



सीमा शुल्क) निवारक (के आयुक्त का कार्यालय, सीमा शुल्क भवन,
जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास,
जामनगर) गुजरात- 361001

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

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DIN – 20250471MM000000FD8C

1.	फ़ाइल क्रमांक/ File Number	F. No. VIII/10-10/ADC/O&A/2021-22
2.	मूल आदेश क्रमांक/ Order-in-Original No.	02/ Additional Commissioner/ 2025-26
3.	द्वारा पारित/ passed by	अमित कुमार सिंह / Amit Kumar Singh अपरआयुक्त/ Additional Commissioner, सीमा शुल्क, निवारक/Customs (Preventive) जामनगर/ Jamnagar.
4.	Date of Order /आदेश दिनांक	30.04.2025
	Date of issue / आदेश जारी किया	30.04.2025
5.	कारण बताओ नोटिस क्रमांक एवं दिनांक Show Cause Notice Number & Date	VIII/10-10/ADC/O&A/2021-22 dated 07.01.2022
6.	नोटिसी का नाम/ Name of Noticee	M/s. United Maritime Services LLC, UAE, through Shri Ahinder Haldar, Master of the Vessel MT SEA GOLDEN, (IMO No. 9036313), anchored at Bhavnagar Anchorage.



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



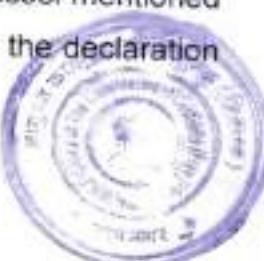
BRIEF FACTS OF THE CASE:

The facts leading to present adjudication are that **M/s. Trans Tide Shipping Agency**, Shreeji, 101, Plot No. 8/C, Opp. Bhagini Mandal Hospital, Bhavnagar – 364002 vide their letter dated 29.11.2021 submitted an intimation about arrival of a vessel namely **MT Sea Golden** (IMO No. 9036313) (hereinafter referred to as "**the vessel**") at Alang for breaking purpose. M/s. Trans Tide Shipping Agency –the agent had filed Prior IGM No. 2298011 dated 30.11.2021 on behalf of M/s. United Maritime Services LLC, UAE (hereinafter referred to as "**the owner of the vessel**") for import of the vessel, declared as MT Sea Golden with IMO No. 9036313, at Alang for demolition.

2. It appeared that the vessel arrived at Bhavnagar Anchorage on 05.12.2021 and was boarded on 08.12.2021 by the boarding officer of the Custom House, Alang. Based on the intelligence the Vessel was boarded by the officers of Preventive team, Customs (Prev.) HQ, Jamnagar on 13.12.2021. During Inspection of the vessel a file having page no. 1 to 355 containing some old documents related to the vessel was found on the vessel. On examination of the documents retrieved, it was noticed that on some documents having stamp of the vessel, the name of the vessel was mentioned as "Sea Golden", the IMO No. was mentioned as "8820119" and the GRT/NRT (Gross Registered Tonnage/Net Registered Tonnage) is mentioned as "4995/2645".

3. It appeared on examination of the documents submitted under the prior IGM dated 30.11.2021, it was noticed that as per the last registry dated 30.09.2021 submitted under the IGM, the name of the vessel changed from Liquid Era to Sea Golden under the flag Sao Tome on 30.09.2021, the IMO No. of the vessel is mentioned as "9036313" and GRT/NRT are mentioned as "4989/2720". Further, it was noticed that the documents of RUD-1 are of the date prior to 30.09.2021 and on these documents the name of the vessel is mentioned as "Sea Golden" and IMO No. is mentioned as "8820119" and GRT/NRT is mentioned as 4595/2645. It appeared that the vessel was already plying with the name Sea Golden prior to 30.09.2021 (date of Name change Registry) and was using the IMO No. and GRT/NRT of some other vessel.

4. Further, it appeared that on examination of the Last Port Clearance Certificate No. 24 dated 26.01.2021 (submitted under IGM) issued at Aden Port to the vessel, it was noticed that the name of the vessel is mentioned as Sea Golden under Panama Colors, the GRT/NRT of the vessel are mentioned as 4995/2645 and name of the Captain is mentioned as Assem Nawaz. It was noticed that the above particulars of the Port Clearance Certificate do not match with the particulars of the vessel mentioned in other documents submitted under IGM. Further, it was noticed that in the declaration



of last 11 Ports of Call submitted under the IGM, the date of departure of the vessel from Aden Port is mentioned as 18.11.2021, however the date of the Port Clearance Certificate issued at Aden is 26.01.2021. Therefore, as various discrepancies were noticed in the last Port Clearance Certificate, it appears that the last Port Clearance Certificate submitted under IGM is fake and fabricated.

5. On further inspection of the vessel, it was noticed that on both side at the top of the Bridge Room, the embossed IMO No. has been erased and the current declared IMO No. of the vessel "9036313", is written with paint. Therefore, it appeared that the tampering has done with the original IMO No. of the vessel.

6. During the course of investigation, statement of Shri Ajithkumar Sannasi, Third Officer of the Vessel was recorded on 13.12.2021. In the statement dated 13.12.2021 regarding Voyage/ Journey of the vessel, Shri Ajithkumar, stated that on 05.11.2021 they heaved up anchor in SHARJAH and dropped anchor at OPL, Karachi on 21.11.2021 and received some bunkers i.e. Diesel and some provisions at OPL Karachi.

7. Further, it appeared that on examination of the survey report submitted under IGM, it was noticed that 8.652 MTs of Diesel Oil was remaining on the vessel at Bhavnagar Anchorage and the Origin of the Diesel Oil received at Karachi OPL, which origin was not declared under the IGM.

8. It further appeared that the statement of Shri Surendra Singh was recorded on 14.12.2021. He was shown the last Post Clearance Certificate dated 26.01.2021 issued at Aden wherein the name of the captain is mentioned as "Assem Nawaz" and name of the vessel is mentioned as "Sea Golden" under the Panama color. On being asked he stated that he boarded the vessel on 28.02.2019 and at the time of his boarding in Feb-2019, the vessel was already using the name Sea Golden. However, on examination of the last Registry dated 30.09.2021 submitted under the IGM, it is noticed that the current name of the vessel i.e. Sea Golden came into existence on 30.09.2021 under the Flag of Sao Tome. Further, on being asked about the name of the Captain i.e. Assem Nawaz, on the last Port Clearance Certificate dated 26.01.2021, he stated that Assem Nawaz signed-off the vessel on 27.02.2019 and one of the old crew members on the vessel told him that Assem Nawaz was the Chief officer of the vessel, however he was also working as the Master of the vessel. Further on being asked, Shri Surender told that after his signing-on the vessel on 28.02.2019, Assem Nawaz never boarded the vessel again. Therefore, it appeared that the correct name of vessel and the captain are not mentioned on the last Port of Clearance Certificate dated 26.01.2021. Hence it appeared that the last Port Clearance Certificate submitted under IGM is fake and fabricated.



9. Further, it appeared that the statement of Shri Rajesh Kumar Singh was recorded on 14.12.2021. He was shown the last Post Clearance Certificate dated 26.01.2021 issued at Aden wherein the name of the captain is mentioned as "Assem Nawaz" and name of the vessel is mentioned as "Sea Golden". On being asked he stated that he boarded the vessel on 12.12.2019 and at the time of his boarding in Dec-2019, the vessel was already using the name Sea Golden. However, on examination of the last Registry dated 30.09.2021 submitted under the IGM, it is noticed that the current name of the vessel i.e. Sea Golden came into existence on 30.09.2021 under the Flag of Sao Tome. Further, on being asked about the name of the Captain i.e. Assem Nawaz, on the last Port Clearance Certificate dated 26.01.2021, he stated that after his signing-on the vessel on 12.12.2019, Assem Nawaz never boarded the vessel. Therefore, it appears that the correct name of the vessel and the captain are not mentioned on the last Port of Clearance Certificate dated 26.01.2021. Hence it appeared that the last Port Clearance Certificate submitted under IGM is fake and fabricated.

