by declaring excess freight amounts. All the three modus-operandi have already been discussed in detail in the foregoing paragraphs. Further, the responsibility lies on the exporter to ensure that all details related to the shipments are correctly declared at the time of filing shipping bills. Therefore, the extended period of five years under Section 28(4) of the Customs Act, 1962 has been correctly invoked in the present case.

43. For 125 Shipping Bills as listed in **Tables A1, A2, B1, B2 and C** in para 11.2 to 11.9 above, the differential duty demand, as detailed in corresponding **Annexure -I, Annexure -II, and Annexure -III**, of the SHOW CAUSE NOTICE, of Rs. 5,46,71,263/- as confirmed in Table-D, Table E and Table-F above, is required to be upheld against the said noticee under Section 28(8) of the Customs Act, 1962 and the interest at the applicable rate in terms of notification issued under Section 28AA of the said Act is required to be recovered from the said noticee on the differential amount of Customs duty.

Confiscation of the goods under Section 113(i) of the Customs Act, 1962 and imposition of redemption fine:

44. SCN has alleged that the goods are liable for confiscation under Section 113(i) of the Customs Act, 1962. The relevant legal provisions of Section 113(i) of the Customs Act, 1962 are reproduced below: -

"(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;"

On plain reading of the above provisions of the Section 113(i) of the Customs Act, 1962, it is clear that any goods, which are entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act, will

be liable to confiscation. All the deduction claimed by the said noticee including the reimbursement of export duty was not deductible from the CIF value to arrive at the FOB value. Hence, the impugned exported goods as exported vide 125 shipping bills listed above are liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962. However, since the goods in question which are proposed to be confiscated are not available physically and have already been cleared from Customs by the said noticee, I refrain from imposing any redemption fine under Section 125 of the Customs Act, 1962.

Imposition of Penalties on main noticee and Co-Noticees

45. As regards imposition of penalty on the said noticee, I find that by their acts of omission and commission; by fraudulently producing forged documents and claiming abatement from the CIF value of the deductions which were not permissible as discussed in details in the foregoing paragraphs of this Order, which has resulted into evasion of Customs duty to the tune of Rs. 5,46,71,263/-, they have rendered the goods liable to confiscation under Section 113(i) of the Customs Act, 1962. By their above acts, they have also rendered themselves liable to penalty under Section 114A and Section 114AA of the Act, ibid.

46. I also find that Sh. Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, has knowingly or intentionally either made, signed and used or caused to be made, signed and used, the contracts, invoices and Shipping Bills for export of rice by M/s Manek Rathi Agri Products, which were incorrect as regards to the value of export goods for payment of export duty. The goods covered under Shipping Bills listed in Tables A1, A2, B1, B2 & C above, contained the declarations made by M/s Manek Rathi Agri Products which were false and incorrect in material particulars relating to the value of the impugned goods. The contracts with the buyer for sale and export of rice as well as the export documents submitted to Customs were signed in the overall supervision of Sh. Jayesh Rathi who was handling the day to day business of the export firm. This fact has been admitted by Sh. Jayesh Rathi in his statements recorded u/s 108 of the Customs Act, 1962. These facts have also been admitted by Sh. Ashok Rathi, another partner of M/s Manek Rathi Agri Products. In view of this, it appears that Sh. Jayesh Rathi is the key person who has orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty. Sh. Jayesh Rathi is, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by M/s Manek Rathi Agri Products. The act of Sh. Jayesh Rathi regarding under valuation and mis-declaration of actual transaction value in respect of Shipping Bills filed by M/s Manek Rathi Agri Products has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, Sh. Jayesh Rathi has rendered himself liable to penal action under the provisions of Section 114 (ii) and 114AA of the Customs Act, 1962.

