

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421</p> <p><b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP &amp; SEZ MUNDRA, KUTCH-GUJARAT</b></p> <p><b>EMAIL: group1-mundra@gov.in</b></p>	 <p>आजादी का अमृत महोत्सव</p>
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A	File No.	<b>CUS/APR/MISC/7786/2025-Gr 1</b>
B	Order-in-Original No.	<b>MCH/ADC/ZDC/365/2025-26</b>
C	Passed by	<b>Dipak Zala</b> Additional Commissioner of Customs, Custom House, Mundra.
D	Date of order	<b>04.11.2025</b>
E	Noticee/Party/ Importer/ Exporter	M/s. Nakoda Agro Product (IEC: 0815908121), Survey No 27/1/2 at & Post Chadotar, Banaskantha-385001
F	DIN No.	<b>20251171MO00000106E1</b>

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 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

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

“ सीमा शुल्क आयुक्त (अपील),

चौथी मंजिल, हुड़को बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद-380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA**

**Having his office at 4<sup>th</sup> Floor, HUDCO Building, Ishwar Bhuvan Road,  
Navrangpura, Ahmedabad-380 009.”**

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

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

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

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

- i. उक्त अपील की एक प्रति और  
A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची- 1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।

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

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

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

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

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

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

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

### **BRIEF FACTS OF THE CASE:**

On basis of NCTC Alert No. 2025-26/IMP/2720, the goods imported by M/s. Nakoda Agro Product, Survey No 27/1/2 at & Post Chadotar, Banaskantha-385001 (IEC: 0815908121), (herein after referred as “the importer” for brevity) under Bill of Entry No. 4328751 dated 05.09.2025, filed at INMUN1, appears to be at high risk for mis-declaration and/or concealment of prohibited/restricted goods. The goods were destined to M/s Hind Terminals Pvt Ltd. The details of the goods declared in the Bill of entry no. 4328751 dated 05.09.2025 are detailed below:

**Table-I**

<b>Sr. No</b>	<b>CTH</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit Price in USD</b>	<b>UQC</b>
1	08013100	Dried Raw Cashew Nut In Shell	50824	0.846057	Kgs

### **Examination of the Goods:**

2. Whereas, the examination of the Bill of Entry No. 4328751 dated 05.09.2025 was conducted on 18.09.2025 under examination report in the presence of Shri Vijayrajsinh Zala, representative of M/s Hind Terminals Pvt Ltd. and Shri Sushil Bhagwan Ratwani, G-Card holder of CB Firm M/s Saanch Logistics. The goods, received in container no. MSBU5353549 & MSDU5921815, were examined as per the commercial invoice No. F123 2025 dated 23.07.2025, issued by M/s Fusion Impex Goods Wholesalers LLC. During the inspection, it is noticed that the seal is already cut by staff of CFS for FSSAI and PQ. The goods were packed in bags and the quantity found as per import documents. The details of weighment slip are as follows:

**Table-II**

<b>Sr. No</b>	<b>Description</b>	<b>Weight as per BL</b>	<b>Weight as per Weighment Slip</b>	<b>UQC</b>
1	Dried Raw Cashew Nut In Shell	51500	51320	Kgs

The goods were found as Dried Raw Cashew Nut in Shell. The goods found as declared in invoice and packing list. The weight of the goods also found as declared. No mis-declaration was noticed in the examination. However, the valuation of the goods appears on the lower side.

### **3. Classification of the Goods:**

The importer has declared the goods as Dried Raw Cashew Nut in Shell under CTH 08013100. The imported goods appear correctly declared under CTH 08013100, **wherein the applicable duty structure is 2.5% BCD + 10% SWS of BCD+5% IGST.**

### **4. Rejection and Determination of Valuation:**

4.1. The inconsistency observed in filing of the Bill of Entry suggests deliberate Undervaluation of the goods. In the Bill of Entry No. 4328751 dated 05.09.2025, submitted by the importer consist of 01 item were listed for import as detailed in Table-I above.

4.2. As imported items were found to be undervalued and mis-classified in the Bill of Entry No. 4328751 dated 05.09.2025, hence the same were liable to be re-assessed under section 17(4) of the Customs Act, 1962. Since, mis-declaration of the goods, in parameters such as valuation, was noticed, the declared value of the goods is liable to be determined in terms of Rule 12, explanation 1 (i), of the said Rules, by going sequentially from Rule 2 to 9 thereof.