10. During the course of investigation, statement of Shri Ahinder Haldar, Master of the Vessel was recorded on 14.12.2021. Shri Ahinder Haldar was shown the Last Port Clearance Certificate No. 24 dated 26.01.2021 issued at Aden Port and he was also shown Cargo Declaration submitted under the IGM wherein the departure date from Aden is mentioned as 18.01.2021. On being asked in this regard, he inter alia agreed that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated. Further, Shri Ahinder Haldar was shown the Name change Registry of the said vessel wherein the date of the Registry is 30.09.2021 which means the current name of the vessel i.e. Sea Golden came into existence on 30.09.2021. However the name of the vessel Sea Golden was already mentioned on the PC dated 26.01.2021 which was issued before the date of Registry i.e. 30.09.2021. In this regard, he inter alia agreed that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated. He also agreed that the documents of the vessel MT SEA GOLDEN are manipulated and fabricated. Further, on being asked about the Voyage/Journey of the vessel, Shri Ahinder Haldar told that they heaved up anchor on 05.11.2021 in SHARJAH and dropped anchor at OPL, Karachi on 21.11.2021 and received 26.95 MTs of Diesel and some provisions at OPL Karachi and heaved up anchor in morning of 24.11.2021 from OPL Karachi and reached at Diu on 28.11.2021. Further, on being asked about the erasing of the embossed IMO No. of the vessel and about writing the current IMO No. with paint, Shri Ahinder Haldar agreed that some tampering has been done with the IMO No. of the vessel and the tampering with the IMO No. may have been done with the intention of hiding the original IMO No. of the vessel.



11. Further, it appeared that on being asked about the activities performed by the vessel at Karachi OPL, Shri Ahinder Haldar stated that they received 26.95 MTs of Diesel Oil and some provisions at Karachi OPL. He stated that out of 26.95 MTs of Diesel Oil, 8.652 MTs is remaining on the vessel and they have not declared the origin of this Diesel Oil in the IGM. Therefore, It appears that the last Port Clearance Certificate submitted under IGM is fake and fabricated and some tampering has done with the original IMO No. of the vessel. Also the Pakistan origin of the bunkers received at Karachi OPL was suppressed to evade the Customs Duty leviable @ 200%.

12. During the course of investigation, statement of Shri Pradeep Kumar Bansal was recorded on 15.12.2021. Shri Pradeep Kumar Bansal was shown the Last Port Clearance Certificate No. 24 dated 26.01.2021 issued at Aden Port to the vessel MT Sea Golden, wherein, he stated that on seeing the date of the PC it seems that the date has been altered by overwriting on the original PC date and the GRT and NRT mentioned in the last PC of vessel MT Sea Golden actually are of some other vessel and the name of the vessel mentioned on the PC is Sea Golden and it is under PANAMA Colors. Further, Shri Pradeep Kumar Bansal was shown the Name change Registry of the said vessel wherein the date of the Registry is 30.09.2021 which means the current name of the vessel i.e. Sea Golden came into existence on 30.09.2021. However the name of the vessel Sea Golden was already mentioned on the PC dated 26.01.2021 which was issued before the date of Registry i.e. 30.09.2021. Also the Registry dated 30.09.2021 was issued under Flag SAO TOME and the Flag Color in the last PC is mentioned as PANAMA. In this regard, he agreed that this is not correct and is not legal as per the provisions of law, it appears to him that the PC dated 26.01.2021 is fake and fabricated.

12.1 Further, it appeared that Shri Pradeep Kumar Bansal was shown the Cargo Declaration of the vessel MT Sea Golden wherein the departure date from Aden is mentioned as 18.01.2021 however the date of last PC issued at Aden is 26.01.2021. In this regard, on being asked, he agreed that in the Cargo Declaration the departure date from Aden is mentioned as 18.01.2021 and the date of last PC issued at Aden is 26.01.2021 and he also stated that it appears to him that the PC dated 26.01.2021 is fake and fabricated as the last two digits of the date are overwritten. He also agreed that it appears to him that the particulars of the vessel MT Sea Golden in the documents submitted by their agency on behalf of M/s. United Maritime Services LLC, Dubai are manipulated and fabricated. Further, he was shown the file having page no. 01 to 355 containing some old documents taken from the vessel MT Sea Golden wherein there are many supply invoices having stamp of the vessel on which the name of the vessel is mentioned as MT Sea Golden, however the IMO No. is mentioned "8820119" which is of some other vessel. Shri Pradeep Kumar Bansal agreed that there are many supply invoices having stamp of the vessel on which the name of the vessel is mentioned as

MT Sea Golden, however the IMO No. is mentioned "8820119". In this regard, on being asked, Shri Pradeep Kumar Bansal agreed that this is wrong and is not legal as per the provisions of the law.

12.2 Further, he was shown a copy of statement of Shri Ahindra Haldar, Master of the vessel MT SEA GOLDEN, in which in Ans. to Q. No. 11, he told that they had dropped anchor at OPL, Karachi on 21.11.2021 and received 26.95 MTs of Diesel and some provisions at OPL Karachi and at present as per the Survey Report and Declaration of the master of the vessel, total 8.652 MTs of Diesel Oil is remaining on the vessel. In this regard, he agreed that as per the Survey Report and Declaration of the master of the vessel, total 8.652 MTs of Diesel Oil is remaining on the vessel and they had not declared the origin of the Diesel Oil in IGM filed by them.

13. Therefore, it appears that the last Port Clearance Certificate submitted under IGM is fake and fabricated and some tampering has been done with the original IMO No. of the vessel. Also the Pakistan origin of the bunkers received at Karachi OPL was suppressed to evade the Customs Duty leviable @ 200%.

14. For further investigation, the officers of Customs (Prev), HQ, Jamnagar again boarded the vessel on 18.12.2021. During the investigation, it was observed that some digits of another IMO No. were visible underneath the currently painted IMO No. of the vessel on both side of the Bridge Room. Therefore, the upper layer of the paint was removed by a scrapper in presence of the Master of the vessel and two independent panchas and the whole proceedings were recorded under panchanama dated 18.12.2021. After removing the upper layer of the paint, it was observed that another IMO No. "8820119" appeared underneath the currently painted IMO No. 9036313. The same exercise was done at the front side of the accommodation of the vessel and similarly another IMO No. "8820119" appeared underneath the currently painted IMO No.

15. In view of the above, further statement of Shri Ahinder Haldar was recorded on 18.12.2021, He was shown a copy of Panchnama dated 18.12.2021 and he agreed that in order to ascertain the hidden numerical digits underneath the currently painted IMO No., scrapper was used to remove the upper layer of the paint by which the current IMO NO. 9036313 is written in presence of him and two independent panchas and after removing the upper layer of the paint IMO No. "8820119" appeared on both sides of the Bridge Room. He again agreed that tampering has been done with the IMO No. of the vessel. He further told that this type of tampering with IMO No. is done to hide the original identity of the vessel and for use in illegal activities. Further, on being asked he agreed that the newly emerged IMO No. i.e. 8820119 on both side of the Bridge Room and at the front side of the Accommodation of the vessel is the same to that of



some another vessel named MT Coral declared under Prior IGM No. P- 2298012 dated 30.11.2021, also anchored at Bhavnagar. He further agreed that the IMO No. of the vessel MT Sea Golden has been camouflaged, thereby resulting into mis-declaration in customs documents.

16. Based on the facts revealed during the course of investigation, it appears that the documents submitted under IGM dated 30.11.2021 are fake and fabricated as the date of the Port Clearance Certificate appears to be altered to 26.01.2019 by overwriting and also the details mentioned viz. name of the Captain & Vessel in existence on 26.01.2021, GRT/NRT and Flag Color are not matching with the other documents submitted under the IGM.

17. It appeared that tampering has been done with the IMO No. of the vessel as the originally embossed IMO No. of the vessel has been erased and the current declared IMO No. of the vessel is written with paint. Further after removal of the upper layer of the currently painted IMO No. 9036313, another IMO No. "8820119" appeared on both side of the Bridge room and at the front side of the Accommodation of the vessel. Also in the file, containing some old documents, taken from the vessel, there are many supply invoices having stamp of the vessel on which the name of the vessel is mentioned as MT Sea Golden, however the IMO No. is mentioned "8820119" which is the same as appeared on both side of the Bridge room and at the front side of the Accommodation of the vessel after removal of the upper layer of the paint. It appears that this tampering with the IMO No. has been done with the intention of hiding the original identity of the vessel, resulting into mis-declaration of the vessel in the documents submitted before the customs authorities.

18. Further, the origin of the Diesel Oil received at Karachi OPL was not declared under the IGM, therefore, It appeared that the origin of the bunkers received at Karachi OPL was suppressed with the intention to evade the Customs Duty leviable @200% on all the commodities of Pakistan Origin.