47. In view of the discussion and findings supra, I hereby pass the following order:

ORDER

- i. I order to reject the declared assessable value of Rs. 125,39,27,521/- in respect of 125 shipments of rice exported vide Shipping Bills detailed in 'Annexure-I, II, & III, in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3(1) ibid and Section 14(1) of the Customs Act, 1962.
- ii. I order to re-determine the assessable value of Shipping Bills detailed in Annexure-I, II & III to the noticee as Rs. 152,72,83,852/- under Section 14 (1) of the Customs Act, 1962 read with Rule 3 (1) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
- iii. I determine and confirm the demand of the differential (export) duty amounting to Rs.5,46,71,263/- (Rupees Five Crore Forty Six Lakh Seventy One Thousand Two Hundred and Sixty Three only), as calculated and shown in 'Annexure-I, II, & III to the notice, in respect of these 125 Shipping Bills filed by them at 5 different ports, under the provisions of Section 28(8) of the Customs Act, 1962 and order to recover the same from M/s. Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110.
- iv. I order to recover the interest from M/s. Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110, at appropriate rate under Section 28AA of the Customs Act, 1962 on the above confirmed demand of duty amounting to Rs. 5,46,71,263/-.
- v. I order to appropriate voluntarily paid duty amounting to Rs. 1,04,18,415/- (Rs. 93,95,902/- during the course of investigation and Rs. 10,22,513/- after issuance of impugned Show Cause Notice) against differential (export) duty amounting to Rs.5,46,71,263/- (Rupees Five Crore Forty Six Lakh Seventy One Thousand Two Hundred and Sixty Three only)
- vi. I hold that the goods as detailed in Annexure-I, II, & III having re-determined assessable value of Rs. 152,72,83,852/-are liable to confiscation under the provisions of Section 113(i) of the Customs Act, 1962. Since the goods are not available for confiscation, I don't impose redemption fine under Section 125 of the Customs Act, 1962.
- vii. I impose a penalty of Rs.5,46,71,263/- (Rupees Five Crore Forty Six Lakh Seventy One Thousand Two Hundred and Sixty Three only) upon M/s. Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110, under Section 114A of the Customs Act, 1962.
- viii. I impose a penalty of Rs.1,00,00,000/- (Rupees One Crore Only) upon M/s. Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110, under Section 114AA of the Customs Act, 1962.
- ix. I impose penalty of Rs. 50,00,000/- (Fifty Lakh Only) upon Shri Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road,

Pipan Gam, Tehsil-Sanand, Gujarat-382110 under Section 114(ii) of the Customs Act, 1962.

x. I impose penalty of Rs. 50,00,000/- (Fifty Lakh Only) upon Shri Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110 under Section 114AA of the Customs Act, 1962.

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



(Nitin Saini)

Commissioner of Customs
Custom House, Mundra.

F. No- GEN/ADJ/COMM/455/2024-Adjn

DIN-20251071MO000000C683

To:-

- 1) M/s Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110
- 2) Shri Jayesh Rathi, Partner of M/s Manek Rathi Agri Products, Survey No. 175, Sanand Bavla Road, Pipan Gam, Tehsil-Sanand, Gujarat-382110

Copy for necessary action to:-

- 1) The Chief Commissioner of Customs Gujarat Customs Zone, Ahmedabad.
- 2) The Commissioner of Customs Kandla, Kandla Custom House, Near Balaji Temple, Kandla-370210
- 3) The Commissioner of Customs, Chennai (Export), Custom House, 60, Rajaji Salai, Chennai-600001
- 4) The Pr. Commissioner of Customs, Nhava Sheva-I Jawaharlal Nehru Customs House, Nhava Sheva, Tal: Uran, Dist.-Raigad, Maharashtra-400707
- 5) The Pr. Commissioner of Customs, Ahmedabad Customs Commissionerate, Ahmedabad Zone, Ahmedabad
- 6) The Director General, Central Economic Intelligence Bureau, 6th Floor, B-Wing, Janpath Bhawan, Janpath, New Delhi-110001
- 7) The Superintendent(EDI/Disposal/Recovery/Legal),Customs House, Mundra.