#### **Determination of valuation:**

- a. Efforts were made to find out the correct assessable value of the imported goods found undeclared. As the import data extracted with respect to contemporaneous imports the value of the goods is on higher side as compare to declared value. Not a single BE being found whose value is either equal or lower than the declared value, therefore, the value could not be determined under Rules 4 and 5 of CVR, 2007.
- b. As per Rule 6 ibid, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8.
- c. As the imported goods were found to be non-standard, the sale price of identical or similar goods was not available in the domestic market as the goods are miscellaneous in nature and found in different variety, description, specification, model, brand, make, sizes and quality, therefore, determination of transaction value under Rule 7 of CVR, 2007 was not possible.
- d. As substantial data related to the cost or value of materials and fabrication or other processing employed in producing the imported goods required to compute the value under Rule 8 is also not available. Therefore, valuation of the impugned goods could not be ascertained under Rule 8 of CVR, 2007.

e. Hence, valuation of the goods is to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid*.

Accordingly, the Chartered Engineer was appointed for valuation of the goods. The Chartered Engineer, vide his report ref no. AYK:VAL:02665:2025 dated 08.10.2025, has suggested the valuation of the imported goods as under:

**Table-III**

S. r. N. o.	Descrip tion	Tot al Qu ant ity	Me asu re Uni t	Declared Unit pric e per Kgs (in USD)	Unit Suggesti ve Average C.I. .F. Value by C.E. (in USD)	Total Suggesti ve Average C.I. .F. Value by C. E. (in USD)	Total Suggestiv e Average C.I.F. Value by C.E. (in INR) \$=89
1	Dried R aw Cas hew Nut In Shell	508 24	Kg s	0.846057	1.14	57939.36	51,56,603/-

The chartered engineer, empanelled by the government, determined the fair value of the goods to be **Rs. 51,56,603/-** (Rs. Fifty-One Lakh Fifty-Six Thousand Six Hundred Three only) in contrast to the declared assessable value as **Rs. 39,60,300/-**.

4.3. With the introduction of self-assessment under Section 17(1) of the Customs Act, 1962, the responsibility lies squarely on the importer to accurately self-assess the Bill of Entry and declare the correct amount of leviable duty. By failing to declare dutiable goods correctly in the Bill of Entry, the importer's actions indicate an intent to evade payment of the correct duties on the imported goods. This deliberate omission raises reasonable grounds to believe that the importer wilfully and intentionally concealed dutiable goods, thereby causing a loss to government revenue.

5. The importer has imported the goods from the country "Togo" under benefit of Notification No. 96/2008-Customs dated 13.8.2008, Regarding Duty free tariff preference for LDCs. The COO was defaced by the TSK Section. Accordingly, the imported goods are exempted from the basic Customs Duty. Only Customs Duty applicable in this case is IGST duty. Further, the FSSAI department has also allowed the goods for Home Consumption.

#### **6. Re-determination of Duty:**

6.1. Based on the foregoing paragraphs, it is evident that the importer has undervalued/mis-declared the imported goods to evade payment of duties and taxes by. The duty liability for the imported goods as per re-determined value is ascertained as under:

**Table-IV**

Sr No	Description	Total Quantity	Measure Unit	Total Suggestive Average C.I.F. Value by C.E. (in USD)	Total Suggestive Average C.I.F. Value by C.E. (in INR) \$=89	IGST @ 5% (In Rs.)	Total Duty (in Rs.)
1	Dried Raw Cashew Nut In Shell	50824	Kgs	57939.36	51,56,603/-	257830	2,57,830/-

From the **Table IV above**, it appears that the total duty liability of the importer is Rs. 2,57,830/- (Rupees Two Lakh Fifty Seven Thousand Eight Hundred Thirty only).

6.2. The importer in the BE no. 4328751 dated 05.09.2025, has declared the value of the goods as Rs. 39,60,300/- and calculated the applicable duties and taxes on the good declared, based on the declared value and classification in the Bill of Entry as **Rs. 1,98,015/-**.