19. In view of the above, there was a reason to believe that the subject vessel has been mis-declared in IGM and Customs documents as Vessel MT Sea Golden with IMO No. 9036313 and it are in contravention of the provisions of the Customs Act, 1962. Therefore, the said vessel was liable for confiscation under Sections 111(f) of the Customs Act, 1962, hence the vessel along with all its accessories and goods having approximate value of Rs. 19,98,61,704/- approx.) (Rupees Nineteen Crores Ninety Eight Lakhs Sixty One Thousand Seven Hundred and Four Only) was placed under seizure vide seizure memo dated 18.12.2021.



20. Further, the all the seized goods, as stated above, have been handed over for safe custody to M/s. Trans Tide Shipping Agency, Bhavnagar, under Suparatnama dated 18.12.202.

21. Consequent to the seizure, Shri Rajiv Kumar, the authorized representative of the owner of the vessel, appeared before the customs authorities to represent the view of the owner i.e. M/s. United Maritime Services LLC, UAE.

22. It appeared that the statement of Shri Rajiv Kumar was recorded on 28.12.2021 under section 108 of the Customs Act, 1962. Shri Rajiv Kumar was shown the Last Port Clearance Certificate No. 24 dated 26.01.2021 issued at Aden Port to the vessel MT SEA GOLDEN, wherein, he inter alia agreed to the discrepancies regarding the details mentioned viz. name of the Captain & Vessel in existence on 26.01.2021, GRT/NRT and Flag Color. Further, he was shown the list of last 11 Ports of Call Declaration of the vessel Sea Golden wherein the departure date from ADEN is mentioned as 18.01.2021 however the PC date from ADEN is 26.01.2021. In this regard, he inter alia agreed that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated. Further, he was shown the Name change Registry of the said vessel wherein the date of the Registry is 30.09.2021 which means the current name of the vessel i.e. Sea Golden came into existence on 30.09.2021. However the name of the vessel Sea Golden was already mentioned on the PC dated 26.01.2021 which was issued before the date of Registry i.e. 30.09.2021. In this regard, he inter alia agreed that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated.

22.1 Further, on being asked that the documents of the vessel are manipulated and are fake and fabricated and by whom these documents are manipulated and for what purpose, Shri Rajiv Kumar agreed that the documents of the vessel are manipulated and are fake and fabricated. He further stated that the said vessel was lying at Sharjah OPL from 11.02.2021 to 11.11.2021 and the earlier port clearance was not available, hence to save extra financial charge in obtaining port clearance from Sharjah port, this fake Port Clearance Certificate was used. Further, on being shown the documents found on the vessel MT Sea Golden which are of the date prior to 30.09.2021 and on these documents stamps are there in which the name of the vessel is mentioned as "Sea Golden" and IMO No. is mentioned as "8820119" and GRT/NRT is mentioned as 4595/2645 which pertain to some other vessel MT Coral, Shri Rajiv Kumar agreed to this and stated that they have plied the vessel using name Sea Golden and IMO No. 8820119, GRT/NRT of their sister vessel MT Coral.

22.2 Further, regarding the erasing of the embossed IMO No. on the vessel, Shri Rajiv Kumar stated that the tampering with the IMO No. may have been done with



the intention of hiding the original IMO No. of the vessel. Further, regarding appearing of another IMO No. "8820119" underneath the currently painted IMO No. after removing the upper layer of the paint on both side of the Bridge Room and on the front side of the accommodation of the vessel, Shri Rajiv stated that due to war situation in Yemen for some time the vessel Sea Golden was plying with the IMO No. "8820119" which was the IMO No. of the another sister vessel MT Coral of the company. Further, on being asked about the tampering done with the IMO No. of vessel and by whom this tampering with IMO No. was done and for what purpose, Shri Rajiv Kumar agreed that tampering has been done with the IMO No. of vessel and he assured that the vessel Sea golden is the same vessel which is declared in the IGM and in support of this he produced the copy of Llyods report. He further stated that this tampering with the IMO No. was done with the intention of financial gain by way of sale purchase of petroleum products from Yemen to Somalia and he further assured that no offence in this regard is committed into Indian Territory.

22.3 Further, on being shown the picture of one of the engine plate of the vessel wherein the Engine type mentioned is 6L35MC whereas the Engine type mentioned on the Loading Manual of the vessel is 6L50MC, Shri Rajiv inter alia agreed to this discrepancy. Further, on being shown the details received from the DAIHATSU Diesel Singapore, wherein the ownership History, in March-2016, M/s. United Maritime Services LLC, UAE was the registered owner of the vessel, however as per the Bill of Sale produced by Shri Rajiv Kumar, the said vessel was purchased on 21.02.2019 by M/s. United Maritime Services LLC, UAE, Shri Rajiv Kumar stated that an internal transfer was done in 2016 but it was taken back because before 2016 Bank was the owner and Bank was paid from United Maritime Services Account. Again it was transferred to United Maritime Agency in 2019.

22.4 Further, it appeared that Shri Rajiv Kumar was shown a copy of statement dated 14.12.2021 of Shri Ahindra Haldar, Master of the vessel, in which in Ans. to Q. No. 11, he told that they had dropped anchor at OPL, Karachi on 21.11.2021 and received 26.95 MTs of Diesel and some provisions at OPL Karachi and at present as per the Survey Report and Declaration of the master of the vessel Sea Golden, total 8.652 MTs of Diesel Oil is remaining on the vessel. In this regard, on being asked that why the origin of the Diesel Oil was not declared in the IGM dated 30.11.2012, Shri Rajiv Kumar, accepted their mistake and stated that they are ready to pay all the applicable customs duty and penalty imposed by the customs. Further, in the end Shri Rajiv Kumar stated that their only offence in respect of this vessel is the use of two IMO Nos. which is mis-declared before Customs authorities and for this lapse they are ready to pay fine and penalty which will be imposed by the authority taking lenient view.



23. Further, an email dated 17.12.2021 was received from the DAIHATSU Diesel, Singapore, manufacturer of Diesel Engine found on board of the vessel Sea Golden and they have replied that DL616193 was installed on the vessel Sea Golden (IMO 9036313). Further M/s Pinnacle Marine Services Pvt. Ltd, Bhavnagar in his Survey report No. BHV/4746-A/21 dated 08.12.2021 confirmed the LDT of the vessel as 2830.07 MT equivalent to 2785.51 LT.

24. The original identity of the vessel has been hidden by tampering with the IMO No. of the vessel and the same has been mis-declared by submitting fake and fabricated documents under the IGM dated 30.11.2021. Hence, it appeared that by mis-declaring/ tampering of the IMO Number of the vessel, the owner has rendered the vessel alongwith all its accessories and goods having approximate value of Rs. 19,98,61,704/-, liable for confiscation under Section 111(f) of the Customs Act, 1962. The owner of the vessel is also liable for penalty under Section 112 of the Customs Act, 1962.

25. By not declaring/Suppressing the origin of the Diesel Oil received at Karachi OPL, total 8.652 MTs of Diesel Oil is remaining on the vessel valued at Rs. 4,56,702/- is also liable for confiscation under Section 111(f) of the Customs Act, 1962. The Owner of the vessel is also tried to evade customs duty of Rs. 12,78,930/- which becomes liable to be recovered from them under Section 28(4) of the customs Act, 1962. Further the said vessel has used as conveyance for transportation of the offending goods and therefore same is liable for confiscation under Section 115 of the Customs Act, 1962 and thereby rendered themselves liable for penalty under Section 114A of the Customs Act, 1962.

26. Therefore, M/s. United Maritime Services LLC, UAE(through the Master of the Vessel MT SEA GOLDEN, (IMO No. 9036313), anchored at Bhavnagar Anchorage) vide F.No. VIII/10-10/ADC/O&A/2021-22 dated 07.01.2022 called upon to show cause to the Additional Commissioner of Customs (Prev), Jamnagar as to why:-

- i. The vessel MT Sea Golden (IMO No. 9036313), valued at Rs. 19,98,61,704/- seized under Seizure Memo dated 18.12.2021, should not be confiscated under the provisions of Section 111(f) and 115 of the Customs Act, 1962.
- ii. 8.652 MTs of Diesel Oil remaining on the vessel Sea Golden, valued at Rs. 4,56,702/- should not be confiscated under Section 111(f) of the Customs Act, 1962.
- iii. The Duty amounting Rs. 12,78,930/- (as per Annexure-A to SCN) on the 8.652 MTs of Diesel Oil of Pakistan Origin should not be recovered under Section 28(4) of the Customs Act, 1962.



- iv. Penalty under Section 114A of the Customs Act, 1962 should not be imposed upon them.
- v. Penalty under Section 112 of the Customs Act, 1962 should not be imposed upon them.

27 The above Show Cause Notice dtd. 07.01.2022 has been decided by the Additional Commissioner, Customs(Preventive), Jamnagar, vide Order-in-Original No. 08/Addl. Commissioner/2021-22 dtd. 13.01.2022 by order for :

- (i) confiscation of vessel MT Sea Golden (IMO No. 9036313), valued at **Rs. 19,98,61,704/-** seized under Seizure Memo dated 18.12.2021, under the provisions of Section 111 (f) & 115 of the Customs Act, 1962. However, the adjudicating authority has offered the same for redemption under the provisions of Section 125(2) upon payment of a fine of **Rs. 25,00,000/-** which would be in addition to any duty or charges payable.
- (ii) confiscation of 8.652 MTs of Diesel Oil remaining on the vessel Sea Golden, valued at Rs. 4,56,702/- under Section 111(f) of the Customs Act, 1962. However, the adjudicating authority has offered the same for redemption under the provisions of Section 125(2) upon payment of a fine of **Rs. 50,000/-** which would be in addition to any duty or charges payable.
- (iii) imposed penalty of **Rs. 12,78,930/-** upon M/s. United Maritime Services LLC, UAE, Owner of the Vessel MT Sea Golden (IMO No. 9036313) under Section 114A of the Customs Act, 1962, and
- (iv) imposed penalty of **Rs. 15,00,000/-** upon M/s. United Maritime Services LLC, UAE, Owner of the Vessel MT Sea Golden (IMO No. 9036313) under Section 112(a)(i) of the Customs Act, 1962.
- (v) confirmed the demand of Rs.12,78,930/- on the 8.652 MTs of Diesel Oil of Pakistan Origin under Section 28(4) of the Customs Act, 1962. Since the owner of the vessel i.e. M/s. United Maritime Services LLC, UAE had paid the amount of Rs.12,78,930/-, the same is appropriated, vide Corrigendum dtd. 25.02.2022, issued from F.No. VIII/10-10/ADC/O&A/2021-22.

28 Accordingly, M/s. United Maritime Services LLC, UAE has paid the redemption fine to the tune of Rs.25,00,000/- and Rs.50,000/- on vessel as well as Diesel Oil remaining on board respectively imposed on them under section 125(2) of the Customs Act, 1962, and also paid customs duty to the tune of Rs.12,78,930/- and penalty of Rs.1,91,840/- (@15% of Customs Duty) and the penalty of Rs.15,00,000/- under section 112A and penalty to the tune of Rs.3,19,733/- (25% of Rs.12,78,930/-) imposed under Section 114A of the Customs Act, 1962.



29. Thenafter, being aggrieved with the Order-in-Original No. 08/Addl. Commissioner/2021-22 dtd. 13.01.2022, passed by the Additional Commissioner, Customs(Preventive),Jamnagar, M/s. United Maritime Services LLC, UAE filed an appeal before Commissioner(Appeals), Customs, Ahmedabad, who, in turn has remanded back the case to the adjudicating authority, vide Order-in-Appeal No. JMN-CUSTM-000-APP-122-23-24 dtd. 14.11.2023, asking the Adjudicating Authority to pass the order a fresh after giving the findings on the following contentions raised by the Noticee, on which Adjudicating Authority has not given any findings in the Order-in-Original No. 08/Addl. Commissioner/2021-22 dtd. 13.01.2022.

- (i) Shri Rajiv Kumar, authorized representative of the Noticee in his statement dated 28.12.2021 had on being asked about original IMO No and name of the vessel had categorically stated that original name of the vessel is Sea Golden and has submitted copy of Llyods Report. The Noticee also submitted that whatever name and IMO No. was changed by the Noticee, it was changed when the vessel was plying between Yemen and Somalia and not in the Indian waters. Shri Rajiv has clearly stated in his statement dated 29.12.2021 and the department has not objected about this fact nor any investigation has been done in this regard. The contentions raised by the Noticee are based on the statement of Shri Rajiv Kumar, authorized representative of the Noticee recorded during investigation under section 108 of the Customs Act, 1962 that original IMO No. of the vessel is 9036313 and original name is Sea Golden as declared under the IGM.
- (ii) During the course of investigation in respect of name and IMO No of the vessel, the department has referred the matter to M/s.Daihatsu, the manufacturer of the diesel engine, fitted in the vessel. The engine manufacturer (M/s. Daihatsu) vide email dated 17.12.2021 replied that the engine No. DL616193 was installed on the vessel Sea Golden (IMO No. 9036313).
- (iii) M/s Pinnacle Marine Services Pvt. Ltd. in their survey report No. BHV/4746-A/21 dated 08.12.2021 confirmed the LDT of the vessel as 2830.07 MT equivalent to 2785.51 LT.
- (iv) The diesel lying on board cannot be confiscated on the ground of country of origin until Bill of Entry is filed for the impugned diesel. The quantity of diesel i.e. 8.652 MTs has been specifically declared in the import manifest. There is no option to mention country of origin for the stores lying on board. The master of vessel is only required to declare the quantity of stores available on board and not to declare country of origin of the said stores.
- (v) The Noticee has also contended that the term person in charge is defined under sub section 2 of Section 31 of the Customs Act, 1962 and in relation to vessel the person in charge has been defined as the master of the vessel. Further, as per Section 30 of the Customs Act, 1962 - the persons in charge.



to file import manifest. Therefore, the person in charge of a vessel carrying imported goods has to deliver to the proper officer on arrival manifest or import manifest. In the instant case, the Noticee - M/s. United Maritime Services LLC, UAE was not the person in charge of the vessel at the material time. The Noticee has also not filed the import manifest before the Customs under Section 30 of the Customs Act, 1962.

DEFENCE SUBMISSION

30 The noticee, vide their letter dtd. 12.09.2024 has filed the reply in reference to Order-in-Appeal No. JMN-CUSTM-000-APP-122-23-24 dtd.14.11.2023 passed by the Commissioner(appeals), Ahmedabad in which Denovo ordered by the appellate authority wherein the noticee has interalia submitted that there is no suppression of facts in respect of "name of vessel" and "IMO number" in the IGM. It is admitted fact that in the IGM the Name of the vessel is declared as "MT Sea Golden" and IMO NO has been declared as "9036313", when it arrived at Alang. The same was also written on the aft side of the accomodation and on Bridge Room. In other words, the name of vessel and IMO number were same as declared in the IGM. Therefore, there is no mis-declaration in the name of vessel and IMO number.

31 Further, in their reply, it is submitted that they have declared the actual name of the vessel and IMO number in the documents as well as on the vessel. The vessel "MT Sea Golden" arrived in Indian waters, they have declared the actual name of the vessel and IMO number, which were factually pertaining to the impugned vessel.

32 They further argued that it is not the case of the Customs that the name of the vessel and IMO number was other than what was declared in the documents (IGM) and found on the vessel. This fact is also corroborated by the Customs under Panchnama drawn on 18.12.2021, wherein they have categorically found at 1st Para that:

"we panchas that the name of the vessel SEA GOLDEN and IMO 9036313 has been written at the forward side of the vessel in "white paint".

33. Above facts proves beyond the doubt that they have declared the actual name of the vessel and IMO number in the IGM and also on the vessel. Therefore, question of tampering of IMO number and mis-declaration of the same does not arise.

34. They have further submitted that the statement dated 28.12.2021, of Shri Rajiv Kumar, Authorised representative of M/s. United. Answer for the question number 12 and 13, Shri Rajeev has categorically stated that:

"Q. No. 12: Do you agree that tampering has been done with the IMO No. of vessel MT SEA GOLDEN?



Ans.12: I do agree to the above. But I can assure that the vessel Sea golden is the same vessel which is declared in the IGM. I am also producing the copy of Llyods report.

Q.N0.13: Who did this tampering with IMO No. and for what purpose?

Ans.13: This tampering was done with intention of financial gain by way of sale purchase of petroleum products from Yemen to Somalia. I further assure that no offence in this regard is committed into Indian territory."

35 Thus, Shri Rajiv Kumar has also tendered that the vessel Sea golden is the same vessel which is declared in the IGM. He has also produced the copy of Llyods report. As per his statement, it also proves that no offence was committed in the Indian territory.