6.3. Based on the calculations from para Table-III above, the importer is need to pay/levy a differential liability of Rs. 59,815/- (Rs. Fifty-Nine Thousand Eight Hundred Fifteen only) on the mis-declared/undervalued goods after adjustment. This amount represents the additional duty and tax liability that the importer must pay due to the misdeclaration/undervaluation of goods.

## 7. **LEGAL PROVISIONAS:**

7.1. **Section 2 (14)** of the Customs Act, 1962, “**dutiable goods**” means any goods which are chargeable to duty and on which duty has not been paid;

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

7.3. **Section 111** of the of the Customs Act, 1962- **Confiscation of improperly imported goods, etc. as under**

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

...

(m) any goods which do not correspond in respect of value or in any other

*particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.*

...

7.4. **Section 112** of the Customs Act, 1962, penal provisions for improper importation of goods, etc. which read as under:

Any person, -

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

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

*(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:*

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

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

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

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

*thousand rupees, whichever is the highest.*

7.5. **SECTION 124** prescribes the mandatory issuance of show cause notice before confiscation of goods, which read as under:

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

- a. *is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*
- b. *is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*

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

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

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

7.6. **SECTION 125** provides the Option to pay fine in lieu of confiscation as under:

*(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:*

**Provided** that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 3 [no such fine shall be imposed]:

**Provided** further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of

*the goods confiscated, less in the case of imported goods the duty chargeable thereon.*

*(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]*

*(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.*

#### **7.7. Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:**

**“Rule 4. Transaction value of identical goods.** - (1) (a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

.....

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

**“Rule 5. Transaction value of similar goods .** - (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

Provided that .....

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

#### **Rule 7. Deductive value.-**

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at

which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

- (i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;
- (ii) the usual costs of transport and insurance and associated costs incurred within India;
- (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

#### **Rule 8. Computed value.-**

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;
- (c) the cost or value of all other expenses under sub-rule (2) of rule 10.

#### **Rule 9. Residual method:-**

*(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;*

*Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.*

*(2) No value shall be determined under the provisions of" this rule on the basis of –*

- (i) the selling price in India of the goods produced in India;*
- (ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;*
- (iii) the price of the goods on the domestic market of the country of exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;*
- (v) the price of the goods for the export to a country other than India;*
- (vi) minimum customs values; or*
- (vii) arbitrary or fictitious values.*

**Rule 12. Rejection of declared value.** - *(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.*

#### **8. Outcome of Investigation:**

On basis of data analysis by this office, it came to notice that the goods imported by M/s. Nakoda Agro Product, Survey No 27/1/2 at & Post Chadotar, Banaskantha-385001 (IEC: 0815908121), under Bill of Entry No. 4328751 dated 05.09.2025, filed at APSEZ (INAJM6) are risky consignment for misdeclaration or undervaluation. Accordingly, an investigation was initiated by

the Special Intelligence and Investigation Branch (SIIB), Customs House, Mundra. The investigation revealed valuation irregularities in the import consignment of M/s. Nakoda Agro Product under Bill of Entry No. 4328751 dated 05.09.2025. The examination uncovered deliberate undervaluation of goods, indicating intent to evade Customs duties. The outcomes of the investigation are as follows:

#### 8.1. **Examination and Findings:**

The examination of the Bill of Entry No. 4328751 dated 05.09.2025 was conducted on 18.09.2025 under examination report in the presence of Shri Vijayrajsinh Zala, representative of M/s Hind Terminals Pvt Ltd. and Shri Sushil Bhagwan Ratwani, G-Card holder of CB Firm M/s Saanch Logistics. The goods, received in container no. MSBU5353549 & MSDU5921815, were examined as per the commercial invoice No. F123 2025 dated 23.07.2025, issued by M/s Fusion Impex Goods Wholesalers LLC. During the inspection, it is noticed that the seal is already cut by staff of CFS for FSSAI and PQ. The goods were packed in bags and the quantity found as per import documents. The details of weightment are as follows:

Sr. No	Description	Weight as per BL	Weight as per Weightment Slip	per UQC
1	Dried Raw Cashew Nut In Shell	51500	51320	Kgs

The goods were found as Dried Raw Cashew Nut in Shell. The goods found as declared in invoice and packing list. The weight of the goods also found as declared. No mis-declaration was noticed in the examination. However, the valuation of the goods appears on the lower side.