36 They have further submitted that the Customs has also cross-verified the correctness of the name of the vessel and IMO number, from M/s. DAIHUTSU, Singapore, the manufacturing company of engine, fitted in the vessel and a Surveyor at Bhavnagar. In response, M/s. DAIHATSU, Singapore, vide email dated 17.12.2021 replied that engine No. DL616193 was installed on the vessel "MT Sea Golden" having IMO No. 9036313. Further, M/s. Pinnacle Marine Services Pvt. Ltd. in their Survey Report No. BHV/4746-A/21 dated 08.12.2021 confirmed the LDT of the vessel as 2830.07 MT equivalent to 2785.51 LT.

37 From the above facts, it is crystal clear that they have correctly mentioned the name of vessel and its IMO number in IGM.

38 Further, they have submitted that whatever, name of vessel and IMO number was changed by M/s. United; it was changed when the vessel was plying between Yemen and Somalia and not in the Indian water. It is submitted that different IMO number was declared on documents before the change of registry was due to war situation in Yemen and that for time the vessel was plied between Yemen and Somalia with IMO number "8820119" for safety of vessel. However, when the vessel arrived in Indian water, the name of vessel and IMO number has been shown correctly. Hence, there is no contravention of the Customs Act, 1962 or any provisions of Indian law on the part of M/s. United. Therefore, proposal of confiscation of the vessel under Section 111(f) and penalty under Section 112 (a)(ii) of the Customs Act, 1962, is not without any cogent evidence and requires to be dropped in the interest of justice.

39 They have further submitted that at Para 29 of the impugned Show Cause Notice, it is mentioned that there was a reason to believe that the subject vessel has been mis-declared in IGM and Customs documents as Vessel MT Sea Golden with IMO No. 9036313 and it were in contravention of the provisions of the Customs Act, 1962. Therefore, the said vessel was liable for confiscation under Sections 111(f) of the Customs Act, 1962,



40. In this regard, they have submitted that the Customs has simply mentioned that M/s. United has contravened the provisions of the Customs Act, 1962, however, which provision of the Customs Act, 1962 has been violated by M/s. United has not specifically mentioned in the impugned SCN. In view of the above it is submitted that there is no act on the part of M/s. United which can render the vessel liable for confiscation under section 111(f) *ibid*. Thus, proposal of penalty on M/s. United under section 112(a)(i) *ibid* and fine under section 125 (2) *ibid*, therefore, it deserves to be set aside in the interest of justice.

41. They have further submitted in their reply that it is alleged in the SCN that the particulars of the Port Clearance Certificate do not match with the particulars of the vessel mentioned in other documents submitted under IGM. Therefore, the last Port Clearance Certificate submitted under IGM is fake and fabricated.

42. The noticee has also submitted that Section 30 of the Customs Act, 1962, which casts onus on the person-in-charge to file import manifest, which reads as under:

"Section 30. Delivery of arrival manifest, import manifest or import report .-

(1) The person-in-charge of-

- (i) a vessel; or***
- (ii) an aircraft; or***
- (iii) a vehicle.***

carrying imported goods or export goods or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer an arrival manifest or import manifest by presenting electronically prior to the arrival of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in such form and manner as may be prescribed and if the arrival manifest, import manifest or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to deliver arrival manifest or import manifest by presenting electronically, allow the same to be delivered in any other manner.

(2) The person delivering the arrival manifest, import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.



(3) If the proper officer is satisfied that the arrival manifest, import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented."

The term "person-in-charge" is defined under Sub-Section (31) of Section 2 of the Act, which reads as under:

"(31) "person-in-charge" means, -

(a) in relation to a vessel, the master of the vessel;

(b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;

(c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;

(d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance;"

43. The noticee has relied from the above relevant text that the person-in-charge of a vessel "carrying imported goods" has to deliver to the proper officer an arrival manifest or import manifest. In the instant case, the noticee was not the "person in-charge" of the vessel at the material time. The noticee has also not filed the import manifest before the Customs under section 30 of the Customs Act, 1962. On this count also the vessel cannot be held liable for confiscation and no penalty is applicable on noticee.

44. The noticee has further stated that the allegation made by the department that the vessel had received bunker (Diesel Oil) at Karachi OPL and there was 8.652 MT of bunker, valued at Rs. 4,56,702/-, on board. In the IGM, origin of the Diesel Oil received at Karachi OPL attract 200% duty. Thus, M/s. United has suppressed the country of origin of bunker, to evade Customs duty Rs. 12,78930/-, and liable to be recovered from them as per Section 28(4) ibid. Therefore, it liable for confiscation under Section 111(f) ibid. Further, the vessel used as conveyance to transport the offended goods therefore, the same is liable for confiscation under Section 115 of the Customs Act, 1962 and thereby rendered themselves liable for penalty under Section 114A of the Customs Act, 1962.

45. In this regard they have submitted that the vessel was in foreign run at the time of arrival in India. The Diesel Oil was declared as ship stores in the IGM. M/s. United has not requested the department for coastal conversion of the vessel. The duty can be demanded on ship stores only when the owner (importer) requests the Customs for coastal conversion of the vessel. However, no such request has been made by M/s. United before the customs authorities. Therefore, the question of declaration of Country



of Origin as Pakistan does not arise in this case and the demand of the customs duty on diesel oil (ship stores) for a foreign going vessel is legally wrong.

46. Further, the noticee has submitted that in the proforma of IGM for a foreign going vessel, there is no column to declare the country of origin. Thus, when the Customs proforma is silent about declaration of country of origin of ship stores for a foreign going vessel, then there is no fault on the part of the "person in-charge" of the vessel to declare the country of origin. Here also they are not person in-charge of vessel as per Section 30 ibid. Therefore, it is submitted that ship stores (Diesel Oil) lying on board of a foreign going vessel cannot be treated as offended goods.

47. Further, the noticee has submitted that the department has not adduced any cogent evidence in support of the allegation that the vessel was used for transportation of offending goods. There is nothing on record that the vessel was used for any illegal activity within the Indian territory. The department has not booked any case, if there was any illegal activity has been done in the territory of India. Simply allegation is not sufficient unless such allegation is supported by any evidence. In absence of any evidence to corroborate the allegation, penalty on them is not warranted. They have cited the relevant text of Section 115 ibid in their Defense Reply.

48. The noticee has further submitted that they have not contravened any of the above provisions provided under section 115 of the Customs Act, 1962. Even, the IMO number of the vessel was not changed within the territory of the Indian water. The Customs has not corroborated any of the above contravention supported with any evidence to prove that there was contravention of the provisions of the Section 115 ibid. Therefore, the vessel cannot be liable for confiscation under the said Act and not liable for penalty under section 114 ibid.

49. In view of the above, it is submitted that the proposal raised in the show cause notice for confiscation of vessel & Diesel Oil and imposition of penalty are legally not sustainable. Therefore, liable to be dropped in the interest of justice.

PERSONAL HEARING

50. Personal hearing in the matter was held on 25.10.2024. Shri Binod Kumar Singh, Authorized Representative attended the hearing on behalf of the Noticee. He reiterated submissions dated 12.09.2024, requested to decide the case based on merits. He has nothing further to add in the matter.

DISCUSSION & FINDINGS

51. I have carefully gone through the facts of the case, I observe the Show Cause Notice, written submissions dated 12.09.2024 and the records of the Personal Hearing held on 25.10.2024. I find that as per Remand Order and Defense Reply mainly following points have been raised by the Noticee in his Defense:-