#### 8.2. **Valuation of the Goods:**

The chartered engineer, empaneled by the government, determined the fair value of the goods to be Rs. 51,56,603/- (Rs. Fifty-One Lakh Fifty-Six Thousand Six Hundred Three only) in contrast to the declared assessable value as Rs. 39,60,300/-.

#### 8.3. **Classification:**

The importer has declared the goods as Dried Raw Cashew Nut in Shell under CTH 08013100. The imported goods appear correctly declared under CTH 08013100, wherein **the applicable duty structure is 2.5% BCD + 10% SWS of BCD+5% IGST.**

#### 8.4. **Duty Evasion:**

From the **Table III above**, it appears that the total duty liability of the importer is Rs. 2,57,830/- (Rupees Two Lakh Fifty Seven Thousand Eight Hundred Thirty only). The importer in the BE no. 4328751 dated 05.09.2025, has declared the value of the goods as Rs. 39,60,300/- and calculated the applicable duties and taxes on the good declared, based on the declared value and classification in the Bill of Entry as **Rs. 1,98,015/-**.

Based on the calculations from para Table-III above, the importer is need to pay/levy a differential liability of Rs. 59,815/- (Rs. Fifty-Nine Thousand Eight Hundred Fifteen only) on the mis-declared/undervalued goods after adjustment. This amount represents the additional duty and tax liability that the importer must pay due to the misdeclaration/undervaluation of goods.

#### 8.5. **Conclusion:**

The importer has, by their acts of omission and commission, rendered the goods found mis-classified/undervalued, with a re-determined assessable value of INR 51,56,603/- under Bill of Entry No. 4328751 dated 05.09.2025, liable for confiscation under Section 111(m) of the Customs Act, 1962, and is therefore also liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

#### **Waiver of Notice and Personal Hearing: -**

9 . The importer M/s. Nakoda Agro Product, Survey No 27/1/2 at & Post Chadotar, Banaskantha-385001 (IEC: 0815908121) vide their letter received on email dated 17.10.2025, have requested for waiver of the Show Cause Notice and personal hearing in the matter, and requested to decide the case on merits. The importer has accepted the valuation of CE, and requested the release of the consignment.

#### 10. **In view of the above, it appears that:**

- i. The declared total assessable value of the goods, i.e., Rs. 39,60,300/-, is liable to be rejected and the same needs to be re-determined as Rs. 51,56,603/- under Rule 9 of the Customs Valuation Rules, 2007.
- ii. The self-assessment done by the importer is liable to be rejected and the BE needs to be re-assessed with differential duty of Rs. 59,815/- under Section 17(4) of the Customs Act, 1962.
- iii. The goods imported vide Bill of Entry No. 4328751 dated 05.09.2025 having re-determined value of Rs. 51,56,603/-, are liable for confiscation under Sections 111(m) of the Customs Act, 1962.
- iv. The importer is liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

## **WRITTEN SUBMISSION AND PERSONAL HEARING**

11. Importer M/s. Nakoda Agro Product, vide their letter received by SIIB, MCH on email dated 17.10.2025, have requested for waiver of the Show Cause Notice and personal hearing in the matter, and requested to decide the case on merits. The importer has accepted the valuation of CE, and requested the release of the consignment.

## **DISCUSSION AND FINDINGS**

12. I have carefully gone through the case records. The importer vide letter received by SIIB, MCH on email dated 17.10.2025, has requested for waiver of the Show Cause Notice and Personal Hearing in the matter. Thus, I find that principles of natural justice as provided in Section 122A of the Customs Act 1962 has been complied with and therefore, I proceed to decide the case on the basis of the documentary evidence available on records. I find that the following main issues are involved in the subject case, which is required to be decided:

- i. Whether the declared total assessable value of the goods, i.e., Rs. 39,60,300/-, be rejected and the same needs to be re-determined as Rs. 51,56,603/- under Rule 9 of the Customs Valuation Rules, 2007.
- ii. Whether the self-assessment done by the importer be rejected and the BE needs to be re-assessed with differential duty of Rs. 59,815/- under Section 17(4) of the Customs Act, 1962.
- iii. Whether the goods imported vide Bill of Entry No. 4328751 dated 05.09.2025 having re-determined value of Rs. 51,56,603/-, are liable for confiscation under Sections 111(m) of the Customs Act, 1962.
- iv. Whether the importer is liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