- (i) The vessel owner cannot be treated as an importer. Hence, the vessel owner is not liable to Customs Duty. The vessel owner has not held himself out to be an importer in the instant case as per Section 2(26) of the Customs Act, 1962.
- (ii) Shri Rajiv Kumar, authorized representative of the Noticee in his statement dated 28.12.2021 had on being asked about original IMO No. and name of the vessel had categorically stated that original name of the vessel is Sea Golden and has submitted copy of Llyods Report. The Noticee also submitted that whatever name and IMO No. was changed by the Noticee, it was changed when the vessel was plying between Yemen and Somalia and not in the Indian waters. Shri Rajiv has clearly stated in his statement dated 29.12.2021 and the department has not objected about this fact nor any investigation has been done in this regard. The contentions raised by the Noticee are based on the statement of Shri Rajiv Kumar, authorized representative of the Noticee recorded during investigation under section 108 of the Customs Act, 1962 that original IMO No. of the vessel is 9036313 and original name is Sea Golden as declared under the IGM.
- (iii) During the course of investigation in respect of name and IMO No. of the Vessel, the department has referred the matter to M/s. Daihatsu, the manufacturer of the diesel engine, fitted in the vessel. The engine manufacturer (M/s. Daihatsu) vide email dated 17.12.2021 replied that the engine No. DL616193 was installed on the vessel Sea Golden (IMO No. 9036313).
- (iv) M/s Pinnacle Marine Services Pvt. Ltd. in their Survey Report No. BHV/4746-A/21 dated 08.12.2021 confirmed the LDT of the vessel as 2830.07 MT equivalent to 2785.51 LT.
- (v) The diesel lying on board cannot be confiscated on the ground of country of origin until Bill of Entry is filed for the impugned diesel. The quantity of diesel i.e. 8.652 MTs has been specifically declared in the import manifest. There is no option to mention country of origin for the stores lying on board. The master of vessel is only required to declare the quantity of stores available on board and not to declare country of origin of the said stores.
- (vi) The Noticee has also contended that the term person in charge is defined under sub section 2 of Section 31 of the Customs Act, 1962 and in relation to vessel the person in charge has been defined as the master of the vessel. Further, as per Section 30 of the Customs Act, 1962 - the persons in charge to file import manifest. Therefore, the person in charge of a vessel carrying imported goods has to deliver to the proper officer on arrival manifest or import manifest. In the instant case, the Noticee - M/s. United Maritime Services LLC, UAE was not the person in charge of the vessel at the material time. The Noticee has also not filed the import manifest before the Customs under Section 30 of the Customs Act, 1962.



52. Now, I examine the matter point wise as per the defense contentions of the Noticee.

Point No.(i) The vessel owner cannot be treated as an importer. Hence, the vessel owner is not liable to Customs Duty. The vessel owner has not held himself out to be an importer in the instant case as per Section 2(26) of the Customs Act, 1962.

53 In this regard, I find that, Section 2(26) of the Customs Act, 1962 defines "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer. It is therefore, the vessel owner, M/s. United Maritime Services LLC, UAE is importer in the instant case in relation to imported 'goods' i.e. vessel at any time between their importation and the time when they are cleared for home consumption and hence, liable to pay redemption fine under Section 125 of the Customs Act, 1962 and penalty under Section 112 & 114A of the Customs Act, 1962.

53.1 I further find that, M/s. United Maritime Services LLC, UAE at the material point of time has paid the redemption fine to the tune of Rs. 25,00,000/- under the provisions of Section 125(2) of Customs Act, 1962 and had also paid the penalty to the tune of Rs. 15,00,000/- under Section of 112(a)(i) of the Customs Act, 1962 voluntarily to redeem the confiscated vessel.

53.2. I further observe that the last Port Clearance No. 24 dated 26.01.2021 issued at Aden to the vessel and submitted alongwith IGM to the Customs Authorities, indicated the name of the Master as "Assem Nawaz" and vessel name as "SEA GOLDEN" under Panama colors. In this regard, I further observe that vide statements dated 14.12.2021 of Shri Surender Singh, Cook of the Vessel, Shri Rajesh Kumar Singh, Trainee OS and Shri Ahinder Haldar, Master of Vessel, accepted that under the Cargo Declaration submitted under IGM, the departure date of vessel from Aden is mentioned as 18.01.2021, whereas the Port Clearance was issued on 26.01.2021. Also, all the above said persons accepted in their individual statements that Shri Assem Nawaz never boarded the vessel in their presence in spite of their long stay on vessel. Further, I also observe from the last registry dated 30.09.2021 of the vessel, the current name of the vessel i.e. SEA GOLDEN came into existence on 30.09.2021 under the Flag Soa Tome. Thus, it clearly indicated that the last Port Clearance produced/ submitted by the vessel was fake/ tampered. I further hold that in this regard, Shri Surender Singh, Cook of the Vessel, Shri Rajesh Kumar Singh, Trainee OS and Shri Ahinder Haldar, Master of Vessel, vide their individual statements all dated 14.12.2021 had accepted that the last

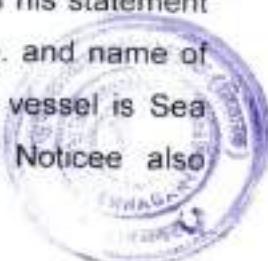
Port Clearance Certificate of the vessel submitted under IGM is fake and fabricated. Thus, I hold that the incorrect information of the imported goods was provided in the import manifest leading to liable for confiscation of vessel under section 111(f) of the Customs Act, 1962 and consequently liable for penalty under section 112(a)(i) of the Customs Act, 1962.

53.3. I observe that, the Noticee while filing appeal before the Appellate Authority had relied upon the decision of Commissioner of Customs (Import), Chennai versus Vamsee Overseas Marine Pvt. Ltd. reported at 2018 (362) E.L.T. 484 (Mad.); wherein it has been held that, *"the provisions of clauses (f) of Section 111 of the Customs Act, providing for confiscation apply only in the case violations specifically mentioned therein and would not stand attracted when there is no contravention of the stipulations contained therein."* In this regard, I find that, the applicability of confiscation under Section 111(f) of the Customs Act, 1962 depends basically upon the mis-declaration of content in the Import General Manifest. In the instant case, even though the Noticee's contention that there was no provision to declare country of origin w.r.t. bunker viz. diesel was available in the Import General Manifest but it is to mention the very fact that, there is specific provision to declare last port of call in the Import General Manifest to be filed under Section 30 of the Customs Act, 1962. Accordingly, it is onus of the Noticee to have declared the correct Last Port of Call while filing IGM, however, the Noticee mis-declared the same as Aden instead of Republic of Pakistan. Hence, I find that, provision of Section 111(f) of the Customs Act, 1962 is legitimately attracted in the instant case. Further, I also find that the Noticee has used fabricated Port Clearance as discussed *supra* to misguide the department and suppress the material facts while filing IGM, hence, provision of Section 111(f) of the Customs Act, 1962 has been invoked.

53.4 Once, the vessel owner falls within the scope of definition of importer and there is a violation of Section 111(f). Further, I observe that scope of penal action under section 112 of Customs Act, 1962 applies to "any person". In my considered view, the person rendered himself liable for penal action under section 112(a)(i) by involving in attempt to change the IMO of the vessel.

Section 112(a)(i) stipulates "*(i) Any person in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty (not exceeding the value of the goods or five thousand rupees), whichever is the greater."*"

Point No.(ii)Shri Rajiv Kumar, authorized representative of the Noticee in his statement dated 28.12.2021 had on being asked about original IMO No. and name of the vessel had categorically stated that original name of the vessel is Sea Golden and has submitted copy of Llyods Report. The Noticee also



submitted that whatever name and IMO No. was changed by the Noticee, it was changed when the vessel was plying between Yemen and Somalia and not in the Indian waters. Shri Rajiv has clearly stated in his statement dated 29.12.2021 and the department has not objected about this fact nor any investigation has been done in this regard. The contentions raised by the Noticee are based on the statement of Shri Rajiv Kumar, authorized representative of the Noticee recorded during investigation under section 108 of the Customs Act, 1962 that original IMO No. of the vessel is 9036313 and original name is Sea Golden as declared under the IGM.

54. In this regard, I observe that the IGM (Import General Manifest) dated 30.11.2021 filed with the department declared the import of the vessel named MT SEA GOLDEN with the IMO No. 9036313. I further observe that based on the intelligence of the department, the statements of the crew members of the vessel were recorded under section 108 of the Customs Act, 1962. Further, during the course of investigation, it was revealed that the IMO no. of the vessel was found to be tampered and the correct IMO no. was not declared to the Customs while filing of the IGM. In this regard, I find that the International Maritime Organization (IMO) number is a unique identifier for ships, registered ship owners and management companies. It is permanently marked on the hull of the vessel. It is a unique seven-digit vessel number the company issues to each vessel, preceded by the letters IMO, it stays with it until it is scrapped and never changes, regardless of the ship's owner, country of registration or name. Thus, I find that the IMO no. of the vessel is utmost important in identifying the particular vessel. I also find that the vessel in the case on hand has been imported for demolition at Ship Breaking Yard, Alang, hence, follows under the definition of 'goods' as per Section 2(22) of the Customs Act, 1962.