13. I find that as per NCTC Alert No. 2025-26/IMP/2720, the goods imported by M/s. Nakoda Agro Product, under Bill of Entry No. 4328751 dated 05.09.2025, filed at INMUN1, appears to be at high risk for mis-declaration and/or concealment of prohibited/restricted goods. The details of the goods declared in the Bill of entry no. 4328751 dated 05.09.2025 are detailed below:

<b>Sr. No</b>	<b>CTH</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit Price in USD</b>	<b>UQC</b>
1	08013100	Dried Raw Cashew Nut In Shell	50824	0.846057	Kgs

### **Examination of the Goods:**

14. I find that the examination of the goods covered under Bill of Entry No.

4328751 dated 05.09.2025, received in container no. MSBU5353549 & MSDU5921815, was conducted on 18.09.2025. During the examination, it was noticed that the seal was already cut by staff of CFS for FSSAI and PQ. The goods were packed in bags and the quantity found as per import documents. The details of weighment slip are as follows:

Sr. No	Description	Weight as per BL	Weight as per Weightment Slip	per UQC
1	Dried Raw Cashew Nut In Shell	51500	51320	Kgs

The goods were found as Dried Raw Cashew Nut in Shell. The goods found as declared in invoice and packing list. The weight of the goods also found as declared. No mis-declaration was noticed in the examination. However, the valuation of the goods appears on the lower side.

#### **Classification of the Goods:**

15. I find that the importer has declared the goods as Dried Raw Cashew Nut in Shell under CTH 08013100. The imported goods are correctly declared under CTH 08013100, **wherein the applicable duty structure is 2.5% BCD + 10% SWS of BCD+5% IGST.**

#### **Rejection and Determination of Valuation:**

16. I find that the inconsistency observed in filing of the Bill of Entry suggests deliberate undervaluation of the goods. In the Bill of Entry No. 4328751 dated 05.09.2025, submitted by the importer consist of 01 item were listed for import as detailed in Table-I above.

16.1 I find that as imported items were found to be undervalued in the Bill of Entry No. 4328751 dated 05.09.2025, hence they were liable to be re-assessed under section 17(4) of the Customs Act, 1962. Since, mis-declaration of the goods, in parameters such as valuation, was noticed, the declared value of the goods is liable to be rejected in terms of Rule 12, explanation 1 (i), of the said Rules, by going sequentially from Rule 2 to 9 thereof.

#### **Determination of valuation:**

- Efforts were made to find out the correct assessable value of the imported goods found undeclared. As the import data extracted with respect to contemporaneous imports the value of the goods is on higher side as compare to declared value. Not a single BE being found whose value is

either equal or lower than the declared value, therefore, the value could not be determined under Rules 4 and 5 of CVR, 2007.

- b. As per Rule 6 *ibid*, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8.
- c. As the imported goods were found to be non-standard, the sale price of identical or similar goods was not available in the domestic market as the goods are miscellaneous in nature and found in different variety, description, specification, model, brand, make, sizes and quality, therefore, determination of transaction value under Rule 7 of CVR, 2007 was not possible.
- d. As substantial data related to the cost or value of materials and fabrication or other processing employed in producing the imported goods required to compute the value under Rule 8 is also not available. Therefore, valuation of the impugned goods could not be ascertained under Rule 8 of CVR, 2007.
- e. Hence, valuation of the goods is to be determined under residual method of valuation provided under Rule 9 of the CV Rules *ibid*.

Accordingly, the Chartered Engineer was appointed for valuation of the goods. The Chartered Engineer, vide his report ref no. AYK:VAL:02665:2025 dated 08.10.2025, has suggested the valuation of the imported goods as under:

S. r. N o .	Descrip tion	Tot al Qu ant ity	Me asu re Uni t	Declared Unit pric e per Kgs (in USD)	Unit Suggesti ve Average C.I. .F. Value by C.E. (in USD)	Total Suggesti ve Average C.I. .F. Value by C. E. (in USD)	Total Suggestiv e Average C.I.F. Value by C.E. (in INR) \$=89
1	Dried Raw Cas hew Nut In Shell	508 24	Kg s	0.846057	1.14	57939.36	51,56,603/-

The chartered engineer, empanelled by the government, determined the fair value of the goods to be **Rs. 51,56,603/-** (Rs. Fifty-One Lakh Fifty-Six Thousand Six Hundred Three only) in contrast to the declared assessable value as **Rs. 39,60,300/-**.