54.1 I observe from the statements dated 14.12.2021 and 18.12.2021, tendered by Shri Ahinder Haldar, the Master of the vessel, statement dated 15.12.2021 tendered by Shri Pradeep Kumar Bansal, Partner of the Agent of the vessel alongwith statement dated 28.12.2021 of Shri Rajiv Kumar, Authorized Representative of the owner of the vessel, being all key persons related to the vessel, all have accepted that the IMO no. of the vessel has been tampered. I find that all the above statements were recorded under the provisions of Section 108 of the Customs Act, 1962 having evidential value and the same have never been retracted. I also further observe from incidents as narrated in the Panchnama dated 18.12.2021 that it also supports the contention on the above said key persons that the IMO no. of the vessel was tampered, which is the indispensable feature of the vessel. I further find that the owners of the vessel vide their letter dated 10.01.2022 had also accepted that the embossed IMO no. readable as 8820119 belongs to another vessel named CORAL and they had changed the IMO and name of the vessel with the intention of financial gain. I also find that a file

having page no. 01 to 355 containing some old documents which was recovered from the vessel contains many supply invoices having stamp of the vessel as MT SEA GOLDEN with IMO No. 8820119 belonging to some other vessel.

54.2 I find that as per the proceedings recorded under Panchnama dated 18.12.2021, the IMO no. 8820119 was recovered beneath the painted IMO No. 9036313 on the vessel and none of the persons have objected it. I also find that all the key persons related to the vessel have also confirmed that they had changed the IMO No. of the vessel with an intention of financial gain.

As per Panchnama, it has been well established that there has been tampering of IMO. Contention of the Noticee that IMO was changed for security reasons appears to be an afterthought. No logical reasoning has been presented by the Noticee in respect of his claim.

54.3 I further find that the owner of the vessel vide their letter dated 10.01.2022 had also accepted their mistake of using two different IMO No's' which has been mis-declared before the Customs Authorities. Thus, ongoing through the various statements of the key persons related to the vessel and facts as available on records viz. Panchnama dated 18.12.2021 alongwith owners letter dated 10.01.2022, I am of the considered opinion and hold that the IMO no. of the vessel has been mis-declared to the Customs Department. However, from Panchnama and Statements of the various persons, it is well established facts that the IMO no. of the vessel was tampered.

54.4 I find that, sub-section (2) of the Section 1 of the Customs Act, 1962, stipulates, "*It extends to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.*" Accordingly, the omission or commission on the part of the owner of vessel i.e. using two IMO No.s' and willful mis-declaration of the details of last Port of Clearance as Aden Port w.r.t. imported vessel MT Sea Golden on the basis of fake and fabricated Last Port Clearance Certificate No. 24 dated 26.01.2021 instead declaring the actual last Port of Clearance as Islamic Republic of Pakistan, has correctly held the vessel MT Sea Golden liable for confiscation under Section 111(f) of the Customs Act, 1962.

Point No.(iii) During the course of investigation in respect of name and IMO No. of the Vessel, the department has referred the matter to M/s. Daihatsu, the manufacturer of the diesel engine, fitted in the vessel. The engine manufacturer (M/s. Daihatsu) vide email dated 17.12.2021 replied that the engine No. DL616193 was installed on the vessel Sea Golden (IMO No. 9036313).



Point No.(iv) M/s Pinnacle Marine Services Pvt. Ltd. in their Survey Report No. BHV/4746-A/21 dated 08.12.2021 confirmed the LDT of the vessel as 2830.07 MT equivalent to 2785.51 LT.

55. With respect to the point (iii) & (iv) above, I observe that the said report was sought by the Department to assure the entity of vessel. In response, M/s. Daihatsu, manufacturer of the diesel engine vide email dated 17.12.2021 replied that the engine No. DL616193 was installed on the vessel Sea Golden (IMO No. 9036313) & M/s Pinnacle Marine Services Pvt. Ltd. in their Survey Report No. BHV/4746-A/21 dated 08.12.2021 confirmed the LDT of the vessel as 2830.07 MT equivalent to 2785.51 LT. As per Panchnama, it has been well established that there has been tampering of IMO. Contention of the Noticee that IMO was changed for security reasons appears to be an afterthought. No logical reasoning has been presented by the Noticee in respect of his claim.

Point No.(v) The diesel lying on board cannot be confiscated on the ground of country of origin until Bill of Entry is filed for the impugned diesel. The quantity of diesel i.e. 8.652 MTs has been specifically declared in the import manifest. There is no option to mention country of origin for the stores lying on board. The master of vessel is only required to declare the quantity of stores available on board and not to declare country of origin of the said stores.

56. In this regard, I find that the Master of the vessel had not declared the KARACHI OPL in the list of last Ports of Call submitted to the Customs Authorities, where they anchored for almost three days i.e. from 21.11.2021 to 24.11.2021, as confirmed by Shri Ahinder Haldar, the Master of the vessel in his Statement dated 14.12.2021 deposed under Section 108 of the Customs Act, 1962. As per Statement dated 13.12.2021 of Shri Ajitkumar Sannasi, Third Officer of the vessel and statement dated 14.12.2021 of Shri Ahinder Haldar, the Master of the vessel, it has been accepted that as they were running shortage of provisions and drinking water, they dropped anchors i.e. anchored at KARACHI OPL and received some provisions and 26.95 MT of Diesel Oil. I observe that Shri Ahinder Haldar, the Master of the vessel, in his statement dated 14.12.2021 had confirmed that out of 26.95 MT of Diesel Oil received at Karachi OPL, 8.652 MT of Diesel is remaining on Board, which has not been declared in the IGM.

57.1 I find that, as per clarification issued vide CBIC Circular No.09/2018-Cus dated 19.04.2018 remnant fuel imported with vessel imported as 'goods' for demolition/ship breaking is to be classified under the Chapter 27 at the material point of time for the purpose of levy of duty of customs under Section 12 of the Customs Act, 1962. It is

therefore, Diesel Oil received as bunker by the vessel is to be classified under Chapter 27 of the Customs Tariff Act, 1975.

57.2 I find that in terms of Notification No. 05/2019-Cus dated 16th February, 2019 all goods originating in or exported from the Islamic Republic of Pakistan, falling under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) are to be classified under CTH 98060000 and the import duty leviable thereon will be 200%.

57.3 I find that while filing Import General Manifest, the master of the vessel has willfully mis-declared the details of last Port of Clearance as Aden Port w.r.t. imported vessel MT Sea Golden on the basis of fake and fabricated Last Port Clearance Certificate No. 24 dated 26.01.2021, whereas the actual last Port of Clearance should have been declared as Islamic Republic of Pakistan as the vessel MT Sea Golden had received bunker (Diesel Oil) at Karachi OPL and there was 8.652 MT of bunker, valued at Rs.4,56,702/-, on board, which was duly admitted by Sh. Rajiv Kumar in his statement dated 28.12.2021 recorded under Section 108 of the Customs Act, 1962; wherein he *inter alia* stated that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated. Further, he was shown the Name change Registry of the said vessel wherein the date of the Registry is 30.09.2021 which means the current name of the vessel i.e. Sea Golden came into existence on 30.09.2021. However the name of the vessel Sea Golden was already mentioned on the PC dated 26.01.2021 which was issued before the date of Registry i.e. 30.09.2021. In this regard, he *inter alia* agreed that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated. Thus, the master of the vessel has suppressed the country of origin of bunker with intention to evade Customs duty Rs.12,78,930/- (Rupees twelve lakh, seventy eight thousand, nine hundred and thirty only). It is therefore, Diesel Oil having Islamic Republic of Pakistan as Country of Origin received as bunker at Karachi OPL was correctly held liable for confiscation under Section 111(f) *ibid* and duty of customs was correctly recovered from them as per Section 28(4) of the Customs Act, 1962 *ibid*.

57.4 However, the owners of the vessel vide their letter dated 10.01.2022 had intimated that they had paid the applicable duty of customs alongwith penalty on the said quantity of Diesel lying on Board vide TR-8 Challan No. MISC/SBY/48/21-22 dated 28.12.2021. I observe that total Rs. 14,70,770/- (Rs. 12,78,930/- as customs duty and Rs. 1,91,840/- as 15 % penalty) has been paid by the owner of the vessel. In view of above, since, the said quantity of 8.652 MT of Diesel oil valued at Rs. 4,56,702/- being onboard of the vessel was not declared to the Customs Authorities upon importation of it in India, apart from leviable to duty of customs, I hold that the same is also liable for



confiscation under Section 111(f) of the Customs Act, 1962 alongwith penalty under section 112 of the Customs Act, 1962. I further order for appropriation of the total amount of Rs. 14,70,770/- paid by the owner of the vessel against the said liability of payment of Customs duty and penalty.

57.5 I also observe that, Section 2(39) of the Customs Act, 1962 defines, "smuggling, in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113." Accordingly, I find that, the fact pertaining to the Country of Origin of Diesel Oil have been willfully suppressed with intention to evade duty of customs, hence, such confiscated Diesel Oil falls under the category of 'smuggled goods.'

57.6 I further observe that, sub-section (2) of Section 115 of the Customs Act, 1962 regarding Confiscation of conveyances, stipulates,

"(2) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal."

57.7 It is therefore, I find that, the vessel MT Sea Golden used as deemed conveyance to transport the offended goods is liable for confiscation also under Section 115 of the Customs Act, 1962 and thereby rendered liable for penalty under Section 114A of the Customs Act, 1962.

Point No.(vi) The Noticee has also contended that the term person in charge is defined under sub section 2 of Section 31 of the Customs Act, 1962 and in relation to vessel the person in charge has been defined as the master of the vessel. Further, as per Section 30 of the Customs Act, 1962 - the persons in charge to file import manifest. Therefore, the person in charge of a vessel carrying imported goods has to deliver to the proper officer on arrival manifest or import manifest. In the instant case, the Noticee - M/s. United Maritime Services LLC, UAE was not the person in charge of the vessel at the material time. The Noticee has also not filed the import manifest before the Customs under Section 30 of the Customs Act, 1962.

58. In this regard, I find that, during the course of written submission dated 12.09.2024, at Para B.2.4, the authorized representative of the vessel owner, M/s. United Maritime Services LLC, UAE has stated that, M/s. United Maritime Services has not filed the import manifest before the customs under Section 30 of the Customs Act, 1962, thus, the vessel cannot be held liable for confiscation under Section 111(f) of the Customs Act, 1962 for any act on the part of M/s. United Maritime Services, hence no penalty is applicable to them. I find that during the course of investigation when the

statement of authorized representative of the vessel owner, M/s. United Maritime Services LLC, UAE, Sh. Rajiv Kumar was recorded under Section 108 of the Customs Act, 1962 on 28.12.2021, he had admitted that, he *inter alia* agreed that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated. Further, he was shown the Name change Registry of the said vessel wherein the date of the Registry is 30.09.2021 which means the current name of the vessel i.e. Sea Golden came into existence on 30.09.2021. However, the name of the vessel Sea Golden was already mentioned on the PC dated 26.01.2021 which was issued before the date of Registry i.e. 30.09.2021. In this regard, he *inter alia* agreed that the Port Clearance Certificate dated 26.01.2021 issued at Aden is fake and fabricated. Now, they have contradicted their own statement dated 28.12.2021, as afterthought in order to transfer his onus to pay redemption fine under Section 125 of the Customs Act, 1962 and penalty under Section 112 & 114A of the Customs Act, 1962 contending the issue that the vessel owner cannot be treated as an importer and he is not liable to customs duty as he has not hold himself out to be importer in the instant case as per Section 2(26) of the Customs Act, 1962.

59. I find that, Section 2(26) of the Customs Act, 1962 defines "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer. It is therefore, the vessel owner, M/s. United Maritime Services LLC, UAE is importer in the instant case in relation to imported 'goods' i.e. vessel at any time between their importation and the time when they are cleared for home consumption and hence, liable to pay redemption fine under Section 125 of the Customs Act, 1962 and penalty under Section 112(a) (i) of the Customs Act, 1962.

60. I further find that, M/s. United Maritime Services LLC, UAE at the material point of time has paid the redemption fine to the tune of Rs.25,00,000/- under the provisions of Section 125(2) of Customs Act, 1962 and had also paid the penalty to the tune of Rs.15,00,000/- under Section of 112(a)(i) of the Customs Act, 1962 voluntarily to claim ownership of the vessel.

61. Once, the vessel owner falls within the scope of definition of importer and there is a violation of Section 111(f). Further, I observe that scope of penal action under section 112 of Customs Act, 1962 applies to "any person". In my considered view, the person rendered himself liable for penal action under section 112(a)(i) by involving in attempt to change the IMO of the vessel.

Section 112(a)(i) stipulates "(i) Any person in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a



penalty (not exceeding the value of the goods or five thousand rupees), whichever is the greater."

62. Thus, in view of the above discussions and facts available on record, I am of the considered view that since the particulars of the vessel have been mis-declared to the Customs authorities upon its importation in India and therefore, the same is liable for confiscation under section 111(f) of the Customs Act, 1962 and subsequently, the owners of the vessel are liable to penalty under section 112(a)(i) of the Customs Act, 1962. I also conclude that the quantity of 8.652 MT diesel on board has not been declared in the IGM and thus, tried to evade the duty incidence and therefore, the same is also liable for confiscation under the provisions of Section 111(f) of the Customs Act, 1962 and this act of evading duty incidence also rendered the owner of the vessel liable for penalty under the provisions of Section 114A of the Customs Act, 1962.

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

ORDER

- (i) I order for confiscation of vessel MT Sea Golden (IMO No. 9036313), valued at **Rs. 19,98,61,704/-** (Rupees Nineteen Crores Ninety Eight Lakhs Sixty One Thousand Seven Hundred and Four Only) seized under Seizure Memo dated 18.12.2021, under the provisions of Section 111(f) & 115 of the Customs Act, 1962. I offer an option for redemption fine under the provisions of Section 125(2) upon payment of fine of Rs. 25,00,000/-, which shall be in addition to any duty or charges payable. Since the noticee has already paid the same, vide Challan No.MISC/SBY/57/21-22 dtd. 17.01.2022, I order to appropriate the same.
- (ii) I also order for confiscation of 8.652 MTs of Diesel Oil remaining on the vessel Sea Golden, valued at Rs. 4,56,702/- under Section 111(f) of the Customs Act, 1962. However, I also order for redemption fine under the provisions of Section 125(2) upon payment of fine of Rs. 50,000/- which shall be in addition to any duty or charges payable. Since the noticee has already paid the same, vide Challan No.MISC/SBY/58/21-22 dtd. 17.01.2022, I order to appropriate the same.
- (iii) I confirm the demand of Rs.12,78,903/- on 8.652 MTs of Diesel Oil of Pakistan Origin under Section 28(4) of the Customs Act, 1962. I also order for penalty of Rs. Rs. 12,78,903/- upon M/s. United Maritime Services LLC, UAE, Owner of the Vessel MT Sea Golden (IMO No. 9036313) under Section 114A of the Customs Act, 1962. Since the noticee has paid demand of Rs.12,78,903/-, alongwith the penalty of Rs. 1,91,840/- (15% of Customs Duty of Rs.12,78,930/-), as per Section 28(5) of the Customs Act,1962.

totaling to Rs. 14,70,770/- vide Challan No. MISC/SBY/48/21-22 dated 28.12.2021, I order to appropriate the demand of Rs. 12,78,903/-, alongwith the penalty of Rs. 1,91,840/- (15% of Customs Duty of Rs. 12,78,930/-), as per Section 28(5) of the Customs Act,1962, totaling to Rs. 14,70,770/-.

(iv) I also impose the penalty of Rs. 15,00,000/- upon M/s. United Maritime Services LLC, UAE, Owner of the Vessel MT Sea Golden (IMO No. 9036313) under Section 112(a)(i) of the Customs Act, 1962. Since the noticee has already paid the same, vide Challan No. MISC/SBY/59/21-22 dtd. 17.01.2022, I order to appropriate the same.

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


(AMIT KUMAR SINGH)
Additional Commissioner

F. No. VIII/10-10/ADC/O&A/2021-22

Date: 30.04.2025

BY Speed Post/ E-mail:

To

1. M/s. United Maritime Services LLC,
Through Sh.Binod Kumar Singh
(Authorised Representative) of
M/s. United Maritime Services LLC,
1508, Sector B, Pocket-1,
Vasant Kunj
New Delhi – 110 070
2. Mr. Rajiv Kumar, Authorised Representative,
M/s. United Maritime Services LLC(UAE),
9B, Pocket B, SFS Flat, Mayur Vihar,
Phase-3, Delhi-110096

Copy to:

1. The Commissioner of Customs (Prev), Customs (Preventive), Jamnagar
2. The Superintendent (System), Customs (P), Hqrs. Jamnagar.
3. The Superintendent (Recovery), Customs (P), Hqrs. Jamnagar.
4. The Superintendent (RRA), Customs (P), Hqrs. Jamnagar.
5. Guard File.