17. I find that the importer has imported the goods from the country "Togo" under benefit of Notification No. 96/2008-Customs dated 13.8.2008, Regarding Duty free tariff preference for LDCs. The COO was defaced by the TSK Section. Accordingly, the imported goods are exempted from the basic Customs Duty. Only Customs Duty applicable in this case is IGST duty. Further, the FSSAI department has also allowed the goods for Home Consumption.

#### **Re-determination of Duty:**

17.1 Based on the foregoing paragraphs, it is evident that the importer has undervalued/mis-declared the imported goods to evade payment of duties and taxes by. The duty liability for the imported goods as per re-determined value is ascertained as under:

Sr No	Description	Total Quantity	Measure Unit	Total Suggestive Average C.I.F. Value by C.E. (in USD)	Total Suggestive Average C.I.F. Value by C.E. (in INR) \$=89	IGST @ 5% (In Rs.)	Total Duty (in Rs.)
1	Dried Raw Cashew Nut In Shell	50824	Kgs	57939.36	51,56,603/-	257830	2,57,830/-

From above, I find that the total duty liability of the importer is Rs. 2,57,830/- against the declared duty of **Rs. 1,98,015/-**. **Accordingly**, the importer is liable for differential liability of Rs. 59,815/- (Rupees Fifty-Nine Thousand Eight Hundred and Fifteen only) on the mis-declared/undervalued goods.

17.2 With the introduction of self-assessment under Section 17(1) of the Customs Act, 1962, the responsibility lies squarely on the importer to accurately self-assess the Bill of Entry and declare the correct amount of leviable duty. By failing to declare dutiable goods correctly in the Bill of Entry, the importer's actions indicate an intent to evade payment of the correct duties on the imported goods. This deliberate omission raises reasonable grounds to believe that the importer wilfully and intentionally concealed dutiable goods, thereby causing a loss to government revenue.

17.3 I find that the importer has, by their acts of omission and commission, rendered the goods found mis-classified/undervalued, with a re-determined assessable value of Rs. 51,56,603/- under Bill of Entry No. 4328751 dated 05.09.2025, liable for confiscation under Section 111(m) of the Customs Act, 1962, and therefore, the importer is also liable for penalty under Section 112(a) (ii) of the Customs Act, 1962.

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

**ORDER**

- i. I reject the declared assessable value of the goods, i.e., Rs. 39,60,300/ in B/E no. 4328751 dated 05.09.2025, and allow the same to be re-determined as Rs. 51,56,603/ under Rule 9 of the Customs Valuation Rules, 2007.
- ii. I reject the self-assessment done by the importer and allow the re-assessment of B/E no. 4328751 dated 05.09.2025 with differential duty of Rs. 59,815/- under Section 17(4) of the Customs Act, 1962.
- iii. I order to confiscate the goods, imported vide B/E No. 4328751 dated 05.09.2025 having re-determined value of Rs. 51,56,603/-, under Sections 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the said confiscated goods for home consumption on payment of redemption fine of **Rs.5,00,000** (Rupees Five Lakh only) under Section 125 of the Customs Act, 1962.
- iv. I impose penalty of Rs.5,000(Rupees Five Thousand only) on M/s. Nakoda Agro Product under Section 112(a)(ii) of the Customs Act, 1962.

**19.** This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.

Additional Commissioner (Import)  
Custom House, Mundra

F.No. CUS/APR/MISC/7786/2025-Gr 1

To,

M/s. Nakoda Agro Product (IEC: 0815908121),  
Survey No 27/1/2 at & Post Chadotar,  
Banaskantha-385001

Copy to:

1. The Deputy Commissioner (SIIB), Customs House, Mundra.
2. The Deputy Commissioner (RRA), Customs House, Mundra.
3. The Deputy Commissioner (TRC), Customs House, Mundra.
4. The Deputy Commissioner (EDI), Customs House, Mundra.
5. Guard file.